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Federal Register

Monday
August 17, 1998

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Rules and Regulations

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 293 and 410

RIN 3206–AH94

Personnel Records and Training

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations governing personnel records and Federal employee training. The regulations amend a statement about maintaining individual employee training records and clarify agency authority for training employees outside the United States.

DATES: This rule becomes effective on September 16, 1998.

FOR FURTHER INFORMATION CONTACT: *For 5 CFR Part 293 information:* Linda Brick on 202–606–1126, fax 202–606–1719, or email lmbrick@opm.gov. *For 5 CFR 410 information:* Judith Lombard on 202–606–2431, fax 202–606–2394, or email jmlombar@opm.gov.

SUPPLEMENTARY INFORMATION: OPM published proposed regulations in the April 1, 1998, **Federal Register** (63 FR 15787) for a 60-day public comment period. Comments were received from six sources. Three specifically addressed the change in 5 CFR § 293.403(b)(3); none specifically addressed the proposal to add a section to 5 CFR part 410 clarifying agency authority for training employees outside the continental United States; two favorable comments addressed the entire proposed regulatory change, and one agency responded with no comment.

(1) Training Records. Two agencies and an individual commented specifically on the proposed rule to remove a parenthetical sentence in 5 CFR § 293.403(b)(3) (47 FR 3080). The parenthetical sentence provides for records of training of 8 hours or more to be placed in an employee's Official Personnel File. The two agencies agreed with deleting the sentence. The individual objected, commenting that training records should be maintained as official records in an employee's Official Personnel File.

Since publication of the U.S. Office of Personnel Management *Guide to Personnel Recordkeeping,* March 15, 1996, (available from the Superintendent of Documents, U.S. Government Printing Office, or from the U.S. Office of Personnel Management's website at http://www.opm.gov/feddata/html/opf.htm), training documents are no longer maintained as permanent records in an employee's Official Personnel Folder. Since the parenthetical sentence in 5 CFR § 293.403(b)(3) refers to a non-existent recordkeeping requirement, and is no longer accurate, we believe it needs to be deleted.

(2) Training Outside the United States. No comments were received specifically on the proposed rule to add a section on training outside the continental United States clarifying agency authority in this area. Two agencies, responding to the proposed rule in its entirety, supported the addition. A new section, designated as 5 CFR § 410.302(f), will be added to 5 CFR part 410 and will read as follows:

> The head of each agency shall prescribe procedures, as authorized by section 402 of Executive Order No. 11348, for obtaining U.S. Department of State advice before assigning an employee who is stationed within the continental limits of the United States to training outside the continental United States that is provided by a foreign government, international organization, or instrumentality of either.

Regulatory Flexibility Act

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

List of Subjects

5 CFR Part 293

Archives and records, Freedom of information, Government employees, Health records, and Privacy.

5 CFR Part 410

Education, Government employees.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, the Office of Personnel Management is amending 5 CFR Part 293 and 5 CFR Part 410 as follows:

PART 293—PERSONNEL RECORDS

Subpart D—Employee Performance File System Records

1. The authority citation for subpart D of 5 CFR Part 293 continues to read as follows:

Authority: 5 U.S.C. 552a and 5 U.S.C. 4305 and 4315; E.O. 12107 (December 28, 1978); 5 U.S.C. 1103, 1104, and 1302; 3 CFR 1954–1958 Compilation; 5 CFR 7.2; E.O. 9830, 3 CFR 1943–1948 Compilation.

§ 293.403 [Amended]

2. Section 293.403 paragraph (b)(3) is amended by removing the parenthetical sentence.

PART 410—TRAINING

3. The authority citation for part 410 continues to read as follows:

Authority: 5 U.S.C. 4101, *et seq.*; E.O. 11348, 3 CFR, 1967 Comp., p. 275.

4. Section 410.302 is amended by adding a new paragraph (f) to read as follows:

§ 410.302 Responsibilities of the head of an agency.

* * * * *

(f) The head of each agency shall prescribe procedures, as authorized by section 402 of Executive Order No. 11348, for obtaining U.S. Department of State advice before assigning an employee who is stationed within the continental limits of the United States to training outside the continental United States that is provided by a foreign government, international organization, or instrumentality of either.

[FR Doc. 98–21943 Filed 8–14–98; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 928

[Docket No. FV98–928–1 FR]

Papayas Grown in Hawaii; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the Papaya Administrative Committee (Committee) under Marketing Order No. 928 for the 1998–99 and subsequent fiscal years from $0.0059 to $0.0063 per pound of papayas handled. The Committee is responsible for local administration of the marketing order which regulates the handling of papayas grown in Hawaii. Authorization to assess papaya handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal year began July 1 and ends June 30. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: August 18, 1998.

FOR FURTHER INFORMATION CONTACT: Diane Purvis, Marketing Assistant, or Terry Vawter, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California 93721; telephone: (209) 487–5901, Fax: (209) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 155 and Order No. 928, both as amended (7 CFR part 928), regulating the handling of papayas grown in Hawaii, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, papaya handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable papayas beginning on July 1, 1998, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule increases the assessment rate established for the Committee for the 1998–99 and subsequent fiscal years from $0.0059 per pound to $0.0063 per pound of papayas handled.

The papaya marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of papayas. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1996–97 and subsequent fiscal years, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal year to fiscal year unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on May 7, 1998, and recommended 1998–99 expenditures of $561,500 and an assessment rate of $0.0063 per pound of papayas. In comparison, last year's budgeted expenditures were $623,000. The assessment rate of $0.0063 per pound is $0.0004 higher than the rate currently in effect. The Committee determined that the present assessment rate would be inadequate to fund its anticipated expenses and maintain a sufficient reserve fund for the 1998–99 fiscal year. The Committee is authorized to maintain an operating reserve in an amount not to exceed approximately one fiscal year's operational expenses. Last year, the reserve fund was $110,000. At the end of the 1998–99 fiscal year the operating reserve is expected to be $25,200, which is considered adequate by the Committee. After consideration of anticipated expenses for the 1998–99 fiscal year, it was determined that assessment income, interest, and income from other sources would provide sufficient funds to meet anticipated expenses and maintain an adequate reserve fund.

The major expenditures recommended by the Committee for the 1998–99 fiscal year include $183,000 for marketing and promotion, $171,500 for research and development, and $98,000 for salaries. Budgeted expenses for these items in 1997–98 were $200,000 for marketing and promotion, $225,000 for research and development, and $81,000 for salaries.

The assessment rate recommended by the Committee was derived by dividing assessment income needed by expected shipments of papayas. Papaya shipments for 1998–99 are estimated at 38 million pounds which should provide $239,400 in assessment income. Income derived from handler assessments, when combined with income from the Hawaii Department of Agriculture, State of Hawaii (Research), USDA's Foreign Agricultural Service, County of Hawaii, and the Japanese Inspection program, along with interest income and $84,800 from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve (estimated to be $25,200 at the end of the 1998–99 fiscal year) will be kept within the maximum permitted in § 928.42(a)(2) of the order. The order authorizes approximately one fiscal year's expenses for the reserve.

The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated by the

Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons are encouraged to express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1998–99 budget and those for subsequent fiscal years will be reviewed and, as appropriate, approved by the Department.

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

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

There are approximately 400 producers of papayas in the production area and approximately 60 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Last year, as a percentage, four handlers each shipped in excess of 3.85 million pounds of papayas, and the remaining handlers each shipped less than 3.85 million pounds of papayas. Using an average f.o.b. price of $1.30 per pound, the four handlers shipping in excess of 3.85 million pounds of papayas each could be considered large businesses and the remaining handlers could thus be considered small businesses under SBA's definition. Using an average grower price of $0.45 per pound and industry shipments of 36 million pounds, grower revenues would be $16.2 million. Average revenue per grower would thus be $40,500. Based on the foregoing, the majority of handlers and producers of papayas may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 1998–99 and subsequent fiscal years from $0.0059 per pound to $0.0063 per pound of papayas handled. The Committee recommended 1998–99 expenditures of $561,500 and an assessment rate of $0.0063 per pound of papayas handled. The assessment rate of $0.0063 per pound is $0.0004 higher than the 1997–98 rate. The quantity of assessable papayas for the 1998–99 fiscal year is estimated at 38 million pounds. Thus, the $0.0063 rate should provide $239,400 in assessment income. Income derived from handler assessments, the Hawaii Department of Agriculture, State of Hawaii (Research), USDA's Foreign Agricultural Service, County of Hawaii, and Japanese Inspection program, along with interest income and $84,800 from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve (estimated to be $25,200 at the end of the 1998–99 fiscal year) will be kept within the maximum permitted in § 928.42(a)(2) of the order. The order authorizes approximately one fiscal year's expenses for the reserve.

The Committee recommended 1998–99 expenditures of $561,500 which include decreases in marketing and promotion, and research and development programs. The Committee discussed further decreases in these budget categories to avoid increasing the assessment rate, but it decided that the programs should be funded at the recommended levels. Salary increases were budgeted to cover the costs of a new employee. The expenditures recommended by the Committee for these items for the 1998–99 fiscal year (with budgeted expenses for 1997–98 in parentheses) include $183,000 for marketing and promotion ($200,000), $171,500 for research and development ($225,000), and $98,000 for salaries ($81,000).

The assessment rate of $0.0063 per pound of assessable papayas was determined by dividing the assessment income needed by the quantity of assessable papayas, estimated at 38 million pounds for the 1998–99 fiscal year. This estimate will generate $239,400 in assessment income. When combined with $237,300 in anticipated income from other sources including $84,800 from the reserve, the Committee will have adequate funds to meet 1998–99 expenses.

A review of historical information and preliminary information pertaining to the 1998–99 fiscal year indicates that the grower price could range between $.30 and $0.45 per pound of papayas. Therefore, the estimated assessment revenue for the 1998–99 fiscal year as a percentage of total grower revenue could range between 1.4 and 2.1 percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the papaya industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 7, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

This final rule will impose no additional reporting or recordkeeping requirements on either small or large papaya handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

Notice of this action was published in the **Federal Register** on June 29, 1998 (63 FR 35164). A 30-day comment period ending July 29, 1998, was provided to allow interested persons to respond to the proposed rule. No comments were received.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5

U.S.C. 553) because: (1) The 1998–99 fiscal year began on July 1, 1998, and the marketing order requires that the rate of assessment for each fiscal year apply to all assessable papayas handled during such fiscal year; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 928

Marketing agreements, Papayas, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 928 is amended as follows:

PART 928—PAPAYAS GROWN IN HAWAII

1. The authority citation for 7 CFR part 928 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 928.226 is revised to read as follows:

§ 928.226 Assessment rate.

On and after July 1, 1998, an assessment rate of $0.0063 per pound is established for papayas grown in Hawaii.

Dated: August 11, 1998.

Eric M. Forman,

Acting Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–22024 Filed 8–14–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 971014245–8190–03]

RIN 0648–AK45

National Marine Sanctuary Program Regulations; Florida Keys National Marine Sanctuary Regulations; Anchoring on Tortugas Bank

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Final rule; environmental assessment.

SUMMARY: The National Oceanic and Atmospheric Administration amends the regulations for the Florida Keys National Marine Sanctuary (FKNMS or Sanctuary) to reinstate and make permanent the temporary prohibition on anchoring by vessels 50 meters or greater in registered length on Tortugas Bank. The preamble to this rule contains an environmental assessment for this action. The intent of this rule is to protect the coral reef at Tortugas Bank. The proposed rule was published on February 11, 1998 and the comment period ended on March 13, 1998.

DATES: The effective date of this rule is 12:01 a.m. on August 19, 1998.

ADDRESSES: Requests for copies of the management plan or the complete regulations for the Sanctuary should be sent to Billy Causey, Superintendent, Florida Keys National Marine Sanctuary, Post Office Box 500368, Marathon, Florida, 33050.

FOR FURTHER INFORMATION CONTACT: Billy Causey at (305) 743–2437.

SUPPLEMENTARY INFORMATION:

I. Background

The Sanctuary was designated by an act of Congress entitled the Florida Keys National Marine Sanctuary and Protection Act (FKNMSPA, Pub. L. 101–605) which was signed into law on November 16, 1990. The FKNMSPA directed the Secretary of Commerce to develop a comprehensive management plan and regulations for the Sanctuary pursuant to sections 303 and 304 of the National Marine Sanctuaries Act (NMSA) (also known as Title III of the Marine Protection, Research and Sanctuaries Act of 1972), as amended, 16 U.S.C. 1431 et seq. The NMSA authorizes the development of management plans and regulations for national marine sanctuaries to protect their conservation, recreational, ecological, historical, research, educational, or aesthetic qualities.

The authority of the Secretary to designate national marine sanctuaries and implement designated sanctuaries is delegated to the Under Secretary of Commerce for Ocean and Atmosphere by the Department of Commerce, Organization Order 10–15, § 3.01(x) (Jan. 26, 1996). The authority to administer the other provisions of the NMSA is delegated to the Assistant Administrator for Ocean Services and Coastal Zone Management of NOAA by NOAA Circular 83–38, Directive 05–50 (September 21, 1983, as amended). The final Sanctuary regulations implementing the designation were published in the **Federal Register** on June 12, 1997, (62 FR 32154) and were effective July 1, 1997, and codified at 15 CFR Part 922, Subpart P.

In September 1997, NOAA became aware that significant injury to, and destruction of, living coral on the Tortugas Bank, west of the Dry Tortugas National Park, was being caused by the anchoring of vessels 50 meters or greater in registered length.

Section 922.165 of the Sanctuary regulations provides that, where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resources, any and all activities are subject to immediate temporary regulation, including prohibition, for up to 120 days. Emergency regulations cannot take effect until approved by the Governor of the State of Florida. In accordance with 15 CFR 922.165, and the Co-Trustees Agreement for Cooperative Management between NOAA and the State of Florida, in October 1997, NOAA consulted with and received approval by the Governor of the State of Florida to issue a temporary rule prohibiting the anchoring by vessels 50 meters or greater in length on Tortugas Bank west of the Tortugas National Park within the Sanctuary. The temporary rule (62 FR 54381; October 20, 1997), took effect at 12:01 a.m. October 17, 1997 and remained in effect until February 12, 1998. Proposed regulations were printed in the **Federal Register** on February 11, 1998 (63 FR 6883) and the review period for the proposed regulations ended on March 13, 1998. No written comments were received on the proposed regulations. The Florida Keys National Marine Sanctuary Advisory Council reviewed the proposed rule at its meeting on December 9, 1997. The Council recommended approval of the regulation. The Governor and Cabinet of the State of Florida reviewed the rule and approved it without objection on February 10, 1998.

II. Summary of the Regulatory Amendment

The rule reinstates and makes permanent the temporary prohibition on anchoring by vessels 50 meters or greater in registered length on the Tortugas Bank west of the Dry Tortugas National Park within the Sanctuary. Current 15 CFR 922.163(a)(5)(ii) of the final Sanctuary regulations prohibits vessels from anchoring in the Sanctuary on living coral other than hardbottom in water depths less than 40 feet when visibility is such that the seabed can be seen. However, that regulation does not protect the coral located in the area covered by this rule because the water there is deeper than 40 feet.

Anchoring of vessels 50 meters or greater in registered length on Tortugas Bank has been documented as having caused significant injury to living coral reef resources. Vessels of such size have anchor gear (ground tackle) of massive weight and size with heavy chains hundreds of feet in length weighing as much as 8 to 10 tons. Proper anchoring requires that a length of chain five to seven times the depth of the water be lowered, this act of prudent seamanship allows for safe anchoring under any sea conditions. In most circumstances, much of this chain will drop to and remain on the bottom. The weight of the chain holds the vessel in place. In this area, the heavy chain crushes the coral and sponges. In addition, as the tide changes or the wind shifts, vessels often change position and drag their anchor chain over the seabed, further damaging the reef.

For example, a 180 foot Coast Guard Cutter uses a 2000 pound anchor and chain sized appropriately to deploy it; whereas a Coast Guard 110 foot Patrol Boat uses an 80 pound anchor and rather than chain, nylon line is used as ground tackle (anchor gear).

Coast Guard patrol boats regularly in the area around Tortugas Bank report that they encounter either very large vessels (50 meters or greater in length), or fishing vessels or pleasure craft generally less than 35 meters in length.

Vessels smaller than 50 meters in registered length have not been documented as having caused injury or loss of living coral on Tortugas Bank. Their anchoring gear is less massive in size, length and weight. Therefore, this rule does not prohibit anchoring by vessels less than 50 meters in registered length on the Tortugas Bank. The location by coordinates of the prohibited anchoring area is set forth in the text of the final rule. Vessels greater than 50 meters in registered length are already prohibited by the FKNMSPA from operating in certain other areas of the Sanctuary, referred to in that statute and Sanctuary regulations as Areas to be Avoided (15 CFR 922.164(a)).

Transit, fishing and all other activities currently allowed in the area are not affected by this rule. Alternative anchor sites for vessels 50 meters or greater in length are located within approximately two nautical miles of the prohibited area. The close proximity of these alternative anchoring sites should mitigate any potential economic impact on such vessels since cost of the time and fuel to maneuver to this area and the additional time and labor in letting out and pulling in the additional anchor chain should be minimal.

The recommended alternative anchoring location in the vicinity of the area closed to anchoring by vessels 50 meters or greater in registered length is:

An area approximately 2 nautical miles west of the living coral reefs that form the Tortugas Bank, where anchoring damage to the corals is occurring. The bottom type in this area is sand/mud or sand/shell. This area is indicated on NOAA Nautical Chart Numbers 11434 and 11420. Mariners should note the existence of a submerged shipwreck located at 24°38′ N 83°08.00′ W. This shipwreck is a landing ship transport which was lost in 1948.

III. Miscellaneous Rulemaking Requirements

National Environmental Policy Act

NOAA has prepared an environmental assessment (EA), pursuant to the National Environmental Policy Act of 1969, 42 U.S.C 4321 et seq., for the Florida Keys National Marine Sanctuary on this rule. The text of the EA follows.

Environmental Assessment

A. Description of the Affected Environment

The Dry Tortugas Banks are located at the westernmost extent of the Florida Keys. These banks are separated from the remainder of the Keys by a 24 meter deep channel. The Banks have a rim of Holocene coral reef development surrounding an inner basin containing several sandy islands including Loggerhead Key, Garden Key, Bush Key, and Hospital Key. A little-known deep-water coral reef, informally named Sherwood Forest, is found at Tortugas Bank. The seabed includes corals, sponges, and other delicate coral reef organisms.

Human uses of the affected environment includes snorkeling and diving, shrimping, day tours on charter boats, and pleasure boating on private boats. All of these vessels are less than 50 meters in registered length and none have been documented as causing damage to the reef by anchoring.

B. Need for the Rule

The region within the Sanctuary known as Tortugas Bank has traditionally been an anchoring area for large, foreign flag vessels holding up and waiting order to enter a port within the region. However, personnel from the adjacent Dry Tortugas National Park have noticed that vessels have begun to anchor on the Bank itself.

On August 30, Florida Keys National Marine Sanctuary staff received a video from a recreational diver charter captain documenting anchoring damage caused by a large, foreign-flagged vessel anchored within state waters on the Tortugas Bank, within the Sanctuary.

Shortly, thereafter, Sanctuary biologists visited the reported anchoring site to conduct a biological assessment of the injury to the living coral reef. When they arrived on Tortugas Bank, there were four foreign ships ranging from over 400 to 800 feet in length anchored on the 60′ deep coral reef bank. Although staff was unable to locate the original site which was reported in the video, they were able to assess and photo-document the reef damage caused by the four vessels.

Staff noted significant damage to corals, sponges, and other delicate coral reef organisms. Wide swaths of barren seabed and overturned coral heads were evidence of the ongoing disruption to the coral reef community caused by the ships' anchors and anchor chains.

The rule reinstates and makes permanent the temporary prohibition on anchoring by vessels 50 meters or greater in registered length in an area approximately 39.53 square nautical miles. Transit, fishing and all other activities currently allowed in the area are not affected by this rule.

NOAA has identified and recommended alternative anchor sites within approximately two nautical miles of the prohibited area. Vessels greater than 50 meters in registered length are already prohibited by the FKNMSPA from operating in certain other areas of the Sanctuary, referred to in that statute and Sanctuary regulations as Areas to be Avoided (15 CFR 922.164(a)).

C. Alternatives, Including This Action and Their Environmental Impacts

No Action

One alternative is to take no action, thus maintaining the status quo. This alternative is not acceptable because the coral reef located at Tortugas Bank would continue to be injured or destroyed by the anchoring of vessels 50 meters or greater in length.

Prohibit Anchoring by Vessels 50 Meters or Greater in Registered Length on Tortugas Bank Within the Florida Keys National Marine Sanctuary

The preferred alternative is to reinstate and make permanent the temporary prohibition on anchoring by vessels 50 meters or greater in registered length on Tortugas Bank within the Florida Keys National Marine Sanctuary. This alternative would protect the coral reef at Tortugas Bank

while not unduly restricting the passage and anchoring of vessels which have not been documented as having caused harm in the area.

Prohibit Anchoring by All Vessels on Tortugas Bank Within the Florida Keys National Marine Sanctuary

This alternative, to prohibit anchoring by all vessels on Tortugas Bank within the Florida Keys National Marine Sanctuary, would unduly restrict the vessels which have not been documented as having caused harm in the area. Vessels smaller than 50 meters in registered length have not been documented as having caused injury or loss of living coral on Tortugas Bank. Their anchoring gear is less massive in size, length and weight than that of vessels of 50 meters or greater in registered length.

Current uses of the Tortugas Bank, west of the Dry Tortugas National Park, include snorkeling and diving, shrimping, day tours on charter boats, and pleasure boating on private boats. All of these vessels are less than 50 meters in registered length and none have been documented as causing damage to the reef by anchoring. To prohibit anchoring by these vessels on the Tortugas Bank, west of the Dry Tortugas National Park, would likely be an unreasonable economic burden on small businesses and an unnecessary impact on the public relative to the apparently minimal environmental benefit of such a restriction.

Extend the Area to be Avoided to Include Tortugas Bank West of the Dry Tortugas National Park

Extending the existing statutory Area to be Avoided to include Tortugas Bank west of the Dry Tortugas National Park is an alternative that was considered and rejected. This alternative would eliminate the safe passage and transit through the area by all vessels greater than 50 meters registered length. The passage of vessels through this area has not been determined to be detrimental to the environment. Vessels 50 meters or greater in registered length frequently pass through this area enroute to major Gulf coast ports, including Galveston and Houston, Texas; Mobile, Alabama; New Orleans, Louisiana; Tampa, Florida and the ships transit this area enroute to the Panama Canal. The overly broad restriction that would be caused if this alternative were accepted would cause a great economic burden to the shipping industry, and therefore was not selected as the preferred alternative.

D. List of Agencies and Persons Consulted

In an effort to inform all affected parties of the temporary rule, NOAA sent electronic mail messages to major international shipping companies, and notified the US Coast Guard which resulted in a Notice to Mariners. NOAA issued a press release that was reported by the media throughout the area. Sanctuary staff notified all international underwriters for the relevant shipping companies to apprise them of the temporary rule and soliciting their help in notifying their shipping clients. Additionally, Sanctuary staff contacted all the Pilots' Associations around the Gulf Coast and solicited their help in spreading the word to the shipping companies about the rule. In addition, NOAA consulted with, and received approval from the State of Florida. NOAA continued to consult, as appropriate, with all relevant parties during the development of this rule.

[End of Environmental Assessment]

Administrative Procedure Act

Under 5 U.S.C. 553(d)(3), the Assistant Administrator for Ocean Services and Coastal Zone Management, NOAA for good cause finds that delaying the effective date for this rule for 30 days is contrary to the public interest. First, substantial notice of the temporary rule was provided via notice to mariners, Sanctuary radio announcements, press releases, press conferences, and with assistance by the U.S. Coast Guard and Dry Tortugas National Park staff on the water within the area. Since expiration of the temporary rule and pending this rulemaking, there has been voluntary compliance with the prohibition. However, Sanctuary staff have recently received reports of vessels 50 meters or greater in registered length returning and anchoring on Tortugas Bank. Consequently, significant damage to the living resources could result if the rule is delayed for 30 days. Second, 30 days is not necessary to give notification to vessels which might anchor in the area in the future or for any vessel presently anchored to move to an alternative anchoring site. The U.S. Coast Guard will give immediate notification to vessels and they then can, in a short period of time, move and re-anchor in the recommended location. Additional notice will be provided in the manner described above. This rule, therefore, is effective on 12:01 am on the second day after the filing of this rule at the Office of the Federal Register, to allow adequate time for any vessels that are anchored in the prohibited area to relocate.

Executive Order 12866

The Office of Management and Budget (OMB) has concurred that this rule is not significant within the meaning of Section 3(f) of Executive Order 12866.

Executive Order 12612: Federalism Assessment

NOAA has concluded that this regulatory action does not have sufficient federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

Regulatory Flexibility Act

When this rule was proposed, the Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this regulatory action would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. No comments were received on the certification. Accordingly, the basis for the certification has not changed.

Paperwork Reduction Act

This rule does not impose an information collection requirement subject to review and approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3500 *et seq.*

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Historic preservation, Marine resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research, Wildlife.

(Federal Domestic Assistance Catalog Number 11.429, Marine Sanctuary Program)

Dated: August 12, 1998.

Nancy Foster,

Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth above, 15 CFR Part 922 is amended as follows:

PART 922—[AMENDED]

1. The authority citation for part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

Subpart P—Florida Keys National Marine Sanctuary

2. Section 922.164 is amended by adding paragraph (g) to read as follows:

§ 922.164 Additional activity regulations by Sanctuary area.

* * * * *

(g) Anchoring on Tortugas Bank. Vessels 50 meters or greater in registered length are prohibited from anchoring on the Tortugas Bank. The coordinates of the area on the Tortugas Bank, west of the Dry Tortugas National Park, closed to anchoring by vessels 50 meters or greater in registered length are:

(1) 24° 45.75′N 82° 54.40′W
(2) 24° 45.60′N 82° 54.40′W
(3) 24° 39.70′N 83° 00.05′W
(4) 24° 32.00′N 83° 00.05′W
(5) 24° 37.00′N 83° 06.00′W
(6) 24° 40.00′N 83° 06.00′W

[FR Doc. 98–22014 Filed 8–14–98; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 97F–0467]

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 benzenesulfonic acid, 4-chloro-5-methyl-2-[[4,5-dihydro-3-methyl-5-oxo-1-(3-sulfophenyl)-1H-pyrazo-4-yl]azo], ammonium salt (C.I. Pigment Yellow 191:1) as a colorant in polymers intended for use in contact with food. This action is in response to a petition filed by Ciba Specialty Chemicals Corp.

DATES: The regulation is effective August 17, 1998. Submit written objections and requests for a hearing by September 16, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), 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 November 19, 1997 (62 FR 61823), FDA announced that a food additive petition (FAP 8B4566) had been filed by Ciba Specialty Chemicals Corp., 335 Water St., Newport, DE 19804 (presently, c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001). The petition proposed to amend the food additive regulations in § 178.3297 *Colorants for polymers* (21 CFR 178.3297) to provide for the safe use of benzenesulfonic acid, 4-chloro-5-methyl-2-[[4,5-dihydro-3-methyl-5-oxo-1-(3-sulfophenyl)-1H-pyrazo-4-yl]azo], ammonium salt (C.I. Pigment Yellow 191:1) as a colorant in polymers intended for use in contact with food. In this final rule the agency is using the alternate name 4-chloro-2-[[5-hydroxy-3-methyl-1-(3-sulfophenyl)-1H-pyrazol-4-yl]azo]-5-methylbenzenesulfonic acid, diammonium salt (1:2), (C.I. Pigment Yellow 191:1).

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of the additive is safe, that the additive will achieve its intended technical effect, and therefore, that the regulations in § 178.3297 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 rule as announced in the notice of filing for FAP 8B4566 (62 FR 61823). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time on or before September 16, 1998, 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: 21 U.S.C. 321, 342, 348, 379e.

2. Section 178.3297 is amended in the table in paragraph (e) by alphabetically adding an entry under the headings ''Substances'' and ''Limitations'' to read as follows:

§ 178.3297 Colorants for polymers.

* * * * *

(e) * * *

Substances	Limitations
* * *	* * * *
4-Chloro-2-[[5-hydroxy-3-methyl-1-(3-sulfophenyl)-1H-pyrazol-4-yl]azo]-5-methylbenzenesulfonic acid, diammonium salt (1:2): (C.I. Pigment Yellow 191:1, CAS Reg. No. 154946–66–4).	For use at levels not to exceed 0.5 percent by weight of polymers. The finished articles are to contact food under conditions of use A through H described in Table 2 of § 176.170(c) of this chapter.
* * *	* * * *

Dated: July 30, 1998.

Janice F. Oliver,

Deputy Director for Systems and Support, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–22091 Filed 8–14–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 98F–0055]

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 expanded safe use of 2-(4,6-diphenyl-1,3,5-triazin-2-yl)-5-(hexyloxy)phenol as a light stabilizer/ultraviolet (UV) absorber for polyethylene phthalate polymers intended for use in contact with food. This action is in response to a petition filed by Ciba Specialty Chemicals Corp.

DATES: The regulation is effective August 17, 1998; written objections and requests for a hearing by September 16, 1998.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), 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 February 4, 1998 (63 FR 5809), FDA announced that a food additive petition (FAP 8B4573) had been filed by Ciba Specialty Chemicals Corp., 540 White Plains Rd., Tarrytown, NY 10591–9005. 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 expanded safe use of 2-(4,6-diphenyl-1,3,5-triazin-2-yl)-5-(hexyloxy)phenol as a light stabilizer/UV absorber for polyethylene phthalate polymers complying with 21 CFR 177.1630 intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of the additive is safe, that the additive will achieve its intended technical effect, and therefore, that 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 rule as announced in the notice of filing for FAP 8B4573 (63 FR 5809). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time on or before September 16, 1998, 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 objection 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: 21 U.S.C. 321, 342, 348, 379e.

2. Section 178.2010 is amended in the table in paragraph (b) in the entry for ''2-(4,6-diphenyl-1,3,5-triazin-2-yl)-5-(hexyloxy)phenol'' by adding entry ''3.'' under the heading ''Limitations'' to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * *	* * * *
2-(4,6-Diphenyl-1,3,5-triazin-2-yl)-5-(hexyloxy)phenol (CAS Reg. No. 147315–50–2).	For use only: * * * 3. At levels not to exceed 0.5 percent by weight of polyethylene phthalate polymers complying with § 177.1630 of this chapter, in contact with food under conditions of use A through H described in Table 2 of § 176.170(c) of this chapter.
* * *	* * * *

Dated: August 3, 1998.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–22090 Filed 8–14–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 179

[Dockte No. 98N–0392]

Irradiation in the Production, Processing and Handling of Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations on labeling requirements for foods treated with irradiation. This action is intended to clarify the agency's regulations following enactment of the FDA Modernization Act of 1997 (FDAMA). FDAMA adds a new section to the Federal Food, Drug, and Cosmetic Act (the act); this new section addresses the prominence of radiation disclosure statements on the labeling of food.

DATES: The regulation is effective August 17, 1998. Submit written comments on or before September 16, 1998.

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

FOR FURTHER INFORMATION CONTACT: Nega Beru, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3097.

SUPPLEMENTARY INFORMATION:

I. Background

Through a series of proceedings under section 409 of the act (21 U.S.C. 348), FDA has approved the use of ionizing radiation for various food uses (see § 179.26 (21 CFR 179.26)). The agency's regulations require that the label and labeling of retail packages of foods treated with ionizing radiation include both the radura logo, which is the international symbol that indicates radiation treatment, and a disclosure statement (either ''Treated with radiation'' or ''Treated by irradiation'') in addition to information required by other regulations (§ 179.26(c)(1)). The regulations require that the logo be placed prominently and conspicuously in conjunction with the required statement. The regulation does not specify the prominence of the disclosure statement, either generally or relative to other information required in the label and labeling.

On November 21, 1997, President Clinton signed into law FDAMA (Pub. L. 105–115). Section 306 of FDAMA amends the act by adding section 403C (21 U.S.C. 341 *et seq.*). Section 403C of the act addresses the disclosure of irradiation on the labeling of food as follows:

(a) No provision of section 201(n), 403(a), or 409 shall be construed to require on the label or labeling of a food a separate radiation disclosure statement that is more prominent than the declaration of ingredients required by section 403(i)(2).

(b) In this section, the term 'radiation disclosure statement' means a written statement that discloses that a food has been intentionally subject to irradiation.

As noted, FDA's current regulations do not specify how prominent a radiation disclosure statement must be, and thus, the current regulation could simply be read to include the requirement imposed by new section 403C of the act. However, the agency believes that there is merit to having the regulation in § 179.26 include the prominence specification of the new statutory provision. Accordingly, FDA is amending the labeling requirement for irradiated foods to include a statement that a radiation disclosure statement is not required to be any more prominent than the declaration of ingredients required under the applicable regulations issued under section 403(i)(2) of the act (21 U.S.C. 343(i)(2)).

The agency has determined under 21 CFR 25.30(k) 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.

II. Analysis of Economic Impacts

A. Benefit-Cost Analysis

FDA has examined the impacts of the final rule under Executive Order 12866. Executive Order 12866 directs Federal agencies to assess the cost and benefits of available regulatory alternatives and when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). According to Executive Order 12866, a regulatory action is ''significant'' if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million, adversely affecting in a material way a sector of the economy, competition, or jobs, or if it raises novel legal or policy issues. FDA finds that this final rule is not a significant regulatory action as defined by Executive Order 12866. In addition, it has been determined that this final rule is not a major rule for the purpose of congressional review.

The final rule is offered to clarify the existing labeling requirements for irradiated foods. The rule will not require on the label or labeling of a food a separate radiation disclosure statement that is more prominent than

the declaration of ingredients. Therefore, it will not result in regulatory changes for firms and thus, will not result in any costs to firms. Firms will still be able to communicate the same information in the same manner to consumers.

B. Small Entity Analysis

FDA has examined the impacts of the final rule under the Regulatory Flexibility Act. The Regulatory Flexibility Act (5 U.S.C. 601–612) requires Federal agencies to consider alternatives that would minimize the economic impact of their regulations on small businesses and other small entities. In compliance with the Regulatory Flexibility Act, FDA finds that this final rule will not have a significant impact on a substantial number of small entities.

The final rule is offered to clarify the existing label requirements. The rule to not require a separate disclosure statement that is more prominent than the declaration of ingredients will not result in any costs to firm. Therefore, this rule will not have a significant impact on a substantial number of small entities. Accordingly, under the Regulatory Flexibility Act, the agency certifies that this final rule will not have a significant economic impact on a substantial number of entities.

C. Unfunded Mandates Act of 1995

FDA has examined the impacts of this final rule under the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). This rule does not trigger the requirement for a written statement under section 201(a) of the UMRA because it does not impose a mandate that results in an expenditure of $100 million or more by State, local, and tribal governments in the aggregate, or by the private sector, in any 1 year.

III. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by OMB under the Paperwork Reduction Act of 1995 is not required.

IV. Comments

Because the amendments set forth in this document incorporate the language of section 306 of FDAMA into § 179.26, FDA finds, for good cause, that notice and public procedure are unnecessary and, therefore, are not required under 5 U.S.C. 553. Nonetheless, under 21 CFR 10.40(e), FDA is providing an opportunity for comment on whether the regulations set forth in this document should be modified or revoked.

Interested persons may, on or before September 16, 1998, submit to the Dockets Management Branch (address above) written comments regarding this final rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday though Friday.

List of Subjects in 21 CFR Part 179

Food additives, Food labeling, Food packaging, Radiation protection, Reporting and recordkeeping requirements, Signs and symbols.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 179 is amended as follows:

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD

1. The authority citation for 21 CFR part 179 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 343, 348, 373, 374.

2. Section 179.26 is amended by adding a sentence at the end of paragraph (c)(1) to read as follows:

§ 179.26 Ionizing radiation for the treatment of food.

* * * * *

(c) * * * (1) * * * The radiation disclosure statement is not required to be more prominent than the declaration of ingredients required under § 101.4 of this chapter. As used in this provision, the term ''radiation disclosure statement'' means the written statement that discloses that a food has been intentionally subject to irradiation.

* * * * *

Dated: August 4, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–21998 Filed 8–14–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC39

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Pipelines and Pipeline Rights-of-Way

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This rule implements a Memorandum of Understanding (MOU) between the Department of the Interior (DOI) and the Department of Transportation (DOT) regarding joint regulation of Outer Continental Shelf (OCS) pipelines. MMS regulations will apply to all OCS oil or gas pipelines located upstream of the points at which operating responsibility for the pipelines transfers from a producing operator to a transporting operator. This rule requires OCS producers and transporters to designate the transfer point.

DATES: Effective October 16, 1998.

FOR FURTHER INFORMATION CONTACT: Carl W. Anderson, Operations Analysis Branch, at (703) 787–1608; e-mail Carl.Anderson@mms.gov.

SUPPLEMENTARY INFORMATION: MMS, through delegations from the Secretary of the Interior, has authority to promulgate and enforce regulations that promote safe operations, environmental protection, and conservation of the natural resources of the OCS, as that area is defined in the OCS Lands Act (43 U.S.C. 1331 *et seq.*). This authority includes the pipeline transportation of mineral production and the approval and granting of rights-of-way for the construction of pipelines and associated facilities on the OCS. Thus, whether a pipeline is built and operated under DOI or DOT regulatory requirements, MMS, as the Federal land management agency, reviews and approves all OCS pipeline right-of-way applications. MMS also administers the following laws as they relate to OCS pipelines: (1) The Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) for oil and gas production measurement, and (2) the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990 (OPA) and implemented under Executive Order 12777. (Under a February 3, 1994, MOU to implement OPA, DOI, DOT, and the U.S. Environmental Protection Agency divided their respective responsibilities for oil spill prevention and response

according to the definition of ''coast line'' contained in the Submerged Lands Act, 43 U.S.C. 1301(c) (59 FR 9494–9495)). Nothing in this regulation will affect MMS' authority under either FOGRMA or OPA.

Under an MOU between DOI and DOT dated May 6, 1976, MMS regulated oil and gas pipelines located upstream of the outlet flange of each facility where hydrocarbons were first produced or where produced hydrocarbons were first separated, dehydrated, or otherwise processed, whichever facility was farther upstream. The December 10, 1996, MOU redefined the DOI-DOT regulatory boundary from the OCS facility where hydrocarbons are *first* produced, separated, dehydrated, or otherwise processed to the point at which operating responsibility for the pipeline transfers from a producing operator to a transporting operator. (The MOU includes the flexibility to cover situations that do not correspond to this general definition of the regulatory boundary.) The MOU places, to the greatest extent practical, producer-operated pipelines under DOI regulation and transporter-operated pipelines under DOT regulation.

The 1996 MOU was the result of negotiations that began in the summer of 1993 and included a high degree of participation from the regulated industry. In May 1996, MMS and DOT's Research and Special Programs Administration (RSPA) met with a joint industry workgroup representing OCS oil and natural gas producers and transmission pipeline operators led by the American Petroleum Institute. (The Interstate Natural Gas Association of America also participated on the workgroup.) The workgroup proposed that the agencies rely upon individual operators of production and transportation facilities to identify the boundaries of their respective facilities, since producers and transporters can best make such decisions based on the operating characteristics peculiar to each facility. The two agencies agreed with the industry proposal. Under the industry proposal, MMS would have primary regulatory responsibility for producer-operated facilities and pipelines on the OCS, while RSPA would have primary regulatory responsibility for transporter-operated pipelines and associated pumping or compressor facilities. Producing operators are companies which are engaged in the extraction and processing of hydrocarbons on the OCS. Transporting operators are companies which are engaged in the transportation of those hydrocarbons.

Additional goals of the 1996 MOU are to develop compatible regulatory requirements for all OCS pipelines whether under DOI or DOT regulation and to provide for DOI to act as an agent for the DOT in identifying and reporting potential violations of DOT regulations at platforms on the OCS. As an agent, DOI may inspect all DOT-regulated pipeline facilities on production platforms during DOI inspections. (DOT-regulated pipeline facilities are those pipeline facilities that have not been exempted from DOT regulations under 49 CFR parts 192 and 195.) DOI may also perform coordinated DOI/DOT inspections of pipeline facilities on DOT-regulated platforms. The inspections may include reviewing any operating or maintenance records or reports that are located at the inspected OCS platform facility.

The Purpose of This Rule

The purpose of this rule is to implement the new MOU by requiring OCS producing and transporting operators to designate the specific points on their pipelines where operating responsibility transfers from a producing operator to an adjoining transporting operator. The rule amends 30 CFR Part 250, Subpart J—Pipelines and Pipeline Rights-of-Way, § 250.1000, ''General Requirements,'' § 250.1001, ''Definitions,'' and § 250.1007, ''Applications.'' Operators have up to 60 days after the date the rule is published to identify the specific points at which operating responsibility transfers. In most cases, the specific transfer points are easily identifiable either because of specific valves or flanges where the adjoining operations connect, or because of differences in paint colors that adjoining operators use to protect and maintain pipeline coatings or surfaces. For those instances in which the transfer points are not identifiable by a durable marking, each operator has up to 240 days after the date the rule is published to mark the transfer points. (The 240-day period gives operators time to mark the transfer points during customary maintenance routines.) For pipelines that go into service after that date, the transfer points must be identifiable on the date service begins.

The operator must durably mark each transfer point directly on the pipeline (usually at a valve or flange). If it is not practicable to durably mark a transfer point, and the transfer point is located above water, then the operator must depict the transfer point on a schematic located on the facility. Some transfer points may be located subsea. In such cases, the operators also must identify the transfer points on schematics which can be provided to MMS upon request.

For those instances in which adjoining operators cannot agree on a transfer point, MMS and RSPA's Office of Pipeline Safety (OPS) will make a joint determination of the boundary.

MMS and OPS will, through their enforcement agencies and in consultation with the affected parties, agree to exceptions to the general boundary description (operations transfer point) on a facility-by-facility or area-by-area basis. Operators also may petition, by letter, MMS and OPS for exceptions to the general boundary description. In considering all such petitions, the Regional Supervisor will consult with the OPS Regional Director and the affected parties.

For existing lease term pipelines, the current designated operator or lessee(s) of the associated lease(s) will have operating responsibility for the pipeline(s). For right-of-way pipelines, MMS will assume that the current right-of-way grant holder has operating responsibility, unless the right-of-way grant holder informs MMS otherwise within 90 days after the date this rule is published. (There are about 130 designated operators of lease term pipelines and 75 operators of transportation pipelines on the OCS.)

Applications for new right-of-way pipelines are required to include an identification of the operator and a boundary demarcation point on the flow schematic submitted in accordance with 30 CFR 250.1007(a)(2).

A pipeline segment originally operated under DOT regulations but transferred under MMS regulatory responsibility as of the effective date of this rule may continue to be operated under DOT design and construction requirements, until a significant modification or repair is made to the segment. When the pipeline segment undergoes a significant repair or modification, MMS regulatory requirements concerning design and construction will also be applied to that segment.

Discussion and Analysis of Comments

MMS received four comments on the Notice of Proposed Rule (NPR). The commenters were the American Petroleum Institute, Chevron U.S.A. Production Company, Chevron Pipe Line Company, and the Offshore Operator's Committee (OOC). The American Petroleum Institute led the joint industry work group that developed the proposal that resulted in the December 1996 MOU on OCS pipelines between DOI and DOT;

consequently, they were supportive of the proposed rule in its entirety.

The other commenters raised technical issues concerning the applicability of the rule to producer-operated pipelines that either (1) cross into State waters without first connecting to a transporting operator's facility on the OCS, as described in the current MOU, or (2) were previously subject to DOT regulation under terms of the former 1976 MOU between DOI and DOT.

Both Chevron U.S.A. Production Company and Chevron Pipe Line Company observed that the proposed regulation did not appear to allow OCS producer-operated pipelines to remain under DOT regulatory responsibility. This arises from the way in which regulatory boundaries in both the 1996 MOU and the proposed rule are described in terms of specific points on pipelines where operating responsibility transfers from a producing operator to an adjoining transporting operator. However, there is no such transfer point on certain producer pipelines that cross the OCS/State boundary into State waters without first connecting to a transporter-operated facility. Indeed, there are some producer lines that flow from wells located in State waters to production platforms located on the Federal OCS. Regardless of the direction of flow, producer pipelines that cross the OCS/State boundary are always subject to DOT regulation on the portions of the lines located in State waters. The two Chevron companies pointed out the potential for ''dual regulation'' with respect to these lines and recommended that the operators of these lines be able to choose that the entire pipeline remain under DOT regulation.

The Chevron comments demonstrate that implementation of the MOU is not complete with this rulemaking.

First, the ''Purpose'' section of the 1996 MOU concludes: ''This MOU puts, to the greatest extent practicable, OCS production pipelines under DOI responsibility and OCS transportation pipelines under DOT responsibility.'' This was based on two assumptions—that production pipeline operators generally would prefer to operate under MMS regulations, and that transportation pipeline operators generally would prefer to operate under RSPA regulations. Although these were the primary assumptions underlying the MOU, we recognize that we did not fully address all pipeline scenarios when we published the NPR of October 2, 1997. The NPR would have required OCS producing and transporting operators to designate the specific points on their pipelines where operating responsibility transfers from a producing operator to an adjoining transporting operator. However, the NPR did not adequately address the possibility that a pipeline may cross the Federal/State boundary before the transfer point. In that event, once in the State waters, MMS no longer could regulate the pipeline. This would be the case even if the production pipeline operator still were the operator. Because of this limitation, we are preparing a new NPR that will address regulatory questions concerning producer-operated pipelines that cross the Federal/State boundary without first connecting to a transporter-operated facility.

Second, we recognize that an important principle of the industry agreement leading to the 1996 MOU was to allow, to the extent permissible, the producing or transporting operators to decide the regulatory boundaries on or near their facilities. The MOU provides the necessary flexibility to accommodate the concerns of these operators. Paragraph 7 under ''Joint Responsibilities'' in the MOU provides: ''DOI and DOT may, through their enforcement agencies and in consultation with the affected parties, agree to exceptions to this MOU on a facility-by-facility or area-by-area basis. Operators may also petition DOI and DOT for exceptions to this MOU.'' In our October 2, 1997, NPR we did not state the regulatory language in broad enough terms to consider operator petitions concerning issues other than the appropriateness of the transfer point serving as the regulatory boundary. Therefore, in the forthcoming NPR we will address other petition matters. These matters would include petitions from operators of production pipelines who wish to be regulated under RSPA regulations and petitions from operators of transportation pipelines who wish to be regulated under MMS regulations.

Three commenters were concerned about pipeline throughput for pipeline segments transferring from DOT to MMS responsibility because of differences in approved pipeline Maximum Allowable Operating Pressure (MAOP) and safety device pressure settings for the segments. Chevron Pipe Line Company noted: ''There will be cases where, moving from DOT regulations to MMS regulations may cause undue hardship, e.g., for pipelines operating under MMS requirements for high pressure shutdown settings (15% above normal operating pressure range) and not DOT (10% above MAOP) may involve throughput reduction to meet MMS requirements. This change may appear to be minor, but decreasing throughput capacity will be a major economic impact to the operators.'' Chevron U.S.A. Production Company offered a similar comment.

We believe that there will not be a significant impact on pipeline throughput, since DOT as well as MMS allows lines to operate up to, but not higher than, the pipeline MAOP. If the normal pressure operating range allows, the primary over-pressure protection may be set at the pipeline MAOP and, when required, secondary protection may be set up to 10 percent above the MAOP. This secondary protection setting will require specific approval on a case-by-case basis.

Even if there were a reduction of throughput, the MMS provision to set over-pressure protection 15 percent above normal operating pressure is needed to shut in the source in case of an abnormal condition which may cause an emergency at an incoming facility. For example, a line with an MAOP of 2,160 pounds per square inch gauge (psig) and with a normal high pressure operating range of 1,000 psig would require an over-pressure protection setting of 1,150 psig to effectively shut-in the source. However, if we used only DOT criteria, an over-pressure protection setting of 2,376 psig (10 percent above MAOP) would be allowed. That would not allow the orderly shut in of the source and may further compromise the safety of the facility.

The OOC addressed this concern in terms of the hydrotest information that is used to establish MAOP for a pipeline. They expressed concern that pipelines transferring from DOT to DOI regulations would have to be re-hydrotested. They recommended that, for any pipeline segments transferring from DOT to MMS regulations after the effective date of the rule, MMS operational and maintenance requirements be applied, ''including MAOP determination based on existing hydrotest information.'' This provision, if adopted, may result in a higher MAOP for some gas pipelines since they are tested to 1.5×MAOP vs 1.25×MAOP as per MMS regulations. For example, a test pressure of 3,240 psig divided by 1.5 will result in an MAOP of 2,160 psig; but dividing 3,240 psig by 1.25 will result in an MAOP of 2,592 psig.

Because hydrotest information for any transferring line segment may be at least several years old, it would not be prudent for MMS to make a blanket acceptance of existing hydrotest information to increase the MAOP for segments that transfer to MMS regulations. Furthermore, the MAOP for the lines may be limited by the pipe,

valves, flanges, or connecting pipeline. MMS will accept the MAOP for the transferring segments as assigned according to DOT regulations, pending the results of a public review process to accomplish compatibility between DOI and DOT regulations.

Under existing 30 CFR 250.1003, the MMS Regional Supervisor may approve alternative techniques, procedures, equipment, or activities proposed by the operator, if such measures afford a degree of protection, safety, or performance equal to or better than that intended to be achieved by MMS regulations. Thus, operators of pipelines transferring to MMS regulations after the effective date of this rule may submit to the Regional Supervisor applications to establish new MAOP and safety device pressure settings that affect the throughput of transferring pipelines.

Section 250.1000, paragraph (c)(5), of the proposed rule specified that ''Pipeline segments designed and constructed under DOT regulations before [INSERT THE EFFECTIVE DATE OF THE FINAL RULE], may continue to operate under DOT design and construction requirements until significant modifications or repairs are made to those segments.'' The OOC requested that this requirement be modified to read, ''Pipeline segments designed and constructed under DOT regulations before [INSERT THE EFFECTIVE DATE OF THE FINAL RULE], may continue to be modified and repaired in accordance with the DOT design and construction requirements.'' The OOC maintained that ''Pipeline segments constructed under DOT regulations are operating in a safe manner now. New modifications to the segments should match the design and construction requirements (the DOT design and construction regulations) for which the original segment was built. This avoids having two design and construction requirements for the same pipeline segment.''

We have not made this change because the language in the proposal we published is clear that ''Pipeline segments designed and constructed under DOT regulations before (the effective date of the final rule), may continue to operate under DOT design and construction requirements until significant modifications or repairs are made to those segments.'' We have retained this language in the final rule. Moreover, the MOU's intent is that all pipelines operating under MMS regulatory authority eventually will have to conform to MMS design and construction requirements.

Procedural Matters

Federalism (Executive Order (E.O.) 12612)

In accordance with E.O. 12612, the rule does not have significant Federalism implications. A Federalism assessment is not required.

Takings Implications Assessment (E.O. 12630)

In accordance with E.O. 12630, the rule does not have significant Takings Implications. A Takings Implication Assessment is not required.

Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget (OMB) under E.O. 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. An analysis of the rule indicates that the direct costs to industry for the entire rule total approximately $360,000 for the first year, and that in succeeding years, the cost of the rule to industry would not likely exceed $255,000.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

Civil Justice Reform (E.O. 12988)

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

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the NEPA of 1969 is not required.

Paperwork Reduction Act (PRA) of 1995

As part of the NPR process, OMB approved the proposed collection of information under the PRA (44 U.S.C. 3501 *et seq.*) and assigned OMB control number (1010–0108). MMS did not receive any comments on the information collection aspects in the NPR. The final rule does not change any of the information collection requirements. The PRA provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current valid OMB control number.

The collection of information for this rule consists of: (1) Reviewing existing pipeline maps, conferring and agreeing with operators of adjoining transportation pipeline segments concerning the locations of specific transfer points, and either marking directly on each pipeline or depicting on a schematic the specific point on each pipeline where operating responsibility transfers from the producing operator to a transporting operator; (2) identifying the operator of right-of-way pipelines if different from the grant holder; and (3) allowing for petitions for exceptions to general operations transfer points. As stated under the section, ''The Purpose of this Rule'', specific transfer points will be easily identifiable in most cases, either because of specific valves or flanges where the adjoining operations connect, or because of differences in paint that adjoining operators use to protect and maintain pipeline coatings or surfaces.

The requirement to respond is mandatory. MMS uses the information to determine the demarcation where pipelines are subject to MMS design, construction, operation, and maintenance requirements, as distinguished from similar OPS requirements.

The regulated community consists of up to 160 Federal OCS oil and gas lease designated operators and 70 transportation pipeline operators. There are approximately 3,000 points where operating responsibility for pipelines transfers from a producer to a transporter. MMS assumes that about 2,400 (representing 80 percent) of these transfer points are already marked. Therefore, this rule would require a one-time identification and marking of about 600 points where operating responsibility for pipelines transfers from a producer to a transporter. For the 2,400 transfer points that are clearly marked, there would be no information burden. The 600 unmarked transfer points, on the other hand, would require widely-varying times for marking depending on whether a painted line or a schematic was used to mark the transfer point.

The public reporting burden for this information collection requirement is estimated to average 5 hours per response. This includes the time for

reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing the required marking. The average annualized burden over a 3-year period would be 1,051 hours.

Regulatory Flexibility Act

The Department certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). While this rule will affect a substantial number of ''small entities,'' the economic effects of the rule will not be significant. There are many companies on the OCS that are ''small businesses'' as defined by the Small Business Administration. However, the technology necessary for conducting offshore oil and gas exploration and development activities is very complex and costly. Most entities that engage in offshore activities have considerable financial resources and numbers of employees well beyond what would normally be considered ''small business.''

DOI's analysis of the economic impacts indicate that direct costs to industry for the entire rule total approximately $360,000 for the first year, and in succeeding years, the cost of the rule to industry would not likely exceed $255,000 annually. These annual costs would not persist for long, because relatively few producer pipelines are not already in compliance with MMS safety valve requirements, due to their adherence to API standards. There are up to 130 designated operators of leases and 75 operators of transportation pipelines on the OCS (both large and small operators), and the economic impacts on the oil and gas production and transportation companies directly affected will be minor. Not all operators affected will be small businesses, but much of their modification costs may be paid to offshore service contractors who may be classified as small businesses. The few operators having to install new automatic shutdown valves as a result of transferring to MMS regulation will sustain the greatest economic impact from this rule. It is impractical, however, to determine in advance which operators would be so affected, because the operators themselves will determine the transfer points between MMS regulated producer lines and DOT regulated transporter lines.

To the extent that this rule might eventually cause some of the larger OCS operators to make modifications to their pipelines, it may have a minor beneficial effect of increasing demand for the services and equipment of smaller service companies and manufacturers. This rule will not impose any new restrictions on small pipeline service companies or manufacturers, nor will it cause their business practices to change.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of MMS, call toll-free (888) 734–3247.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under (5 U.S. C. 804(2)), SBREFA. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandate Reform Act of 1995

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: August 6, 1998.

Sylvia V. Baca,

Deputy Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, Minerals Management Service (MMS) amends 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1331 *et seq.*

2. In § 250.1000, paragraph (c) is revised to read as follows:

§ 250.1000 General requirements.

* * * * *

(c)(1) Department of the Interior (DOI) pipelines, as defined in § 250.1001, must meet the requirements in §§ 250.1000 through 250.1008.

(2) A pipeline right-of-way grant holder must identify in writing to the Regional Supervisor the operator of any pipeline located on its right-of-way, if the operator is different from the right-of-way grant holder.

(3) A producing operator must identify for its own records, on all existing pipelines located on its lease or right-of-way, the specific points at which operating responsibility transfers to a transporting operator.

(i) Each producing operator must, if practical, durably mark all of its above-water transfer points by April 14, 1999 or the date a pipeline begins service, whichever is later.

(ii) If it is not practical to durably mark a transfer point, and the transfer point is located above water, then the operator must identify the transfer point on a schematic located on the facility.

(iii) If a transfer point is located below water, then the operator must identify the transfer point on a schematic and provide the schematic to MMS upon request.

(iv) If adjoining producing and transporting operators cannot agree on a transfer point by April 14, 1999, the MMS Regional Supervisor and the Department of Transportation (DOT) Office of Pipeline Safety (OPS) Regional Director may jointly determine the transfer point.

(4) The transfer point serves as a regulatory boundary. An operator may write to the MMS Regional Supervisor to request an exception to this requirement for an individual facility or area. The Regional Supervisor, in consultation with the OPS Regional Director and affected parties, may grant the request.

(5) Pipeline segments designed, constructed, maintained, and operated under DOT regulations but transferring to DOI regulation as of October 16, 1998, may continue to operate under DOT design and construction requirements until significant modifications or repairs are made to those segments. After October 16, 1998, MMS operational and maintenance requirements will apply to those segments.

* * * * *

3. In § 250.1001, a definition of the term ''DOI pipelines'' is added in alphabetical order as follows:

§ 250.1001 Definitions.

* * * * *

DOI pipeline refers to a pipeline extending upstream from a point on the OCS where operating responsibility transfers from a producing operator to a transporting operator.

* * * * *

4. Section 250.1007 is amended by revising the heading, revising paragraph (a) introductory text, and adding a new sentence at the end of paragraph (a)(2) to read as follows:

§ 250.1007 What to include in applications.

(a) Applications to install a lease term pipeline or for a pipeline right-of-way grant must be submitted in quadruplicate to the Regional Supervisor. Right-of-way grant applications must include an identification of the operator of the pipeline. Each application must include the following:

* * * * *

(2) * * * The schematic must indicate the point on the OCS at which operating responsibility transfers between a producing operator and a transporting operator.

* * * * *

[FR Doc. 98–21945 Filed 8–14–98; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 083–0072a; FRL–6138–4]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Kern County Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan (SIP). The revisions concern rules from the following districts: Kern County Air Pollution Control District (KCAPCD), San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD), and South Coast Air Quality Management District (SCAQMD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The rules control VOC emissions from wastewater separators, rubber tire manufacturing, and soil decontamination operations. Thus, EPA is finalizing the approval of these rules into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This rule is effective on October 16, 1998 without further notice, unless EPA receives relevant adverse comments by September 16, 1998. If EPA receives such comment, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812

Kern County Air Pollution Control District, 2700 M Street, Suite 290, Bakersfield, CA 93301

San Joaquin Unified Air Pollution Control District, 1999 Tuolumne Street, Suite 200, Fresno, CA 93721

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765

FOR FURTHER INFORMATION CONTACT: Patricia Bowlin, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1188.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California SIP include: KCAPCD Rule 414, Wastewater Separators; SJVUAPCD Rule 4681, Rubber Tire Manufacturing; and SCAQMD Rule 1166, Volatile Organic Compound Emissions from Decontamination of Soil. These rules were submitted by the California Air Resources Board (CARB) to EPA on May 10, 1996; May 24, 1994; and October 13, 1995, respectively.

II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the San Joaquin Valley Area [1] and the Los Angeles-South Coast Air Basin Area. 43 FR 8964, 40 CFR 81.305. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that these areas' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call).[2] On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment

[1] Kern County is located in the San Joaquin Valley Area and the Southeast Desert Air Basin. At the time, SJVUAPCD did not exist, and KCAPCD had jurisdiction over all of Kern County. The San Joaquin Valley Area portion of Kern County was designated nonattainment. The Southeast Desert Air Basin portion of Kern County was designated as unclassified.

[2] EPA's SIP-Call applied to all of the KCAPCD, including the Southeast Desert Air Basin portion of Kern County.

guidance.[3] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas.

The San Joaquin Valley Area is classified as serious, and the Los Angeles-South Coast Air Basin Area is classified as extreme; therefore, these areas were subject to the section 182(a)(2)(A) RACT fix-up requirement and the May 15, 1991 deadline. This **Federal Register** action for the SCAQMD excludes the Los Angeles County portion of the Southeast Desert AQMA, otherwise known as the Antelope Valley Region in Los Angeles County, which is now under the jurisdiction of the Antelope Valley Air Pollution Control District as of July 1, 1997.[4] The Southeast Desert Air Basin portion of Kern County is also classified as serious; however, this area was not a pre-amendment nonattainment area.[5] Although the Southeast Desert Air Basin portion of Kern County was not subject to the statutory RACT fix-up requirement, it is still subject to the requirements of EPA's SIP-Call. See footnote 2. The substantive requirements of the SIP-Call are the same as those of the section 182(a)(2)(A) RACT fix-up requirement.

On March 20, 1991 the SJVUAPCD was formed. The SJVUAPCD has authority over the San Joaquin Valley Area, including the Kern County portion. KCAPCD retained authority over the Southeast Desert Air Basin portion of Kern County. See footnote 1.

The State of California submitted many revised RACT rules for incorporation into its SIP on May 10, 1996; May 24, 1994; and October 13, 1995, including the rules being acted on in this document. This document addresses EPA's direct-final action for KCAPCD Rule 414, Wastewater Separators; SJVUAPCD Rule 4681, Rubber Tire Manufacturing; and SCAQMD Rule 1166, Volatile Organic Compound Emissions from Decontamination of Soil. KCAPCD adopted Rule 414 on March 7, 1996. SJVUAPCD adopted Rule 4681 on December 16, 1993. SCAQMD adopted Rule 1166 on July 14, 1995. These submitted rules were found to be complete on July 19, 1996; July 14, 1994; and November 28, 1995 pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, Appendix V[6] and are being finalized for approval into the SIP.

KCAPCD Rule 414 controls VOC emissions from petroleum refinery wastewater separators. SJVUAPCD Rule 4681 controls VOC emissions from rubber tire and recapping treadstock manufacturing facilities. SCAQMD controls VOC emissions from soil decontamination operations. VOCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of districts' efforts to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call. The following is EPA's evaluation and final action for these rules.

III. EPA Evaluation and Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 3. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to ''fix-up'' their RACT rules. See section 182(a)(2)(A). The CTG applicable to KCAPCD Rule 414 is entitled ''Control of Refinery Vacuum Producing Systems, Wastewater Separators and Process Unit Turnarounds'' (EPA–450/2–77–025). The CTG applicable to SJUVAPCD Rule 4681 is entitled ''Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires'' (EPA–450/2–78–030). For some source categories, such as soil decontamination operations, EPA did not publish a CTG. Therefore, there is no CTG applicable to SCAQMD Rule 1166. In such cases, State and local agencies determine what controls are required to satisfy the RACT requirement by reviewing the operations of facilities within the affected source category. In that review, the technological and economic feasibility of the proposed controls are considered. In addition, for both CTG and non-CTG source categories, EPA has issued policy documents, such as the Blue Book referred to in footnote 3, to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

On May 13, 1993, EPA approved into the SIP a version of KCAPCD Rule 414, Wastewater Separators, that had been adopted by KCAPCD on May 6, 1991. The submitted version of Rule 414 includes the following significant changes from the current SIP:

- Modified the definition of *Volatile Organic Compound (VOC).*
- Changed the basis for exemption to a vapor pressure and throughput cutoff.

On June 23, 1994, EPA approved into the SIP a version of SJVUAPCD Rule 4681, Rubber Tire Manufacturing, that had been adopted by SJVAPCD on May 16, 1991. The submitted version of Rule 4681 includes the following significant changes from the current SIP:

- Changed the rule number (from Rule 468.1 to Rule 4681) and the rule format.
- Added test methods and procedures.

There is currently no version of SCAQMD Rule 1166, Volatile Organic Compound Emissions from Decontamination of Soil, in the SIP. On February 12, 1993, EPA proposed limited approval and limited disapproval of the version of Rule 1166 adopted by SCAQMD on August 5, 1988 and submitted by CARB on March 26, 1990. EPA will not finalize action on this previous submittal of SCAQMD

[3] Among other things, the pre-amendment guidance consists of those portions of the proposed Post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice'' (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

[4] The State has recently changed the names and boundaries of the air basins located within the Southeast Desert Modified AQMA. Pursuant to State regulation the Coachella-San Jacinto Planning Area is now part of the Salton Sea Air Basin (17 Cal. Code. Reg. § 60114); the Victor Valley/Barstow region in San Bernardino County and the Antelope Valley Region in Los Angeles County are a part of the Mojave Desert Air Basin (17 Cal. Code. Reg. § 60109). In addition, in 1996 the California Legislature established a new local air agency, the Antelope Valley Air Pollution Control District, to have the responsibility for local air pollution planning and measures in the Antelope Valley Region (California Health & Safety Code § 40106).

[5] The San Joaquin Valley Area and the Los Angeles-South Coast Air Basin Area retained their nonattainment designations and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. The Southeast Desert Air Basin portion of Kern County was designated nonattainment on November 6, 1991. See 56 FR 56694 (November 6, 1991).

[6] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

Rule 1166 because today's action on the October 13, 1995 submittal of Rule 1166 supersedes EPA's earlier proposed action.

SCAQMD Rule 1166 includes the following provisions:

- Notification and monitoring requirements for persons excavating underground storage tanks.
- Mitigation plan requirements for persons handling VOC-contaminated soil.
- Control requirements for persons treating contaminated soil.
- Prohibition of uncontrolled aeration of contaminated soil.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, KCAPCD Rule 414, Wastewater Separators; SJVUAPCD Rule 4681, Rubber Tire Manufacturing; and SCAQMD Rule 1166, Volatile Organic Compound Emissions from Decontamination of Soil, are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective October 16, 1998 without further notice unless the Agency receives relevant adverse comments by September 16, 1998.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 16, 1998 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Orders 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

This final rule is not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because it is not an ''economically significant'' action under E.O. 12866.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air 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, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *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 (''Unfunded Mandates Act''), 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 private sector, of $100 million or more. Under Section 205, 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 EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that this approval action does not include a Federal 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. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 16, 1998. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: July 29, 1998.

Nora L. McGee,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(197)(i)(C)(*2*), (225)(i)(A)(*3*), and (231)(i)(B)(*3*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(197) * * *

(i) * * *

(C) * * *

(*2*) Rule 4681, adopted on December 16, 1993.

* * * * *

(225) * * *

(i) * * *

(A) * * *

(*3*) Rule 1166, adopted on July 14, 1995.

* * * * *

(231) * * *

(i) * * *

(B) * * *

(*3*) Rule 414, adopted on March 7, 1996.

* * * * *

[FR Doc. 98–21900 Filed 8–14–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 187–0076a; FRL–6137–6]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Mojave Desert Air Quality Management District, San Diego County Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan. The revisions concern rules from the following districts: Mojave Desert Air Quality Management District (MDAQMD), San Diego County Air Pollution Control District (SDCAPCD), San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD), and South Coast Air Quality Management District (SCAQMD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The rules control VOC emissions from aerospace coating operations. Thus, EPA is finalizing the approval of these rules into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This rule is effective on October 16, 1998 without further notice, unless EPA receives relevant adverse comments by September 16, 1998. If EPA received such comment, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, S.W., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95814.

Mojave Desert Air Quality Management District, 15428 Civic Drive, Suite 200, Victorville, CA 92392.

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1096.

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Suite 200, Fresno, CA 93721.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1197.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California SIP include: MDAQMD Rule 1118, Aerospace Vehicle Parts and Products Coating Operations; SDCAPCD Rule 67.9, Aerospace Coating Operations; SJVUAPCD Rule 4605, Aerospace Assembly and Component Manufacturing Operations; and SCAQMD Rule 1124, Aerospace Assembly and Component Manufacturing Operations. These rules were adopted by the local air pollution control agencies on October 28, 1996; April 30, 1997; December 19, 1996; and December 13, 1996, respectively. The above rules were submitted by the California Air Resources Board to EPA on November 26, 1996; August 1, 1997; March 10, 1998; and August 1, 1997; respectively.

II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the Mojave Desert portion of San Bernardino County, San Diego County, the South Coast Air Basin and the San Joaquin Valley Air Basin which encompassed the following eight air pollution control districts (APCDs): Fresno County APCD, Kern County APCD,[1] King County APCD, Madera County APCD, Merced County APCD, San Joaquin County APCD, Stanislaus County APCD, and Tulare County. See 43 FR 8964, 40 CFR 81.305. Because some of these areas were unable to meet the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987.[2] See 40 CFR 52.222. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the

[1] At that time, Kern County included portions of two air basins: The San Joaquin Valley Air Basin and the Southeast Desert Air Basin. The San Joaquin Valley Air Basin portion of Kern County was designated as nonattainment, and the Southeast Desert Air Basin portion of Kern County was designated as unclassified. See 40 CFR 81.305 (1991).

[2] This extension was not requested for the following counties: Kern, King, Madera, Merced, and Tulare. Thus, the attainment date for these counties remained December 31, 1982.

1977 Act, that the above districts' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies.

The SJVUAPCD was formed on March 20, 1991. The SJVUAPCD has authority over the San Joaquin Valley Air Basin which includes all of the above eight counties except for the Southeast Desert Air Basin portion of Kern County, which remains under jurisdiction of the Kern County Air Pollution Control District.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or above as of the date of enactment. It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172 (b) as interpreted in pre-amendment guidance.[3] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The Mojave Desert portion of San Bernardino County is classified as severe; San Diego County is classified as serious; the San Joaquin Valley Area is classified as serious; and the South Coast-LA Basin is classified as extreme;[4] therefore, these areas were subject to the RACT fix-up requirement and the May 15, 1991 deadline. This **Federal Register** action for the South Coast Air Quality Management District excludes the Los Angeles County portion of the Southeast Desert AQMA, otherwise known as the Antelope Valley Region in Los Angeles County, which is now under the jurisdiction of the Antelope Valley Air Pollution Control District as of July 1, 1997.[5]

The State of California submitted many revised RACT rules for incorporation into its SIP on November 26, 1996; August 1, 1997; March 10, 1998; including the rules being acted on in this document. This document addresses EPA's direct-final action for MDAQMD Rule 1118, Aerospace Vehicle Parts and Products Coating Operations; SDCAPCD Rule 67.9, Aerospace Coating Operations; SJVUAPCD Rule 4605, Aerospace Assembly and Component Manufacturing Operations; and SCAQMD Rule 1124, Aerospace Assembly and Component Manufacturing Operations.

MDAQMD adopted Rule 1118, Aerospace Vehicle Parts and Products Coating Operations on October 28, 1996; SDCAPCD adopted Rule 67.9, Aerospace Coating Operations on April 30, 1997; SJVUAPCD adopted Rule 4605, Aerospace Assembly and Component Manufacturing Operations on December 19, 1996; and SCAQMD adopted Rule 1124, Aerospace Assembly and Component Manufacturing Operations on December 13, 1996. These submitted rules were found to be complete on February 3, 1997 (MDAQMD Rule 1118), September 30, 1997 (SDCAPCD Rule 67.9 and SCAQMD Rule 1124), and May 21, 1998 (SJVUAPCD Rule 4605) pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51 Appendix V[6] and are being finalized for approval into the SIP.

The above rules reduce VOC emissions from aircraft and aerospace coating, assembly, cleaning and rework operations. VOCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of each district's effort to achieve the National Ambient Air Quality Standard (NAAQS) for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and final action for these rules.

III. EPA Evaluation and Action

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 3. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting state and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to ''fix-up'' their RACT rules. See section 182(a)(2)(A). The CTG applicable to all of these rules, ''Control of Volatile Organic Compound Emissions from Coating Operations of Aerospace Manufacturing and Rework Operations,'' was finalized on March 27, 1998 (see 63 FR 15006). Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 3. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

There is currently no version of MDAQMD 1118, Aerospace Vehicle Parts and Products Coating Operations in the SIP. The submitted rule includes the following provisions:

- Definitions needed to clarify the terms used in the rule.
- VOC limits for coatings, solvents, and strippers.
- Requirements for application equipment, labeling of product containers, and storage and clean-up specifications.
- Exemptions for small users, touch-up and repair, laboratory testing, and products supplied in aerosol containers.
- Recordkeeping and test methods for compliance verification.

[3] Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice'' (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

[4] The Mojave Desert, San Diego County, San Joaquin Valley Area, and South Coast Air Basin retained that designation of nonattainment and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 56 FR 56694 (November 6, 1991).

[5] The State has recently changed the names and boundaries of the air basins located within the Southeast Desert Modified AQMA. Pursuant to State regulation the Coachella-San Jacinto Planning Area is now part of the Salton Sea Air Basin (17 Cal. Code. Reg. § 60114); the Victor Valley/Barstow region in San Bernardino County and Antelope Valley Region in Los Angeles County is a part of the Mojave Desert Air Basin (17 Cal. Code. Reg. § 60109). In addition, in 1996 the California Legislature established a new local air agency, the Antelope Valley Air Pollution Control District, to have the responsibility for local air pollution planning and measures in the Antelope Valley Region (California Health & Safety Code § 40106).

[6] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

On October 3, 1984, EPA approved into the SIP a version of Rule 67.9, Aerospace Coating Operations that had been adopted by the SDCAPCD on August 24, 1983. SDCAPCD submitted Rule 67.9, Aerospace Coating Operations, which includes the following significant changes from the current SIP:

- The perchloroethylene content limit for maskant was removed because EPA added it to the exempt compound list.
- VOC content limits were increased for some coatings to reflect the current availability of those coatings. Because some of the coating limits are less stringent than the SIP-approved rule, the District prepared a demonstration showing that overall, the submitted rule will get greater emission reductions than the existing rule.
- Several new categories of maskants were added.
- Recordkeeping requirements were revised.
- Several existing test methods were revised and a few added.

Currently, there is no SJVUAPCD Rule 4605, Aerospace Assembly and Component Coating Operations, SIP rule. The submitted rule includes the following provisions:

- VOC content limits for aerospace coatings and adhesives.
- VOC content and VOC composite vapor pressure limits for coating strippers.
- Requirements for evaporative loss minimization during surface cleaning and coating application equipment cleaning.
- An add-on control equipment option in lieu of meeting the requirements for aerospace coatings and adhesives and evaporative loss minimization.
- Administrative requirements for recordkeeping, and test methods for compliance determinations.

On May 6, 1996, EPA approved into the SIP a version of Rule 1124, Aerospace Assembly and Component Manufacturing Operations, that had been adopted by SCAQMD on January 13, 1995. The revised SCAQMD Rule 1124 includes the following significant changes from the current SIP rule:

- The applicability has been expanded to clarify that aircraft operators, aircraft maintenance, and service facilities are subject to the rule.
- New sub-categories were established for primers, adhesive bonding primers, and fuel-tank coatings.
- The effective compliance date for several coating categories were extended because SCAQMD believes that compliant coatings are not currently available.
- A limited exemption was added for non-spray applications of rubber fuel-tank coatings until January 2002.

EPA has evaluated these submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, MDAQMD Rule 1118, Aerospace Vehicle Parts and Products Coating Operations; SDCAPCD Rule 67.9, Aerospace Coating Operations; SJVUAPCD Rule 4605, Aerospace Assembly and Component Manufacturing Operations; and SCAQMD Rule 1124, Aerospace Assembly and Component Manufacturing Operations are being approved under section 110(a) and part D. The rules are inconsistent with the recently issued CTG for the source category; however, EPA will be publishing a **Federal Register** document in the near future that will specify deadlines for these Districts to resubmit rules to meet the CTG and to require sources to comply with limitations and work practices.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective October 16, 1998 without further notice unless the Agency receives relevant adverse comments by September 16, 1998.

If the EPA received such comments, then EPA will publish a timely withdrawal of the direct final rule informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 16, 1998 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Orders 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

The final rule is not subject to E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because it is not an ''economically significant'' action under E.O. 12866.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air 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, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *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 (''Unfunded Mandates Act''), 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 private sector, of $100 million or more. Under Section 205, 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 EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal 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. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 16, 1998. 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 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: July 23, 1998.

Clyde Morris,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(242)(i)(*A*)(*1*), (c)(248)(i)(*A*)(*2*), (c)(248)(i)(*B*)(*1*), and (c)(254)(i)(*A*)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(242) * * *

(i) * * *

(*A*) Mojave Desert AQMD.

(*1*) Rule 1118, adopted on October 28, 1996.

* * * * *

(248) * * *

(i) * * *

(*A*) * * *

(*2*) Rule 67.9, adopted on April 30, 1997.

(*B*) South Coast AQMD.

(*1*) Rule 1124, adopted on December 13, 1996.

* * * * *

(254) * * *

(i) * * *

(*A*) * * *

(*2*) Rule 4605, adopted on December 19, 1991 and amended on December 19, 1996.

* * * * *

[FR Doc. 98–21898 Filed 8–14–98; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

48 CFR Parts 225 and 252

[DFARS Case 98–D016]

Defense Federal Acquisition Regulation Supplement; Waiver of 10 U.S.C. 2534—United Kingdom

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: The Director of Defense Procurement has issued an interim rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a waiver of domestic source restrictions for certain defense items produced in the United Kingdom. The waiver was executed by the Under Secretary of Defense (Acquisition and Technology) and became effective on August 4, 1998.

DATES: *Effective date:* August 17, 1998.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before October 16, 1998, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350.

E-mail comments submitted over the Internet should be addressed to: dfars@acq.osd.mil

Please cite DFARS Case 98–D016 in all correspondence related to this issue. E-mail comments should cite DFARS Case 98–D016 in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule amends DFARS Subpart 225.70 and the clauses at DFARS 252.225–7016 and 252.225–7029 to implement a waiver of the domestic source restrictions of 10 U.S.C. 2534(a) for certain defense items produced in the United Kingdom. A notice of the waiver was published in the **Federal Register** on July 20, 1998 (63 FR 38815). This rule amends DFARS guidance pertaining to the acquisition of air circuit breakers for naval vessels, ball and roller bearings, and totally enclosed lifeboats. Anchor and mooring chain, which is covered by the waiver, is not addressed in this rule, as the more stringent defense appropriations act restrictions on the acquisition of anchor and mooring chain presently take precedence over the restrictions of 10 U.S.C. 2534. The other items listed in the July 20, 1998, notice of waiver are not covered in the DFARS and, therefore, are not addressed in this rule.

B. Regulatory Flexibility Act

This interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because there are no known small business manufacturers of the restricted air circuit breakers; defense appropriations acts presently impose domestic source restrictions on the acquisition of totally enclosed lifeboats

and noncommercial ball and roller bearings; and the restrictions of 10 U.S.C. 2534(a) do not apply to acquisitions of commercial items incorporating ball or roller bearings. An initial regulatory flexibility analysis has, therefore, not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subpart also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 98–D016 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense that urgent and compelling reasons exist to publish this interim rule prior to affording the public an opportunity to comment. This interim rule implements a waiver of the domestic source restrictions of 10 U.S.C. 2534(a) for certain items manufactured in the United Kingdom. The Under Secretary of Defense (Acquisition and Technology) has determined that application of the limitation at 10 U.S.C. 2534(a) impedes the reciprocal procurement of defense items under DoD's memorandum of understanding with the United Kingdom. The waiver became effective on August 4, 1998. Comments received in response to the publication of this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 225 and 252 are amended as follows:

1. The authority citation for 48 CFR Parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 225—FOREIGN ACQUISITION

2. Section 225.7005 is amended by redesignating the paragraphs as follows:

Paragraph	Redesignated as
Introductory text	(a) introductory text.
(a)(1) Introductory text.	(a)(1)(i) introductory text.
(a)(1)(i)	(a)(1)(i)(A).
(a)(1)(ii)	(a)(1)(i)(B).
(a)(2)	(a)(1)(ii).
(a)(3)	(a)(1)(iii).
(a)(4) introductory text	(a)(1)(iv) introductory text.
(a)(4)(i)	(a)(1)(iv)(A).
(a)(4)(ii)	(a)(1)(iv)(B).
(b) introductory text ...	(a)(2) introductory text.
(b)(1)	(a)(2)(i).
(b)(2)	(a)(2)(ii).
(b)(3)	(a)(2)(iii).
(b)(4)	(a)(2)(iv).
(b)(5)	(a)(2)(v).
(c)	(a)(3).

In addition, section 225.7005 is amended by adding a new paragraph (b) to read as follows:

225.7005 Waiver of certain restrictions.

* * * * *

(b) In accordance with the provisions of paragraphs (a)(1)(i) through (a)(1)(iii) of this section, the Under Secretary of Defense (Acquisition and Technology) has waived the restrictions of 10 U.S.C. 2534(a) for certain items manufactured in the United Kingdom, including air circuit breakers for naval vessels and totally enclosed lifeboats (see 225.7016 and 225.7022). This waiver applies to—

(1) Procurements under solicitations issued on or after August 4, 1998; and

(2) Subcontracts and options under contracts entered into prior to August 4, 1998, under the conditions described in paragraphs (a)(1)(iv) of this section.

3. Section 225.7007–4 is revised to read as follows:

225.7007–4 Waiver.

The waiver criteria at 225.7005(a) apply to this restriction.

4. Section 225.7010–3 is revised to read as follows:

225.7010–3 Waiver.

The waiver criteria at 225.7005(a) apply to this restriction.

5. Section 225.7016–1 is revised to read as follows:

225.7016–1 Restriction.

In accordance with 10 U.S.C. 2534 and 225.7005(b), do not acquire air circuit breakers for naval vessels unless they are manufactured in the United States, Canada, or the United Kingdom.

225.7016–2 [Amended]

6. Section 225.7016–2 is amended in paragraph (b) in the first sentence by removing at the end ''and Canada''.

7. Section 225.7016–3 is revised to read as follows:

225.7016–3 Waiver.

The waiver criteria at 225.7005(a) apply to this restriction.

8. Section 225.7019–1 is amended by revising paragraph (a) to read as follows:

225.7019–1 Restrictions.

(a) In accordance with 10 U.S.C. 2534 and 225.7019–3(b)(5), through fiscal year 2000, do not acquire ball and roller bearings or bearing components that are not manufactured in the United States, Canada, or the United Kingdom.

* * * * *

9. Section 225.7019–3 is amended by paragraph (b)(5) to read as follows:

225.7019–3 Waiver.

* * * * *

(b) * * *

(5) In accordance with the provisions of paragraphs (b)(1) through (b)(3) of this subsection, the Under Secretary of Defense (Acquisition and Technology) has waived the restrictions of 10 U.S.C. 2534(a)(5) for ball and roller bearings manufactured in the United Kingdom. This waiver applies to—

(i) Procurements under solicitations issued on or after August 4, 1998; and

(ii) Subcontracts and options under contracts entered into prior to August 4, 1998, under the conditions described in paragraph (b)(4) of this subsection.

* * * * *

10. Section 225.7022–1 is amended in paragraph (b) by revising the first sentence to read as follows:

225.7022–1 Restrictions.

* * * * *

(b) In accordance with 10 U.S.C. 2534(a)(3)(B) and 225.7005(b), do not purchase a totally enclosed lifeboat that is a component of a naval vessel, unless it is manufactured in the United States, Canada, or the United Kingdom. * * *

225.7022–2 [Amended]

11. Section 225.7022–2 is amended in paragraph (b) by removing at the end ''and Canada''.

12. Section 225.7022–3 is revised to read as follows:

225.7022–3 Waiver.

The waiver criteria at 225.7005(a) apply only to the restriction of 225.7022–1(b).

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

13. Section 252.225–7016 is amended by revising the clause date and paragraph (c)(1) to read as follows:

252.225–7016 Restriction of Acquisition of Ball and Roller Bearings.

* * * * *

RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS (AUG 1998)

* * * * *

(c)(1) The restriction in paragraph (b) of this clause does not apply to the extent that—

(i) The end items or components containing ball or roller bearings are commercial items; or

(ii) The ball or roller bearings are commercial items manufactured in the United Kingdom.

* * * * *

14. Section 252.225–7029 is revised to read as follows:

252.225–7029 Preference for United States or Canadian Air Circuit Breakers.

As prescribed in 225.7016–4, use the following clause:

PREFERENCE FOR UNITED STATES OR CANADIAN AIR CIRCUIT BREAKERS (AUG 1998)

(a) Unless otherwise specified in its offer, the Contractor agrees that air circuit breakers for naval vessels provided under this contract shall be manufactured in the United States, Canada, or the United Kingdom.

(b) Unless an exception applies under Defense Federal Acquisition Regulation Supplement (DFARS) 225.7016–2 or a waiver is granted under DFARS 225.7005(a) (1) or (2), preference will be given to air circuit breakers manufactured in the United States or Canada by adding 50 percent for evaluation purposes to the offered price of all other air circuit breakers, except those manufactured in the United Kingdom.

(End of clause)

[FR Doc. 98–21906 Filed 8–14–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Parts 225 and 253

[DFARS Case 98–D015]

Defense Federal Acquisition Regulation Supplement; Letter of Offer and Acceptance

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove references to an obsolete form pertaining to offer and acceptance of foreign military sales (FMS) agreements, and to make other editorial changes pertaining to FMS acquisitions.

EFFECTIVE DATE: August 17, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations Council, PDUSD (AT&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0131; telefax (703) 602–0350. Please cite DFARS Case 98–D015.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends DFARS Subpart 225.73 and Part 253 to remove references to DD Form 1513, United States Department of Defense Offer and Acceptance, which is no longer used to document FMS agreements. Such agreements are documented in a Letter of Offer and Acceptance.

B. Regulatory Flexibility Act

The final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is not required. However, comments from small entities concerning the affected DFARS subpart will be considered in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 98–D015.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 225 and 253

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 225 and 253 are amended as follows:

1. The authority citation for 48 CFR Parts 225 and 253 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 225—FOREIGN ACQUISITION

2. Section 225.7300 is revised to read as follows:

225.7300 Scope of subpart.

(a) This subpart contains policies and procedures for acquisitions for foreign military sales (FMS) under the Arms Export Control Act (22 U.S.C. Chapter 39). Section 22 of the Arms Export Control Act (22 U.S.C. 2762) authorizes DoD to enter into contracts for resale to foreign countries or international organizations.

(b) This subpart does not apply to—

(1) FMS made from inventories or stocks;

(2) Acquisitions for replenishment of inventories or stocks; or

(3) Acquisitions made under DoD cooperative logistic supply support arrangements.

3. Section 225.7301 is amended by revising paragraph (a) introductory text to read as follows:

225.7301 General.

(a) The U.S. Government sells defense articles and services to foreign governments or international organizations through FMS agreements. The agreement is documented in a Letter of Offer and Acceptance (LOA) (see DoD 5105.38–M, Security Assistance Management Manual). The LOA—

* * * * *

225.7302 [Amended]

4. Section 225.7302 is amended in the introductory text, in paragraph (a)(1), and in paragraph (b) introductory text by removing ''DoD Offer and Acceptance'' and inserting in its place ''LOA''; and in paragraph (b)(1) by removing ''DD Form 1513'' and inserting in its place ''LOA''.

225.7303 Pricing acquisitions for FMS.

5. The heading of section 225.7303 is revised to read as set forth above.

6. Section 225.7303–2 is amended in paragraph (a)(3)(i) by removing ''foreign military sale Letter of Offer and Acceptance'' and inserting in its place ''LOA''; in paragraph (b) by removing ''foreign military sale'' and inserting in its place ''FMS''; and by revising paragraph (c) introductory text and paragraph (d) to read as follows:

225.7303–2 Cost of doing business with a foreign government or an international organization.

* * * * *

(c) The provisions of 10 U.S.C. 2372 do not apply to contracts for FMS. Therefore, the cost limitations on independent research and development and bid and proposal (IR&D/B&P) costs in FAR 31.205–18 do not apply to such contracts, except as provided in 225.7303–5. The allowability of IR&D/B&P costs on contracts for FMS not wholly paid for from funds made available on a nonrepayable basis shall be limited to the contract's allocable share of the contractor's total IR&D/B&P expenditures. In pricing contracts for such FMS—

* * * * *

(d) Under paragraph (e)(1)(A) of Section 21 of the Arms Export Control Act (22 U.S.C. 2761), the United States must charge for administrative services to recover the estimated cost of administration of sales made under the Army Export Control Act.

7. Section 225.7303–4 is amended by revising paragraph (b)(1) to read as follows:

225.7303–4 Contingent fees.

* * * * *

(b)(1) Under DoD 5105.38–M, LOAs for requirements for the governments of Australia, Taiwan, Egypt, Greece, Israel, Japan, Jordan, Republic of Korea, Kuwait, Pakistan, Philippines, Saudi Arabia, Turkey, Thailand, or Venezuela (Air Force) must provide that all U.S. Government contacts resulting from the LOAs prohibit the reimbursement of contingent fees as an allowable cost under the contract, unless the payments have been identified and approved in writing by the foreign customer before contract award (see 225.7308(a)).

* * * * *

225.7303–5 [Amended]

8. Section 225.7303–5 is amended in paragraph (a) by removing ''foreign military sales'' and inserting in its place ''FMS''; and in paragraph (c) by removing ''foreign military sale Letter of Offer and Acceptance'' and inserting in its place ''LOA''.

9. Section 225.7304 is amended by revising the last sentence of paragraph (a); in paragraph (b)(1) by removing ''A–E'' and inserting in its place ''architect-engineer''; and by revising paragraph (c) to read as follows:

225.7304 Source selection.

(a) * * * The contracting officer shall honor such requests from the FMS customer only if the LOA or other written direction sufficiently fulfills the requirements of FAR subpart 6.3.

* * * * *

(c) Do not accept directions from the FMS customer on source selection decisions or contract terms (except that, upon timely notice, the contracting officer may attempt to obtain any special contract provisions and warranties requested by the FMS customer).

* * * * *

225.7306 Exercise of options for FMS.

10. The heading of section 225.7306 is revised to read as set forth above.

225.7308 [Amended]

11. Section 225.7308 is amended in paragraphs (a) and (b) by removing ''foreign military sales'' and inserting in its place ''FMS''.

PART 253—FORMS

12. The note at the end of Part 253 is amended to remove the entry ''253.303–1513 United States Department of Defense Offer and Acceptance''.

[FR Doc. 98–21907 Filed 8–14–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Part 246

[DFARS Case 97–D038]

Defense Federal Acquisition Regulation Supplement; Quality Assurance Among North Atlantic Treaty Organization Countries

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update guidance pertaining to mutual acceptance of government quality assurance among North Atlantic Treaty Organization (NATO) countries.

EFFECTIVE DATE: August 17, 1998.

FOR FURTHER INFORMATION CONTACT: Rick Layser, Defense Acquisition Regulations Council, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0131; telefax (703) 602–0350. Please cite DFARS Case 97–D038.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends DFARS 246.406 to update guidance pertaining to NATO Standardization Agreement (STANAG) 4107, Mutual Acceptance of Government Quality Assurance and Usage of the Allied Quality Assurance Publications, and to remove obsolete references to STANAG 4108, Allied Quality Assurance Publications.

B. Regulatory Flexibility Act

The final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is not required. However, comments from small entities concerning the affected DFARS subpart will be considered in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 97–D038.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the final rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 246

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR part 246 is amended as follows:

1. The authority citation for 48 CFR Part 246 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 246—QUALITY ASSURANCE

2. Section 246.406 is amended by revising paragraph (1); and in paragraph (3), in the parenthetical sentence, by removing ''225.74'' and inserting in its place ''225.78''. The revised text reads as follows:

246.406 Foreign governments.

(1) *Quality assurance among North Atlantic Treaty Organization (NATO) countries.*

(i) NATO Standardization Agreement (STANAG) 4107, Mutual Acceptance of Government Quality Assurance and Usage of the Allied Quality Assurance Publications—

(A) Contains the processes, procedures, terms, and conditions under which one NATO member nation will perform quality assurance for another NATO member nation or NATO organization;

(B) Standardizes the development, updating, and application of the Allied Quality Assurance Publications; and

(C) Has been ratified by the United States and other nations in NATO with certain reservations identified in STANAG 4107.

(ii) Departments and agencies shall follow STANAG 4107 when—

(A) Asking a NATO member nation to perform quality assurance; or

(B) Performing quality assurance when requested by a NATO member nation or NATO organization.

* * * * *

[FR Doc. 98–21908 Filed 8–14–98; 8:45 am]

BILLING CODE 5000–04–M

Proposed Rules

Federal Register
Vol. 63, No. 158
Monday, August 17, 1998

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.

NORTHEAST DAIRY COMPACT COMMISSION

7 CFR Parts 1301 and 1304

Over-Order Price Regulation

AGENCY: Northeast Dairy Compact Commission.

ACTION: Proposed rule; extension of comment period; request for additional comments.

SUMMARY: The Northeast Dairy Compact Commission previously proposed to amend the current Compact Over-order Price Regulation to exclude all milk from the pool which is either diverted or transferred, in bulk, out of the Compact regulated area. The Commission is extending the comment period on these proposed amendments and is requesting additional comment and testimony on issues regarding diverted and transferred milk. In conjunction with its continuing deliberations regarding diverted and transferred milk, the Commission also proposes to amend the definition of *producer* to be consistent with the previously proposed amendments regarding diverted and transferred milk and to update this rule to include December 1998 as an additional requirement.

DATES: Written comments and exhibits for the proposed amendments to parts 1301 and 1304 published at 63 FR 31943, June 11, 1998, and the proposed amendment in this document may be submitted until 5:00 p.m., September 16, 1998. A public hearing to take testimony and receive documentary evidence relevant to the proposed rules will be held on September 2, 1998 at 9:00 a.m. Pre-filed testimony is requested and encouraged and may be submitted until 5:00 p.m., August 26, 1998.

ADDRESSES: Send comments and pre-filed testimony to Northeast Dairy Compact Commission, 43 State Street, P.O. Box 1058, Montpelier, Vermont 05601.

The public hearing will be held at the Holiday Inn, Capitol Room, 172 North Main Street, Concord, New Hampshire.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Becker, Executive Director, Northeast Dairy Compact Commission at the above address or by telephone at (802) 229–1941, or by facsimile at (802) 229–2028.

SUPPLEMENTARY INFORMATION:

Background

The Northeast Dairy Compact Commission (the ''Commission'') was established under authority of the Northeast Interstate Dairy Compact (''Compact''). The Compact was enacted into law by each of the six participating New England states as follows: Connecticut-Pub. L. 93–320; Maine-Pub. L. 89–437, as amended, Pub. L. 93–274; Massachusetts-Pub. L. 93–370; New Hampshire-Pub. L. 93–336; Rhode Island-Pub. L. 93–106; Vermont-Pub. L. 89–95, as amended, Pub. L. 93–57. In accordance with Article I, Section 10 of the United States Constitution, Congress consented to the Compact in Pub. L. 104–127 (FAIR ACT), Section 147, codified at 7 U.S.C. 7256. Subsequently, the United States Secretary of Agriculture, pursuant to 7 U.S.C. 7256(1), authorized implementation of the Compact.

Pursuant to its authority under Article V, Section 11 of the Compact, the Commission concluded an informal rulemaking process and voted to adopt a Compact Over-order Price Regulation. See, 62 FR 29626 (May 30, 1997). The Commission subsequently amended and extended the Compact Over-order Price Regulation on October 23, 1997.

See 62 FR 62810 (November 25, 1997). The Commission further amended the Over-order Price Regulation relative to certain milk sold by school food authorities in New England. See 63 FR 10104 (February 27, 1998). The current Compact Over-order Price Regulation is codified at 7 CFR Part 1300.

Pursuant to its authority under Article V, Section 11 of the Compact, the Commission previously proposed to amend the current Compact Over-order Price Regulation to exclude all milk from the pool which is either diverted or transferred, in bulk, out of the Compact regulated area and to establish a reserve fund for reimbursement to school food authorities. 63 FR 31943 (June 11, 1998). A public hearing was held on July 1, 1998 and comments were received until July 15, 1998.

The Commission held its deliberative meeting, pursuant to 7 C.F.R. 1361.8, on August 5, 1998 to consider whether to propose for producer referendum the amendments to the Compact Over-order Price Regulation. At this meeting, the Commission adopted the amendment establishing a reserve fund for school food authorities, subject to a producer referendum to be held between August 14, 1998 and August 24, 1998.

The Commission also decided, at the August 5, 1998 meeting, to continue its deliberations and seek additional testimony and comment on the previously proposed amendments to the diverted and transferred milk provisions. The Commission is continuing to consider these proposed amendments, but believes that additional testimony, data and comment in response to specific questions would be of assistance to it. The Commission additionally decided to propose conforming amendments to the definition of *producer* in the Compact Over-order Price Regulation. The Commission will hold a public hearing on September 2, 1998 to hear additional testimony and receive documentary evidence regarding the previously proposed amendments to the diverted and transferred milk provisions and the definition of *producer milk* and also regarding the newly proposed amendments to the definition of *producer.* The comments on any of these proposed amendments will be accepted until 5:00 p.m. on September 16, 1998.

Diverted or Transferred Milk

The current Compact Over-order Price Regulation permits certain milk, which is not disposed of in the compact regulated area, to be qualified for payment of the Compact Over-order producer premium. In the exercise of its administrative discretion, the Compact Commission previously proposed, as a matter of policy, to amend the rules governing the definitions of ''producer milk'' (at section 1301.12) and ''diverted milk'' (at section 1301.23), as well as the rule governing the ''classification of transfers and diversions'' (at section 1304.2) to exclude from the pool milk that is transferred or diverted, in bulk, from a pool plant to a plant located

outside of the regulated area, and thereby disqualify it from the Compact Over-order producer premium.[1] The proposed amendments do not affect milk diverted or transferred to a partially regulated plant.[2]

In conjunction with its continuing deliberations regarding diverted and transferred milk, the Commission is now also proposing certain conforming amendments to the definition of *producer* at section 1301.11. This section establishes the criteria a producer must meet to qualify for Compact Over-order producer premiums. The Commission proposes to amend this section to be consistent with the proposed rules regarding diverted and transferred milk by adding a cross-reference to the definition of *producer milk*. This reference is required to prevent any ambiguity caused by the proposed amendment to the definition of *producer milk* which cross-references the proposed amendment to the definition of *diverted milk*.

The Commission also proposes to amend the definition of *producer*, as needed, to be consistent with any amendments adopted by the Commission to the rules regarding diverted and transferred milk. Specifically, sections 1301.11(b) (2) and (3) may require amendment to maintain internal consistency of the regulations if the Commission adopts amendments to the previously noticed rules regarding the definitions of ''producer milk'' (at section 1301.12) and ''diverted milk'' (at section 1301.23), as well as the rule governing the ''classification of transfers and diversions'' (at section 1304.2). Although the proposed amendments are merely conforming, the Commission invites comment on these provisions as currently contained in the Over-order Price Regulation.

Finally, the Commission proposes to amend the definition of *producer* to update the criteria for producers historically associated with the New England market to add the requirement that these producers moved their milk to a pool plant in the regulated area in December of 1998, in addition to December 1996 and December 1997, as currently provided in the regulation.

Accordingly, the Commission extends the comment period and specifically requests additional comments, data and testimony on issues relating to diverted and transferred milk, including:

1. Historical data regarding the volume and percentage of milk diverted and transferred out of the compact regulated area;

2. Information and statistical data regarding the impact, if any, of implementation of a cap on the volume and/or percentage of diverted and transferred milk eligible for Compact Over-order producer premiums and, assuming that some cap is implemented, what percentage that cap should be, with supporting documentation for the recommended cap, and recommendations for a methodology for calculating a cap, with supporting documentation for the methodology;

3. Information and identification of statistical data regarding the seasonal variability of milk production and milk consumption in the compact regulated area and the impact, if any, such variability has on the volume and percentage of milk diverted and transferred out of the compact regulated area;

4. Information and identification of statistical data regarding other influences, if any, on the volume and percentage of milk diverted and transferred out of the compact regulated area; and

5. Information and identification of statistical data regarding the impact, if any, of the provisions contained in the regulation defining the term *producer* on the volume and percentage of milk diverted or transferred out of the regulated area.

Official Notice of Technical, Scientific or Other Matters

Pursuant to the Commission regulations, 7 C.F.R. 1361.5(g)(5), the Commission hereby gives public notice that it may take official notice, at the public hearing on September 2, 1998, or afterward, of relevant facts, statistics, data, conclusions and other information provided by or through the United States Department of Agriculture, including but not limited to such matters reported by the National Agricultural Statistics Service, the Market Administrators, the Economic Research Service, the Agricultural Marketing Service and information, data and statistics developed and maintained by the Departments of Agriculture of the States or Commonwealth within the Compact regulated area.

Extension of Time for Submission of Comments

The Commission extends the comment period until 5:00 p.m. September 16, 1998 on the proposed rules amending parts 1301 and 1304 published at 63 FR 31943, June 11, 1998, amending the provisions regarding diverted and transferred milk.

Date, Time and Location of the Public Hearing

The Northeast Dairy Compact Commission will hold a public hearing at 9:00 AM on September 2, 1998 at the Holiday Inn, Capitol Room, 172 North Main Street, Concord, New Hampshire.

Request for Written Comments and Pre-filed Testimony

Pursuant to the Commission rules, 7 C.F.R. 1361.4, any person may participate in the rulemaking proceeding independent of the hearing process by submitting written comments and exhibits to the Commission. Comments and exhibits may be submitted at any time before 5:00 p.m. on September 16, 1998. Comments and exhibits will be made part of the record of the rulemaking proceeding only if they identify the author's name, address and occupation, and if they include a sworn notarized statement indicating that the comment and/or exhibit is presented based upon the author's personal knowledge and belief. Facsimile copies will be accepted up until the 5:00 PM deadline but the original must then be sent by ordinary mail.

The Commission is requesting pre-filed testimony from any interested person. Pre-filed testimony must include the witness's name, address and occupation and a sworn notarized statement indicating that the testimony is presented based upon the author's personal knowledge and belief. Pre-filed testimony must be received in the Commission office no later than 5:00 PM August 26, 1998.

Pre-filed testimony, comments and exhibits should be sent to: Northeast Dairy Compact Commission, 43 State Street, P.O. Box 1058, Montpelier, Vermont 05601, (802) 229–2028 (fax).

For more information contact the Compact Commission offices.

List of Subjects in 7 CFR Parts 1301 and 1304

Milk.

Codification in Code of Federal Regulations

For reasons set forth in the preamble, the Northeast Dairy Compact Commission proposes to amend 7 CFR Chapter XIII as follows:

PART 1301—DEFINITIONS

1. The authority citation for part 1301 continues to read as follows:

[1] 63 FR 31943 (June 11, 1998).

[2] The Compact and Commission regulations define a *partially regulated plant* to mean a milk plant not located in the regulated area, but having Class I distribution within the regulated area, or receipts from producers located in the regulated area. Compact Article II, Section 2(7); 7 C.F.R. 1301.6.

Authority: 7 U.S.C. 7256.

2. Section 1301.11 is amended by revising paragraph (b) to read as follows:

§ 1301.11 Producer.

* * * * *

(b) A dairy farmer who produces milk outside of the regulated area that is moved to a pool plant, provided that on more than half of the days on which the handler caused milk to be moved from the dairy farmer's farm during December 1996 and December 1997 and December 1998, all of that milk was physically moved to a pool plant in the regulated area. Or: to be considered a qualified producer, on more than half of the days on which the handler caused milk to be moved from the dairy farmer's farm during the current month and for five (5) months subsequent to July of the preceding calendar year, all of that milk must have moved to a pool plant and be defined as *producer milk* under § 1301.12, provided that the total amount of milk at a pool plant eligible to qualify producer who did not qualify in December 1996 and December 1997 and December 1998 shall not exceed the total bulk receipts of fluid milk products less:

(1) Producer receipts as described in paragraph (a) of this section and producer receipts as described in paragraph (b) of this section who are qualified based on December 1996 and December 1997 and December 1998;

(2) 90% of the total bulk transfers of fluid milk products (not including bulk transfers of skimmed milk and condensed milk) disposed outside of the regulated area; and

(3) 100% of packaged fluid milk products disposed outside of the regulated area.

* * * * *

Dated: August 11, 1998.

Kenneth M. Becker,

Executive Director.

[FR Doc. 98–21989 Filed 8–14–98; 8:45 am]

BILLING CODE 1650–01–P

DEPARTMENT OF JUSTICE

28 CFR Part 25

[AG Order No. 2172–98]

RIN 1105–AA51

National Instant Criminal Background Check System User Fee Regulation

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The rule will provide for and establish a user fee to be assessed to Federal Firearms Licensees (FFLs) for the processing by the FBI of National Instant Criminal Background Check System (NICS) background checks. A NICS background check will determine whether information available to the system provides reasonable cause to believe that transfer of a firearm to an individual would violate state or federal law. In states in which the state government has not agreed to designate a Point of Contact (POC) to receive and process requests from FFLs for NICS background checks, FFLs will be required to contact, either by telephone or other electronic means, the NICS Operations Center at the FBI to initiate and process a NICS background check.

There are substantial costs associated with operating the FBI's NICS Operations Center. The $200 million authorized to be appropriated by the Brady Handgun Violence Prevention Act, Public L. 103–159, section 106(b) was limited to the purpose of improving the criminal history record systems of the states. A small portion of those funds was made available to the FBI to help design the NICS. The funds are not available, however, to cover the FBI's annual operating cost for the NICS. Therefore, FFLs will be assessed a processing fee for each NICS background check processed by the FBI's NICS Operations Center. The purpose of the fee is to recover the full cost of providing this service to FFLs doing business in states where the FBI is contacted directly by the FFLs. This rulemaking sets forth the FBI's legal authority to charge a user fee for NICS background checks and the cost analysis to be used to calculate the fee.

DATES: Written comments must be received on or before September 16, 1998.

ADDRESSES: All comments concerning this proposed rule should be mailed to: Mr. Emmet A. Rathbun, Unit Chief, Federal Bureau of Investigation, CJIS Division, Module C–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306–0147.

FOR FURTHER INFORMATION CONTACT: Mr. Emmet A. Rathbun, Unit Chief, telephone number (304) 625–2000.

SUPPLEMENTARY INFORMATION: On November 30, 1993, Public L. 103–159 (107 Stat. 1536) was enacted, amending the Gun Control Act of 1968 (GCA), as amended (18 U.S.C. Chapter 44). Title I of Public L. 103–159, the ''Brady Handgun Violence Prevention Act'' (Brady Act) requires the Attorney General to establish by November 30, 1998, ''a national instant criminal background check system that any [firearms] licensee may contact, by telephone or by other electronic means in addition to the telephone, for information, to be supplied immediately, on whether receipt of a firearm by a prospective transferee would violate section 922 of title 18, United States Code, or State law.'' In order to provide this service directly to certain FFLs and to recover the associated costs, the FBI will assess FFLs a user fee in states where the FBI is contacted directly by the FFLs.

NICS Background Checks

The Brady Act provides that before a firearm may be transferred, FFLs must request a NICS background check on a prospective firearm purchaser who is not licensed under 18 U.S.C. 923. A Notice of Proposed Rulemaking establishing regulations to protect the security and privacy of the information in the NICS and describing the manner in which the system will function was published in the **Federal Register** on June 4, 1998, 63 FR 30430, ''National Instant Criminal Background Check System Regulations.'' Generally, a NICS background check will consist of a search of the NICS Index (an FBI database containing information concerning certain individuals prohibited by law from possessing firearms), the National Crime Information Center (NCIC), and the Interstate Identification Index (III), for matching records that may provide reason to believe that the transfer of a firearm to a prospective purchaser would violate Federal or state law.

The method by which an FFL will request background checks will depend upon the state where the FFL is conducting business. In states that agree to designate a POC, state or local law enforcement agencies will serve as POCs for the purpose of processing NICS checks. As POCs, these agencies will receive inquiries by FFLs, check state and local record systems for disqualifying records, initiate NICS background checks through electronic access to the NICS via the NCIC communications network, analyze any matching records, provide responses back to the FFL, and process appeals. The FBI will not charge the state agencies or the FFLs a fee for NICS background checks processed by state POCs. The comparatively minor cost to the FBI of providing automated record responses to POCs (who research and analyze the records) will be covered by funds appropriated to the FBI rather than by a NICS user fee. Charging FFLs a fee to recover the POC's cost of processing NICS background checks is at the discretion of the state.

Where the state will not be a POC, the FFLs will telephonically contact the

NICS Operations Center, a unit run by the FBI. The FBI is also exploring a plan to make electronic dial-up access to the NICS Operations Center available to FFLs in the future. Inquiries made by telephone will be answered by a NICS Customer Service Representative. The NICS Operations Center will perform the NICS background check, analyze any matching records, provide a response back to the FFL, and process appeals. In order to interpret and evaluate matching records, the FBI will use personnel who are specially trained to analyze records in the NICS Index, NCIC, and III. FFLs who directly contact the NICS Operations Center to initiate a background check will be assessed a fee. This fee will allow the Federal Government to recover the full cost of processing these background checks conducted by the NICS Operations Center. Likewise, if electronic FFL access is made available in the future, a fee will be charged. This fee will be less than the telephonic access fee since a NICS Customer Service Representative will not be needed to take a telephone call.

Legislative Authority

The legislative authority for the fee is the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991, Public L. 101–515, 104 Stat. 2101, 2113, (Nov. 5, 1990) which, in relevant part, provides the FBI authority to establish, collect, and retain fees for processing name checks for non-criminal justice purposes. Authority is also provided by the Independent Offices Appropriation Act, 1952 (31 U.S.C. 9701), which generally requires that a benefit or service provided to or for any person by a federal agency be self-sustaining to the extent possible. Charges are to be fair, taking into consideration the costs to the Government, value to the recipient, public policy or interest served, and other relevant facts.

Cost Analysis

In accordance with the guidelines issued by the Department of Justice (DOJ) *User Fee Program* (Supplement, *Department of Justice Budget Formulation and Execution Calls),* and Office of Management and Budget (OMB) Circular Number A–25 (1993) relating to the assessment of fees for Federal Government services, the FBI is establishing the user fee for the processing of a NICS background check by the NICS Operations Center in order to recover the full cost of providing service to FFLs doing business in states where the FBI is contacted directly by the FFLs. The full cost includes both the direct and indirect costs associated with the FBI's provision of the background check service to FFLs.

Direct costs are those which are proximate and directly traceable to the unit of output for which the fee is charged. Direct costs for the NICS program include the personnel and non-personnel costs of FBI-employed NICS analysts and technical support. The personnel and non-personnel costs were calculated using the modular costing tools described in the FBI's Fiscal Year 1999 budget submission to the OMB. Additionally, any contractor-supported operator and billing functions are included within the FBI's direct costs.

Indirect costs are those costs that are more distant, general in nature, and not directly traceable to the product or service produced. The FBI has allocated a portion of its general management, administration, finance, and security functions as indirect costs to the NICS program. These costs were allocated based on the ratio of positions in the NICS program to positions in all other Criminal Justice Information Services Division programs.

The costs to be recovered include, but are not limited to, an appropriate share of: (a) Direct and indirect personnel costs, including salaries and fringe benefits such as medical insurance and retirement, (b) physical overhead, consulting, and other direct costs including material and supply costs, utilities, insurance, and travel, (c) management and supervisory costs, and (d) the costs of enforcement, collection, research, establishment of standards, and regulation.

Cost Figures

Because NICS is a service that has not been previously offered, cost figures are based on information currently available regarding firearm background checks, the number of states that are expected to serve as POCs, and ongoing contracting efforts. Upon the establishment of the system on November 30, 1998, the FBI anticipates charging a fee of $14.00 per inquiry. The fee was determined by estimating the resources needed to satisfy the projected volume of background checks and related work, determining the direct and indirect costs of these resources, and working with the FBI's prime developmental contractor to cost the portion of services which will be furnished by an outside contractor.

ESTIMATED FISCAL YEAR 1999 NICS COSTS

Category	Yearly total
Wages and Other Compensation	$45,667,596
Appeals	846,378
Furniture and Supplies	2,303,491
Travel and Training	1,824,775
Hardware and Software Maintenance	690,816
Miscellaneous	3,297,827
Contractor Costs	37,002,514
Total	91,633,397

In order to estimate the number of NICS background checks that will be performed, the FBI used the firearms related inquiries of III for Fiscal Year 1997. These background checks were performed primarily for handgun sales as required under the Interim Provision of the Brady Act. For purposes of this calculation, the FBI estimates that it will perform handgun checks and/or long gun checks in approximately 34 non-POC states and territories. Using III inquiries in these states for firearms checks performed under the Interim Provision of the Brady Act, the FBI extrapolated the estimated number of total firearms (handguns and long guns) sold annually in these states to be 4,217,227. In addition, the FBI estimates there are 2,500,000 pawnshop redemptions per year that will require a background check. Therefore, the total number of inquiries per year is 6,717,227. Based on the cost of the estimated resources necessary to process 6,717,227 inquiries per year, the FBI estimates that its total annual costs will

be $91,633,397. Therefore, the cost per inquiry, rounded to the nearest dollar, is $14.00. This transaction cost includes both the direct and indirect cost categories of the NICS, set forth in the chart above and described generally below. To be assured that these cost figures were accurately calculated, the FBI hired an independent accounting firm to review the FBI's fee analysis. The firm validated the FBI's methodology in developing this user fee.

The Wages and Other Compensation category includes NICS Customer Service Representatives' salaries and benefits and support staff's salaries and benefits. Based on the projected number of inquiries per year, the NICS Operations Center will require an estimated staff of 586. This staffing level is required in order to provide prompt service to FFLs seven days a week.

When an individual is denied the purchase of a firearm, the individual may appeal that decision. If an individual resides in a POC state, it is anticipated that the individual will appeal the denial to the state according to the state's appeals procedures. If the denial was given by the NICS Operations Center, the individual would appeal directly to the FBI. The estimated cost to the FBI of processing appeals is incorporated into the initial user fee; individuals who appeal a denial will not be charged a separate fee. The estimated appeals cost anticipates that, in the appeals process, individuals may need to submit a fingerprint card to verify their identity. Fingerpoint cards submitted for appeals will be processed using the FBI's current procedure for handling first-person requests for one's own fingerprint-based record. The existing (and separate) fee of $18.00 for processing such submissions will be waived.

The Furniture and Supplies category is comprised of a combination of NICS staff and support staff requirements for these items. These costs are based upon the OMB's 1999 Cost Module, which sets a per-employee rate to be used for these calculations. An additional amount has been added for the purchase of telephone headsets for the NICS Customer Service Representatives.

The Travel & Training category includes costs for NICS personnel who need to travel to meet with FFLs and obtain feedback on the NICS. Specially trained NICS Representatives will need to report to various governmental agencies that have a direct interest in the NICS, including Congress. The Training category will allow NICS personnel to be trained on new NICS developments and techniques in order to improve service to the FFLs. Indirect travel and training expenses are also included in this category. These costs are also based upon the OMB's 1999 Cost Module, which sets a per-employee rate to be used for these calculations.

The Hardware and Software Maintenance category includes the maintenance on computer terminals and software that the NICS Representatives will need in order to perform this service for FFLs. Software license renewals and maintenance agreements are required for software products used on FBI computers. Because these software products are proprietary and specialized, licensing and maintenance contracts must be executed with the original developer. Contract hardware maintenance will be necessary for the efficient and continued operation of the NICS computers and peripheral equipment. This will include preventive and on-call hardware maintenance support for FBI computers and peripheral equipment. Without this preventive and on-call hardware maintenance, the NICS could experience disruptions in service.

The Miscellaneous category is composed of FBI employee background investigation contract costs, physical location costs (based on the standard Government Services Administration (GSA) rate for government office space), and depreciation.

The Contractor Cost category includes the cost of all contractor services provided to support the operation and maintenance of the NICS Operations Center, including, but not limited to, telecommunication, billing, and call center service costs. Such telephone-intensive functions are subject to workload variations that may be more economically managed using contractor support. The FBI therefore is engaging a private contractor with an appropriate number of Customer Service Representatives to answer phone calls from FFLs, forward information to NICS, and respond to FFLs with proceed or delay messages.

The NICS fee is being established in order for the Federal Government to recover the full cost of processing NICS background checks for FFLs doing business in states in which the FBI is contacted directly by the FFLs. This fee will not generate a profit. Evaluation of the NICS fee will be an ongoing process. The validity of this estimate will be evaluated during Fiscal Year 1999, and the results of this evaluation and any appropriate changes to the NICS fee will be published in the **Federal Register** no later than November 30, 1999. Subsequently, the NICS fee(s) will be periodically evaluated and adjusted as may be warranted. The Director of the FBI may also clarify, supplement, or amend provisions related to these fees. The FBI Director shall provide appropriate notice to affected persons of any exercise of the foregoing authorities; notice relating to provisions of general applicability shall be published in the **Federal Register**.

Billing FFLs for NICS User Fees

It is general Federal policy that user charges will be collected in advance of, or simultaneously with, the rendering of services. However, strict adherence to this policy here would conflict with the Brady Act's mandate for ''instant'' checks, and the following procedures are accordingly established as an exception to this general policy. FFLs being serviced by the FBI will incur a non-refundable user fee charge for each requested NICS check immediately upon issuance by the FBI of the unique NICS Transaction Number (NTN) associated with the check. However, such FFLs will be afforded two payment options, real-time credit card charges by individual transaction or monthly invoicing.

Prior to initiating its first NICS check, an FFL will notify the FBI, via an enrollment process, as to which payment option it will use. Only a single payment option can be used. FFLs will be able to direct the FBI to change their payment option with a minimum of 30 days notice before the beginning of the changed billing period.

Under the real-time credit card payment option, the FFL's credit card will be billed for each NICS check at the time the FBI issues the associated NTN. A record of each NICS check, including the fee, transaction date, and NTN, will be provided on the FFL's monthly credit card bill. The FBI will accept the following major credit cards: VISA, Master Card, American Express, and Discover.

Under the invoicing payment option, a record will be compiled of all NICS checks initiated by the FFL during the billing period for which an NTN was issued, and the FFL will be invoiced for payment. The invoice will include a record of transactions including the date and time of each NICS check, the charge, and the NTN. Invoice billing periods will be on a calendar month basis. Payment will be due within 30 days of the invoice date. Invoices will be dated according to their mailing date, which will be approximately 15 days after the close of the subject billing period. The FFL will forward invoice payment (either in check form or via Electronic Fund Transfer (EFT)) to a

''Lock Box'' or other Automated Clearing House (ACH) depository identified by the FBI. Remittances must be drawn on a bank or other institution located in the United States and be payable in United States currency. A charge may be imposed if a check in payment of an invoice or any other matter is not honored by the bank or other financial institution on which it is drawn.

The FBI will discontinue service, i.e., providing NICS checks, to FFLs whose NICS financial accounts are not in good standing.

Waiver of Fee in Cases of Successful Appeal

Individuals who are denied the purchase of a firearm by the NICS Operations Center may appeal the denial by challenging the record upon which the denial is made. When the appeal is successful and less than 30 days has elapsed since the date of the initial NICS check, a ''proceed'' response and an NTN is forwarded to the FFL, which will allow the transfer of the firearm. If more than 30 days have elapsed before a denial is overturned, the FFL must perform a new NICS check before transferring the firearm. In such cases, the purchaser will be provided a written statement by the NICS Operations Center that will allow the FFL to request the new NICS check without charge.

Regulatory Flexibility Act (RFA)

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 601–12, the FBI has evaluated the effects of this rule on small entities. A small firearm retailer is defined as having under $5.0 million in annual gross receipts as defined by 13 CFR 121.201. Firearm retailers are included in the Standard Industrial Class (SIC) Code 5941. Based on the evaluation under 605(b) of the RFA, the Department certifies that this action will not have a significant economic impact on a substantial number of small entities. While this proposed rule may generate up to $92 million annually in fees, these fees will not have a significant economic impact on businesses. The ultimate impact of the fee will likely be on firearm purchasers since FFLs are expected to recoup NICS user fees from the purchasers in the same way FFLs recoup the cost of fees today in connection with checks under the interim provisions of the Brady Act.

The FBI will be sending a notice, including a letter describing NICS and a NICS brochure, to each FFL in the 34 states and territories that are currently expected to be serviced directly by the FBI. The FBI has also met with FFLs at regional firearm seminars conducted by the Bureau of Alcohol, Tobacco and Firearms to inform FFLs about NICS plans and to solicit comments needed to finalize these plans. These efforts were made by the FBI to also satisfy the ''outreach'' provisions of 5 U.S.C. 609. The obligation of FFLs to contact the NICS before transferring a firearm is imposed by Title I of the Brady Act. The fee charged for the NICS checks allows the Federal Government full recovery of costs to process NICS checks for FFLs doing business in states where the FBI is contacted directly by the FFLs. In addition, the user fee will be evaluated from time to time to account for any changes that may affect the fee.

Executive Order 12866

This proposed rule has been drafted and reviewed in accordance with Executive Order 12866, § 1(b), Principles of Regulation. The DOJ has determined that this proposed rule is a ''significant regulatory action'' under Section 3(f) of Executive Order 12866, Regulatory Planning and Review, and thus the proposed rule has been reviewed by the Office of Management and Budget.

Executive Order 12612

This regulation will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism applications to warrant the preparation of a Federal Assessment.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act oaf 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule is not a major rule as defined by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804(2). This proposed rule will not result in an annual effect on the economy of $100,000,000 or more, a major increase in costs or prices, or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets. The cost to the FFLs is expected to be inconsequential, because the FFLs are likely to recoup the fees from firearm purchasers.

Paperwork Reduction Act of 1995

This proposed rule does not contain collection of information requirements and would not be subject to the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 3501–20).

Executive Order 12988—Civil Justice Reform

The proposed rule meets the applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988.

List of Subjects in 28 CFR Part 25

Administrative practice and procedure, Automatic data processing, Business and industry, Courts, Credit, Firearms, Information, Law enforcement officers, Reporting and recordkeeping requirements, and Telecommunications.

Accordingly, Part 25 of Title 28 of the Code of Federal Regulations, which was proposed to be added to 63 FR 30434 (June 4, 1998) is proposed to be amended as follows:

PART 25—DEPARTMENT OF JUSTICE INFORMATION SYSTEMS

Subpart A—The National Instant Criminal Background Check System

1. The authority citation for Part 25 is revised to read as follows:

Authority: Pub. L. 103–159, 107 Stat. 1536 18 U.S.C. 922; Pub. L. 101–515, 104 Stat. 2101, 2112; 31 U.S.C. 9701.

2. Section 25.12 is added to read as follows:

§ 25.12 User Fee Charge.

(a) FFLs who directly contact the NICS Operations Center to request a NICS background check will be assessed a fee that represents the reasonable costs of the associated services.

(b) In cases where a denial of a firearm transaction has been overturned through an appeal and more than 30 days have passed since the initial NICS check, the purchaser will be provided a written statement that will allow the FFL to contact the NICS Operations Center and request that a new NICS check be performed without charge.

(c) The Director of the FBI may from time to time determine and establish the reasonable amount of the fee or fees to

be assessed under this authority. The Director of the FBI may also clarify, supplement, or amend the provisions of this section. The Director of the FBI shall provide appropriate notice to affected persons of any exercise of the foregoing authorities; notice relating to provisions of general applicability shall be published in the **Federal Register**.

Dated: August 12, 1998.

Janet Reno,

Attorney General.

[FR Doc. 98–22004 Filed 8–14–98; 8:45 am]

BILLING CODE 4410–02–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 083–0072b; FRL–6138–5]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, Kern County Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from wastewater separators, rubber tire manufacturing, and soil decontamination operations.

The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no relevant adverse comments are received, no further activity is contemplated in relation to this rule. If EPA receives relevant adverse comments, the direct final rule will not take effect and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Comments must be received in writing by September 16, 1998.

ADDRESSES: Written comments should be addressed to: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Divison, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.

Kern County Air Pollution Control District, 2700 M Street, Suite 290, Bakersfield, CA 93301

San Joaquin Unified Air Pollution Control District, 1999 Tuolumne Street, Suite 200, Fresno, CA 93721

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765.

FOR FURTHER INFORMATION CONTACT: Patricia Bowlin, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1188

SUPPLEMENTARY INFORMATION: This document concerns Kern County Air Pollution Control District Rule 414, Wastewater Separators; San Joaquin Valley Unified Air Pollution Control District Rule 4681, Rubber Tire Manufacturing; and South Coast Air Quality Management District Rule 1166, Volatile Organic Compound Emissions from Decontamination of Soil. These rules were submitted by the California Air Resources Board to EPA on May 10, 1996; May 24, 1994; and October 13, 1995, respectively. For further information, please see the information provided in the Direct Final action that is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 29, 1998.

Nora L. McGee,

Acting Regional Administrator, Region IX.

[FR Doc. 98–21901 Filed 8–14–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 187–0076b; FRL–6137–7]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision, Mojave Desert Air Quality Management District, San Diego Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concern the control of volatile organic compound (VOC) emissions from aerospace coating operations.

The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Final Rules Section of this **Federal Register**, the EPA is approving the state's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no relevant adverse comments are received, no further activity is contemplated in relation to this rule. If EPA receives relevant adverse comments, the direct final rule will not take effect and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Comments must be received in writing by September 16, 1998.

ADDRESSES: Written comments should be addressed to: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rules and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board, Stationary Source Division, Rule

Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812.
Mojave Desert Air Quality Management District, 15428 Civic Drive, Suite 200, Victorville, CA 92392.
San Diego Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1096.
San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Suite 200, Fresno, CA 93721.
South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond, CA 91765.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Office [AIR–4], Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1197.

SUPPLEMENTARY INFORMATION: This document concerns Mojave Desert air Quality Management District Rule 1118, Aerospace Vehicle Parts and Products Coating Operations; San Diego County Air Pollution Control District Rule 67.9, Aerospace Coating Operations; San Joaquin Unified Air Pollution Control District Rule 4605, Aerospace Assembly and Component Manufacturing Operations; and South Coast Air Quality Management District, Rule 1124, Aerospace Assembly and Component Manufacturing Operations, submitted to EPA on November 26, 1996, August 1, 1997, March 10, 1998, and August 1, 1997, respectively, by the California Air Resources Board.

For further information, please see the information provided in the Direct Final action that is located in the Rules Section of this **Federal Register**.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 24, 1998.

Sally Seymour,

Acting Regional Administrator, Region IX.

[FR Doc. 98–21899 Filed 8–14–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6146–1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent for partial deletion of Source Areas 1, 2, 3, 7, 8, 9 and 10 from the Bypass 601 Groundwater Contamination Superfund Site, Concord, Cabarrus County, North Carolina, from the National Priorities List.

SUMMARY: The United States Environmental Protection Agency (US EPA), Region IV, announces its intent to delete Source Areas 1, 2, 3, 7, 8, 9, and 10 from the Bypass 601 Groundwater Contamination (Bypass 601) National Priorities List (NPL) Site, located in Concord, Cabarrus County, North Carolina, and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), promulgated by EPA, pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA and the State of North Carolina Department of Environment and Natural Resources (NC DENR) have determined that Source Areas 1, 2, 3, 7, 8, 9, and 10 pose no significant threat to public health or the environment and, therefore, additional CERCLA remedial measures are not appropriate.

This notice of intent to delete pertains to both soil and groundwater at the seven (7) source areas mentioned above. The contamination, which was a result of the disposal practices of the Martin Scrap Recycling (MSR) Facility, has been remediated. The remainder of the source areas are being addressed by ongoing CERCLA activities.

DATES: EPA will accept comments concerning its partial deletion proposal until September 16, 1998.

ADDRESSES: Comments may be mailed to: Giezelle S. Bennett, US EPA, Region IV, 61 Forsyth Street, SW, Atlanta, GA 30303.

Comprehensive information on this Site is available through the EPA Region IV public docket, which is located at EPA's Region IV office and is available for viewing by appointment from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Requests for appointments or copies of the background information from the regional public docket should be directed to the EPA Region IV docket office.

The address for the regional docket office is Ms. Debbie Jourdan, US EPA, Region IV, 61 Forsyth St, SW, Atlanta, GA 30303. The telephone number is 404–562–8862. Background information from the regional public docket is also available for viewing at the Site information repository located at the Charles A. Cannon Memorial Library, 27 Union Street, North, Concord, NC 28025. The telephone number is 704–788–3167.

FURTHER INFORMATION CONTACT: Please contact either Giezelle Bennett or Diane Barrett at 1–800–435–9233, US EPA Region IV, 61 Forsyth St, SW, Atlanta, GA 30303.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Source Area Deletions

I. Introduction

This document is to announce EPA's intent to delete Source Areas 1, 2, 3, 7, 8, 9, and 10 of the Bypass 601 Site from the NPL. It also serves to request public comments on the partial deletion proposal.

EPA identifies sites that appear to present a significant risk to public health, welfare, or environment and maintains the NPL as the list of these sites. Sites on the NPL qualify for remedial responses financed by the Hazardous Substances Response Trust Fund (Fund). As described in 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions in the unlikely event that conditions at the Site warrant such actions. EPA accepts comments on the proposal to delete a Site from the NPL for thirty (30) days after publication of this document in the **Federal Register**.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites or delete parts of sites from the NPL. In accordance with § 300.425(e) of the NCP, sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA, in consultation with the State, considers whether the site has met any of the following critieria for site deletion:

(1) Responsible or other parties have implemented all appropriate response actions required.

(2) All appropriate response actions under CERCLA have been implemented and no further response actions are deemed necessary.

(3) Remedial investigation has determined that the release poses no significant threat to public health or the environment and, therefore, no remedial action is appropriate.

III. Deletion Procedures

EPA Region IV will accept and evaluate public comments before making a final decision to delete. Comments from the local community

may be the most pertinent to deletion decisions. The following procedures were used for the intended deletion of Source Areas 1, 2, 3, 7, 8, 9, and 10 from the Bypass 601 Site:

(1) EPA Region IV has recommended deletion and has prepared the relevant documents.

(2) The State has concurred with the decision to delete Source Areas 1, 2, 3, 7, 8, 9, and 10.

(3) Concurrent with this announcement, a notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials announcing the commencement of a 30-day public comment period on the Notice of Intent of Partial Deletion.

(4) EPA has made all relevant documents available for public review at the information repository and in the Regional Office.

Partial deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for information purposes and to assist EPA management. As mentioned earlier, § 300.425(e)(3) of the NCP states that deletion of a site from the NPL does not preclude eligibility of the site for future Fund-financed response actions.

For the deletion of these Source Areas from the Site, EPA will accept and evaluate public comments on this Notice of Intent of Partial Deletion before finalizing the decision. The Agency will prepare a Responsiveness Summary to address any significant public comments received during the comment period. The deletion is finalized after the Regional Administrator places a Notice of Deletion in the **Federal Register**.

The NPL will reflect any deletions in the next publication of the final rule. Public notices and copies of the Responsiveness Summary will be made available to local residents by Region IV.

IV. Basis for Intended Source Area Deletions

The following Site summary provides the Agency's rationale for the proposed intent for partial deletion of specific source areas of this Site from the NPL.

The Bypass 601 Site is defined as an area located on the western edge of Concord, North Carolina in which groundwater is contaminated by multiple sources. The Martin Scrap Recycling (MSR) facility, which operated as a battery salvage and recycling facility from approximately 1966 to 1986, is one of the major sources of contamination. Ten other source areas of contamination related to battery disposal were identified in the area. They are:

- Source Area 1 is located adjacent to Unnamed Stream #1, west of Bypass 601. This area is located in a heavily wooded steep terrain behind an auto sales dealership (proposed for deletion). All soil and debris containing contaminants above the soil cleanup levels (SCLs) has been removed from this Source Area. Groundwater is not contaminated.
- Source Area 2 is located south of Montford Avenue and west of Bypass 601. A mobile trailer is currently on this property (proposed for deletion). All soil and debris containing contaminants above the SCLs has been removed from this Source Area. Groundwater is not contaminated.
- Source Area 3 is located at 72 Sumner Avenue. A mobile trailer is currently on the property (proposed for deletion). All soil and debris containing contaminants above the SCLs has been removed from this Source Area. Groundwater is not contaminated.
- Source Area 4 consists of the commercial property occupied by an abandoned flea market and is located north and adjacent to the MSR facility (not proposed for deletion). Contaminants at this Source Area are being addressed through an ongoing remedial action.
- Source Area 5 is located at a private landfill along the eastern boundary of the MSR facility (not proposed for deletion). Contaminants at this Source Area are being addressed through an ongoing remedial action.
- Source Area 6 is located behind a tire store on the corner of McGill and Bypass 601 (not proposed for deletion). Contaminants at this Source Area will be addressed through institutional controls.
- Source Area 7 is the radio tower site located approximately ¼-mile north of the MSR facility (proposed for deletion). No soil or debris containing contaminants above the SCLs were found at this Source Area. Groundwater is not contaminated.
- Source Area 8 consists of the floodplain area south of Unnamed Stream #1 (proposed for deletion). All soil and debris containing contaminants above the SCLs has been removed from this Source Area. Groundwater is not contaminated.
- Source Area 9 is located south of Montford Avenue and lies southeast of Source Area 2 (proposed for deletion). All soil and debris containing contaminants above the SCLs has been removed from this Source Area. Groundwater is not contaminated.
- Source Area 10, located adjacent to Unnamed Stream #2, is bordered to the north, west, and south by Barnhardt Avenue, Groff Street, and Montford Avenue, respectively (proposed for deletion). All soil and debris containing contaminants above the SCLs has been removed from this Source Area. Groundwater is not contaminated.

The MSR facility dealt in the recovery of scrap metal, most notably lead, which was recovered from scrap vehicle batteries. The batteries were ''cracked'' by sawing off the tops with an electric saw. Lead plates were then removed from the batteries for reclamation. The waste from this operation consisted of the sulfuric acid (contaminated with lead) from the batteries, and battery casings. Lead and other heavy metals were found in the soil; lead and three volatile organic compounds (VOCs) (1,2-dichloroethene, carbon tetrachloride, and benzene) were found in the groundwater at some of the Source Areas. The facility reportedly operated from 1966 to 1986. The ten other source areas were discovered during the Remedial Investigation. Source Areas 2 and 6 were also reported to have been used for reclamation operations by Mr. Martin prior to the MSR's present location.

The Bypass 601 Site was added to the National Priorities List (NPL) in June 1986.

A Remedial Investigation and Feasibility Study (RI/FS) completed in 1990, identified metal contamination of soils throughout the MSR facility (Operable Unit #1). A second RI/FS was completed in 1993 on the ten source areas and the groundwater (Operable Unit #2). During the second RI/FS, a removal was conducted by EPA on four of the Source Areas (1, 2, 9, and 10) that presented an immediate risk to human health. Approximately 14,000 cubic yards of contaminated soil and debris were excavated from these source areas and then stockpiled at the MSR facility. This material was subsequently covered with a 20-mil liner.

In the April 1993 Record of Decision (ROD), contaminated soil and debris found in Source Areas 2, 3, 6, 8, and 9 were slated for removal. These source areas are located in residential areas and the residents expressed a desire for the cleanup to occur as soon as possible. Therefore, in September 1996, during the Remedial Design phase, the Potentially Responsible Parties (PRPs) initiated the removal of soil from these outlying areas. An estimated 16, 750 cubic yards of contaminated soil and debris were removed. Post-excavation sampling confirmed that all contaminants remaining in the Source

Area soils were below the SCLs identified in the ROD. The soils were transported to the MSR facility and stockpiled. The MSR facility, and Source Areas 4 and 5 are currently being capped with a multi-layer cap.

Currently, all stockpiled materials (from both removals) have been solidified/stabilized as part of the ongoing remedial action. In addition, as a result of the ongoing remedial action, monitoring wells were removed from the outlying source areas in June 1998.

There are no institutional controls for Source Areas 1, 2, 3, 7, 8, 9, and 10. A five-year review will not be conducted at these Source Areas due to the fact that soil and groundwater contaminants are below the SCLs. The concentrations found in the samples taken do not present a current or future threat to public health or the environment.

EPA, with concurrence of the State of North Carolina, has determined that all appropriate responses under CERCLA for Source Areas 1, 2, 3, 7, 8, 9, and 10 have been completed, and that no further activities by responsible parties are deemed necessary. Therefore, EPA proposes to delete these Source Areas from the NPL.

Dated: August 5, 1998.

A. Stanley Meiburg,

Deputy Regional Adminstrator, Region IV.

[FR Doc. 98–22059 Filed 8–14–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6146–2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete a portion of the Sangamo Weston/Twelve Mile Creek/Lake Hartwell (Sangamo) Superfund Site from the National Priorities List (NPL).

SUMMARY: The United States Environmental Protection Agency (US EPA), Region 4, announces its intent to partially delete a portion of the Sangamo Superfund Site from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA is pursuing a partial deletion for the Sangamo Superfund Site based on a policy change intended to support economic redevelopment for Superfund sites. This partial deletion will be for an unused portion of the site (across Sangamo Road from the plant property) and also includes three of the six remote properties which are within a few miles of the plant property. The three remote properties proposed for deletion are Trotter, Nix, and Welborn properties. There is no groundwater contamination at the areas proposed for deletion. EPA and the State of South Carolina Department of Health and Environmental Control have determined that these areas pose no significant threat to public health or the environment and therefore, CERCLA remedial measures are not appropriate for the unused tract of land, and no further remedial measures are necessary for the three remote properties.

DATES: EPA will accept comments concerning the Sangamo Site partial deletion proposal until September 16, 1998.

ADDRESSES: Comments may be mailed to: Sheri Panabaker, US EPA, Region 4, 61 Forsyth St., WD–NSMB, SW, Atlanta, GA, 30303.

Comprehensive information on this Site is available through the EPA Region 4 public docket, which is located at EPA's Region 4 office and is available for viewing by appointment from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Requests for appointments or copies of the background information from the regional public docket should be directed to the EPA Region 4 docket office.

The address for the regional docket office is: U.S. EPA, Region 4, 61 Forsyth St., SW, Atlanta, GA, 30303, attn: Ms. Debbie Jourdan. The telephone number is 404–562–8862.

Background information from the regional public docket is also available for viewing at the Site information repository located at the following locations: R.M. Cooper Library, Clemson University, South Palmetto Boulvard, Clemson, SC (864) 656–5174; Pickens County Public Library, Easley Branch, 110 West First Avenue, Easley, SC (864) 850–7077; Hart County Library, 150 Benson Street, Hartwell, GA (706) 376–4655.

FOR FURTHER INFORMATION CONTACT: Please contact either Sheri Panabaker (Remedial Project Manager) or Cynthia Peurifoy (Community Relations Coordinator) at 1–800–435–9233 or 404–562–8810. E-mail address is *panabaker.sheri@epamail.epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

This document is to announce EPA's intent to delete a portion of the Sangamo Site from the NPL. It also serves to request public comments on the partial deletion proposal.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. Sites on the NPL qualify for remedial responses financed by the Hazardous Substances Response Trust Fund (Fund). As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such actions. EPA will accept comments on the proposal to delete a site from the NPL for thirty days after publication of this document in the **Federal Register**.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with § 300.425(e) of the NCP, sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA, in consultation with the State, considers whether the site has met any of the following criteria for site deletion:

(i) Responsible or other parties have implemented all appropriate response actions required;

(ii) All appropriate response actions under CERCLA have been implemented and no further response actions are deemed necessary; or

(iii) The remedial investigation has determined that the release poses no significant threat to public health or the environment and, therefore, no remedial action is appropriate.

III. Deletion Procedures

EPA Region 4 will accept and evaluate public comments before making a final decision to delete. Comments from the local community may be the most pertinent to deletion decisions. The following procedures were used for the intended deletion of a portion of the Sangamo Site:

(1) EPA Region 4 has recommended this partial deletion and has prepared the relevant documents.

(2) The State concurs with the decision to delete a portion of the Sangamo Site.

(3) Concurrent with this announcement, a notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials

announcing the commencement of a 30-day public comment period on the Notice of Intent to Delete.

(4) EPA has made all relevant documents available for public review at the information repository and in the Regional Office.

Partial deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for information purposes and to assist EPA management. As mentioned earlier, section 300.425(e)(30) of the NCP states that deletion of a site from the NPL does not preclude eligibility of the site for future Fund-financed response actions.

For the partial deletion of this site, EPA will accept and evaluate public comments on this Notice of Intent to Delete before finalizing the decision. The Agency will prepare a Responsiveness Summary to address any significant public comments received during the comment period. The deletion is finalized after the Regional Administrator places a Notice of Deletion in the **Federal Register**.

The NPL will reflect any deletions in the next publication of the final rule. Public notices and copies of the Responsiveness Summary will be made available to local residents by Region 4.

IV. Basis for Intended Sangamo Site Partial Deletion

The following Site summary provides the Agency's rationale for the proposed intent for partial deletion of this Site from the NPL.

The Sangamo site (Site) is located in Pickens County, South Carolina. Sangamo Weston, Inc. owned and operated a capacitor manufacturing plant in Pickens, South Carolina from 1955 to 1987. In its manufacturing processes, Sangamo used several varieties of dielectric fluids which contained several varieties of polychlorinated biphenyls (PCBs). PCBs reportedly enhanced the performance and durability of the fluids. Waste disposal practices from the Sangamo Plant included land-burial of off-specification capacitors and wastewater treatment sludges on the plant site and six satellite (remote) disposal areas within a 3-mile radius of the plant. Three of these, which are proposed for deletion, are the Trotter, Nix, and Welborn properties. PCBs were also discharged with the effluent directly into Town Creek, which is a tributary of Twelvemile Creek. Twelvemile Creek is a major tributary of the 56,000 acre Lake Hartwell. As part of its overall strategy in addressing the Sangamo site, EPA split the site into two Operable Units. Operable Unit One (OU1) consists of the land-based source areas including the plant site and the six satellite disposal areas. OU2 addresses the sediment and biological impacts downstream of the land-based source areas.

The specific areas associated with this partial delisting include only a portion of the soils for OU1. The areas proposed for delisting (an unused tract of land across from the plant property, and three remote properties, Trotter, Nix, and Welborn) have been the subject of previous investigations. The majority of the investigatory and remedial actions taken within the area targeted for partial delisting was performed under a Consent Decree, dated April 15, 1992.

An RI/FS was initiated by the potentially responsible party (Schlumberger Industries, Inc. (SII)) in 1988, which showed soils to be primarily contaminated with PCBs, but there were also VOCs and metals detected. The Record of Decision (ROD) was signed in December 1990 which stated that the contaminated soils would be treated by thermal desorption. The groundwater at these three remote properties did not pose a risk to human health or the environment and, therefore, remedial action was not warranted for the groundwater.

Under a Consent Decree with SII signed in April 1992, the contaminated soils were excavated from all six of the remote properties between November 1993 and July 1994. The soils were excavated to 10 parts per million (ppm) for the remote properties (except for the ravine parts of the Nix and Welborn properties, which were excavated to 1 ppm), and to 25 ppm on the plant property. Sampling to confirm the effectiveness of the waste removal efforts showed that the performance standards were achieved. The excavated areas were then backfilled with clean soil. Treatment of all contaminated soils (from the six remote properties and the plant property) by thermal desorption began in December 1995, and was completed in May 1997. Approximately 60,000 tons (40,000 cubic yards) of contaminated soils were treated to 2 ppm. The cleanup level was confirmed through sampling of treated soils.

Samples collected from the unused property across the street from the plant site did not detect any of the contaminants stated in the ROD.

The remedial activities associated with removing contaminated soil within the areas targeted for partial delisting at the Sangamo Site are considered a permanent remedy. No additional treatment of soils within these areas will be necessary. As such, no operation and maintenance activities are necessary for these areas. Because no hazardous substances, pollutants, or contaminants remain in the soils within the areas targeted for partial delisting, no Five Year Review will be performed on these areas.

EPA, in concurrence with the State of South Carolina Department of Health & Environmental Control, has determined that all appropriate Fund-financed responses under CERCLA for the soils within the areas targeted for this partial deletion have been completed, and that no further activities by responsible parties are appropriate. Therefore, EPA proposes to delete these areas from the NPL.

Dated: August 6, 1998.

A. Stanley Meiburg,

Deputy Regional Administrator, Region 4.

[FR Doc. 98–22060 Filed 8–14–98; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE00

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on 90-Day Finding and Commencement of Status Review for a Petition To List the Westslope Cutthroat Trout as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service) provides notice that the comment period on the westslope cutthroat trout 90-day finding is being reopened. All interested parties are invited to submit comments on this proposal.

DATES: Comments will be accepted until October 13, 1998.

ADDRESSES: Data, information, technical critiques, comments, or questions relevant to this amended petition should be sent to the Chief, Branch of Native Fishes Management, Montana Fish and Wildlife Management Assistance Office, 4052 Bridger Canyon Road, Bozeman, Montana 59715. The amended petition, its appendices, and bibliography are available for public inspection, by appointment, at the above address. Electronic copies of the amended petition and bibliography may be requested and received via e-mail from lynn__kaeding@fws.gov.

FOR FURTHER INFORMATION CONTACT: Lynn Kaeding, at the above address, or telephone (406) 582–0717.

SUPPLEMENTARY INFORMATION:

Background

On June 10, 1998, the Service published in the **Federal Register** a positive 90-day finding on a formal petition to list the westslope cutthroat trout as threatened throughout its range and designate critical habitat for this subspecies pursuant to the Endangered Species Act of 1973, as amended. Copetitioners were American Wildlands, Clearwater Biodiversity Project, Idaho Watersheds Project, Inc., Montana Environmental Information Center, the Pacific Rivers Council, Trout Unlimited's Madison-Gallatin Chapter, and Mr. Bud Lilly.

The Service has reviewed the amended petition, as well as other available information, published and unpublished studies and reports, and agency files. On the basis of the best scientific and commercial information available, the Service finds that there is sufficient information to indicate that listing of the westslope cutthroat trout as threatened, throughout all or parts of its range, may be warranted. The Service believes that the decline of westslope cutthroat trout is due mainly to the destruction and adverse modification of habitat and the negative effects of stocked, nonnative fish species, as described above under the listing factors. However, the Service also believes that the present status of westslope cutthroat trout throughout its historic range is not well understood, particularly with regard to the genetic characteristics of many known populations, the possible occurrence of additional populations in areas that have not been studied, and the measures now underway to protect remaining populations. Within 1 year from the date the petition was received, a finding as to whether the petitioned action is warranted is required by section 4(b)(3)(B) of the Act.

Public Comments Solicited

Oral and written statements concerning the proposed rule will receive equal consideration by the Service. There are no limits to the length of written comments presented at the hearing or mailed to the Service. News released announcing the date, time, and location of the hearings are being published in newspapers concurrently with this **Federal Register** notice.

The previous comment period on this finding closed on August 10, 1998. At the request of the U.S. Forest Service and several State fish and wildlife agencies, the Service reopens the comment period. Written comments may not be submitted until October 13, 1998, to the Service office identified in the **ADDRESSES** section above. All comments must be received before the close of the comment period to be considered.

Author: The author of this notice is Chuck Davis, Regional Environmental Coordinator. U.S. Fish and Wildlife Service, Region 6, P.O. Box 25486, DFC, Denver, CO 80225–0486; telephone 303–236–7400 extension 235.

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 10, 1998.

Mary Lou Gessner,

Acting Deputy Regional Director, Denver, Colorado.

[FR Doc. 98–21995 Filed 8–14–98; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 63, No. 158
Monday, August 17, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Emerald Bay Timber Sale Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement (EIS) to provide timber for the Ketchikan Area timber sale program. The Record of Decision will disclose how the Forest Service has decided to provide harvest units and associated timber harvesting facilities. The proposed action is to harvest an estimated 15 million board feet (mmbf) of timber on approximately 900 acres in a single timber sale. A range of alternatives responsive to significant issues will be developed, including a no action alternative. The proposed timber harvest is located within Tongass Forest Plan Value Comparison Unit 721 on Cleveland Peninsula, Alaska, on the Ketchikan Ranger District, Ketchikan Area, Tongass National Forest.

DATES: Comments concerning the scope of this project should be received by September 15, 1998.

ADDRESSES: Please send written comments to: Forest Supervisor's Office, Tongass National Forest, Ketchikan Area, Attn.: Emerald Bay EIS, Federal Building, Ketchikan, AK 99901.

FOR FURTHER INFORMATION CONTACT: Pete Griffin, Acting District Ranger, Ketchikan Ranger District, Tongass National Forest, 3031 Tongass Ave., Ketchikan, AK 99901, telephone (907) 228–4100 or Craig Trulock, Planning Silviculturist, Ketchikan Ranger District, 3031 Tongass Ave., Ketchikan, AK 99901, telephone (907) 228–4125.

SUPPLEMENTARY INFORMATION: Public participation will be an integral component of the study process and will be especially important at several points during the analysis. The first is during the scoping process. The Forest Service will be seeking information, comments, and assistance from Federal, State and local agencies, individuals, and organizations that may be interested in, or affected by, the proposed activities. The scoping process will include: (1) identification of potential issues, (2) identification of issues to be analyzed in depth, and (3) elimination of insignificant issues or those which have been covered by a previous environmental review. Written scoping comments will be solicited through a scoping package that will be sent to the project mailing list and to the local newspaper. For the Forest Service to best use the scoping input, comments should be received by September 15, 1998. Preliminary issues identified for analysis in the EIS include the potential effects of the project on, and the relationship of the project to: subsistence resources, timber supply and economics, and others.

Based on the results of scoping and the resource capabilities within the Project Area, alternatives, including a no action alternative, will be developed for the Draft EIS. The Draft EIS is projected to be filed with the Environmental Protection Agency (EPA) in January 1999. Subsistence hearings, as provided for in Title VIII, Section 810 of the Alaska National Interest Lands Conservation Act (ANILCA), will be held during the comment period on the Draft EIS if needed. The Final EIS is anticipated by May 1999.

The comment period on the Draft EIS will be a minimum of 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of Draft EISs must structure their participation in the environmental review of the proposal, so that it is meaningful and alerts an agency to the reviewer's position and contentions (*Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553, (1978)). Environmental objections that could have been raised at the Draft EIS stage may be waived or dismissed by the courts (*City of Angoon* v. *Hodel,* 803 F.2nd 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)). Because of these courts rulings, it is very important that those interested in this Proposed Action, participate by the close of the 45 day comment period, so that substantive comments and objections are made available to the Forest Service at a time when they can be meaningfully considered and responded to in the Final EIS.

To assist the Forest Service in identifying and considering issues and concerns of the Proposed Action, comments during scoping and on the Draft EIS should be as specific as possible and refer to specific pages or chapters. Comments may address the adequacy of the Draft EIS or the merits of the alternatives formulated and discussed. In addressing these points reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act in 40 CFR 1503.3. Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this Proposed Action and will be available for public inspection. Comments submitted anonymously will be accepted and considered. Pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission, from the public record, by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Requesters should be aware that, under FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality. If the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within seven days.

Permits: required for implementation include the following:

1. U.S. Army Corps of Engineers —Approval of the construction of structures or work in navigable waters of the United States under Section 10 of the Rivers and Harbors Act of 1899
2. Environmental Protection Agency —National Pollutant Discharge Elimination System (402) Permit

—Review Spill Prevention Control and Countermeasure Plan

3. State of Alaska, Department of Natural Resources

—Tideland Permit and Lease or Easement

4. State of Alaska, Department of Environmental Conservation

—Solid Waste Disposal Permit

—Certification of Compliance with Alaska Water Quality Standards (401 Certification)

Responsible Official: Bradley E. Powell, Forest Supervisor, Ketchikan Area, Tongass National Forest, Federal Building, Ketchikan, Alaska 99901, is the responsible official. In making the decision, the responsible official will consider the comments, responses, disclosure of environmental consequences, and applicable laws, regulations, and policies. The responsible official will state the rationale for the chosen alternative in the Record of Decision.

Dated: August 6, 1998.

Bradley E. Powell,

Forest Supervisor.

[FR Doc. 98–21977 Filed 8–14–98; 8:45 am]

BILLING CODE 3410–11–M

ASSASSINATION RECORDS REVIEW BOARD

Sunshine Act Meeting

DATE: August 25–26, 1998.

PLACE: ARRB, 600 E Street, NW, Washington, DC.

STATUS: August 25: 9:00 a.m. Closed; August 26: 2:00 p.m. Open.

MATTERS TO BE CONSIDERED:

Closed Meeting

1. Review and Accept Minutes of Closed Meeting
2. Review of Assassination Records
3. Other Business

Open Meeting

1. Discussion of Final Report
2. Review and Accept Minutes of July 21, 1998 Open Meeting
3. Other Business

CONTACT PERSON FOR MORE INFORMATION: Eileen Sullivan, Press Officer, 600 E Street, NW, Second Floor, Washington, DC 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

Laura Denk,

Executive Director.

[FR Doc. 98–22153 Filed 8–13–98; 11:32 am]

BILLING CODE 6118–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 997]

Microchip Technology Inc. (Semiconductors), Chandler and Tempe, AZ; Grant of Authority for Subzone Status

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the City of Phoenix, Arizona, grantee of Foreign-Trade Zone 75, for authority to establish special-purpose subzone status at the semiconductor manufacturing plants of Microchip Technology Inc., located at sites in Chandler and Tempe, Arizona, was filed by the Board on October 30, 1997, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 78–97, 62 FR 60219, 11/7/97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby grants authority for subzone status at the semiconductor manufacturing plants of Microchip Technology Inc., located at sites in Chandler and Tempe, Arizona (Subzone 75H), at the locations described in the application, and subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 31st day of July 1998.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–22065 Filed 8–14–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 996]

Hewlett-Packard Company (Computer and Related Electronic Products), San Jose, CA; Grant of Authority for Subzone Status

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the City of San Jose, California, grantee of Foreign-Trade Zone 18, for authority to establish special-purpose subzone status at the computer and electronic products manufacturing facilities of the Hewlett-Packard Company, located at sites in the San Jose, California, area, was filed by the Board on June 19, 1997, and notice inviting public comment was given in the **Federal Register** (FTZ Docket 52–97, 62 FR 35151, 6/30/97; amended 8/25/97); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that approval of the application, as amended, is in the public interest;

Now, Therefore, the Board hereby grants authority for subzone status at the computer and related electronic

products manufacturing facilities of the Hewlett-Packard Company, located in the San Jose, California, area (Subzone 18D), at the locations described in the application, and subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 31st day of July 1998.

Joseph A. Spetrini,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–22064 Filed 8–14–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

AGENCY: International Trade Administration, Commerce.

ACTION: Renewal of the Environmental Technologies Trade Advisory Committee.

SUMMARY: The delegate of the Secretary of Commerce renewed the Environmental Technologies Trade Advisory Committee (ETTAC). The renewal of the Committee is in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, and 41 CFR Parts 101–5.10 (1990), Federal Advisory Committee Management Rule.

The ETTAC was established by the Secretary of Commerce on May 31, 1994, to advise the Secretary of Commerce in his capacity as the Chairman of the Trade Promotion Coordinating Committee (TPCC), as well as other TPCC heads and officials on issues related to the export of environmental technologies.

The Committee functions as an advisory body in accordance with the Federal Advisory Committee Act. On October 22, 1994, the Congress passed the Jobs Through Trade Enhancement Act, 15 U. S.C. 4728(c). This Act mandated the creation of such an advisory committee on environmental technologies exports.

FOR FURTHER INFORMATION CONTACT: Sage Chandler, U.S. Department of Commerce, International Trade Administration, Trade Development, Office of Environmental Technologies Exports. (202) 482–5225.

Dated: August 6, 1998.

Carlos F. Montolieu,

Acting Deputy Assistant Secretary for Environmental Technologies Exports.

[FR Doc. 98–21942 Filed 8–14–98; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–819]

Certain Pasta From Italy: Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On April 9, 1998, the Department of Commerce published in the **Federal Register** its preliminary results of the administrative review of the countervailing duty order on certain pasta from Italy for the period October 17, 1995 through December 31, 1996. For information on the net subsidy for each reviewed company, as well as for all non-reviewed companies, see the Final Results of Review section of this notice. We will instruct the Customs Service (Customs) to assess countervailing duties as detailed in the Final Results of Review section of this notice.

EFFECTIVE DATE: August 17, 1998.

FOR FURTHER INFORMATION CONTACT: Vincent Kane or Todd Hansen, AD/CVD Enforcement, Group I, Office 1, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–2815 or 482–1276, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA), effective January 1, 1995 (the Act). The Department of Commerce (the Department) is conducting this administrative review in accordance with section 751(a) of the Act. All other references are to the Department's regulations at 19 CFR Part 351 et. seq. *Antidumping Duties; Countervailing Duties; Final Rule* 62 FR 27296 (May 19, 1997), unless otherwise indicated

Background

On July 24, 1996, the Department published in the **Federal Register** (61 FR 38544) the countervailing duty order on certain pasta from Italy.

In accordance with section 351.213(b) of our regulations, this review of the countervailing duty order covers the producers/exporters of the subject merchandise for which a review was specifically requested. They are: Audisio Industrie Alimentari S.r.L. (Audisio); the affiliated companies Delverde S.r.L., Tamma Industrie Alimentari di Capitanata, S.r.L., Sangralimenti S.r.L, and Pietro Rotunno S.r.L. (Delverde/Tamma); La Molisana Industrie Alimentari S.p.A. (La Molisana); and, Petrini S.p.A. (Petrini). The petitioners in this review are Borden, Inc., Hershey Foods Corp. and Gooch Foods, Inc. This review covers 23 programs.

Since the publication of the preliminary results on April 9, 1998 (*see Certain Pasta from Italy; Preliminary Results of Countervailing Duty Administrative Review* (63 FR 17372) (*Preliminary Results*), the following events have occurred: on May 11, 1998, petitioners and respondents Delverde/Tamma and La Molisana submitted case briefs; on May 12, 1998, Delverde/Tamma also submitted an addendum to the case brief, *i.e.*, a Table of Authorities; and, on May 18, 1998, respondents Audisio, Delverde/Tamma, La Molisana, Petrini and petitioners filed rebuttal briefs on May 18, 1998. The Department did not conduct a hearing in this review because one was not requested.

Scope of Review

The merchandise under review consists of certain non-egg dry pasta in packages of five pounds (or 2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons or polyethylene or polypropylene bags, of varying dimensions.

Excluded from the scope of this review are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Instituto

Mediterraneo Di Certificazione, by Bioagricoop Scrl, or by QC&I International Services. Furthermore, multicolored pasta imported in kitchen display bottles of decorative glass, which are sealed with cork or paraffin and bound with raffia, is excluded from the scope of this review.

The merchandise under review is currently classifiable under item 1902.19.20 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this review is dispositive.

Furthermore, on July 30, 1998, the Department issued a scope ruling that multipacks consisting of six one-pound packages of pasta, which are shrinked wrapped into a single package, are within the scope of the order.

Period of Review

The period of review (POR) for which we are measuring subsidies is from October 17, 1995, through December 31, 1996. Because it is the Department's practice to calculate subsidy rates on an annual basis, we calculated a 1995 rate and a 1996 rate for each company under review. (For further discussion, see Comments 1 and 5 below.)

Subsidies Valuation Information

Benchmarks for Long-term Loans and Discount Rates: The companies under review did not take out long-term, fixed-rate, lira-denominated loans or other debt obligations which could be used as benchmarks in any of the years in which grants were received or government loans under review were given. Therefore, we used the Bank of Italy reference rate, adjusted upward to reflect the mark-up an Italian commercial bank would charge a corporate customer, as the benchmark interest rate for long-term loans and as the discount rate for years prior to 1995. In the *Preliminary Results*, we used as our benchmark for 1995 and 1996, the average long-term interest rate available in Italy based upon a survey of 114 Italian banks reported by the Banca d'Italia , the Italian central bank. However, in the *Final Affirmative Countervailing Duty Determination; Certain Stainless Steel Wire Rod from Italy*, 63 FR 40474, 40477, (July 29, 1998) (*SSWR from Italy*), the Department determined, based on information gathered during verification, that the Italian Interbank Rate (ABI) is the most suitable benchmark for long-term financing to Italian companies. Accordingly, we have changed the 1995 and 1996 benchmark interest rates used in these final results. Specifically, consistent with *SSWR from Italy*, we have used the ABI interest rate for 1995 and 1996 increased by the average spread charged by banks on loans to commercial customers. For a further discussion of the interest rates used in these final results. *See* Memorandum to File from Team, ''Calculation Memorandum for Final Results—Interest Rates,'' dated August 7, 1998.

Allocation Period: In *British Steel plc.* v. *United States*, 879 F.Supp. 1254, 1289 (CIT 1995), the U.S. Court of International Trade (the Court) ruled against the allocation methodology for non-recurring subsidies that the Department had employed for the past decade, which was articulated in the *General Issues Appendix*, appended to the *Final Countervailing Duty Determination; Certain Steel Products from Austria*, 58 FR 37225 (July 9, 1993) (*GIA*). In accordance with the Court's remand order, the Department determined that the most reasonable method of deriving the allocation period for non-recurring subsidies is a company-specific average useful life (AUL) of non-renewable physical assets. This remand determination was affirmed by the Court on June 4, 1996. *See British Steel plc* v. *United States*, 929 F.Supp 426, 439 (CIT 1996).

For non-recurring subsidies received prior to the POR and which have already been countervailed based on an allocation period established in the investigation, it is neither reasonable nor practicable to reallocate those subsidies over a different period of time. Therefore, for purposes of these final results, the Department is using the original allocation period assigned to each non-recurring subsidy received prior to the POR. This conforms with our approach in *Certain Carbon Steel Products from Sweden; Final Results of Countervailing Duty Administrative Review*, 62 FR 16549 (April 7, 1997).

For non-recurring subsidies that were not countervailed in the original investigation, each company under review submitted an AUL calculation based on depreciation and value of productive assets reported in its financial statements. Each company's AUL was derived by dividing the sum of average gross book value of depreciable fixed assets over the past ten years by the average depreciation charges over this period. We found this calculation to be reasonable and consistent with our company-specific AUL objective. We have used these calculated AULs for the allocation period for non-recurring subsidies received during the POR and those non-recurring subsidies received prior to the POR, which were not countervailed in the investigation.

Benefits to Mills: In cases where semolina (the input product to pasta) and the subject merchandise were produced within a single corporate entity, the Department has found that subsidies to the input product benefit total sales of the corporation, including sales of the subject merchandise, without conducting an upstream subsidy analysis. (*See, e.g., Final Affirmative Countervailing Duty Determination: Certain Softwood Lumber Products from Canada* (57 FR 22570); *Final Affirmative Countervailing Duty Determination: Industrial Phosphoric Acid from Israel* (52 FR 25447); *Final Affirmative Countervailing Duty Determination: Certain Pasta from Italy* (61 FR 30288, 30292) (*Pasta from Italy*)). This practice was upheld by the Court in *Delverde S.r.L.* v. *United States*, 989 F. Supp. 218 (CIT 1997) (*Delverde*). In accordance with our past practice, where the companies under review purchase their semolina from a separately incorporated company, whether or not they are affiliated, we have not included subsidies to the mill in our calculations. However, for those companies where the mill is not separately incorporated from the producer of the subject merchandise, we have included subsidies for the milling operations in our calculations. Where appropriate, we have also included sales of semolina in calculating the ad valorem subsidy rate.

Changes in Ownership

One of the companies under review, Delverde/Tamma, purchased an existing pasta factory from an unrelated party. The previous owner of the purchased factory had received non-recurring countervailable subsidies prior to the transfer of ownership, which took place in 1991. We have calculated the amount of the prior subsidies that passed through to Delverde/Tamma with the acquisition of the factory, following the spin-off methodology described in the Restructuring section of the *GIA*, 58 FR at 37265. (For further discussion, see Comment 4 below.)

Petrini, another of the companies under review, is controlled by two members of the Petrini family, who hold a majority-ownership interest in the company. During the period 1988 through 1994, Petrini acquired and absorbed a number of affiliated companies, including one which produced pasta. All but one of these affiliated companies were wholly-owned by members of the Petrini family prior to their acquisition by Petrini; the remaining company was majority-

owned by the Petrini family. Prior to the ownership restructurings, several of these companies, other than the pasta company, received non-recurring countervailable subsidies.

The Department does not consider internal corporate restructurings that transfer or shuffle assets among related parties to constitute a ''sale'' for purposes of evaluating the extent to which subsidies pass from one party to another. (*See,* the Restructuring section of the *GIA,* 58 FR at 37266.) Therefore, we did not apply the methodology from the Restructuring section of the *GIA* to these subsidies. Instead, we have attributed all of the non-recurring subsidies received prior to the restructurings to Petrini, the only remaining corporate entity.

To determine whether the benefit of any of these subsidies extended to the subject merchandise, we examined whether these subsidies, specifically loans and grants pursuant to Law 64/86, should be considered tied or untied. We have determined that the subsidies in question are tied to the production of products other than pasta. For a detailed discussion of this issue, please see Comment 2 below.

Affiliated Parties

In the present review, we have examined several affiliated companies (within the meaning of section 771(33) of the Act) whose relationship may be sufficient to warrant treatment as a single company. In the countervailing duty questionnaire, consistent with our past practice, the Department defined companies as sufficiently related where one company owns 20 percent or more of the other company, or where companies prepare consolidated financial statements. The Department also stated that companies may be considered sufficiently related where there are common directors or one company performs services for the other company. According to the questionnaire, such companies that produce the subject merchandise or that have engaged in certain financial transactions with the company subject to review are required to respond.

In the *Preliminary Results,* and consistent with our determination in the original investigation, we have treated Delverde S.r.L., Tamma Industrie Alimentari, S.r.L., Sangralimenti S.r.L., and Pietro Rotunno, S.r.L. as a single company with a combined rate. We did not receive any comments on this treatment from the interested parties, and our review of the record has not led us to change this determination.

Analysis of Programs

I. Programs Previously Determined to Confer Subsidies

A. Local Income Tax (ILOR) Exemptions

Delverde/Tamma claimed an ILOR tax exemption on income tax returns filed during the POR. In the *Preliminary Results* and in the original investigation, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change our findings or calculations. Accordingly, the net subsidies for this program remain unchanged from the *Preliminary Results* and are as follows: Delverde/Tamma in 1995–0.01 percent *ad valorem* and in 1996–0.01 percent *ad valorem*.

B. Industrial Development Grants Under Law 64/86

La Molisana and Delverde/Tamma benefitted from industrial development grants during the POR. In the *Preliminary Results* and in the original investigation, we found that this program conferred countervailable subsidies on the subject merchandise. Our review of the record and our analysis of the comments submitted by the interested parties, summarized below in Comment 2, have not led us to change our findings for Delverde/Tamma and Petrini. We did, however, change our calculations for Delverde/Tamma and La Molisana from the *Preliminary Results* because we reassessed the 1995 and 1996 benchmark interest rates as described in the *Subsidies Valuation Information* section above. In addition, we further changed our calculations for La Molisana. For a discussion of these changes, see the Department's Position in Comment 6 below, which explains our modification of the net subsidy calculations for La Molisana. Accordingly, the net subsidies for this program have changed from the *Preliminary Results* and are as follows: La Molisana in 1995–0.76 percent *ad valorem* and in 1996–1.17 percent *ad valorem* and Delverde/Tamma in 1995–2.25 percent *ad valorem* and in 1996–2.47 percent *ad valorem*.

C. Industrial Development Loans Under Law 64/86

Delverde/Tamma and La Molisana received industrial development loans with interest contributions from the Government of Italy (GOI). In the *Preliminary Results* and in the original investigation, we found that this program conferred countervailable subsidies on the subject merchandise. Our review of the record and our analysis of the comment submitted by petitioners, summarized below in Comment 2, have not led us to change our findings or calculations from the *Preliminary Results.* Accordingly, the net subsidies for this program remain unchanged and are as follows: La Molisana in 1995–0.36 percent *ad valorem* and in 1996–0.24 percent *ad valorem* and Delverde/Tamma in 1995–0.71 percent *ad valorem* and in 1996–0.64 percent *ad valorem*.

D. Export Marketing Grants Under Law 304/90

Delverde/Tamma received a grant under this program for a market development project in the United States. In the *Preliminary Results* and in the original investigation, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change our findings. We did, however, change our calculations for Delverde/Tamma from the *Preliminary Results* because we reassessed the 1995 and 1996 benchmark interest rates as described in the *Subsidies Valuation Information* section above. Accordingly, the net subsidies for this program have changed from the *Preliminary Results* and are as follows: Delverde/Tamma in 1995–0.13 percent *ad valorem* and in 1996–0.35 percent *ad valorem*.

E. Lump-Sum Interest Payment Under the Sabatini Law for Companies in Southern Italy

In the *Preliminary Results* and in the original investigation, we found that benefits to operations in the Mezzogiorno under this program conferred countervailable subsidies on the subject merchandise. Our review of the record and our analysis of the comments submitted by the interested parties, summarized below in Comments 3 and 5, have not led us to change our findings or calculations for La Molisana. Accordingly, the net subsidy for this program remains unchanged from the *Preliminary Results* and is as follows: for La Molisana in 1995–0.05 percent *ad valorem*.

F. Social Security Reductions and Exemptions

1. *Sgravi benefits.* Delverde/Tamma and La Molisana received countervailable social security reductions and exemptions during the POR. In the *Preliminary Results* and in the original investigation, we found that

this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change our findings or calculations. Accordingly, the net subsidies for this program remain unchanged from the *Preliminary Results* and are as follows: Delverde/Tamma in 1995–1.23 percent *ad valorem* and in 1996–0.91 percent *ad valorem* and La Molisana in 1995–0.90 percent *ad valorem* and in 1996–0.70 percent *ad valorem*.

2. *Fiscalizzazione benefits.* Delverde/Tamma and La Molisana received the higher levels of fiscalizzazione deductions available to companies located in the Mezzogiorno during the POR. In the *Preliminary Results* and in the original investigation, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change our findings or calculations. Accordingly, the net subsidies for this program remain unchanged from the *Preliminary Results* and are as follows: Delverde/Tamma in 1995–0.44 percent *ad valorem* and in 1996–0.20 percent *ad valorem* and La Molisana in 1995–0.64 percent *ad valorem* and in 1996–0.38 percent *ad valorem*.

3. *Law 407/90 benefits.* Delverde/Tamma received the higher level of Law 407 deductions available to companies located in the Mezzogiorno during the POR. In the *Preliminary Results* and in the original investigation, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change our findings or calculations. Accordingly, the net subsidies for this program remain unchanged from the *Preliminary Results* and are as follows: Delverde/Tamma in 1995–0.00 percent *ad valorem* and in 1996–0.00 percent *ad valorem*.

4. *Law 863 Benefits.* Delverde/Tamma and La Molisana received the higher level of Law 863 deductions available to companies located in the Mezzogiorno during the POR. In the *Preliminary Results* and in the original investigation, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change our findings or calculations. Accordingly, the net subsidies for this program remain unchanged from the *Preliminary Results* and are as follows: Delverde/Tamma in 1995—0.05 percent *ad valorem* and in 1996—0.11 percent *ad valorem* and La Molisana in 1996—0.03 *ad valorem*.

G. Remission of Taxes on Export Credit Insurance Under Article 33 of Law 227/77

La Molisana obtained export credit insurance under this program for its exports to the United States and, therefore, was exempted from the insurance tax. In the *Preliminary Results* and in the original investigation, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change our findings or calculations. Accordingly, the net subsidies for this program remain unchanged from the *Preliminary Results* and are as follows: La Molisana in 1995—0.04 percent *ad valorem* and in 1996—0.04 percent *ad valorem*.

H. European Social Fund

Delverde/Tamma received European Social Fund grants. In the *Preliminary Results* and in the original investigation, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change our findings or calculations. Accordingly, the net subsidies for this program remain unchanged from the *Preliminary Results* and are as follows: for Delverde/Tamma in 1995—0.04 percent *ad valorem*.

I. Export Restitution Payments

Delverde/Tamma, La Molisana, Audisio and Petrini received export restitution payments during the POR on shipments of subject merchandise to the United States. In the *Preliminary Results* and in the original investigation, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change our findings or calculations. Accordingly, the net subsidies for this program remain unchanged from the *Preliminary Results* and are as follows: Delverde/Tamma in 1995—0.23 *ad valorem* and in 1996—0.19 percent *ad valorem*, La Molisana in 1995—0.08 percent *ad valorem* and in 1996—0.07 percent *ad valorem*, Petrini in 1995—2.27 percent ad valorem and in 1996—0.00 percent *ad valorem*, and Audisio in 1995—7.78 percent *ad valorem* and in 1996—0.00 percent *ad valorem*.

J. Grant Received Pursuant to the Community Initiative Concerning the Preparation of Enterprises for the Single Market (PRISMA)

La Molisana received a PRISMA grant in 1996. In the *Preliminary Results*, we determined that this program conferred a countervailable subsidy because the grant represented a transfer of funds from the administering government, provided a benefit in the amount of the grant, and was limited to firms located in a designated geographic region. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change our findings or calculations. Therefore, we find this program to be a countervailable subsidy within the meaning of section 771(5) of the Act. Accordingly, the net subsidies for this program remain unchanged from the *Preliminary Results* and are as follows: La Molisana in 1995—0.00 percent *ad valorem* and in 1996—0.10 percent *ad valorem*.

II. Programs Determined To Be Not Used

In the *Preliminary Results,* we determined that the producers and/or exporters of the subject merchandise did not apply for or receive benefits under the following programs during the POR:

A. VAT Reductions
B. Export Credits Under Law 227/77
C. Capital Grants Under Law 675/77
D. Retraining Grants Under Law 675/77
E. Interest Contributions on Bank Loans Under Law 675/77
F. Interest Grants Financed by IRI Bonds
G. Preferential Financing for Export Promotion Under Law 394/81
H. Corporate Income Tax (IRPEG) Exemptions
I. European Agricultural Guidance and Guarantee Fund
J. Urban Redevelopment Under Law 181

We did not receive any comments on these programs from the interested parties, and our review of the record has not led us to change our findings from the *Preliminary Results.*

Analysis of Comments

Comment 1: Assessment Rate

The petitioners argue that the Department should calculate a single countervailing duty rate for the entire POR based on the average of each company's rates for 1995 and 1996. The petitioners, citing to *Certain Cut-to-Length Carbon Steel Plate from Sweden: Final Results of Countervailing Duty Administrative Review,* 61 FR 5381

(August 24, 1995) (*Plate from Sweden*), state that the Department has exercised its discretion in previous administrative reviews and calculated a single countervailing duty rate where the POR was more than 12 months. The petitioners also cite to *Fresh Cut Roses from Israel: Final Results of Administrative Review of Countervailing Duty Order*, 48 FR 36635 (August 12, 1983) (*Roses from Israel*) and *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Final Results of Countervailing Duty Administrative Review*, 62 FR 53306 (October 14, 1997) (*UK Bar—1995*) as examples of other cases where the Department has calculated assessment rates for periods that were not calendar years.

The petitioners note that the Department calculated subsidy rates of zero for calendar year 1996 for respondents Petrini and Audisio, while these respondents' subsidy rates for 1995 were 2.27 and 7.78 percent, respectively. The petitioners contend that because of the Department's methodological decision, Petrini and Audisio are able to avoid paying countervailing duties on all entries of subject merchandise that occurred during 1996 and will have deposit rates set at zero for future entries. Petitioners argue that a single rate for each respondent for the entire review period results in a better measure of subsidization for the period from October 17, 1995 through December 31, 1996, *i.e.*, the POR.

The petitioners further argue that calculating a single rate for each respondent would be more administratively feasible and would minimize potential confusion for Customs officials and interested parties.

Respondent Delverde/Tamma argues that with their proposed methodology, petitioners are simply seeking to offset the fact that the respondents were subsidized at lower rates in 1996 than in 1995. Delverde/Tamma notes that, unsurprisingly, there were more entries of pasta during the eight months in 1996 than during the two and one-half months during 1995 when entries of subject merchandise were subject to suspension of liquidation. Thus, Deleverde/Tamma notes, the methodology recommended by the petitioners would result in excessive countervailing duties being assessed on POR entries. Further, petitioners' proposed methodology would result in higher deposit rates for estimated countervailing duties than the known rate of subsidization in 1996. Accordingly, Delverde/Tamma argues that the petitioners' proposed methodology is punitive, and hampers the respondent's ability to compete by forcing the respondent to deposit more duties than the current rate of subsidization.

Respondents Audisio, Petrini and La Molisana argue that the petitioners are trying to characterize as ''Department practice'' a few exceptions in past cases with unique circumstances. Audisio, Petrini and La Molisana note that in *Plate from Sweden*, the Department calculated a single rate for calendar year 1993, and applied this rate to entries from December 7, 1992 through December 31, 1993. The respondents note that in *Plate from Sweden* the portion of the POR that fell into calendar year in 1992 was only three weeks, so the Department applied the 1993 rate to these 1992 entries. Audisio, Petrini and La Molisana argue that if the Department were to follow the precedent of *Plate from Sweden* in the instant review, the rate for 1996 (*i.e.*, zero for Petrini and Audisio) would also apply to 1995 entries.

Audisio, Petrini and La Molisana further note that the other cases cited by the petitioners involved unique circumstances. In *Roses from Israel*, the Department explained that it used the growing season for roses rather than a calendar year and *UK Bar-1995* involved the unusual situation where a previously spun-off subsidiary was reacquired during the POR.

Petrini and Audisio cite to *Carbon Black from Mexico; Final Results of Countervailing Duty Administrative Review*, 55 FR 51745 (December 17, 1990), *Carbon Steel Wire Rod from Malaysia; Final Results of Countervailing Duty Administrative Reviews*, 56 FR 41649 (August 22, 1991), and *Carbon Steel Butt-Weld Pipe Fittings from Thailand; Final Results of Countervailing Duty Administrative Review*, 57 FR 5248 (February 13, 1992) as just a few examples of numerous past first reviews where the Department calculated separate CVD rates for periods spanning more than one calendar year and then used only the latter rate as the cash deposit rate for subsequent entries.

Audisio, Petrini and La Molisana further argue that the petitioners' contention that a blended rate would be more administratively feasible is insupportable, as the Department has already calculated two rates and Customs is fully capable of assessing duties based on the entry date. Petrini and Audisio note that Customs does not have any exceptional difficulty in administering liquidation instructions for antidumping administrative reviews where duties vary entry-by-entry.

Department's Position: Section 351.213 (e)(2)(ii) of the Department's regulations state that in a first administrative review, the POR will cover imports ''during the period from the date of suspension of liquidation under this part . . . to the end of the most recently completed calendar or fiscal year. . . .'' There is no indication in the regulations that where the review period in a first review covers more than one year, the Department will calculate a single rate to cover the entire period or two separate rates for each calendar year falling in the POR. In the cases cited by Petrini and Audisio, as well as several other first reviews (*see, e.g., Certain Apparel From Argentina; Final Results of Countervailing Duty Administrative Review*, 53 FR 1053 (January 15, 1988)) the Department has calculated separate rates for each calendar year. In certain exceptional circumstances, such as *Plate from Sweden* and *Pure and Alloy Magnesium From Canada: Final Results of the First (1992) Countervailing Duty Administrative Reviews*, 62 FR 13857 (March 24, 1997) where the review period fell into two calendar years and the portion falling in the first calendar year was only a few weeks, the Department did not calculate a rate for the first calendar year and liquidated all entries at the rate calculated for the second calendar year.

In the review at hand, 10 weeks of the POR fall in the first calendar year. Additionally, the differences in rates between the two calendar years are significant for certain respondents. Accordingly, we have followed our normal practice and calculated two different assessment rates. The deposit rate is the rate calculated for the most recently completed calendar year included in the POR, *i.e*, 1996. Given the information collected, there is no additional administrative burden to the Department in calculating two rates. Also, since this is our normal practice for countervailing duty proceedings, Customs should have little difficulty following our assessment instructions.

Comment 2: Attribution of Subsidies Received by Petrini

The petitioners maintain that the Department's practice of attributing subsidies where there is cross-ownership requires the attribution of Law 64 grants and loans to all of Petrini's production including pasta production. According to the petitioners, the fact that the restructuring of these companies was preliminarily found by the Department to have no effect on the countervailability of previously

bestowed subsidies indicates that the various companies of the Petrini group are both cross-owned and closely related companies. Because of this cross-ownership and high degree of relationship, the Petitioners argue that subsidies should be attributed to all of Petrini's production, regardless of whether these subsidies were bestowed on a particular facility in a particular region. The petitioners assert that the fact that Petrini prepared consolidated financial statements requires the Department to attribute subsidies received in the South, whether tied or untied, to the company as a whole. The petitioners further assert that the Department should choose attribution over ''tying'' in situations involving cross-ownership.

Petrini, in rebuttal, asserts that all of its subsidies are tied to either subject pasta or non-subject products, but not to both. The respondent cites section 351.524(b)(5)(i) of the Department's proposed rules stipulating that where a subsidy is tied to production of a particular product, the subsidy will be attributed to that product. Petrini contends that all of its Law 64 subsidies are clearly tied to non-subject merchandise.

Petrini refers to the one exception to the Department's treatment of tied subsides which arises when a company producing an input to one of its products receives a subsidy tied to the input. (*See* section 351.524(b)(5)(ii) of the Department's proposed regulations.) In this case, the subsidy is attributed to both the input and the final product. Petrini states that the record clearly shows that its companies in the Mezzogiorno do not produce inputs for the subject merchandise and, in addition, are separately incorporated companies. Petrini asserts that the Department attributes input subsides to the input and the final product only when both are produced by the same company.

Petrini notes that section 351.524(b)(6)(i) provides that the Department will attribute a subsidy received by a company and tied to a particular product to that product produced by the company and by any other company sharing cross-ownership with that company. Petrini states that none of the former companies that were merged into Petrini produced pasta.

Finally, Petrini maintains that no loans were provided or financial transactions conducted between any of the former companies and Petrini.

Department's Position: The Department will normally attribute a subsidy received by a corporation to the products produced by that corporation. Hence, for example, if corporation A receives a subsidy, then that subsidy will normally be attributed to the production of corporation A. In cases where a subsidy is tied to the production of a particular product, however, the Department attributes the subsidy to that product rather than to all of the products produced by a company. (*See e.g. Industrial Nitrocellulose from France; Final Results of Countervailing Duty Administrative Review,* 52 FR 833, 834 (January 9, 1987)).

Law 64 grants and loans are typically provided for plant construction and the purchase of equipment dedicated to the production of specific products. Applications and award documents clearly describe the type of plant and equipment to be purchased with Law 64 funds. To ensure that these grants and loans are used as intended, the GOI audits the use of Law 64 benefits. Thus, we conclude that Law 64 benefits normally are tied to specific products.

The approval documents for the Law 64 grants and loans in question show that they were tied at the point of bestowal to the production of non-subject merchandise which is not connected in any way to subject merchandise. Consequently, they do not benefit, either directly or indirectly, Petrini's pasta production.

Comment 3: Sabatini Law—Specificity

In the original investigation, the Department concluded that benefits provided in northern Italy under the Sabatini Law were not specific and, therefore, not countervailable. In its *Preliminary Results,* the Department found that petitioners had provided no new information which would warrant reconsideration of this determination. Petitioners claim that they should not be required to provide the information which would warrant a reconsideration of the determination. They maintain that this type of information is not available to them and that the Department should require the GOI to supply the information, which would enable the Department to determine whether Sabatini Law benefits in the North during the POR continued to be non-specific or whether a disproportionate share was received by pasta companies. Because the GOI failed to supply this information, the petitioners maintain that the Department should find Sabatini benefits to be specific to the pasta industry in the North and should countervail the lump sum payments received by Audisio and Petrini under this program.

Petrini claims that the Department's practice regarding programs found to be not countervailable has been to re-examine these programs only if new information warrants such re-examination.

Department's Position: We agree with Petrini. In the original investigation, Sabatini Law benefits were found to be widely distributed and benefitting many companies representing a broad cross section of industries throughout Italy. Absent information that changes have occurred which would significantly alter this benefit distribution pattern, the Department sees no compelling reason to re-open the question of specificity. The Department has consistently followed this practice regarding programs previously found not countervailable. *See, e.g., Preliminary Countervailing Duty Determinations and Alignment of final Countervailing Duty Determinations with Final Antidumping Duty Determinations: Certain Steel Products from Belgium*, 57 FR 57750, 57758 (December 7, 1992) and *Preliminary Affirmative Countervailing Duty Determinations: Extruded Rubber Thread from Malaysia,* 56 FR 67276, 67280 (December 30, 1991).

Comment 4: Privatization

Respondent Delverde/Tamma argues that the formula used by the Department for reallocating benefits upon change of ownership in the *Preliminary Results,* has been held unlawful by the Court in *Delverde.* Delverde/Tamma notes that the Court in *Delverde* found that the Department had failed to follow the instructions on page 258 of the Statement of Administrative Action (SAA) that the Department ''must exercise the discretion {afforded to it by new section 771(5)(F) of the Act} carefully through its consideration of the facts of each case.'' According to Delverde/Tamma, the Department's automatic application of its spin-off methodology to allocate subsidies received by the previous owner of Delverde/Tamma's pasta factory to Delverde/Tamma in this review is contrary to these instructions in the SAA.

Delverde/Tamma argues that it purchased the pasta factory at arm's length and at fair market value from an unrelated private party. Accordingly, Delverde/Tamma argues, it did not benefit from the subsidies received by the previous owners. Delverde/Tamma further contends that the definition of ''benefit'' resulting from the URAA amendments requires that the financial contribution accrues to a *person* (meaning a commercial entity) who receives funds from the government, rather than the merchandise. Delverde/

Tamma argues that because the previous owners of Delverde's pasta factory received the subsidy grants, the benefit cannot be attributed to pasta produced by Delverde/Tamma.

The petitioners note that the Court's opinion in *Delverde* is not final and, therefore, is not binding. Further, the petitioners note that the Department has continued to follow the GIA methodology in other cases subsequent to the issuance of the Court's opinion in *Delverde.* The petitioners argue that Delverde/Tamma is incorrect in its assertion that the Department must change its methodology, citing to *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom; Final Results of Countervailing Duty Administrative Review,* 63 FR 18367, 18371 (April 15, 1998) (*UK Bar—1996*) where, in reply to a similar argument, the Department stated:

> In its opinion in *Delverde,* the CIT did not overturn the Department's methodology. It only directed the Department, on remand, to provide a fuller explanation of its methodology and how it applied it to the facts of the change of ownership transaction at issue. While the CIT did present its views regarding many of the issues that it wanted the Department to address when explaining its methodology, it did not, however, order the Department to adopt any of its views.

The petitioners further note that Delverde/Tamma has provided no new information concerning its change of ownership. Accordingly, there is no basis for the Department to reexamine its decision in *Pasta from Italy.* The petitioners argue that the Department must continue to apply the restructuring methodology outlined in the GIA to determine the amount of subsidies that passed through to Delverde/Tamma following its purchase of the pasta factory from the previous owners.

Department's Position: As we explained in *UK Bar—1996,* we continued to follow the methodology applied in the investigation and provided the CIT with the full explanations that it had requested in the remand redetermination in *Delverde* filed on April 2, 1998. Thus, for these final results, the Department similarly has not made any changes to its methodology based on the *Delverde* opinion. The arguments which Delverde/Tamma raises in this comment are addressed fully in the April 2, 1998 remand determination and we stand by our response therein.

Comment 5: Sabatini Loan

La Molisana argues that the Department should not have included benefits from a Sabatini loan that was repaid in August 1995, as there was no cash-flow effect during the POR. La Molisana, citing to *Final Negative Countervailing Duty Determination: Certain Laminated Hardwood Flooring from Canada,* 62 FR 5201, 5210 (February 4, 1997), notes that it is the Department's practice to countervail benefits from long-term loans as having occurred at the time the firm would be scheduled to make a payment on the benchmark loan. Because La Molisana's Sabatini loan was not outstanding on October 17, 1995 (*i.e.*, the beginning of the POR), La Molisana argues that there was no benefit from this loan during the POR.

Petitioners argue that La Molisana is mistaken, and that it has ignored the fact that the Department has used the firm's total annual sales for calendar year 1995 to allocate benefits. The petitioners note that in virtually every instance where the Department allocates benefits from non-recurring grants and long-term loans, it does so on a yearly basis. The petitioners assert that many subsidies do not result in a cash-flow effect in each month of the POR, but it would not be practicable for the Department to allocate benefits from programs on a less-than-annual basis.

Department's Position: When calculating a subsidy rate, the Department measures subsidies for an entire year. The Department uses annual figures because firms tend to close their books at the end of a year, enabling a verifiable cut-off date. *See Fabricated Automotive Glass From Mexico; Final Results of Countervailing Duty Administrative Review,* 51 FR 44652, 44654 (December 11, 1986). Additionally, the proposition of tracing benefits to specific entries of merchandise is not practicable. Where a firm receives a grant in December, for example, the benefit from that grant is still applied to entries throughout the year, including those entries made prior to the receipt of the grant. *See, e.g., Final Affirmative Countervailing Duty Determinations; Certain Carbon Steel Products from France,* 47 FR 39332, 39343 (September 7, 1982):

> We compute benefits received by a firm during a period of time (in this case the [1981] calendar year) and apply them to the total value of sales for the same period. We do not make adjustments for the fact that a particular benefit was received earlier or later in the year for which we are measuring subsidization. Throughout these steel determinations we have not tied any subsidy to any time period shorter than a year. * * * Any other approach would not only be unnecessary as a matter of law, it would be administratively impossible, given the information and the time available.

See, also, Final Affirmative Countervailing Duty Determination; Certain Agricultural Tillage Tools From Brazil, 50 FR 34525, 34534 (August 26, 1985).

Similarly, where a loan is repaid in the middle of a respondent's accounting year, the Department applies the allocated benefit amount from that loan to all entries during that year. Accordingly, we have included allocated benefits from the grant equivalent calculated for La Molisana's Sabatini loan in our calculation of La Molisana's subsidy rate for calendar year 1995.

Comment 6: Calculation of Benefit for Industrial Development Grant Received in 1996

La Molisana comments that the Department erred when it calculated a benefit in 1995 from an Industrial Development Grant that was not received until 1996. La Molisana notes that this error can be corrected by excluding the benefit amount calculated for 1995 from the calculation of La Molisana's subsidy rate for that year.

The petitioners argue that the Department did not err in its calculation of the benefit amount, but erred in allocating the benefit for 1996 to 1995. The petitioners argue that the Department should not delete the 1995 benefit amount as suggested by La Molisana, but should apply this amount to 1996 instead of 1995. The petitioners argue that applying the smaller amount of benefit for 1996 shown in the preliminary calculations would result in an understatement of the benefit for 1996.

Department's Position: We agree with La Molisana that we erred in our calculations by applying a benefit to 1995 sales for a grant that was received in 1996. Contrary to the petitioners' assertion, we had correctly calculated the 1996 benefit amount, although this amount has changed slightly due to the change in the discount rate, as described in the Benchmarks for Long-term Loans and Discount Rates section of this notice, *supra.*

Final Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for each producer/exporter subject to this administrative review. For the periods October 17, 1995, through December 31, 1995, January 1, 1996, through February 13, 1996, and July 24, 1996, through December 31, 1996, we determine the net subsidy rates for producers/exporters under review to be those specified in the chart shown below. (In

accordance with section 703(d) of the Act, countervailing duties will not be assessed on entries made during the period February 14, 1996, through July 23, 1996.)

AD VALOREM RATE

Producer/exporter	10/17/95 to 12/31/95	01/01/96 to 02/13/96 and 07/24/96 to 12/31/96
Delverde, S.r.L.	5.09	4.88
La Molisana Alimentari S.p.A	2.83	2.73
Tamma Industrie Alimentari di Capitanata, S.r.L.	5.09	4.88
Petrini S.p.A.	2.27	0.00
Audisio Industrie Alimentari S.r.L.	7.78	0.00

We will instruct Customs to assess countervailing duties as indicated above. The Department will also instruct Customs to collect cash deposits of estimated countervailing duties in the percentage detailed above of the f.o.b. invoice prices on all shipments of the subject merchandise from the producers/exporters under review, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. Requested reviews will normally cover only those companies specifically named. *See* 19 CFR 351.213(b). Pursuant to 19 CFR 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate in effect at the time of entry of the subject merchandise and cash deposits must continue to be collected at the previously ordered rate. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See, Federal-Mogul Corporation and The Torrington Company* v. *United States*, 822 F.Supp. 782 (CIT 1993) and *Floral Trade Council* v. *United States*, 822 F.Supp. 766 (CIT 1993) (interpreting 19 CFR 353.22(e), the antidumping regulation on automatic assessment, which is identical to 19 CFR 355.22(g), the predecessor to 19 CFR 351.212(c)). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies, except Barilla G. e R. F.lli S.p.A. (Barilla) and Gruppo Agricoltura Sana S.r.L. (Gruppo) (which were excluded from the order during the investigation), at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order are those established in the *Notice of Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination: Certain Pasta from Italy* (61 FR 38544, July 24, 1996), the most recently published countervailing duty rates for companies not reviewed in this administrative review. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is completed. In addition, for the periods from October 17, 1995, through February 13, 1996, and from July 24, 1996, through December 31, 1996, the assessment rates applicable to all non-reviewed companies covered by this order is the cash deposit rate in effect at the time of entry, except for Barilla and Gruppo (which were excluded from the order during the original investigation).

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 355.34(d). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: August 7, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–22063 Filed 8–14–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Visiting Committee on Advanced Technology

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Request for nominations of members to serve on the Visiting Committee on Advanced Technology (VCAT).

SUMMARY: NIST invites and requests nomination of individuals for appointment to the Visiting Committee on Advanced Technology (VCAT). The terms of some of the members of the VCAT will soon expire. NIST will consider nominations received in response to this notice for appointment to the Committee, in addition to nominations already received.

DATES: Please submit nominations on or before August 28, 1998.

ADDRESSES: Please submit nominations to Peggy Webb, VCAT Administrative Coordinator, NIST, Building 101, Room A531, Gaithersburg, MD 20899. Nominations may also be submitted via FAX to 301–948–1224. Additional information regarding the Committee, including its charter, current membership list, and executive summary may be found on its electronic home page at: <http://www.nist.gov/director/vcat/act-97.htm>.

FOR FURTHER INFORMATION CONTACT: Peggy Webb, VCAT Administrative Coordinator, NIST, Building 101, Room A531, Gaithersburg MD 20899;

telephone 301–975–2107; FAX—301–948–1224; or via e-mail at peggy.webb@nist.gov.

SUPPLEMENTARY INFORMATION:

I. VCAT Information

The VCAT was established in accordance with 15 U.S.C. 278 and the Federal Advisory Committee Act (5 U.S.C. app. 2).

Objectives and Duties

1. The Committee shall review and make recommendations regarding general policy for NIST, its organization, its budget, and its programs, within the framework of applicable national policies as set forth by the President and the Congress.

2. The Committee functions solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act.

4. The Committee shall provide a written annual report, through the Director of NIST, to the Secretary of Commerce for submission to the Congress on or before January 31 each year. Such report shall deal essentially, though not necessarily exclusively, with policy issues or matters which affect NIST, or with which the Committee in its official role as the private sector policy adviser of NIST is concerned. Each such report shall identify areas of research and research techniques of NIST of potential importance to the long-term competitiveness of United States industry, which could be used to assist United States enterprises and United States industrial joint research and development ventures. The Committee shall submit to the Secretary and the Congress such additional reports on specific policy matters as it deems appropriate.

Membership

1. The Committee is composed of fifteen members that provide representation of a cross-section of traditional and emerging United States industries. Members shall be selected solely on the basis of established records of distinguished service, and shall be eminent in one or more fields such as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. No employee of the Federal Government shall serve as a member of the Committee.

2. The Director of NIST shall appoint the members of the Committee, and they will be selected on a clear, standardized basis, In accordance with applicable Department of Commerce guidance.

Miscellaneous

1. Members of the VCAT are not paid for their service, but will, upon request, be allowed travel expenses in accordance with 5 U.S.C. 5701 et seq., while attending meetings of the Committee or of its subcommittees, or while otherwise performing duties at the request of the chairperson, while away from their homes or a regular place of business.

2. Meetings of the VCAT take place in the Washington, DC metropolitan area, usually at the NIST headquarters in Gaithersburg, Maryland, and once each year at the NIST headquarters in Boulder, Colorado. Meetings are one or two days in duration and are held quarterly.

3. Committee meetings are open to the public except for approximately one hour, usually at the beginning of the meeting, a closed session is held in accordance with 5 U.S.C. 552b(c)(6), because divulging information discussed in those portions of the meetings is likely to reveal information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. All other portions of the meetings are open to the public.

II. Nomination Information

1. Nominations are sought from all fields described above.

2. Nominees should have established records of distinguished service and shall be eminent in fields such as business, research, new product development, engineering, labor, education, management consulting, environment and international relations. The category (field of eminence) for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the person agrees to the nomination, acknowledge the responsibilities of serving on the VCAT, and will actively participate in good faith in the tasks of the VCAT. Besides participation at meetings, it is desired that members be able to devote the equivalent of two days between meetings to either developing or researching topics of potential interest, and so forth in furtherance of their Committee duties.

3. The Department of Commerce is committed to equal opportunity in the workplace and seeks a broad-based and diverse VCAT membership.

Dated: August 6, 1998.

Robert E. Hebner,

Acting Deputy Director.

[FR Doc. 98–21465 Filed 8–14–98; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Government Owned Inventions Available for Licensing

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of Government Owned Inventions Available for Licensing.

SUMMARY: The inventions listed below are owned in whole or in part by the United States Government, as represented by the Department of Commerce. The Department of Commerce's ownership interest in the inventions is available for licensing in accordance with Title 35 of the United States Code, Section 207 and Title 37 of the Code of Federal Regulations, part 404 to achieve expeditious commercialization of results of Federally funded research and development.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on the inventions may be obtained by writing to: National Institute of Standards and Technology, Industrial Partnerships Program, Building 820, Room 213, Gaithersburg, MD 20899; Fax 301–869–2751. Any request for information should include the NIST Docket Number and the title for the relevant invention as indicated below.

SUPPLEMENTARY INFORMATION: NIST may enter into a Cooperative Research and Development Agreement (''CRADA'') with the licensee to perform further research on the inventions for purposes of commercialization. The inventions available for licensing are:

NIST Docket Number: 93–059US.

Title: Adjustable Rigid Strut Joint For Precision Structures.

Abstract: An adjustable rigid strut joint for precision structures solves the generic problem of positioning one extended structure relative to another with accuracy, stability and economy. A highly rigid structure is provided using six struts connected at three upper and three lower nodes to upper and lower support structures. The joint assemblies are formed by half-spherical balls attached to the ends of each of the struts, and retained within cylindrical

apertures, such that the center lines of the struts intersect at the nodes. Bending loads on the struts are thus eliminated, while the design and construction of the structure is substantially simplified. This design is easily scalable for small or large structures and can be used for systems that support optical components, which may include a variety of devices including lasers, optical microscopes or microlithography machines.

NIST Docket Number: 97–027/98–002US.

Title: Method of Forming Metallic and Ceramic Thin Film Structures Using Metal Halides and Alkali Metals.

Abstract: A new low temperature method for nanostructured metal and ceramic thin film growth by chemical vapor deposition (CVD) involves the use of a low pressure co-flow diffusion flame reactor to react alkali metal vapor and metal halide vapor to deposit metal, alloy and ceramic films.

Dated: August 10, 1998.

Robert E. Hebner,

Acting Deputy Director.

[FR Doc. 98–22019 Filed 8–14–98; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of Availability of Evaluation Final Findings.

SUMMARY: Notice is hereby given of the availability of the final evaluation findings for Connecticut, the Commonwealth of the Northern Mariana Islands, Hawaii, Maryland, Michigan, New Jersey, New York, Puerto Rico, South Carolina, and Virgin Islands Coastal Management Programs, and the Chesapeake Bay (Maryland), Great Bay (New Hampshire), and Jobos Bay (Puerto Rico) National Estuarine Research Reserves (NERRs). Sections 312 and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended, require a continuing review of the performance of coastal states with respect to approved coastal management programs and the operation and management of NERRs.

The States of Connecticut, Hawaii, Maryland, Michigan, New Jersey, New York, South Carolina, Virgin Islands, and the Territories of the Commonwealth of the Northern Mariana Islands and Puerto Rico were found to be implementing and enforcing their Federally approved coastal management programs, addressing the national coastal management objective identified in CZMA Section 303(2) (A)–(K), and adhering to the programmatic terms of their financial assistance awards.

Chesapeake Bay, Jobos Bay, and Great Bay NERRs were found to be adhering to programmatic requirements of the NERR System. Copies of these final evaluation findings may be obtained upon written request from: Vickie Allin, Chief, Policy Coordination Division, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, Silver Spring, Maryland 20910 (310) 713–3087x126.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Capt. Evelyn J. Fields,

Deputy Assistant Administrator.

[FR Doc. 98–22015 Filed 8–14–98; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 073198B]

Marine Mammals; File No. 684–1458

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Dr. Donald B. Siniff, Professor, Department of Ecology, Evolution and Behavior, University of Minnesota, College of Biological Sciences, 100 Ecology Building, 1987 Upper Buford Circle, St. Paul, MN 55108, has been issued a permit to take Weddell seals (*Leptonychotes weddellii*), crabeater seals (*Lobodon carcinophagus*), leopard seals (*Hydrurga leptonyx*), Ross seals (*Ommatophoca rossii*), southern elephant seals (*Mirounga leonina*) and Antarctic fur seals (*Arctocephalus gazella*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562/980–4001).

FOR FURTHER INFORMATION CONTACT: Sara Shapiro or Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On June 24, 1998, notice was published in the **Federal Register** (63 FR 34366) that a request for a scientific research permit to take Weddell seals (*Leptonychotes weddellii*), crabeater seals (*Lobodon carcinophagus*), leopard seals (*Hydrurga leptonyx*), Ross seals (*Ommatophoca rossii*), southern elephant seals (*Mirounga leonina*) and Antarctic fur seals (*Arctocephalus gazella*) had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Dated: August 10, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–22025 Filed 8–14–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080498E]

Marine Mammals; File No. P597

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

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Permit No. 993, issued to Mr. Michael Kundu, Arcturus Adventure Communications International, 5516 64th Place, NE, Marysville, WA 98270, was amended.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130

Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221); and

Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0070 (206/526–6150).

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the provisions of § 216.39 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The expiration date of the permit has been extended through August 13, 1998.

Dated: August 5, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–22026 Filed 8–14–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080798B]

Marine Mammals; File No. 519–1469

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

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Dr. Jeffrey D. Goodyear, Department of Zoology, University of British Columbia, 6270 University Blvd., Vancouver, BC, Canada V6T 1Z4, has applied in due form for a permit to take gray whales (*Eschrichtius robustus*) for purposes of scientific research.

DATES: Written or telefaxed comments must be received on or before September 16, 1998.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Alaska Region, National Marine Fisheries Service, NOAA, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221);

Regional Administrator, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0070 (206/526–6150); and

Regional Administrator, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562/980–4001).

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant seeks authorization to place telemetry tags on gray whales (*Eschrichtius robustus*) at various locations along their migratory route. These tags will record parameters including depth, speed, body orientation, temperature, salinity, light level, and heart rate. In the process of conducting the above activities, the applicant may incidentally harass and collect opportunistic data on various cetacean and pinniped species.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: August 10, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–22027 Filed 8–14–98; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits and a Guaranteed Access Level for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Guatemala

August 11, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: August 17, 1998.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted, variously, for swing and carryover.

Upon the request of the Government of Guatemala, the U.S. Government has agreed to increase the current Guaranteed Access Level for textile products in Categories 347/348.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also

see 62 FR 67624, published on December 29, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 11, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 19, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Guatemala and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on August 17, 1998, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
340/640	1,516,920 dozen.
347/348	1,817,452 dozen.
351/651	320,183 dozen.
443	76,157 numbers.
448	47,055 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1997.

The Guaranteed Access Levels (GALs) for Categories 340/640, 351/651, 443 and 448 remain unchanged. The GAL for Categories 347/348 is being increased to 1,600,00 dozen.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–21982 Filed 8–14–98; 8:45 am]

BILLING CODE 3510–DR–F

CONGRESSIONAL BUDGET OFFICE

Notice of Transmittal of Sequestration Update Report for Fiscal Year 1999 to Congress and the Office of Management and Budget

Pursuant to Section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 904(b)), the Congressional Budget Office hereby reports that it has submitted its Sequestration Update Report for Fiscal Year 1999 to the House of Representatives, the Senate, and the Office of Management and Budget.

David M. Delquadro,

Assistant Director, Administration and Information Division, Congressional Budget Office.

[FR Doc. 98–21985 Filed 8–14–98; 8:45 am]

BILLING CODE 1450–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 239, Acquisition of Information Technology, and the Associated Clauses at DFARS 252.239–7000 and 252.239–7006; OMB Number 0704–0341.

Type of Request: Extension.

Number of Respondents: 1,843.

Responses Per Respondent: 1.02.

Annual Responses: 1,871.

Average Burden Per Response: 1.13 hours.

Annual Burden Hours: 2,110.

Needs and Uses: This requirement provides for the collection of necessary information from contractors regarding security requirements applicable to computers used for processing of classified information; tariffs pertaining to telecommunications services; and proposals from common carriers to perform special construction under contracts for telecommunications services. The information is used by contracting officers and other DoD personnel to ensure that computer systems are adequate to protect against unauthorized release of classified information; to participate in the establishment of tariffs for telecommunications services; and to establish reasonable prices for special construction by common carriers. The clause at DFARS 252.239–7000, Protection Against Compromising Emanations, requires that the contractor provide, upon request of the contracting officer, documentation supporting the accreditation of the computer system to meet the appropriate security requirements. The clause at DFARS 252.239–7006, Tariff Information, requires that the contractor provide, upon request of the contracting officer, a copy of the contractor's existing tariffs; before filing, a copy of any application to a Federal, State, or other regulatory agency for new rates, charges, services, or regulations relating to any tariff or any of the facilities or services to be furnished solely or primarily to the Government, and upon request, a copy of all information, material, and data developed or prepared in support of or in connection with such an application; and a notification to the contracting officer of any application submitted by anyone other than the contractor that may affect the rate or conditions of services under the agreement or contract. DFARS 239.7408 requires that a detailed special construction proposal be obtained from a common carrier that submits a proposal or quotation that has special construction requirements related to the performance of basic telecommunications services.

Affected Public: Business or Other For-Profit; Not-For-Profit Institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: August 11, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–21949 Filed 8–14–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: Defense Federal Acquisition Regulation

Supplement (DFARS) Section 223.570, Drug-Free Work Force, and the Associated Clause at DFARS 252.223–7004; OMB Number 0704–0336.

Type of Request: Extension.

Number of Respondents: 13,964.

Responses per Respondent: 0.

Annual Responses: 0.

Average Burden per Response: 0 (recordkeeping; no response required).

Annual Burden Hours: 924,032.

Needs and Uses: This requirement provides that Department of Defense (DoD) contractors shall maintain records regarding drug-free work force programs provided to contractor employees. The information is used to ensure reasonable efforts to eliminate the unlawful use of controlled substances by contractor employees. DFARS Section 223.570, Drug-Free Work Force, and the associated clause at DFARS 252.223–7004, require that DoD contractors institute and maintain programs for achieving the objective of a drug-free work force. No submission of information to the Government is required. This request to extend the OMB approval of an information collection reflects the public burden of maintaining records related to such programs.

Affected Public: Business or Other For-Profit; Not-For-Profit Institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: August 11, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–21950 Filed 8–14–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Signature and Tally Record; DD Form 1907; OMB Number 0702–0027.

Type of Request: Reinstatement.

Number of Respondents: 200.

Responses Per Respondent: 500.

Annual Responses: 100,000.

Average Burden Per Response: 3 minutes.

Annual Burden Hours: 5,000.

Needs and Uses: The Signature and Tally Record (STR) is an integral part of the Defense Transportation System and is used for commercial movements of all sensitive and classified material. The STR provides continuous responsibility for the custody of shipments in transit and requires each person responsible for the proper handling of the cargo to sign their name at the time they assume responsibility for the shipment, from point of origin and at specified stages until delivery at destination. When two drivers are used, both drivers will sign the form when the pair assume responsibility for the shipment. A copy of the STR, along with other transportation documentation, is forwarded by the carrier to the appropriate finance center for payment. The DD Form 1907 verifies the protected service requested in the Government Bill of Lading was provided.

Affected Public: Business or Other For-Profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: August 11, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–21951 Filed 8–14–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 16, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, 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, D.C. 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 Acting Deputy Chief Information Officer, Office of the Chief Information Officer, 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: August 12, 1998.

Hazel Fiers,

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: New.

Title: International Association for the Evaluation of Educational Achievement (IEA) Civics Education Project.

Frequency: One time.

Affected Public: State, local or Tribal Gov't; SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 580.

Burden Hours: 927.

Abstract: The Civics Education Project is a multi-national project coordinated by the IEA. Through this project, a student assessment will be administered to 14 year olds to assess their civics knowledge, skills, attitudes and actions.

[FR Doc. 98–22020 Filed 8–14–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–285–001]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

August 11, 1998.

Take notice that on August 6, 1998, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Fourth Revised Sheet No. 149A to be effective August 1, 1998.

ANR states that this filing is made in compliance with the Commission's Order dated July 22, 1998 in the captioned proceeding.

ANR states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

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 in accordance with 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.

David P. Boergers,

Secretary.

[FR Doc. 98–21969 Filed 8–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA98–92–000]

Broadhurst Operating Limited Partnership No. 2, Broadhurst Operating Limited Partnership No. 3, and Ralph Howard, Inc., Notice of Petition for Adjustment

August 11, 1998.

Take notice that on July 7, 1998, Broadhurst Operating Limited Partnership No. 2, Broadhurst Operating Limited Partnership No. 3, and Ralph Howard, Inc. (Producers) filed the above-referenced petition, pursuant to section 502(c) of the Natural Gas Policy Act of 1978. Eastman Dillon's petition requesting that the Commission grant a waiver of refunds of Kansas ad valorem tax reimbursement. Producers' petition is on file with the Commission and is open to public inspection.

The Commission, by order issued September 10, 1997, in Docket No. RP97–369–000 *et al.*,[1] on remand from the D.C. Circuit Court of Appeals,[2] directed First Sellers to make Kansas ad valorem tax refunds, with interest, to the appropriate pipelines, for the period from 1983 to 1988. In its January 28, 1998 Order Clarifying Procedures [82 FERC ¶ 61,059 (1998)], the Commission stated that producers (i.e., First Sellers) could file dispute resolution requests with the Commission, asking the Commission to resolve the dispute with the pipeline over the amount of Kansas ad valorem tax refunds owed. Additionally, the Commission indicated that it would grant extension of the refund due date for royalty refunds if a producer requests such an extension. Also the Commission's January 28 order states that it would consider adjustment requests as to the refund amounts and the refund procedures.

Producers specifically request that the Commission allow them to place into an escrow account the following potential non-royalty refunds to Northern Natural Gas Company (Northern) and Colorado Interstate Gas Company (CIG): (a) the principal and interest amount of refunds attributable to production prior to October 3, 1983; (b) the interest due on principal refunds (other than pre-October 3, 1983, production refunds); and (c) the principal refunds (other than pre-October 3, 1983, production refunds). Producers further request that the Commission grant a one year deferral of such royalty refunds to July 7, 1999, to allow Producers additional time to seek recovery.

Any person desiring to be heard or to make any protest with reference to any of these petitions should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 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, 385.211, 385.1105, and 385.1106). 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.

David P. Boergers,

Secretary.

[FR Doc. 98–21972 Filed 8–14–98; 8:45 am]

BILLING CODE 6717–01–M

[1] See: 80 FERC ¶ 61,264 (1997); rehearing denied January 28, 1998, 82 FERC ¶ 61,058 (1998).

[2] Public Service Company of Colorado v. FERC, 91 F.3d 1478 (D.C. 1996), cert. denied, Nos. 96–954 and 96–1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA98–93–000]

Eastman Dillon Oil & Gas Associates; Notice of Petition for Adjustment

August 11, 1998.

Take notice that on July 7, 1998, Eastman Dillon Oil & Gas Associates (Eastman Dillon) filed the above-referenced petition, pursuant to section 502(c) of the Natural Gas Policy Act of

1978. Eastman Dillon's petition requesting that the Commission grant a waiver of refunds of Kansas ad valorem tax reimbursement. Eastman Dillon's petition is on file with the Commission and is open to public inspection.

The Commission, by order issued September 10, 1997, in Docket No. RP97–369–000 *et al.*,[1] on remand from the D.C. Circuit Court of Appeals,[2] directed First Sellers to make Kansas ad valorem tax refunds, with interest, to the appropriate pipelines, for the period from 1983 to 1988. Alternatively, if it is not relieved from making the subject refunds, Eastman Dillon requests that the Commission permit it to amortize its refund obligation over a 5-year period. In its January 28, 1998 Order Clarifying Procedures [82 FERC ¶ 61,059 (1998)], the Commission stated that producers (i.e., First Sellers) could file dispute resolution requests with the Commission, asking the Commission to resolve the dispute with the pipeline over the amount of Kansas ad valorem tax refunds owed. Additionally, the Commission indicated that it would grant extension of the refund due date for royalty refunds if a producer requests such an extension. Also the Commission's January 28 order states that it would consider adjustment requests as to the refund amounts and the refund procedures.

Eastman Dillon specifically requests a waiver of the refund liability under the Commission's orders based on: (1) its inability to recover amounts previously disbursed to its partners under Delaware partnership law; and (2) its inability to recover payments previously made to royalty owners under the Kansas royalty law. If, however, payments previously made to royalty owners under the Kansas royalty law. If, however, the Commission is not willing to grant such a total waiver of refund liability, Eastman Dillon requests a waiver of refunds at least as to amounts attributable to prior limited partners who no longer are partners in Eastman Dillon (including some who are deceased), and as to royalty amounts. Furthermore, Eastman Dillon requests that the Commission permit it to spread refund as to the remaining amounts due, after the limited waiver, over a five year period commencing as of the date of action on this Petition.

Any person desiring to be heard or to make any protest with reference to any of these petitions should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 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, 385.211, 385.1105, and 385.1106). 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.

David P. Boergers,

Secretary.

[FR Doc. 98–21973 Filed 8–14–98; 8:45 am]

BILLING CODE 6717–01–M

[1] See: 80 FERC ¶ 61,264 (1997); rehearing denied January 28, 1998, 82 FERC ¶ 61,058 (1998).

[2] *Public Service Company of Colorado* v. *FERC*, 91 F.3d 1478 (D.C. 1996), cert. denied, Nos. 96–954 and 96–1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–152–012]

Kansas Pipeline Company; Notice of Compliance Filing

August 11, 1998.

Take notice that on August 7, 1998, Kansas Pipeline Company (KPC), tendered for filing as part of its FERC Gas Tariff, Volume No. 1, the following tariff sheets to become effective May 11, 1998:

Original Volume No. 1

Substitute Original Sheet No. 2
Substitute Original Sheet No. 600

KPC states that the tariff sheets reflect compliance with the Commission's April 30, 1998 Order on Rehearing, which directed KPC to sign new service agreements with its customers. The Order further directed KPC to file contracts only in circumstances where the contracts are materially different from the Company's tariff.

KPC states that the tariff sheets reflect the Commission's Regulations which state that any service contract that deviates in any material respect from the form of service agreement in the pipeline's tariff must be filed with the Commission and such non-conforming service agreement must be referenced in the pipeline's tariff. This filing includes a series of contracts between KPC and its predecessors and Kansas Gas Service Company (KGS) and its predecessors, and a settlement agreement with the Kansas Corporation Commission and KGS that, in the aggregate, constitute KPC's non-conforming service agreement with KGS.

Any person desiring to be heard or to make any protest with reference to said filing should on or before August 25, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 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) 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 proceedings. 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 the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing 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 authorization requested 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 KPC to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 98–21970 Filed 8–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–709–000]

Kern River Gas Transmission Co.; Request Under Blanket Authorization

August 12, 1998.

Take notice that on August 5, 1998, Kern River Gas Transmission Company (Kern River), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket

No. CP98–709–000 a request pursuant to §§ 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 new meter station to provide deliveries under authorized transportation agreements to the Town of Eagle Mountain (Eagle Mountain) for residential and commercial uses, as well as electric generation in Eagle Mountain's residential development in Utah County, Utah, under Kern River's blanket certificate issued in Docket No. CP89–2048, 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.

Kern River proposes to construct and operate the new Eagle Mountain Meter Station at Milepost 168.8 on Kern River's mainline in Section 19, Township 6 South, Range 1 West, Utah County, Utah. Kern River states the new meter station will consist of a 6-inch mainline tap, a 1-inch turbine meter and appurtenances with a daily design capacity of 1,600 Mcf per day at 650 psig. Kern River also states that Eagle Mountain will install, own and operate the distribution and electric generation facilities to be located downstream of the proposed Eagle Mountain Meter Station.

Kern River states that the estimated cost to construct the Eagle Mountain Meter Station is approximately $277,680, exclusive of tax liabilities. Kern River further states that pursuant to a Facilities Construction Agreement and the facilities reimbursement provisions of Kern River's tariff, Eagle Mountain Properties, L.L.C., the developer for the Town of Eagle Mountain, will reimburse Kern River for the actual costs associated with the construction of the meter station including all tax liabilities.

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 § 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–22009 Filed 8–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA98–94–000]

McGiness Oil Company; Notice of Petition for Dispute Resolution and Adjustment

August 11, 1998.

Take notice that on July 8, 1998, McGiness Oil Company (McGiness) filed the above-referenced petition, pursuant to section 502(c) of the Natural Gas Policy Act of 1978. McGiness' petition rejects the Kansas ad valorem tax refund claims made by Panhandle Eastern Pipeline Company (PEPL), because PEPL has failed to demonstrate that the amount received by McGiness, inclusive of Kansas ad valorem tax reimbursement, exceeded an applicable maximum lawful price under the NGPA. If adjustment relief becomes necessary (i.e., if the Commission determines that McGiness owes Kansas ad valorem tax refunds to PEPL), McGiness requests to be relieved from making the refunds attributable to royalties, on the ground that such refunds are now uncollectible. McGiness asserts uncollectability based on the enactment of section 7 of House Bill No. 2419, by the State of Kansas. McGiness' petition is on file with the Commission and is open to public inspection.

The Commission by order issued September 10, 1997, in Docket No. RP97–369–000 *et al.*,[1] on remand from the D.C. Circuit Court of Appeals,[2] directed First Sellers to make Kansas ad valorem tax refunds, with interest, to the appropriate pipelines, for the period from 1983 to 1988. In its January 28, 1998 Order Clarifying Procedures [82 FERC ¶ 61,059 (1998)], the Commission stated that producers (i.e., First Sellers) could file dispute resolution requests with the Commission, asking the Commission to resolve the dispute with the pipeline over the amount of Kansas ad valorem tax refunds owed.

Any person desiring to be heard or to make any protest with reference to any of these petitions should on or before 15 days after the date of publication in the **Federal Register** of this notice, 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, 385.211, 385.1105, and 385.1106). 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.

David P. Boergers,

Secretary.

[FR Doc. 98–21974 Filed 8–14–98; 8:45 am]

BILLING CODE 6717–01–M

[1] See: 80 FERC ¶ 61,264 (1997); rehearing denied January 28, 1998, 82 FERC ¶ 61.058 (1998).

[2] Public Service Company of Colorado v. FERC, 91 F.3d 1478 (D.C. 1996), cert. denied, Nos. 96–954 and 96–1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–352–001]

MIGC, Inc.; Notice of Compliance Filing

August 11, 1998.

Take notice that on August 7, 1998, MIGC, Inc. (MIGC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 (Tariff), Substitute Third Revised Sheet No. 51 to be effective August 1, 1998.

MIGC states that this tariff sheet was filed in compliance with the Federal Energy Regulatory Commission's letter order issued July 30, 1998 in Docket No. RP98–352–000 (Letter Order). MIGC believes that the tariff revisions made in the instant filing will bring MIGC's Tariff into full compliance with the Commission's Order No. 587–G.

MIGC requested waiver of the Commission's Regulations to the extent necessary to permit the tendered tariff sheet to become effective August 1, 1998, pursuant to Order No. 587–G and the Letter Order.

MIGC states that copies of the filing have been mailed to MIGC's customers, interested state regulatory agencies and all parties set out on the official service list in Docket No. RP98–352.

Any person desiring to protest said filing should file a 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 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 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.

David P. Boergers,

Secretary.

[FR Doc. 98–21971 Filed 8–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–1–116–000]

OkTex Pipeline Company; Notice of Filing

August 11, 1998.

Take notice that on August 6, 1998, OkTex Pipeline Company (OkTex) tendered for filing its current Annual Charge Adjustment (ACA). OkTex states that the purpose of the filing is to reflect that there is no change in the currently effective ACA surcharge to OkTex's tariff rates for the period October 1, 1998 through September 30, 1999. The ACA surcharge is currently $0.0022 per Dth and will remain at this level through September 30, 1999.

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, NE., Washington, DC 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 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 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.

David P. Boergers,

Secretary.

[FR Doc. 98–21965 Filed 8–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–277–002]

OkTex Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

August 11, 1998.

Take notice that on August 6, 1998, OkTex Pipeline Company (OkTex), filed revised tariff sheets in compliance with the Commission's directives in Order No. 587–G.

OkTex states that the tariff sheets reflect the changes to OkTex's tariff that result from the Gas Industry Standards Board's (GISB) consensus standards that were adopted by the Commission in its April 16, 1998 Order No. 587–G in Docket No. RM96–1–007. OkTex further states that the tariff sheets that are revised reflect discrepancies identified by the FERC in OkTex's June 30, 1998 filing. In addition, after discussion with the FERC Staff it was determined that OkTex should revise its Sheet No. 3 to note version 1.2 of the standards rather then revising sheet 29 as originally required by the FERC. OkTex will implement the GISB consensus standards for August 1998 business, and that the revised tariff sheets therefore reflect and effective date of August 13, 1998.

OkTex states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

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 Regulations. All such motions or protests must be file as provided in Section 154.210 of the Commission's Regulations. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this 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.

David P. Boergers,

secretary.

[FR Doc. 98–21968 Filed 8–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–280–003 and RP98–323–001]

Petal Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff

August 11, 1998.

Take notice that on August 6, 1998, Petal Gas Storage Company (Petal) tendered for filing, as part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Second Revised Sheet No. 129 with a proposed effective date of August 1, 1998. Petal states that the filing is made in compliance with the Commission's July 29, 1998 Letter Order in this proceeding.

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 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 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.

David P. Boergers,

Secretary.

[FR Doc. 98–21967 Filed 8–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG98–10–002]

Venice Gathering System, L.L.C.; Notice of Filing

August 11, 1998.

Take notice that on July 27, 1998, Venice Gathering System, L.L.C. (Venice) filed revised standards of conduct in response to a June 26, 1998 Order on Standards of Conduct. 83 FERC ¶ 61,324 (1998).

Venice states that it has served a copy of the revised standards of conduct on all parties on the service list in this proceeding.

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 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before August 26, 1998. 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.

David P. Boergers,

Secretary.

[FR Doc. 98–21966 Filed 8–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA98–95–000]

Westmore Drilling Co., Inc. & R.O. Thompson; Notice of Petition for Dispute Resolution and Adjustment

August 11, 1998.

Take notice that on July 8, 1998, Westmore Drilling Co., Inc. and R.O. Thompson (collectively Westmore) filed the above-referenced petition, pursuant to section 502(c) of the Natural Gas Policy Act of 1978. Westmore's petition rejects the Kansas ad valorem tax refund claims made by Williams Natural Gas Central, Inc. (Williams), because Williams has failed to demonstrate that the amount received by Westmore, inclusive of Kansas ad valorem tax reimbursement, exceeded an applicable maximum lawful price under the NGPA. If adjustment relief becomes necessary (i.e., if the Commission determines that Westmore owes Kansas ad valorem tax refunds to Williams), Westmore requests to be relieved from making the refunds attributable to royalties, on the ground that such refunds are now uncollectible. Westmore asserts uncollectability based on the enactment of section 7 of House Bill No. 2419, by the State of Kansas. Westmore's petition is on file with the Commission and is open to public inspection.

The Commission, by order issued September 10, 1997, in Docket No. RP97–369–000 *et al.*,[1] on remand from the D.C. Circuit Court of Appeals,[2] directed First Sellers to make Kansas ad valorem tax refunds, with interest, to the appropriate pipelines, for the period from 1983 to 1988. In its January 28, 1998 Order Clarifying Procedures [82 FERC ¶ 61,059 (1998)], the Commission stated that producers (i.e., First Sellers) could file dispute resolution requests with the Commission, asking the Commission to resolve the dispute with the pipeline over the amount of Kansas ad valorem tax refunds owed.

Any person desiring to be heard or to make any protest with reference to any of these petitions should on or before 15 days after the date of publication in the **Federal Register** of this notice, 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, 385.211, 385.1105, and 385.1106). 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.

David P. Boergers,

Secretary.

[FR Doc. 98–21975 Filed 8–14–98; 8:45 am]

BILLING CODE 6717–01–M

[1] See: 80 FERC ¶ 61,264 (1997); rehearing denied January 28, 1998, 82 FERC ¶ 61,058 (1998).

[2] Public Service Company of Colorado v. FERC, 91 F.3d 1478 (D.C. 1996), cert. denied, Nos. 96–954 and 96–1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–260–002]

Wyoming Interstate Company, Ltd.; Tariff Compliance Filing

August 12, 1998.

Take notice that on August 6, 1998, Wyoming Interstate Company, Ltd. (WIC), Post Office Box 1087, Colorado Springs, Colorado 80944, tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 2, Sub Fourth Revised Sheet No. 36A, Fourth Revised Sheet No. 57, Fifth Revised Sheet No. 57A and Fifth Revised Sheet No. 57B to be effective August 1, 1998.

WIC states that the purpose of this compliance filing is to remove a reference to GISB Standard Version 1.0 on Sheet No. 37A. WIC also requests a waiver of § 154.203(b) of the Commission's Regulations to allow it to incorporate GISB Standard 5.3.30 to its tariff.

Any person desiring to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C., 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Regulations. All such motions or protests must be filed as provided in § 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–22010 Filed 8–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG98–88–000, et al.]

East Syracuse Generating Company, L.P., et al.; Electric Rate and Corporate Regulation Filings

August 10, 1998.

Take notice that the following filings have been made with the Commission:

1. East Syracuse Generating Co., L.P.

[Docket No. EG98–88–000]

On August 6, 1998, East Syracuse Generating Company, L.P. (Applicant), with its principal office at 7500 Old Georgetown Road, 13th Floor, Bethesda, Maryland, 20814–6161, filed with the Federal Energy Regulatory Commission an amendment to its June 16, 1998 application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant states that it will be engaged in owning and operating the East Syracuse project consisting of a 101 megawatt cogeneration facility located in East Syracuse, New York (the Eligible Facility) and selling electric energy exclusively at wholesale. Electric energy

produced by the Eligible Facility is sold exclusively at wholesale. Applicant further states that, as lessor of the Eligible Facility, it acts as an owner, with respect to its care, custody and control over the Eligible Facility.

Comment date: August 26, 1998, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Central Hudson Gas & Electric Corporation

[Docket No. ER98–3684–000]

Take notice that on July 9, 1998, Central Hudson Gas & Electric Corporation, tendered for filing its quarterly report for the period ending June 30, 1998.

Comment date: August 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Public Service Electric and Gas Company

[Docket No. ER98–3829–000]

Take notice that on July 21, 1998, Public Service Electric and Gas Company, tendered for filing its second quarter report for 1998 in the above-referenced docket.

Comment date: August 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Consolidated Edison Company of New York, Inc

[Docket No. ER98–3846–000]

Take notice that on August 5, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an amended filing of the service agreement to provide Firm Point-To-Point Transmission service under Con Edison's Open Access Transmission Tariff to Aquila Power Corporation (the Customer).

The service agreement is proposed to be effective on July 20, 1998 and terminate on July 21, 1998.

Con Edison states that a copy of this filing has been served by mail upon the Customer.

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–3850–000]

Take notice that on August 5, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an amended filing of the service agreement to provide Firm-Point-To-Point Transmission service under Con Edison's Open Access Transmission Tariff to Constellation Power Source, Inc. (Customer).

The service agreement is proposed to be effective on July 21, 1998 and terminate on July 21, 1998.

Con Edison states that a copy of this filing has been served by mail upon the Customer.

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–3851–000]

Take notice that on August 5, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an amended filing of the service agreement to provide Firm-Point-To-Point Transmission service under Con Edison's Open Access Transmission Tariff to PP&L Energy Marketing (Customer).

The service agreement is proposed to be effective on July 21, 1998 and terminate on July 21, 1998.

Con Edison states that a copy of this filing has been served by mail upon the Customer.

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–3852–000]

Take notice that on August 5, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an amended filing of the service agreement to provide Firm-Point-To-Point Transmission service under Con Edison's Open Access Transmission Tariff to Aquila Power Corporation (Customer).

The service agreement is proposed to be effective on July 21, 1998 and terminate on July 25, 1998.

Con Edison states that a copy of this filing has been served by mail upon the Customer.

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–3870–000]

Take notice that on August 5, 1998 Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an amended filing of the executed service agreement under Con Edison's Open Access Transmission Tariff to Strategic Power Management, Inc. (the Customer).

Con Edison states that a copy of this filing has been served by mail upon the Customer.

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–3957–000]

Take notice that on August 5, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an amended filing of the service agreement to provide Firm-Point-To-Point Transmission service under Con Edison's Open Access Transmission Tariff to Coral Power L.L.C. (the Customer).

The service agreement is proposed to be effective on July 23, 1998 and terminate on July 23, 1998.

Con Edison states that a copy of this filing has been served by mail upon the Customer.

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Consolidated Edison Company Of New York, Inc.

[Docket No. ER98–3958–000]

Take notice that on August 5, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an amended filing of the firm point-to-point service agreement to provide service under Con Edison's Open Access Transmission Tariff to PP&L Energy Marketing (the Customer).

The service agreement is proposed to be effective on July 22, 1998 and terminate on July 22, 1998.

Con Edison states that a copy of this filing has been served by mail upon the Customer.

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–3959–000]

Take notice that on August 5, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an amended filing of the service agreement to provide Firm Point-To-Point Transmission service under Con Edison's Open Access Transmission Tariff to Coral Power L.L.C. (the Customer).

The service agreement is proposed to be effective on July 22, 1998 and terminate on July 22, 1998.

Con Edison states that a copy of this filing has been served by mail upon the Customer.

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–3960–000]

Take notice that on August 5, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an amended filing of the Firm Point-To-Point Transmission Service agreement to provide firm electric service under Con Edison's Open Access Transmission Tariff to PP&L Energy Marketing (the Customer).

This agreement is proposed to be effective on July 22, 1998 and terminate on July 22, 1998.

Con Edison states that a copy of this filing has been served by mail upon the Customer.

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–3961–000]

Take notice that on August 5, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an amended filing of the service agreement to provide Firm Point-To-Point Transmission service under Con Edison's Open Access Transmission Tariff to PP&L Energy Marketing (the Customer).

The service agreement is proposed to be effective on July 23, 1998 and terminate on July 23, 1998.

Con Edison states that a copy of this filing has been served by mail upon the Customer.

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Tampa Electric Company

[Docket No. ER98–4126–000]

Take notice that on August 5, 1998, Tampa Electric Company (Tampa Electric) tendered for filing pursuant to Section 205 of the Federal Power Act and 18 CFR Part 35, *et seq.*, a Contract for the Purchase and Sale of Power and Energy (Contract) between Tampa Electric and Tenaska Power Services Co. (Tenaska). The Contract provides for the negotiation of individual transactions in which Tampa Electric will sell power and energy to Tenaska.

Tampa Electric proposes an effective date of October 4, 1998 for the Contract.

Copies of the filing have been served on Tenaska and the Florida Public Service Commission.

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)

[Docket No. ER98–4127–000]

Take notice that on August 5, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (jointly NSP), tendered for filing a Short-Term Firm Point-To-Point Transmission Service Agreement between NSP and Enron Power Marketing.

NSP requests that the Commission accept the agreement effective July 14, 1998, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Questar Energy Trading Company

[Docket No. ER98–4128–000]

Take notice that on August 5, 1998, Questar Energy Trading Company (Questar) submitted for filing its Notice of Termination, effective July 6, 1998, of the power sales Confirmation Letter between Questar and The Power Company of America, L.P. (PCA), dated as of March 27, 1998.

Notice of the termination previously was provided to and service has been made upon PCA.

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–4129–000]

Take notice that on August 5, 1998, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing a service agreement to provide firm transmission service pursuant to its Open Access Transmission Tariff to Enron Power Marketing, Inc. (Customer).

Con Edison states that a copy of this filing has been served by mail upon Customer.

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Tenaska Frontier Partners, Ltd.

[Docket No. ER98–4130–000]

Take notice that on August 5, 1998, Tenaska Frontier Partners, Ltd. filed a Certificate of Concurrence of Energy Gulf States, Inc. in Rate Schedule No. 178.

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. South Jersey Energy Company

[Docket No. ER98–4131–000]

Take notice that on August 5, 1998, South Jersey Energy Company (SJEC), filed a notice of termination pursuant to a request for waiver of the 60-day advance-notice requirement, to be effective June 30, 1998, relating to SJEC's termination of all power purchase and sales transactions under the Power Agreement with The Power Company of America. L.P.

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Portland General Electric Company

[Docket No. ER98–4132–000]

Take notice that on August 5, 1998, pursuant to 18 CFR 35.15, of the Commission's Regulations, Portland General Electric Company (PGE) filed a notice of termination and request for emergency waiver of the Commission's 60-day advance notice requirement relating to the Transaction Confirmation Agreement dated October 3, 1997 entered into between PGE and The Power Company of America, L.P. pursuant to the Western System Power Pool Agreement.

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Public Service Electric and Gas

[Docket No. ER98–4135–000]

Take Notice that on August 5, 1998, Public Service Electric and Gas Company (PSE&G) tendered for filing a Withdrawal of its FERC Electric Tariff, Original Volume No. 1 (Docket No. ER82–719–000) and FERC Electric Tariff, Original Volume No. 1 (Docket No. ER88–78–000). Wholesale customers previously served under these tariffs are now taking service under PSE&G's Market-Based Power Sales Tariff, FERC Electric Tariff, Original Volume No. 6 (Docket No. ER97–837–000).

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Rochester Gas and Electric Corporation

[Docket No. ER98–4158–000]

Take notice that on August 5, 1998, Rochester Gas and Electric Corporation (RG&E) tendered for filing with the Federal Energy Regulatory Commission an executed transmission service agreement between RG&E and NEV East,

L.L.C. An unexecuted version of this service agreement was submitted previously in response to a Commission deficiency letter.

A copy of the service agreement has been served on the New York Public Service Commission and on the Customer.

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

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 these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–21962 Filed 8–14–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC98–51–000, et al.]

Florida Power Corporation, et al.; Electric Rate and Corporate Regulation Filings

August 7, 1998.

Take notice that the following filings have been made with the Commission:

1. Florida Power Corporation

[Docket No. EC98–51–000]

Take notice that on August 4, 1998, Florida Power Corporation (Florida Power) filed an Application under Section 203 of the Federal Power Act for authorization to acquire jurisdictional transmission facilities from Seminole Electric Cooperative, Inc. (Seminole) and Sumter Electric Cooperative, Inc. (Sumter).

Florida Power explains that it has agreed to purchase from Seminole and Sumter the Andersen Substation together with associated transmission facilities and that the acquisition will result in savings to customers.

Comment date: September 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. PanCanadian Energy Services Inc., Torco Energy Marketing, Inc., Torco Energy Marketing, Inc., Torco Energy Marketing, Inc., PanEnergy Lake Charles Generation, Inc., Union Electric Development Corporation, and Friendly Power Company, LLC

[Doc. Nos. ER90–168–038, ER92–429–015, ER92–429–016, ER92–429–017, ER96–1335–010, ER97–3663–004, and ER97–3815–002]

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 July 28, 1998, PanCanadian Energy Services Inc., filed certain information as required by the Commission's March 20, 1990, order in Docket No. ER90–168–000.

On July 27, 1998, Torco Energy Marketing, Inc., filed certain information as required by the Commission's July 4, 1995, order in Docket No. ER92–429–000.

On July 27, 1998, Torco Energy Marketing, Inc., filed certain information as required by the Commission's July 4, 1995, order in Docket No. ER92–429–000.

On July 27, 1998, Torco Energy Marketing, Inc., filed certain information as required by the Commission's July 4, 1995, order in Docket No. ER92–429–000.

On July 28, 1998, PanEnergy Lake Charles Generation, Inc., filed certain information as required by the Commission's May 17, 1996, order in Docket No. ER96–1335–000.

On July 30, 1998, Union Electric Development Corporation, filed certain information as required by the Commission's September 25, 1997, order in Docket No. ER97–3663–000.

On July 30, 1998, Friendly Power Company, LLC, filed certain information as required by the Commission's September 4, 1997, order in Docket No. ER97–3815–000.

3. Torco Energy Marketing, Inc., Torco Energy Marketing, Inc., Torco Energy Marketing, Inc., J. Anthony & Associates Ltd., Symmetry Device Research, Wascana Energy Marketing (U.S.) Inc., and Wascana Energy Marketing (U.S.) Inc.

[Doc. Nos. ER92–429–012, ER92–429–013, ER92–429–014, ER95–784–013, ER96–2524–002, ER96–3019–005, and ER96–3019–006 (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 July 27, 1998, Torco Energy Marketing, Inc., filed certain information as required by the Commission's July 4, 1995, order in Docket No. ER92–429–000.

On July 27, 1998, Torco Energy Marketing, Inc., filed certain information as required by the Commission's July 4, 1995, order in Docket No. ER92–429–000.

On July 27, 1998, Torco Energy Marketing, Inc., filed certain information as required by the Commission's July 4, 1995, order in Docket No. ER92–429–000.

On July 27, 1998, J. Anthony & Associates Ltd., filed certain information as required by the Commission's May 31, 1995, order in Docket No. ER95–784–000.

On July 28, 1998, Symmetry Device Research, Inc., filed certain information as required by the Commission's August 22, 1996, order in Docket No. ER96–2524–000.

On July 28, 1998, Wascana Energy Marketing (U.S.) Inc., filed certain information as required by the Commission's October 16, 1996, order in Docket No. ER96–3019–000.

On July 28, 1998, Wascana Energy Marketing (U.S.) Inc., filed certain information as required by the Commission's October 16, 1995, order in Docket No. ER96–3019–000.

4. FirstEnergy Trading and Power Marketing, Inc., Enserve, L.C., Wascana Energy Marketing (U.S.) Inc., Wascana Energy Marketing (U.S.) Inc., Wascana Energy Marketing (U.S.) Inc., Wascana Energy Marketing (U.S.) Inc., and Pacific Northwest Generating Cooperative

[Doc. Nos. ER95–1295–009, ER96–182–011, ER96–3019–001, ER96–3019–002, ER96–3019–003, ER96–3019–004, and ER97–504–007 (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 July 27, 1998, FirstEnergy Trading and Power Marketing, Inc., filed certain information as required by the Commission's September 27, 1996, order in Docket No. ER95–1295–000.

On July 27, 1998, Enserve, L.C., filed certain information as required by the Commission's December 28, 1995, order in Docket No. ER96–182–000.

On July 28, 1998, Wascana Energy Marketing (U.S.) Inc., filed certain information as required by the Commission's October 16, 1996, order in Docket No. ER96–3019–000.

On July 28, 1998, Wascana Energy Marketing (U.S.) Inc., filed certain information as required by the Commission's October 16, 1996, order in Docket No. ER96–3019–000.

On July 28, 1998, Wascana Energy Marketing (U.S.) Inc., filed certain information as required by the Commission's October 16, 1996, order in Docket No. ER96–3019–000.

On July 28, 1998, Wascana Energy Marketing (U.S.) Inc., filed certain information as required by the Commission's October 16, 1996, order in Docket No. ER96–3019–000.

On July 22, 1998, Pacific Northwest Generating Cooperative, filed certain information as required by the Commission's January 13, 1997, order in Docket No. ER97–504–000.

5. DuPont Power Marketing, Inc., Duke/Louis Dreyfus, L.L.C., AYP Energy, Inc., American Energy Solutions, Colonial Energy, Inc., Gen-SYS Energy, and Enserch Energy Services, Inc.

[Doc. Nos. ER95–1441–014, ER96–108–013, ER96–2673–007, ER97–360–007, ER97–1968–005, ER97–4335–003, and ER98–895–002 (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 July 29, 1998, DuPont Power Marketing, Inc. filed certain information as required by the Commission's August 30, 1995, order in Docket No. ER95–1441–000.

On July 31, 1998, Duke/Louis Dreyfus, L.L.C. filed certain information as required by the Commission's December 14, 1995, order in Docket No. ER96–108–000.

On July 29, 1998, AYP Energy, Inc. filed certain information as required by the Commission's October 8, 1996, order in Docket No. ER96–2673–000.

On July 29, 1998, American Energy Solutions filed certain information as required by the Commission's December 5, 1996 order in Docket No. ER97–360–000.

On July 31, 1998, Colonial Energy, Inc. filed certain information as required by the Commission's April 9, 1997, order in Docket No. ER97–1968–000.

On July 30, 1998, GEN–SYS Energy filed certain information as required by the Commission's October 17, 1997, order in Docket No. ER97–4335–000.

On July 31, 1998, Enserch Energy, Inc. filed certain information as required by the Commission's January 29, 1998 order in Docket No. ER98–895–000.

6. Great Bay Power Corporation

[Docket No. ER98–3808–000]

Take notice that on July 16, 1998 Great Bay Power Corporation tendered for filing a revised summary of activity for the quarter ending June 30, 1998.

Comment date: August 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Yadkin, Inc.

[Docket No. ER98–3814–000]

Take notice that on July 20, 1998, Yadkin, Inc., tendered for filing a summary of activity for the quarter ending June 30, 1998.

Comment date: August 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Dayton Power & Light Company

[Docket No. ER98–3976–000]

Take notice that on July 30, 1998, Dayton Power & Light Company (DP&L) tendered for filing copies of its summary transactions during the 2nd quarter of calendar year 1998.

Comment date: August 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Portland General Electric Co.

[Docket No. ER98–3977–000]

Take notice that on July 30, 1998, Portland General Electric Company (PGE) tendered for filing a report on transactions under its market-based rate tariff, FERC Electric Tariff Original Volume No. 10, for the second quarter of 1998.

Copies of this filing were served upon the California Power Exchange and the California Independent System Operator.

Comment date: August 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Duke Power, a division of a division of Duke Energy Corporation

[Docket No. ER98–4016–000]

Take notice that on July 30, 1998, Duke Power (Duke), a division of Duke Energy Corporation, tendered for filing quarterly transaction summaries for service under Duke's Rate Schedule MR, FERC Electric Tariff Original Volume No. 3, for the quarter ended June 30, 1998.

Comment date: August 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Duquesne Light Company

[Docket No. ER98–4069–000]

Take notice that on August 3, 1998, Duquesne Light Company (DLC), filed a Service Agreement for Retail Network Integration Transmission Service and a Network Operating Agreement for Retail Network Integration Transmission Service dated July 28, 1998 with Enserch Energy Services, Inc. under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement and Network Operating Agreement adds Enserch Energy Services, Inc. as a customer under the Tariff.

DLC requests an effective date of July 28, 1998 for the Service Agreement.

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Tampa Electric Company

[Docket No. ER98–4070–000]

Take notice that on August 3, 1998, Tampa Electric Company (Tampa Electric), tendered for filing a letter agreement that amends an existing letter of commitment providing for the sale of capacity and energy to the Reedy Creek Improvement District (RCID).

Tampa Electric proposes that the letter agreement be made effective on September 1, 1998, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on RCID and the Florida Public Service Commission.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–4072–000]

Take Notice That on August 3, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide firm point-to-point transmission service pursuant to its Open Access Transmission Tariff to New York Power Authority.

Con Edison states that a copy of this filing has been served by mail upon New York Power Authority.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–4073–000]

Take notice that on August 3, 1998 Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to Enserch Energy Services, Inc.

Con Edison states that a copy of this filing has been served by mail upon Enserch Energy Services, Inc.

Comment date: August 25, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Duquesne Light Company

[Docket No. ER98–4075–000]

Take notice that on August 3, 1998, Duquesne Light Company (DLC) filed a Service Agreement dated July 28, 1998, with Entergy Power Marketing Corp. under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds Entergy Power Marketing Corp. as a customer under the Tariff.

DLC requests an effective date of July 28, 1998 for the Service Agreement.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Consumers Energy Company

[Docket No. ER98–4076–000]

Take notice that on August 3, 1998, Consumers Energy Company (Consumers) tendered for filing a service agreement for unbundled wholesale power service pursuant to the Consumers' Power Sales Tariff accepted for filing on September 12, 1998 in Docket No. ER97–964–000 with Avista Energy, Inc.

Copies of the filed agreement were served upon the Michigan Public Service Commission and Avista Energy, Inc.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Consumers Energy Company

[Docket No. ER98–4077–000]

Take notice that on August 3, 1998, Consumers Energy Company (Consumers) tendered for filing an executed service agreement for Non-firm Point-to-Point Transmission Service pursuant to the Joint Open Access Transmission Service Tariff filed on December 31, 1996 by Consumers and The Detroit Edison Company (Detroit Edison) with the following transmission customer: NorAm Energy Services, Inc.

Copies of the filed agreement were served upon the Michigan Public Service Commission, Detroit Edison and the transmission customer.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. North American Energy Conservation, Inc.

[Docket No. ER98–4078–000]

Take notice that on August 3, 1998, pursuant to 18 CFR 35.15(a), North American Energy Conservation, Inc. (NAEC) filed a notice of termination of its agreements with The Power Company of America, Inc., and with Federal Energy Sale, L.P., entered into pursuant to NAEC's FERC Rate Schedule No. 1 and requested a waiver of the Commission's 60-day prior notice requirement to permit the termination of the agreements to be effective on the date of filing, for good cause shown.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Cinergy Services, Inc.

[Docket No. ER98–4079–000]

Take notice that on August 3, 1998, Cinergy Services, Inc. (Cinergy) tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff entered into between Cinergy and Enserch Energy Services, Inc. (Enserch).

Cinergy and Enserch are requesting an effective date of July 31, 1998.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. PacifiCorp

[Docket No. ER98–4083–000]

Take notice that on August 3, 1998, PacifiCorp tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, Service agreements with the California Independent System Operator (California ISO) and the California Power Exchange (California PX) acting on behalf of its Participants (Participants) under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 12.

Copies of this filing were supplied to the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. El Dorado Energy, LLC

[Docket No. ER98–4109–000]

Take notice that on August 4, 1998, El Dorado Energy, LLC (El Dorado) 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 authorizing El Dorado to make sales at market-based rates. El Dorado has requested waiver of the Commission's regulations to permit an effective date of sixty days from the date of this filing.

El Dorado intends to sell electric power at wholesale. In transactions where El Dorado sells electric energy it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. Rate Schedule No. 1 provides for the sale of energy and capacity at agreed prices.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Northern States Power Company

[Docket No. ER98–4111–000]

Take notice that on August 4, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as NSP) tendered for filing a Short-Term Market-Based Electric Service Agreement between NSP and Commonwealth Edison Company (Customer). NSP requests that this Short-Term Market-Based Electric Service Agreement be made effective on July 6, 1998.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Northern States Power Company (Minnesota Company.), Northern States Power Company, and Northern States Power Company (Wisconsin Company)

[Docket No. ER98–4112–000]

Take notice that on August 4, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as NSP) tendered for filing a Short-Term Market-Based Electric Service Agreement between NSP and Northern/AES Energy, L.L.C. (Customer). NSP requests that this Short-Term Market-Based Electric Service Agreement be made effective on July 6, 1998.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. Northern States Power Co. (Minnesota Company) and Northern States Power Co. (Wisconsin Company)

[Docket No. ER98–4113–000]

Take notice that on August 4, 1998, Northern States Power Company

(Minnesota) and Northern States Power Company (Wisconsin) (collectively known as NSP) tendered for filing an Electric Service Agreement between NSP and Northern/AES Energy, L.L.C. (Customer). This Electric Service Agreement is an enabling agreement under which NSP may provide to Customer the electric services identified in NSP Operating Companies Electric Services Traffic original Volume No. 4. NSP requests that this Electric Service Agreement be made effective on July 6, 1998.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. Florida Power & Light Co.

[Docket No. ER98–4114–000]

Take notice that on August 4, 1998, Florida Power & Light Company (FPL) filed a Service Agreement with Alabama Electric Cooperative, Inc. for service pursuant to Tariff No. 1 for Sales of Power and Energy by Florida Power & Light. In addition, FPL filed Service Agreements with Alabama Electric Cooperative, Inc. and Merchant Energy Group of the Americas, Inc. for service pursuant to FPL's Market Based Rates Tariff. FPL requests that the Service Agreements be made effective on July 10, 1998.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. Southern Energy Canal, L.L.C.

[Docket No. ER98–4115–000]

Take notice that on August 4, 1998, Southern Energy Canal, L.L.C. (Southern Canal) filed an application requesting acceptance of its proposed Market Rate Tariff, waiver of certain regulations, and blanket approvals. The proposed tariff would authorize Southern Canal to engage in wholesale sales of capacity and energy to eligible customers at market rates.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

27. Southern Energy Kendall, L.L.C.

[Docket No. ER98–4116–000]

Take notice that on August 4, 1998, Southern Energy Kendall, L.L.C. (Southern Kendall) filed an application requesting acceptance of its proposed Market Rate Tariff, waiver of certain regulations, and blanket approvals. The proposed tariff would authorize Southern Kendall to engage in wholesale sales of capacity and energy to eligible customers at market rates.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

28. Black Creek Hydro, Inc.

[Docket No. ER98–4117–000]

Take notice that on August 4, 1998 Black Creek Hydro, Inc. (Black Creek) tendered for filing an Agreement for Power Sale (Agreement) between Black Creek and Washington Water Power Company (WWP), dated July 23, 1998. The agreement provides for the sale by Black Creek to WWP of the total energy produced by the Black Creek Hydroelectric Project, located in King County, Washington.

Black Creek has requested an effective date of July 1, 1996 for the Agreement, and is requesting waiver of the 60 day notice period.

Copies of the filing were served on WWP.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

29. Southern Energy New England, L.L.C.

[Docket No. ER98–4118–000]

Take notice that on August 4, 1998, Southern Energy New England, L.L.C. (Southern New England) filed an application requesting acceptance of its proposed Market Rate Tariff, waiver of certain regulations, and blanket approvals. The proposed tariff would authorize Southern New England to engage in wholesale sales of capacity and energy to eligible customers at market rates.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

30. The Dayton Power and Light Co.

[Docket No. ER98–4119–000]

Take notice that on August 4, 1998, the Dayton Power and Light Company (Dayton) submitted service agreements establishing with PG&E Energy Trading—Power, L.P. as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of this filing were served upon PG&E Energy Trading—Power, L.P. and the Public Utilities Commission of Ohio.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

31. The Dayton Power and Light Co.

[Docket No. ER98–4120–000]

Take notice that on August 4, 1998, The Dayton Power and Light Company (Dayton) submitted service agreements establishing CINergy Services, Inc., PG&E Energy Trading—Power, L.P. as customers under the terms of Dayton's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements.

Copies of this filing were served on CINergy Services, Inc., PG&E Energy Trading—Power, L.P. and the Public Utilities Commission of Ohio.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

32. UtiliCorp United Inc.

[Docket No. ER98–4121–000]

Take notice that on August 4, 1998, UtiliCorp Untied Inc. tendered for filing on behalf of its operating division, WestPlains Energy—Colorado, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 11, with Merchant Energy Group of the Americas, Inc. The Service Agreement provides for the sale of capacity and energy by WestPlains Energy—Colorado to Merchant Energy Group of the Americas, Inc. pursuant to the tariff, and for the sale of capacity and energy by Merchant Energy Group of the Americas, Inc. to WestPlains Energy—Colorado pursuant to Merchant Energy Group of the Americas, Inc.'s Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by Merchant Energy Group of the Americas, Inc.

UtiliCorp requests waiver of the Commission's regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

33. UtiliCorp United Inc.

[Docket No. ER98–4122–000]

Take notice that on August 4, 1998 UtiliCorp United Inc. tendered for filing on behalf of its operating division, WestPlains Energy-Kansas, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 12, with Merchant Energy Group of the Americas, Inc. The Service Agreement provides for the sale of capacity and energy by WestPlains Energy-Kansas to Merchant Energy Group of the Americas, Inc. pursuant to the tariff, and for the sale of capacity and energy by Merchant Energy Group of the Americas, Inc. to WestPlains Energy-Kansas pursuant to Merchant Energy Group of the Americas, Inc.'s Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by Merchant Energy Group of the Americas, Inc.

UtiliCorp requests waiver of the Commission's regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

34. UtiliCorp United Inc.

[Docket No. ER98–4123–000]

Take notice that on August 4, 1998, UtiliCorp United Inc. tendered for filing on behalf of its operating division, Missouri Public Service, a Service Agreement under its Power Sales Tariff, FERC Electric Tariff Original Volume No. 10, with Merchant Energy Group of the Americas, Inc. The Service Agreement provides for the sale of capacity and energy by Missouri Public Service to Merchant Energy Group of the Americas, Inc. pursuant to the tariff, and for the sale of capacity and energy by Merchant Energy Group of the Americas, Inc. to Missouri Public Service pursuant to Merchant Energy Group of the Americas, Inc.'s Rate Schedule No. 1.

UtiliCorp also has tendered for filing a Certificate of Concurrence by Merchant Energy Group of the Americas, Inc.

UtiliCorp requests waiver of the Commission's regulations to permit the Service Agreement to become effective in accordance with its terms.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

35. Public Service Company of New Mexico

[Docket No. ER98–4124–000]

Take notice that on August 4, 1998, Public Service Company of New Mexico (PNM) submitted for filing executed service agreements, for point-to-point transmission service under the terms of PNM's Open Access Transmission Service Tariff, with Tractebel Energy Marketing, Inc., (2 agreements, dated July 31, 1998 for Non-Firm and Firm Service) and El Paso Energy Marketing Company (1 agreement, dated July 31, 1998, for Non-Firm Service). PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

36. Kentucky Utilities Company

[Docket No. ER98–4125–000]

Take notice that on August 4, 1998, Kentucky Utilities Company tendered for filing copies of an unexecuted Service Agreement between Kentucky Utilities Company and CMS Marketing, Services & Trading Company under Rate PS.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

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 these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–21963 Filed 8–14–98; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC98–49–000, et al.]

New Energy Ventures, Inc., New Energy Ventures, L.L.C., et al.; Electric Rate and Corporate Regulation Filings

August 6, 1998.

Take notice that the following filings have been made with the Commission:

1. New Energy Ventures, Inc. and New Energy Ventures, L.L.C.

[Docket No. EC98–49–000]

Take notice that on July 30, 1998, the above-captioned parties (Applicants) filed an application under Section 203 of the Federal Power Act requesting authorization for the transfer of power sales agreements from New Energy Ventures, Inc. (NEV Inc.) to New Energy Ventures, L.L.C. (NEV LLC).

Comment date: September 3, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Cambridge Electric Light Company, Canal Electric Company, Commonwealth Electric Company, Montaup Electric Company, Southern Energy New England, LLC and Southern Energy Kendall, LLC

[Docket Nos. EC98–50–000 and ER98–4088–000]

Take notice that, on July 31, 1998, Cambridge Electric Light Company (Cambridge), Canal Electric Company (Canal), Commonwealth Electric Company (Commonwealth) (collectively, the COM/Electric Companies), Montaup Electric Company (Montaup), Southern Energy New England, L.L.C. (Southern New England), Southern Energy Canal, L.L.C. (Southern Canal), and Southern Energy Kendall, L.L.C. (Southern Kendall) (collectively, the Southern Parties) (together, the COM/Electric Companies, Montaup, and the Southern Parties shall be referred to as Applicants), jointly and/or individually, submitted for filing, pursuant to Sections 203 and 205 of the Federal Power Act, and Parts 33 and 35 of the Commission's regulations, applications, and rate schedules in connection with the divestiture by the COM/Electric Companies of substantially all of their electric generation assets, and by Montaup of its ownership interest in one such electric generation asset, by sale to Southern Canal and Southern Kendall, all pursuant to a series of agreements dated May 15, 1998.

In addition to the COM/Electric Companies' and Montaup's disposition of these generating assets, the Applicants seek approval for Canal's assignment of certain wholesale power sales agreements to Southern Canal and the transfer by Canal and Montaup to Commonwealth of certain transmission facilities located at the Canal Generating Station in Sandwich, Massachusetts. Certain Applicants further filed the following agreements: (1) Interconnection and Site Agreements providing for the interconnection of the generating facilities and for various physical arrangements at those sites; (2) an amendment to the Canal Unit 2 wholesale power sales agreement terminating that Agreement; (3) an initial rate schedule consisting of a Distribution Service Agreement pursuant to which Commonwealth will provide to Southern Canal transmission service over certain of Commonwealth's distribution facilities; and (4) service agreements for non-firm local point-to-point transmission service pursuant to Cambridge's and Commonwealth's respective Open Access Transmission Tariffs.

Copies of the filing have been served on the regulatory agencies in the Commonwealth of Massachusetts and the State of Rhode Island.

Comment date: September 4, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. National Power Supply Co. Ltd.

[Docket No. EG98–106–000]

On July 31, 1998, National Power Supply Co. Ltd. (Applicant), with its principal office at 330 Town Center Drive, Suite 1000, Dearborn, Michigan, 48126–2712, USA, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Applicant states that it is a company duly incorporated under the laws of Thailand and will own two 150 MW coal-fired cogeneration units in the Tha Thoom area, Pranchiburi province, Thailand (Facility). Electric energy produced by the Facility will be sold at wholesale to the state-owned Electric Generating Authority of Thailand and to privately-owned 304 Industrial Park Co. Ltd. Future retail wheeling of electricity is possible. In no event will any electric energy be sold to consumers in the United States.

Comment date: August 26, 1998, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Duke Energy Marketing Corp.

[Docket No. ER96–109–015]

Take notice that on August 3, 1998, Duke Energy Marketing Corp., tendered for filing a Notification of Change in Status. Duke Energy Marketing Corp., seeks to notify the Commission that it has become affiliated with four new companies, each of which owns a generation facility: (1) Duke Energy Moss Landing, L.L.C.; (2) Duke Energy Morro Bay, L.L.C.; (3) Duke Energy Oakland, L.L.C.; and (4) Bridgeport Energy, L.L.C.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Duke/Louis Dreyfus, L.L.C.

[Docket No. ER96–1121–005]

Take notice that on August 3, 1998, Duke/Louis Dreyfus, L.L.C., tendered for filing a Notification of Change in Status. Duke/Louis Dreyfus, L.L.C., seeks to notify the Commission that it has become affiliated with four new companies, each of which owns a generation facility: (1) Duke Energy Moss Landing, L.L.C.; (2) Duke Energy Morro Bay, L.L.C.; (3) Duke Energy Oakland, L.L.C.; and (4) Bridgeport Energy, L.L.C.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Enpower Inc., Enpower Inc., PowerTec International, LLC, NFR Power, Inc., CHI Power Marketing, Inc., AMVEST Coal Sales, Inc., and EnergyEXPRESS, Inc.

[Docket Nos. ER95–1752–007, ER95–1752–008, ER96–1–011, ER96–1122–009, ER96–2640–007, ER97–464–007, and ER97–3745–004]

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 July 13, 1998, Enpower Inc. filed certain information as required by the Commission's October 23, 1995, order in Docket No. ER95–1752–000.

On July 13, 1998, Enpower Inc. filed certain information as required by the Commission's October 23, 1995, order in Docket No. ER95–1752–000.

On July 13, 1998, Powertec International, LLC filed certain information as required by the Commission's December 1, 1995, order in Docket No. ER96–1–000.

On July 13, 1998, NFR Power, Inc. filed certain information as required by the Commission's April 2, 1996, order in Docket No. ER96–1122–000.

On July 13, 1998, CHI Power Marketing, Inc. filed certain information as required by the Commission's September 12, 1996, order in Docket No. ER96–2640–000.

On July 13, 1998, AMVEST Coal Sales, Inc. filed certain information as required by the Commission's December 16, 1996, order in Docket No. ER97–464–000.

On July 15, 1998, Energy EXPRESS, Inc. filed certain information as required by the Commission's August 26, 1997, order in Docket No. ER97–3745–000.

7. PanEnergy Lake Charles Generation, Inc.

[Docket No. ER96–1335–011]

Take notice that on August 3, 1998, PanEnergy Lake Charles Generation, Inc., tendered for filing a Notification of Change in Status. PanEnergy Lake Charles Generation, Inc., seeks to notify the Commission that it has become affiliated with four new companies, each of which owns a generation facility: (1) Duke Energy Moss Landing, L.L.C.; (2) Duke Energy Morro Bay, L.L.C.; (3) Duke Energy Oakland, L.L.C.; and (4) Bridgeport Energy, L.L.C.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Eagle Gas Marketing Company, ProLiance Energy, LLC, South Jersey Energy Company, AMVEST Power, Inc., Poco Marketing Ltd., Alpha Energy Corporation, and Current Energy, Inc.

[Docket Nos. ER96–1503–008, ER97–420–006, ER97–1397–002, ER97–2045–005, ER97–2198–004, ER97–4730–002, ER98–102–002, (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 June 22, 1998, Eagle Gas Marketing Company filed certain information as required by the Commission's July 4, 1995, order in Docket No. ER96–1503–000.

On July 15, 1998, ProLiance Energy, LLC filed certain information as required by the Commission's January 16, 1997, order in Docket No. ER97–420–000.

On July 13, 1998, South Jersey Energy Company filed certain information as required by the Commission's February 28, 1997, order in Docket No. ER97–1397–000.

On July 13, 1998, AMVEST Power, Inc. filed certain information as required by the Commission's April 15, 1997, order in Docket No. ER97–2045–000.

On July 15, 1998, Poco Marketing Ltd filed certain information as required by the Commission's May 7, 1997, order in Docket No. ER97–2198–000.

On July 13, 1998, Alpha Energy Corporation filed certain information as required by the Commission's July 4, 1995, order in Docket No. ER97–4730–000.

On July 13, 1998, Current Energy, Inc. filed certain information as required by the Commission's July 4, 1995, order in Docket No. ER98–102–000.

9. Duke Energy Trading and Marketing, L.L.C.

[Docket No. ER96–2921–010]

Take notice that on August 3, 1998, Duke Energy Trading and Marketing, L.L.C., tendered for filing a Notification of Change in Status. Duke Energy Trading and Marketing, L.L.C., seeks to notify the Commission that it has become affiliated with four new companies, each of which owns a generation facility: (1) Duke Energy Moss Landing, L.L.C.; (2) Duke Energy Morro Bay, L.L.C.; (3) Duke Energy

Oakland, L.L.C.; and (4) Bridgeport Energy, L.L.C.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Niagara Mohawk Power Corporation

[Docket No. ER98–3699–000]

Take notice that on July 10, 1998, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing its Quarterly Sales and Services Summary as required by the Commission's Order dated September 25, 1996 in Docket No. ER96–2585–000. A copy of the filing has been served on the Public Service Commission of the State of New York.

Comment date: August 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. PG&E Energy Trading-Power, L.P.

[Docket No. ER98–4040–000]

Take notice that on July 31, 1998, PG&E Energy Trading-Power, L.P. (PGET), filed to cancel transactions entered into with The Power Company of America, L.P. pursuant to Section 35.15 of the Federal Energy Regulatory Commission's regulations. PGET requests that the Commission find that no notice of cancellation is required. If the Commission cannot make this finding, PGET requests acceptance of its notice and waiver of the 60-day notice requirement to permit the cancellation to become effective on July 2, 1998.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Wisconsin Public Service Corp.

[Docket No. ER98–4041–000]

Take notice that on July 31, 1998, Wisconsin Public Service Corporation, tendered for filing an executed Short Term Market Rate (MR Tariff) Sales service agreement with Consolidated Water Power Co. under its Market-Based Rate Tariff.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. PECO Energy Company

[Docket No. ER98–4042–000]

Take Notice that on July 31, 1998, PECO Energy Company (PECO), filed on behalf of the parties to the Extra High Voltage Transmission System Agreement (EHV Agreement) a Supplement to the TRANSMISSION ENHANCEMENT FACILITIES (TEF) AGREEMENT which is filed as a supplement to the EHV Agreement. The parties to both Agreements are:

Public Service Electric and Gas Company
PECO Energy Company
Atlantic City Electric Company
Delmarva Power & Light Company
PP&L, Inc.
Baltimore Gas and Electric Company
Potomac Electric Power Company
Jersey Central Power & Light Company
Metropolitan Edison Company
Pennsylvania Electric Company
UGI Utilities, Inc.

The purpose of this Supplement to the TEF Agreement, is to provide for the cost sharing of the Red Lion 500/230kv substation expansion (Red Lion Facilities) within the DELMARVA POWER & LIGHT (DPL) service territory by the aforementioned parties. The substation expansion which was placed in service in May of 1997 was determined by the PJM Transmission Owners to be a necessary addition to the system. Also included as a part of this Supplement is a new Schedule 4 to the TEF Agreement, which supplements the existing TEF Schedules 1, 2 and 3. Shown in this Schedule 4 as agreed to by the Signatories to this Supplement, is the original investment obligation, allocation of investment responsibility and monthly charges (credits) on the original investment for a period of 25 years (unless prior termination of this Supplement) beginning on the effective date of this Supplement.

An effective date of October 1, 1998 has been requested for this Supplement.

PECO Energy Company states that this filing has been sent to the Regulatory Commissions of Pennsylvania, New Jersey, Maryland, Delaware, Virginia and the District of Columbia for their information.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Northern States Power Co. (Minnesota) and Northern States Power Co. (Wisconsin)

[Docket No. ER98–4046–000]

Take notice that on July 31, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)(jointly NSP) tendered for filing an amendment to Section 13.7 (Classification of Firm Transmission Service) of its Open Access Transmission Tariff. NSP respectfully requests the proposed change be accepted for filing effective October 1, 1998, sixty-two days after filing.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Niagara Mohawk Power Corporation

[Docket No. ER98–4047–000]

Take notice that on July 31, 1998, Niagara Mohawk Power Corporation (ANMPC), tendered for filing with the Federal Energy Regulatory Commission an unexecuted Network Integration Transmission Service Agreement and an unexecuted Network Operating Agreement between NMPC and Village of Frankfort. The Network Integration Transmission Service Agreement and Network Operating Agreement specifies that Village of Frankfort will sign on to and will agree to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and Village of Frankfort to enter into scheduled transactions under which NMPC will provide network integration transmission service for Village of Frankfort.

NMPC requests an effective date of July 1, 1998. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and Village of Frankfort.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Pacific Gas and Electric Co.

[Docket No. ER98–4067–000]

Take notice that on July 31, 1998, the Pacific Gas and Electric Company (PG&E), filed an interim short term coordination agreement with the Sacramento Municipal Utility District (SMUD). The coordination agreement will permit SMUD to participate in the California Independent System Operator's imbalance energy market, and SMUD has agreed to accept all charges accruing to PG&E for such activities by SMUD. The agreement may be terminated by either party on ten days notice.

PG&E states that a copy of the filing has been served on SMUD, the California Independent System Operator, and the California Public Utilities Commission.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. AES Power, Inc.

[Docket No. ER98–4068–000]

Take notice that on July 31, 1998, AES Power, Inc. (AESPI), a broker and marketer of electric power, has filed an informational notice of cancellation of the Contract for Purchases and Sales of

Power and Energy between Federal Energy Sales and AES Power, Inc. (AESPI), entered into in February, 1997 under AESPI's Rate Schedule in FERC No. 1.

In the event that the Commission determines that AESPI must file notice under 18 CFR 35.15, AESPI has also filed a formal notice of cancellation and motion for waiver of the 60-day advance filing requirement, so as to permit termination of the contract with Federal Energy as of June 29, 1998.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Consolidated Edison Company of New York, Inc.

[Docket No. ER98–4071–000]

Take notice that on August 3, 1998, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide Firm Point-To-Point Transmission Service pursuant to its Open Access Transmission Tariff to New York Power Authority.

Con Edison states that a copy of this filing has been served by mail upon New York Power Authority.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Niagara Mohawk Power Corp.

[Docket No. ER98–4080–000]

Take notice that on August 3, 1998, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission, an executed Firm Point-To-Point Transmission Service Agreement between NMPC and Ontario Hydro. This Transmission Service Agreement specifies that Ontario Hydro has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and Ontario Hydro to enter into separately scheduled transactions under which NMPC will provide transmission service for Ontario Hydro as the parties may mutually agree.

NMPC requests an effective date of July 30, 1998. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and Ontario Hydro.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Niagara Mohawk Power Corp.

[Docket No. ER98–4081–000]

Take notice that on August 3, 1998, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission, an executed Transmission Service Agreement between NMPC and Morgan Stanley Capital Group Inc. This Transmission Service Agreement specifies that Morgan Stanley Capital Group Inc. has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and Morgan Stanley Capital Group Inc. to enter into separately scheduled transactions under which NMPC will provide transmission service for Morgan Stanley Capital Group Inc. as the parties may mutually agree.

NMPC requests an effective date of July 30, 1998. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and Morgan Stanley Capital Group Inc.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Cinergy Services, Inc.

[Docket No. ER98–4082–000]

Take notice that on August 3, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing a Non-Firm Point-To-Point service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff), entered into between Cinergy and Ensearch Energy Services, Inc. (Ensearch).

Cinergy and Ensearch are requesting an effective date of July 31, 1998.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. The California Power Exchange Corporation

[Docket No. ER98–4084–000]

On July 31, 1998, the California Power Exchange Corporation (PX), tendered for filing a PX Participation Agreement between the PX and Pacific Gas & Electric Company in compliance with the Commission's May 19, 1998 order. California Power Exch. Corp., 83 FERC 61,186 (1998).

The PX states that this filing has been served upon all parties on the official service list in the above-captioned docket.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Kentucky Utilities Company

[Docket No. ER98–4089–000]

Take notice that on August 3, 1998, Kentucky Utilities Company (KU) tendered for filing copies of an unexecuted Service Agreement between KU and Constellation Power Source, Inc., under KU's PS Rate Schedule.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. Kentucky Utilities Company

[Docket No. ER98–4090–000]

Take notice that on August 3, 1998, Kentucky Utilities Company (KU) tendered for filing copies of an unexecuted Service Agreement between KU and Western Resources, Inc., under KU's PS Rate Schedule.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. Kentucky Utilities Company

[Docket No. ER98–4091–000]

Take notice that on August 3, 1998, Kentucky Utilities Company (KU) tendered for filing copies of an unexecuted Service Agreement between KU and Tractebel Energy Marketing, Inc., under KU's PS Rate Schedule.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. Kentucky Utilities Company

[Docket No. ER98–4092–000]

Take notice that on August 3, 1998, Kentucky Utilities Company (KU) tendered for filing copies of an unexecuted Service Agreement between KU and Allegheny Power under KU's PS Rate Schedule.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

27. Kentucky Utilities Company

[Docket No. ER98–4093–000]

Take notice that on August 3, 1998, Kentucky Utilities Company (KU) tendered for filing copies of an unexecuted Service Agreement between KU and Ameren Services Company under KU's PS Rate Schedule.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

28. Kentucky Utilities Company

[Docket No. ER98–4094–000]

Take notice that on August 3, 1998, Kentucky Utilities Company (KU)

tendered for filing copies of an unexecuted Service Agreement between KU and Avista Energy, Inc., under KU's PS Rate Schedule.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

29. Carr Street Generating Station, L.P.

[Docket No. ER98–4095–000]

Take notice that on August 3, 1998, Carr Street Generating Station, L.P. (Carr) tendered for filing an application for waivers and blanket approvals under various regulations of the Commission and for an order accepting Carr's initial rate schedule, FERC Electric Rate Schedule No. 1. Carr proposes that its Rate Schedule No. 1 become effective on October 1, 1998. Carr's acquisition of the East Syracuse Station (the Facility), a generation facility in New York, will not close before October 1, 1998.

Carr intends to sell energy and capacity from the Facility at market-based rates. In transactions where Carr sells electric energy, it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

30. Louisville Gas and Electric Co.

[Docket No. ER98–4097–000]

Take notice that on July 30, 1998, Louisville Gas and Electric Company tendered for filing copies of an executed Purchase and Sales Agreement between Louisville Gas and Electric Company and Tractebel Energy Marketing, Inc. under Rate GSS.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

31. Louisville Gas and Electric Co.

[Docket No. ER98–4098–000]

Take notice that on July 30, 1998, Louisville Gas and Electric Company tendered for filing copies of an unexecuted Service Agreement between Louisville Gas and Electric Company and American Municipal Power-Ohio, Inc. under Rate GSS.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

32. Rochester Gas and Electric Corporation

[Docket No. ER98–4099–000]

Take notice that on July 31, 1998 Rochester Gas and Electric Corporation (RG&E) filed a Market Based Service Agreement between RG&E and SCANA Energy Marketing Inc. (Customer). This Service Agreement specifies that the Customer has agreed to the rates, term and conditions of RG&E's FERC Electric Rate Schedule, Original Volume 3 (Power Sales Tariff) accepted by the Commission in Docket No. ER98–3553–000 (80 FERC ¶ 61,284) (1997).

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of June 4, 1998 for Plum Street Enterprises 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: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

33. Duke/Louis Dreyfus, L.L.C.

[Docket No. ER98–4100–000]

Take notice that Duke/Louis Dreyfus, L.L.C. (D/LD), a broker and marketer of electric power, has filed a notice of cancellation pursuant to 18 CFR 35.15, as to a power sale and purchase agreement between D/LD and The Power Company of America, L.P. (PCA), entered into on September 9, 1997 (as memorialized on November 10, 1997) under the Western Systems Power Pool Agreement, Schedule C.

D/LD has also filed a motion for waiver of the 60-day advance filing requirement under 18 CFR 35.15, so as to permit D/LD to terminate service to PCA as of August 4, 1998.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

34. Duke Energy Trading and Marketing, L.L.C.

[Docket No. ER98–4101–000]

Take notice that Duke Energy Trading and Marketing, L.L.C. (DETM), a broker and marketer of electric power, has filed a notice of cancellation pursuant to 18 CFR 35.15, as to a power sale and purchase agreement between DETM and The Power Company of America, L.P. (PCA), entered into on November 20, 1997 under the Western Systems Power Pool Agreement, Schedule C.

DETM has also filed a motion for waiver of the 60-day advance filing requirement under 18 CFR 35.15, so as to permit DETM to terminate service to PCA as of August 4, 1998, by reason of PCA's default under the agreement.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

35. PECO Energy Company

[Docket No. ER98–4102–000]

Take notice that on August 3, 1998, PECO Energy Company (PECO) filed a Service Agreement dated July 28, 1998 with City of Lake Worth Utilities (LWU) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds LWU as a customer under the Tariff.

PECO requests an effective date of July 28, 1998, for the Service Agreement.

PECO states that copies of this filing have been supplied to LWU and to the Pennsylvania Public Utility Commission.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

36. Louisville Gas and Electric Co.

[Docket No. ER98–4103–000]

Take notice that on August 3, 1998, Louisville Gas and Electric Company tendered for filing copies of an unexecuted Purchase and Sales Agreement between Louisville Gas and Electric Company and Merchant Energy Group of the Americas, Inc. under Rate GSS.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

37. Louisville Gas and Electric Co.

[Docket No. ER98–4104–000]

Take notice that on August 3, 1998, Louisville Gas and Electric Company tendered for filing copies of an unexecuted Service Agreement between Louisville Gas and Electric Company and Electric Energy, Inc. under Rate GSS.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

38. Glen Park Associates Limited Partnership

[Docket No. ER98–4105–000]

Take notice that on August 3, 1998, Glen Park Associates Limited Partnership (Glen Park) tendered for filing an executed First Amendment to Energy Sales Agreement dated July 6, 1998 between Glen Park and Niagara Mohawk Power Corporation (NMPC). This agreement amends the existing 1984 Energy Sales Agreement between the parties which provides for the sale of the output on the 32.65MW Glen Park hydroelectric project. The amendment provides for a reduction in the rates for the sale of the power and for a number of other modifications to the 1984 agreement.

Glen Park requests an effective date of January 1, 1998 in accordance with the terms of the tendered amendment and the agreement of the parties.

Copies of the filing have been served upon NMPC and the New York Public Service Commission.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

39. California Independent System Operator Corporation

[Docket No. ER98–4106–000]

Take notice that on August 3, 1998, the California Independent System Operator Corporation (ISO), tendered for filing an amendment to Appendix A to the Responsible Participating Transmission Owner Agreement between the ISO and the Southern California Edison Company (SCE). The ISO states that the amendment revises the Appendix to remove the California Department of Water Resources, the City of Colton, the City of Riverside, and Southern California Water Company.

The ISO states that this filing has been served on all parties listed on the Restricted Service List in the above-referenced docket.

Comment date: August 24, 1998, in accordance with Standard Paragraph E at the end of this notice.

40. California Independent System Operator Corporation

[Docket No. ER98–4107–000]

Take notice that on August 3, 1998, the California Independent System Operator Corporation (ISO), tendered for filing an amendment to Appendix A to the Responsible Participating Transmission Owner Agreement between the ISO and the Pacific Gas & Electric Company (PG&E). The ISO states that the amendment revises the Appendix to reflect the current list of parties for whom PG&E will act as Schedule Coordinator.

The ISO states that this filing has been served on all parties listed on the Restricted Service List in the above-referenced dockets.

Comment date: August 24, 1998, 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 these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–21961 Filed 8–14–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2042–010 Washington]

Public Utility District No. 1 of Pend Oreille County; Notice of Availability of Draft Environmental Assessment

August 10, 1998.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR Part 380 (Order No. 486, 52 F.R. 47910), the Office of Hydropower Licensing (OHL) reviewed the proposal to add project lands in the upstream portion of the project reservoir that were not included within the original project boundary for the Box Canyon Hydroelectric Project in Pend Oreille County, Washington. In addition, OHL reviewed an Offer of Settlement made by the parties to this proceeding. The Commission prepared a draft environmental assessment (DEA) for the proposed action and offer of settlement. In the DEA, the Commission concludes that approval of the proposed boundary change and offer of settlement will not constitute a major federal action significantly affecting the quality of the human environment.

This DEA was written by staff in the Office of Hydropower Licensing (OHL). As such, the DEA is OHL staff's preliminary analysis of the licensee's proposed boundary change and the parties offer of settlement. No final conclusions have been made by the Commission regarding this matter.

Should you wish to provide comments on the DEA, they should be filed within 30 days from the date of this letter. Comments should be addressed to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Please include the project number (2042–010) on any comments filed.

Copies of the DEA are available for review in the Reference and Information Center, Room 2A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

For further information, please contact Jim Hastreiter at (503) 326–5858, ext. 225 or George Taylor at (202) 219–2692.

David P. Boergers,

Secretary.

[FR Doc. 98–21964 Filed 8–14–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6145–9]

Clean Air Act Advisory Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Clean Air Act Advisory Committee; notice of meeting.

SUMMARY: The Environmental Protection Agency (EPA) established the Clean Air Act Advisory Committee (CAAAC) on November 19, 1990, to provide independent advice and counsel to EPA on policy issues associated with implementation of the Clean Air Act of 1990. The Committee advises on economic, environmental, technical scientific, and enforcement policy issues.

OPEN MEETING NOTICE: Pursuant to 5 U.S.C. App. 2, section 10(a)(2), notification is hereby given that the Clean Air Act Advisory Committee will hold its next open meeting on Friday, October 2, 1998, from approximately 8:30 a.m. to 3:30 p.m. at the International Trade Center Conference Center in the Ronald Reagan Federal Building, 1300 Pennsylvania Avenue, N. W. Washington, D.C. 20004. Seating will be available on a first come, first served basis. The Energy, Clean Air and Climate Change Subcommittee will hold its meeting on Thursday, October 1, 1998, from approximately 1:00 p.m. to 5:00 p.m. The CAAAC's other three Subcommittees (Linking Transportation, Land Use and Air Quality Concerns Subcommittee, the Permits/NSR/Toxics Integration Subcommittee and the Economic Incentives and Regulatory Innovations Subcommittee) will hold concurrent meetings on October 1 from approximately 5:00 p.m. to 9:00 p.m. All subcommittee meetings will be held at the International Trade Center Conference Center, the same location as the full Committee.

INSPECTION OF COMMITTEE DOCUMENTS: The Committee agenda and any documents prepared for the meeting will be publicly available at the meeting. Thereafter, these documents, together with CAAAC meeting minutes,

will be available by contacting the Office of Air and Radiation Docket and requesting information under docket item A–94–34 (CAAAC). The Docket office can be reached by telephoning 202–260–7548; FAX 202–260–4400.

FOR FURTHER INFORMATION: concerning this meeting of the full CAAAC, please contact Paul Rasmussen, Office of Air and Radiation, US EPA (202) 260–6877, FAX (202) 260–8509 or by mail at US EPA, Office of Air and Radiation (Mail code 6102), 401 M St. S.W. Washington, D.C. 20460. For information on the Subcommittee meetings, please contact the following individuals: (1) Energy, Clean Air and Climate Change—Anna Garcia, 202–564–9492; (2) Permits/NSR/Toxics Integration—Debbie Stackhouse, 919–541–5354; (3) Economic Incentives and Regulatory Innovations—Carey Fitzmaurice, 202–260–7433; and (4) Linking Transportation, Land Use and Air Quality Concerns—Gay MacGregor, 734–668–4438.

Dated: August 10, 1998.

Robert Brenner,

Acting Deputy Assistant Administrator for Air and Radiation.

[FR Doc. 98–22053 Filed 8–14–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6146–3]

Science Advisory Board Emergency Cancellation of a Public Advisory Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the August 18–19 meeting of the Environmental Health Committee of the Science Advisory Board (SAB) has been canceled. This meeting had been announced in the **Federal Register** August 5, 1998 (63 FR 41820–41821). The meeting will be rescheduled as soon as practical. The new meeting date will be announced in the **Federal Register**.

Anyone desiring additional information should contact Ms. Roslyn A. Edson, Designated Federal Official, Science Advisory Board (1400), USEPA, 401 M Street, SW, Washington DC 20460, telephone (202) 260–3823, fax (202) 260–7118, or Email on: edson.roslyn@epamail.epa.gov

Dated: August 11, 1998.

John R. Fowle, III,

Acting Staff Director, Science Advisory Board.

[FR Doc. 98–22092 Filed 8–14–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30439A; FRL–6016–4]

Novartis Seeds; Approval of a Pesticide Product Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application submitted by Novartis Seeds to conditionally register the plant pesticide Attribute Insect Protected Sweet Corn involving a changed use pattern of the product pursuant to the provisions of section 3(c)(7)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Michael Mendelsohn, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 14, 9th floor, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 308–8715; e-mail: mendelsohn.mike@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document and the Fact Sheet are available from the EPA home page at the **Federal Register**-Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/).

EPA issued a notice, published in the **Federal Register** of September 10, 1997 (62 FR 47663) (FRL–5740–5), which announced that Rogers Seed Company, 600 N. Armstrong Place, Boise, ID 83704, (now Novartis Seeds), had submitted an application to register the plant pesticide product Attribute Insect Protected Sweet Corn (EPA File Symbol 65268–R) containing the active ingredient *Bacillus thuringiensis* CryIA(b) delta-endotoxin and the genetic material (plasmid vector pZO1502) necessary for its production in corn at 0.0002-0.0006 percent involving a changed use pattern, to include in its presently registered use on field corn, a new use of the Bt. protein plant pesticide active ingredient for the control of the European Corn Borer and Corn Earworm in sweet corn.

The application was approved on February 27, 1998, as Attribute Insect Protected Sweet Corn involving a changed use pattern, to include in its presently registered use, a new use on sweet corn (EPA Registration Number 65268–1).

A conditional registration may be granted under section 3(c)(7)(B) of FIFRA for a product involving a changed use pattern where certain data are lacking, on condition that such data are received as specified by EPA and the applicant has submitted satsifactory data pertaining to the proposed additional use and the amended registration would not significantly increase the risk of any unreasonable adverse effect.

The Agency has considered the available data on the risks associated with the proposed use of *Bacillus thuringiensis* CryIA(b) delta-endotoxin and the genetic material (plasmid vector pZO1502) necessary for its production in corn, and information on social, economic, and environmental benefits to be derived from such use. Based on these reviews, the Agency was able to make basic environmental, health, and safety determinations which show that use of *Bacillus thuringiensis* CryIA(b) delta-endotoxin and the genetic material (plasmid vector pZO1502) necessary for its production in corn consistent with the terms and conditions of registration during the period of conditional registration will not significantly increase the risk of unreasonable adverse effect on the environment. These products are conditionally registered in accordance with FIFRA section 3(c)(7)(B).

These requirements listed below must be complied with:

1. Sale of commercial sweet corn production only.
2. Corn stalks must be destroyed 1-month after harvest.
3. Insect resistance management data.
4. Monitoring for resistance.
5. *Collembola* and *Daphna magna* study.

If the conditions are not complied with the registration will be subject to cancellation in accordance with FIFRA section 6(e). The registration will automatically expire on midnight April 1, 2001.

More detailed information on the conditional registration is contained in an EPA Pesticide Fact Sheet on *Bacillus thuringiensis* CryIA(b) delta-endotoxin and the genetic material (plasmid vector pZO1502) necessary for its production in corn.

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and

formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, CM #2, Arlington, VA 22202 (703–305–5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, DC 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: July 29, 1998.

Janet L. Andersen,

Director, Biopesticides Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 98–22013 Filed 8–14–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30437A/30427C; FRL–6016–9]

Certain Companies; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications to register the pesticide products StarLink Corn and NEU 1165M Slug and Snail Bait, containing new active ingredients not included any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: The Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, listed in the table below:

Regulatory Action Leader	Office location/telephone number	Address
Michael Mendelsohn	Rm. 14, 9th floor, CM #2, 703–308–8715, e-mail: mendelsohn.mike@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Susanne Cerrelli	Rm. 14, 9th floor, CM #2, 703–308–8077, e-mail: cerrelli.susanne@epamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document and the Fact Sheet are available from the EPA home page at the **Federal Register**-Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/).

EPA issued a notice, published in the **Federal Register** of August 8, 1997 (62 FR 42784)(FRL–5731–1), which announced that Plant Genetics Systems Inc., 7200 Hickman Road, Suite 202, Des Moines, IA 50322, had submitted an application to register the pesticide product Bt Cry9C Corn a plant pesticide (EPA File Symbol 70218–R) for the protection from the European Corn Borer and other lepidopteran corn pests, containing the active ingredient *Bacillus thuringiensis subsp. tolworthi* Cry9C protein and the genetic material necessary for its production in corn at 0.0012, an active ingredient not included in any previously registered product.

This application was approved on May 12, 1998, as StarLink Corn, for protection against the European corn borer (EPA Registration Number 70218–1).

Plant Genetics Systems (America) must require that the terms and limitations include: (1) USDA NC-205 guidelines for refuge for all Cry9C corn, (2) Field corn for animal feed or industrial use only, (3) Total acreage allowed is 120,000 and, (4) Registration expires May 30, 1999. (M. Mendelsohn)

EPA also issued a notice, published in the **Federal Register** of January 22, 1997 (62 FR 3287) (FRL–5582–4), which announced that W. Neudorff GmbH KG, Postfach 1209 an der Muhle 3, D-31860 Emmerthal Germany, had submitted an application to register the pesticide product NEU 1165M Slug and Snail Bait (EPA File Symbol 67702–G), containing the active ingredient iron phosphate at 1.0 percent, an active ingredient not included in any previously registered product.

The application was approved on August 14, 1997, and was published in the **Federal Register** of September 30, 1997 (62 FR 51106) (FRL–5744–4), as NEU 1165M Slug and Snail Bait for domestic/non commercial food use on vegetable gardens, fruits (including citrus) and berries; also for outdoor ornamentals, greenhouses, and lawns (EPA Registration Number 67702–3).

On March 16, 1998, an amendment of this registration (67702–3), was approved to add commercial sites. The current use sites are listed on the last approved label. (S. Cerrelli)

The Agency has considered all required data on risks associated with the proposed use of *Bacillus thuringiensis subsp.tolworthi* Cry9C protein and the genetic material necessary for its production in corn, and for the use of iron phosphate. Information on social, economic, and environmental benefits to be derived from use were also considered. Specifically, the Agency has considered the nature of these biopesticides and their pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of these above mentioned biopesticides when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to the environment.

More detailed information on these registrations are contained in the EPA Pesticide Fact Sheets on *Bacillus thuringiensis subsp.tolworthi* Cry9C protein and the genetic material necessary for its production in corn, and for iron phosphate.

A copy of these fact sheets, which provide a summary description of these pesticides, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, CM #2, Arlington, VA 22202 (703–305–5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, DC 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: July 31, 1998.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 98–22011 Filed 8–14–98; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–819 FRL–6018–2]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–819 must be received on or before September 16, 1998.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager listed in the table below:

Product Manager	Office location/telephone number	Address
Joanne I. Miller	Rm. #227, CM #2, 703–305–6224, e-mail:miller.joanne@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Cynthia Giles-Parker	Rm. #247, CM #2, 703-305-7740,e-mail:giles-parker.cynthia@epamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–819] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number FRL–6018–2 and appropriate petition number. Electronic comments on notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated:August 4, 1998.

Arnold E. Layne,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing

them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. BASF Corporation

PP 6F4640 and 3F4270

EPA has received pesticide petitions (PP 6F4640 and 3F4270) from BASF Corporation, P.O. Box 13528, Research Triangle Park, NC 27709-3528 proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing tolerances for residues of bentazon (3-isopropyl-1H-2,1,3-benzothiadiazin-4(3H)-one 2,2-dioxide) and its 6- and 8-hydroxy metabolites in or on the raw agricultural commodities succulent peas at 3.0 parts per million (ppm) and flax seed at 1.0 ppm. Bentazon is currently registered for use in succulent peas with a 30-day preharvest interval (PHI) and a tolerance has been established at 0.5 ppm. The proposed increase in tolerance will allow for a reduction in the preharvest interval (PHI) to 10 days. EPA has determined that the petitions contain data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petitions. Additional data may be needed before EPA rules on the petitions.

A. Residue Chemistry

1. *Plant metabolism*. The qualitative nature of the residue in plants is adequately understood. Bentazon is rapidly metabolized, conjugated and incorporated into natural plant constituents. Metabolism involves the hydroxylation of bentazon at the 6- and 8-position. The terminal residues of regulatory concern are bentazon, 6-hydroxy bentazon, and 8-hydroxy bentazon (as specified in 40 CFR 180.355 (a)).

2. *Analytical method*. Adequate enforcement methods are available in the Pesticide Analytical Manual (PAM) Vol. II for the determination of residues of bentazon and its 6- and 8-hydroxy metabolites in/on plant commodities and for the determination of bentazon and AIBA metabolite in animal commodities. The methods involve quantitation by gas chromatography with flame photometric or nitrogen-specific Coulson conductivity detectors. The limit of quantitation is 0.05 ppm in animal tissues and eggs, 0.02 ppm in milk, and 0.05 ppm in plants. Residue data submitted in support of the succulent pea and flax petitions were collected using modifications of the available PAM Vol. II methods. These modified methods, along with the methods listed in PAM Vol. II are adequate for bentazon data collection and tolerance enforcement.

3. *Magnitude of residues*. Ten garden pea field trials were conducted in 7 States. Experimental plots were treated with two applications of bentazon at a rate of 1.0 lb ai/A/application. Samples of pea pods and vines were harvested from each treated plot 10 days after the second application. Samples were analyzed for the combined residues of bentazon and its 6- and 8-hydroxy metabolites. Analysis of treated samples showed that the maximum total combined residue was 2.9 ppm in pods and 26.6 ppm in vines.

Flax field trials were conducted in North Dakota (1 trial), South Dakota (2 trials), and Minnesota (1 trial). Experimental plots of flax were treated with two applications of bentazon at a rate of 1.0 lb ai/A/ application. Samples of flax seed and straw were harvested at normal maturity, resulting in a PHI range of 43 to 47 days. The maximum combined residue (bentazon and its 6- and 8-hydroxy metabolites) in flax seed samples was 0.63 ppm and in flax straw was 4.9 ppm. In the processing study, there was no concentration of residue in flax meal. In the flax petition (PP 3F4270) tolerances were proposed for the combined residue of bentazon and its 6- and 8-hydroxy metabolites in or on flax seed at 1.0 ppm and flax straw at 6.0 ppm. Since this submission was made the regulations have changed and flax straw has been removed as a raw agricultural commodity (Residue Chemistry Test Guidelines, OPPTS 860.1000, August 1996) and a tolerance is no longer required. Therefore, the tolerance statement for PP 3F4270 has been amended proposing to establish a tolerance for the combined residues of the herbicide bentazon and its metabolites in/on flax seed only. The flax straw tolerance proposal has been removed.

B. Toxicological Profile

1. *Acute toxicity*. Technical bentazon has been evaluated for acute toxicity effects. A summary of the acute toxicity studies follows:

Acute oral LD_{50} (rat)	1,100 mg/kg; M&F	Toxicity category III
Acute dermal LD_{50} (rat)	>2,500 mg/kg	Toxicity category III
Eye irritation (rabbit)	Slight irritation	Toxicity category III
Acute inhalation LC_{50} (rat)	>4.8 mg/l	Toxicity category IV
Dermal irritation (rabbit)	Minimal	Toxicity category III
Dermal sensitization (guin. pig)		Sensitizer.

2. *Genotoxicty*. Bentazon was not mutagenic in the tests for gene mutations, which were reverse mutation assays in *S. typhimurium* and in *E. coli* WP2 uvrA as well as forward mutation assays with *in vitro* Chinese hamster ovary cell (HGPRT) cultures. Bentazon was also negative in the mouse micronucleus test for assessing structural chromosomal aberrations and the unscheduled DNA synthesis assay with primary mouse hepatocytes for detecting DNA damage.

3. *Reproductive and developmental toxicity. Teratogenicity study—Rat*. In pregnant Wistar rats gavaged with 0, 40, 100, or 250 mg/kg/day of bentazon on gestation days 6-15, the maternal toxicity NOEL was over 250 mg/kg/day. The developmental toxicity NOEL was 100 mg/kg/day. The LOEL was 250 mg/kg/day based upon an increase in postimplantation loss and a reduction of fetal body weights. In addition, there was an indication of delayed skeletal ossification of phalangeal nuclei of fore- and hind-limb digits, sternebrae, and cervical vertebrae. The delayed skeletal development was considered to be due

to a delayed maturation as indicated by the decreased fetal weight at this dose.

4. *Teratogenicity study— Rabbit.* When pregnant Chinchilla rabbits were gavaged with 75, 150, or 375 mg/kg/day, on gestation days 6-18, the maternal toxicity NOEL was 150 mg/kg/day. The maternal LOEL was 375 mg/kg/day due to the occurrence in a single doe of a partial abortion, embryonic resorptions, and the absence of living fetuses. The developmental toxicity NOEL was over 375 mg/kg/day.

5. *Reproduction, 2-generation study— Rat.* A reproductive NOEL at 200 ppm (approximately 15 mg/kg/day; lowest dose tested (LDT)) was found in a 2-generation study in Wistar rats. Doses were 0, 200, 800, or 3,200 ppm bentazon in the diet. Higher levels of 800 ppm (reproductive LOEL) and 3,200 ppm (approximately 62 and 249 mg/kg/day, respectively) were associated with a decrease in the body weights of the pups during lactation. For parental toxicity, the NOEL was 800 ppm, and the LOEL was 3,200 ppm based on reductions in food consumption and weight gain, and increased incidence of renal mineralization and liver microgranuloma.

6. *Subchronic toxicity*—i. *90-day feeding study— Rat.* In a 13-week dietary feeding study in Wistar rats, the doses were 0, 400, 1,200, or 3,600 ppm in the diet. The systemic toxicity NOEL was 1,200 ppm (equivalent to 60 mg/kg/day). The LOEL was 3,600 ppm (180 mg/kg/day; highest dose tested (HDT)) based on reductions in body weight gain, increased thromboplastin and prothrombin times, diuresis, clinical chemistry changes (e.g. increases in albumin, A/G ratios, and sodium), and increased kidney and liver weights. In addition, females in the 3,600 ppm group showed suggestive evidence for the presence of lung thrombi and dilated uterine horns.

ii. *21-day dermal.* In a 21-day dermal study in rabbits, the doses were 0, 250, 500 and 1,000 mg/kg/day applied daily for 6 hours. There were no clinical signs of systemic toxicity at any dose level tested. The no adverse effect level (NOAEL) was > 1,000 mg/kg/day for male and female rabbits.

7. *Chronic toxicity*—i. *Chronic feeding study- non-rodent—Dog.* Administration of bentazon in the feed of beagle dogs for 1 year at levels of 0, 100, 400, or 1,600 ppm resulted in a systemic toxicity NOEL of 100 ppm (approximately 3.2 mg/kg/day) and a LOEL of 400 ppm (approximately 13.1 mg/kg/day). Adverse toxicological effects at the two HDT consisted of clinical signs of toxicity (emaciation, dehydration, loose and/or bloody stools, pale mucous membranes, and reduced activity), hematological changes suggestive of anemia (decreased red cells, hemoglobin and hematocrit, abnormal red cell morphology, and increased reticulocytes, platelets, leukocytes, and partial thromboplastin time), depressed body weight gains, intestinal inflammation, and congestion of the small intestine and spleen. The anemia appeared to be due to blood loss from the gastrointestinal tract.

ii. *Chronic feeding/oncogenicity study— Rat.* Fischer 344 rats were given 0, 200, 800, or 4,000 ppm bentazon in the diet in a 2-year combined chronic toxicity-carcinogenicity study. The systemic toxicity NOEL was 200 ppm, equivalent to 10 mg/kg/day LDT. Adverse effects were observed at levels of 800 ppm (40 mg/kg/day; LOEL) and 4,000 ppm (200 mg/kg/day) and consisted of increases in prothrombin time and partial thromboplastin time, increases in urine volume, blood urea nitrogen, and kidney weight along with reduced urinary specific gravity, a reduction in body weight gain, and a decrease in thyroid gland weight. No compound-related increase in tumors was observed.

iii. *Oncogenicity study— Mouse.* B6C3F1 mice were fed 0, 100, 400, or 2,000 ppm bentazon in a 2-year combined chronic toxicity-carcinogenicity study. The systemic toxicity NOEL was 100 ppm, equivalent to 15 mg/kg/day LDT. Adverse effects were observed at levels of 400 ppm (60 mg/kg/day; LOEL) and 2,000 ppm (300 mg/kg/day). There were an increased prothrombin time, calcification of the tunica albuginea of the testes, hyperplasia of pancreatic islet cells and liver, slight increase in mortality, reduced weight gain, areas of hemorrhage in the liver and heart, and increased weights of the kidney, thyroid gland, and pituitary gland. No compound- related increase in tumors was observed.

8. *Animal metabolism*. The qualitative nature of the residue in animals is adequately understood. Bentazon and its metabolite 2 amino-N-isopropylbenzamide (AIBA) are the regulated terminal residues in animal tissues, eggs and milk.

9. *Endocrine disruption*. No special studies investigating potential estrogenic or endocrine effects of bentazon have been conducted. However, the standard battery of required studies has been completed. These studies include an evaluation of the potential effects on reproduction and development, and an evaluation of the pathology exposure. These studies are generally considered to be sufficient to detect any endocrine effects but no such effects of the endocrine organs following repeated or long-term were noted in any of the studies.

10. *Neurotoxicity*. No specific neurotoxicity studies have been conducted with bentazon. However, the results of acute, subchronic and chronic studies with bentazon in different animal species did not indicate evidence of any neurotoxic potential. It is assessed as being very unlikely that bentazon would pose a specific neurotoxic hazard.

C. Aggregate Exposure

EPA has performed analyses to determine the risks from aggregate exposure to bentazon residues. For purposes of assessing the potential dietary exposure, EPA has estimated aggregate exposure based on the Theoretical Maximum Residue Contribution (TMRC) from: (i) all existing bentazon tolerances; and (ii) all existing tolerances plus the proposed increase in tolerance in succulent peas. The TMRC is a ''worst case'' estimate of dietary exposure since it is assumed that 100% of all crops for which tolerances are established are treated and that pesticide residues are at the tolerance levels.

EPA published a dietary risk assessment for bentazon based on existing uses supported through reregistration in the Reregistration Eligibility Decision (RED) for bentazon dated January 27, 1995. EPA also published an aggregate risk assessment for bentazon based on existing tolerances plus a proposed increase in tolerance in succulent peas in a final rule in the FR 33563 (FRL 5720-4) (June 20, 1997). This final rule established a time-limited tolerance for bentazon and its metabolites in/on succulent peas at 3 ppm in connection with EPA's granting an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of bentazon in/on succulent peas with a 10-day PHI in Minnesota, and Wisconsin. BASF used information/data from these documents and performed additional analyses in developing the following aggregate risk assessment.

1. *Dietary exposure*. The TMRC for the overall U.S. population from existing bentazon tolerances supported through reregistration is estimated at 0.000651 mg/kg bwt/day, which represents 2.2% of the RfD. The TMRC for the overall U.S. population from the existing bentazon tolerances plus the proposed increase in tolerance for succulent peas is estimated at 0.001079 mg/kg bwt/day, which represents 3.6%

of the RfD. Thus, dietary exposure to residues of bentazon in or on food from the proposed tolerance increase in succulent peas will increase the TMRC by 1.4% of the RfD for the overall U.S. population.

The TMRC from existing bentazon tolerances supported through reregistration for the most highly exposed subpopulation (non-nursing infants, <1- year old) is estimated at 0.002444 mg/kg bwt/day, which represents 8.1% of the RfD. The TMRC from the existing bentazon tolerances plus the proposed increase in tolerance for succulent peas for non-nursing infants (<1-year old) is estimated at 0.003755 mg/kg bwt/day, which represents 12.5% of the RfD. Dietary exposure to residues of bentazon in or on food from the proposed tolerance increase in succulent peas will increase the TMRC by 4.4 % of the RfD for non-nursing infants (<1-year old). These exposure assessments rely on very conservative assumptions- 100% of crops will contain bentazon residues and those residues would be at the level of the tolerance- which results in an overestimate of human exposure.

BASF believes that there will be no impact on the TMRC as a result of the use of bentazon in flax. No flax product is consumed by man as food and therefore the proposed tolerance will not directly impact the TMRC.

2. *Drinking water.* To account for the exposure from drinking water, BASF used an exposure level of 20 ppb as previously used in the final rule establishing a time-limited tolerance for bentazon and its metabolites in/on succulent peas. This is a very conservative estimate since it is unlikely that a person would be exposed to this level daily for a life-time. BASF estimates that consumption of 2 liters of water per day by a 70 kg adult at a water exposure level of 20 ppb would result in an additional consumption of approximately 2.2% of the RfD. Using these very conservative estimates for food (3.6%) and water (2.2%) results in a total of 5.8% of the RfD for the U.S. population. Thus, BASF believes that even if all the water consumed by a person over a lifetime contained bentazon at 20 ppb there would still be nearly a twenty-fold level of safety.

3. *Non-dietary exposure.* In the final rule establishing a time-limited tolerance for bentazon and its metabolites in/on succulent peas, EPA discussed short- and intermediate-term exposure. According to EPA, short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. Although residential exposure data are not available for ornamentals and ornamental turf uses of bentazon, EPA noted that large MOEs were calculated for acute aggregate risk (>= 7,000) and occupational exposure (> 6,000 for the most highly exposed group, aerial mixer loader) and that EPA believes that short- and intermediate-term aggregate risk is likely to be below EPA's level of concern.

Therefore, BASF believes that the proposed use of bentazon in succulent peas in this petition also will not exceed the EPA's level of concern for short- and intermediate exposure, since this use is identical to the section 18 use of Bentazon. BASF also believes that there will be no impact on short- and intermediate-term exposure as a result of the use of bentazon in flax since flax is a minor agricultural use with no flax product consumed by man as food.

D. Cumulative Effects

BASF has considered the potential for cumulative effects of bentazon and other substances that have a common mechanism of toxicity. BASF is unaware of any data indicating that some other active ingredient produces toxic effects by a mechanism similar to that of bentazon and that would result in cumulative toxicity. Thus, BASF is considering only the potential risks of bentazon.

E. Safety Determination

1. *U.S. population*— i. *Acute risk.* In the final rule establishing a time-limited tolerance for bentazon and its metabolites in/on succulent peas, EPA performed an acute dietary risk assessment and selected the NOEL of 100 (mg/kg/day), based on developmental effects of increased postimplantation loss and decreased fetal body weight at the LOEL of 250 mg/kg/day, from the developmental toxicity study in rats. EPA used tolerance level residues and assumed 100% crop-treated. EPA has identified women of child bearing age (females 13+ years old) as the most sensitive subpopulation. The resulting high-end exposure estimate of 0.01125 mg/kg/day, results in a dietary (food only) MOE of 8,888 for females 13+ years old which EPA considered acceptable. EPA used available monitoring data for groundwater to calculate a water exposure estimate of 3 x 10-3 mg/kg/day for adults. Adding this water exposure to the food exposure resulted in a MOE of 7,000 for females 13+ years.

In the final rule establishing a time-limited tolerance for bentazon and its metabolites in/on succulent peas the following items are noted: (a) the acute drinking water component of the risk calculations presented are relevant to subpopulations with high-end exposure within the United States (FL and CA); (b) because the calculated risk, based on high-end exposure is acceptable, the overall risk assessment is protective of the whole U.S. population; and (c) in the best scientific judgment of the Office of Pesticide Programs, the aggregate acute risk (food and water) from the currently registered uses and section 18 (succulent peas) use of bentazon does not exceed EPA's level of concern.

Therefore, BASF believes that the proposed use of bentazon in succulent peas in this petition also will not exceed the EPA's level of concern for acute exposure, since this use is identical to the section 18 use of bentazon. BASF also believes that there will be no impact on acute exposure as a result of the use of bentazon in flax. No flax product is consumed by man as food and therefore the proposed tolerance will not impact the MOE. Furthermore, flax is considered a minor crop with <100,000 acres harvested in the US in 1996. Therefore, BASF believes that the impact on groundwater exposure will be negligible as a result of bentazon use in flax and should not impact the MOE.

ii. *Short- and intermediate-term risk.* In the final rule establishing a time-limited tolerance for bentazon and its metabolites in/on succulent peas, EPA discussed short- and intermediate-term exposure. According to EPA, short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. Although residential exposure data are not available for ornamentals and ornamental turf uses of bentazon, EPA noted that large MOEs were calculated for acute aggregate risk (>= 7,000) and occupational exposure (> 6,000 for the most highly exposed group, aerial mixer loader) and that EPA believes that short- and intermediate-term aggregate risk is likely to be below EPA's level of concern.

Therefore, BASF believes that the proposed use of bentazon in succulent peas in this petition also will not exceed the EPA's level of concern for short- and intermediate exposure, since this use is identical to the section 18 use of Bentazon. BASF also believes that there will be no impact on short- and intermediate-term exposure as a result of the use of bentazon in flax since flax is a minor agricultural use with no flax product consumed by man as food.

iii. *Chronic risk.* Using the conservative TMRC exposure

assumptions described above, BASF has concluded that aggregate exposure to bentazon from food will utilize 5.8% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is non-nursing infants which is discussed below. EPA generally has no concern for exposure below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to bentazon, including all anticipated dietary exposure and all other non-occupational exposure, BASF does not expect the aggregate exposure to exceed 100% of the RfD. BASF concludes that there is a reasonable certainty that no harm will result from aggregate exposure to bentazon residues.

iv. *Cancer risk*. Bentazon was classified as a ''Group E'' carcinogen, which denotes evidence of non-carcinogenicity for humans, by the Agency's Health Effects Division Carcinogenicity Peer Review Committee, June 26, 1991.

2. *Infants and children*— i. *Developmental toxicity testing.* Developmental toxicity was observed in a developmental toxicity study using rats but was not seen in a developmental toxicity study using rabbits.

ii. *Developmental toxicity study— Rat*. From the rat developmental toxicity study, the maternal (systemic) NOEL was 250 mg/kg/day, the HDT. The developmental (fetal) NOEL was 100 mg/kg/day, based on increased postimplantation loss and decreased fetal body weight at the LOEL of 250 mg/kg/day.

iii. *Developmental toxicity study— Rabbit*. From the rabbit developmental toxicity study, the maternal (systemic) NOEL was 150 mg/kg/day, based on abortion and embryonic resorptions at the LOEL of 375 mg/kg/day. The developmental (fetal) NOEL was 375 mg/kg/day, the HDT.

iv. *Reproductive toxicity study— Rat*. From the rat reproductive study, the parental (systemic) NOEL was 62 mg/kg/day, based on increased incidences of kidney mineralization and liver microgranules at the LOEL of 249 mg/kg/day. The reproductive (pup) NOEL was 15 mg/kg/day, based on decreased body weight gain at the LOEL of 62 mg/kg/day.

v. *Pre- and post-natal sensitivity*. In the rat teratology study, fetal effects were observed at the high dose of 250 mg/kg/day in the absence of apparent maternal toxicity. However, it should be noted that very few general toxicity parameters are investigated for the maternal animals in rat teratology studies. Essentially body weight, food consumption and clinical signs are all that are determined. Bentazon typically does not produce any significant effects on these parameters at doses around 250 mg/kg/day. However, other factors indicating toxicity to adult animals were observed at a lower dose of 180 mg/kg/day in the 90-day rat feeding study. These effects consisted of increased thromboplastin and prothrombin times, diuresis, clinical chemistry changes (e.g. increases in albumin, A/G ratios, and sodium) and increased kidney and liver weights. The NOEL in this 90-day rat feeding study was determined to be 60 mg/kg/day. A conclusion can be drawn that the true NOEL for this study lies between 60 and 180 mg/kg/day. Since the effects stated above were well defined and characterized for the endpoints discussed, the data would suggest that the apparent NOEL would be in the range of 80-120 mg/kg/day. Therefore, the maternal NOEL and developmental NOEL in the rat study are similar if the same parameters are measured in the rat developmental study as are measured in the 90-day rat feeding study. Thus, since toxicity to adult animals is observed at doses which are similar to or lower than that which produced developmental toxicity, it can be concluded that bentazon does not produce selective toxicity to fetuses.

No treatment-related developmental (fetal) toxicity was observed in the rabbit teratology study despite testing to a maternally toxic level.

In the rat reproduction study, pup effects were observed at the high and mid doses of approximately 249 and 62 mg/kg/day, respectively, with parental toxicity observed at the high dose only. However, the only effect on offspring at both the mid and high doses was a slight decrease in pup weight during the lactation period. These marginal to slight differences from control were demonstrated to be transient. The F1 pups were kept on the treated diets at the mid and high dose levels after lactation. By 4 weeks of age, the F1 pup weights were the same for the mid and high doses and control. At the mid dose, there was no effect on body weight of the F1 generation animals through 123 days of treatment prior to mating.

In summary, there was no developmental toxicity observed in the rabbit teratology study, there was no selective toxicity to fetuses in the rat teratology study, and the only effect noted in the reproductive toxicity study at a dose below the parental toxicity was a slight and transient decrease in pup weight. Based on these results no additional safety factor is required for protection of infants and children.

BASF believes that the RfD used to assess safety to children should be the same as that for the general population, 0.03 mg/kg/day. Using the conservative exposure assumptions described above, BASF has concluded that the most sensitive child population is that of non-nursing infants (<1- year old). BASF calculates the exposure to bentazon residue from all existing tolerances plus the proposed increase in tolerance in succulent peas and the tolerance for flax seed to be approximately 12.5% of the RfD for non-nursing infants (< 1- year old).

F. International Tolerances

1. *Succulent peas*. There is a Codex MRL of 0.2 ppm for bentazon and its metabolites established in/on garden peas (young pods), a Canadian MRL for parent only of 0.1 ppm (negligible) established in/on peas, and a Mexican limit for parent (presumed) of 0.05 ppm established in/on green peas.

2. *Flax*. No maximum residue level (MRL) has been established for bentazon in/on flax by the Codex Alimentarius Commission. Austria has established a tolerance level for bentazon (including its hydroxy metabolites) in/on linseed (seed) of 1.5 ppm. Canada has a maximum residue level for parent only of 0.1 ppm in/on linseed. (Joanne I. Miller)

2. Novartis Crop Protection, Inc.

PP 8F4955

EPA has received a pesticide petition (PP 8F4955) from Novartis Crop Protection, Inc., PO Box 18300, Greensboro, NC 27419 proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of CGA-279202 in or on the raw agricultural commodity on pome fruit at 0.4, cucurbit vegetables at 0.25, grapes at 1.5, peanuts at 0.02, peanut hay at 4.0, apple pomace at 1.5 and imported bananas at 0.1 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of CGA-279202 in plants (cucumbers,

apples, wheat and peanuts) is well understood. Identified metabolic pathways are substantially similar in plants and animals (goat, rat and hen). Novartis proposes CGA-279202, per se, as the residue of concern for tolerance setting purposes.

2. *Analytical method*. Novartis Crop Protection Inc. has submitted practical analytical methodology for detecting and measuring levels of CGA-279202 in or on raw agricultural commodities. The limit of detection (LOD) for each analyte of this method is 0.08 ng injected, and the limit of quantitation (LOQ) is 0.02 ppm. The method is based on crop specific cleanup procedures and determination by gas chromatography with nitrogen-phosphorus detection.

3 *Magnitude of residues—Residue trials*. CGA-279202 was applied to apples in 10 States and to pears in 4 States for a total of 19 field trials. Twelve field trials were conducted in the following 8 representative peanut-growing States: Alabama, Florida, Georgia, North Carolina, Oklahoma, South Carolina, Texas, and Virginia. Eighteen cucurbit field trials in 10 States were successfully harvested, including 8 cucumber, 5 cantaloupe, and 5 summer squash field trials. Twelve field trials in 5 States, accounting for 94% of the U.S. grape production, were conducted to generate residue data on grapes, raisins, and raw and pasteurized juice. Thirteen banana field trials were conducted in Costa Rica, Ecuador, Colombia, Guatemala, Mexico, Honduras, and Puerto Rico.

B. Toxicological Profile

1. *Acute toxicity*. Studies conducted with the technical material of CGA-279202 include a rat acute oral toxicity study with a LD_{50} >5,000 mg/kg; a mouse acute oral toxicity study with a LD_{50} >5,000 mg/kg; a rabbit acute dermal toxicity study with a LD_{50} >2,000 mg/kg; a rat acute dermal toxicity study with a LD_{50} >2,000 mg/kg; a rat acute inhalation toxicity study with a LC_{50} >4.65 mg/L; a rabbit eye irritation study showing slight irritation (Category III); a rabbit dermal irritation study showing slight irritation (Category IV); a Guinea pig dermal sensitization study with the Buehler's method showing negative findings; a Guinea pig dermal sensitization study with the maximization method showing some positive findings.

2. *Genotoxicty*. No genotoxic activity is expected of CGA-279202 under *in-vivo* or physiological conditions. The compound has been tested for its potential to induce gene mutation and chromosomal changes in 5 different test systems. The only positive finding was seen in the *in vitro* test system (Chinese hamster V79 cells) as a slight increase in mutant frequency at a very narrow range (250 - 278 μg/ml) of cytotoxic and precipitating concentrations (compound solubility in water was reported to be 0.61 μg/ml; precipitate was visually noted in culture medium at 150 μg/ml). The chemical was found to be non-mutagenic in the *in vivo* system or all other *in vitro* systems. Consequently, the limited gene mutation activity in the V79 cell line is considered a nonspecific effect under non-physiological *in vitro* conditions and not indicative of a real mutagenic hazard.

3. *Reproductive and developmental toxicity*. FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database. Based on the current toxicological data requirements, the database on CGA-279202 relative to pre- and post-natal effects for children is complete.

In assessing the potential for additional sensitivity of infants and children to residues of CGA-279202, Novartis considered data from teratogenicity studies in the rat and the rabbit and a 2-generation reproduction studies in the rat. The teratogenicity studies are designed to evaluate adverse effects on the developing embryo as a result of chemical exposure during the period of organogenesis. Reproduction studies provide information on effects from chemical exposure on the reproductive capability of mating animals and systemic and developmental toxicity from in-utero exposure.

In the rat teratology study, reductions in body weight gain (bwtg) and food consumption were observed in the dam at 100 mg/kg. No teratogenic effects or any other effects were seen on pregnancy or fetal parameters except for the increased incidence of enlarged thymus, which is a type of variation, at 1,000 mg/kg. The developmental NOEL was 100 mg/kg.

In the rabbit teratology study, body weight loss and dramatically reduced food consumption were observed in the dam at ≧250 mg/kg. No teratogenic effects or any other effects were seen on pregnancy or fetal parameters except for the increase in skeletal anomaly of fused sternebrae-3 and -4 at the top dose level of 500 mg/kg. This finding is regarded as a marginal effect on skeletal development that could have resulted from the 40-65% lower food intake during treatment at this dose level. The developmental NOEL was 250 mg/kg.

In the 2-generation rat reproduction study, bwtg and food consumption were decreased at ≧750 ppm, especially in females during lactation. Consequently, the reduced pup weight gain during lactation (≧750 ppm) and the slight delay in eye opening (1,500 ppm) are judged to be a secondary effect of maternal toxicity. No other fetal effects or any reproductive changes were noted. The low developmental NOEL, 50 ppm (5 mg/kg), seen in this study was probably due to the lack of intermediate dose levels between 50 and 750 ppm. Based on an evaluation of the dose-response relationship for pup weight at 750 ppm and 1,500 ppm, the NOEL should have been nearly ten-fold higher if such a dose was available.

Based on all these teratology and reproduction studies, the lowest NOEL for developmental toxicity is 5 mg/kg while the lowest NOEL in the subchronic and chronic studies is 2.5 mg/kg/day (from the rat chronic study). Therefore, no additional sensitivity for infants and children to CGA-279202 is suggested by the data base.

4. *Subchronic toxicity*. In subchronic studies, several mortality related changes were reported for the top dose in dogs (500 mg/kg) and rats (800 mg/kg). At these dose levels, excessive toxicity has resulted in body weight loss and mortality with the associated and nonspecific changes in several organs (such as atrophy in the thymus, pancreas, bone marrow, lymph node, and spleen) which are not considered specific target organs for the test compound. In the dog, specific effects were limited to hepatocellular hypertrophy at ≧150 mg/kg and hyperplasia of the epithelium of the gall bladder at 500 mg/kg. Target organ effects in the rat were noted as hepatocellular hypertrophy (≧200 mg/kg) and the related liver weight increase (≧50 mg/kg). In the mouse, target organ effects included single cell necrosis (≧300 mg/kg) and hypertrophy (1,050 mg/kg) in the liver and extramedullary hematopoiesis (≧300 mg/kg) and hemosiderosis in the spleen (1,050 mg/kg).

In general, definitive target organ toxicity, mostly in the liver, was seen at high feeding levels of over 100 mg/kg for an extended treatment period. At LOEL, no serious toxicity was observed other than mostly non-specific effects including a reduction in body weight and food consumption or liver hypertrophy.

5. *Chronic toxicity*. The liver appears to be the major primary target organ based on the chronic studies conducted in mice, rats, and dogs. It was identified as a target organ in both the mouse and

the dog studies with CGA-279202. However, no liver effect was seen in the chronic rat study which produced the lowest NOEL of 2.5 mg/kg based on reduced bwtg and food consumption seen at higher dose levels (HDL). The compound did not cause any treatment-related increase in general tumor incidence, any elevated incidence of rare tumors, or shortened time to the development of palpable or rapidly lethal tumors in the 18-month mouse and the 24-month rat studies. Dosages in both studies were sufficient for identifying a cancer risk. In the absence of carcinogenicity, Novartis believes that a Reference Dose (RfD) rapproach is appropriate for quantitation of human risks.

6. *Animal metabolism*. CGA-279202 is moderately absorbed from the gastrointestinal tract of rats and is rapidly distributed. Subsequent to a single oral dose, the half life of elimination is about 2-days and excretion is primarily via bile. CGA-279202 is extensively metabolized by the rat into about 35 metabolites, but the primary actions are on the methyl ester (hydrolysis into an acid), the methoxyimino group (O-demethylation), and the methyl side chain (oxidation to a primary alcohol). Metabolism is dose dependent as it was almost complete at low doses but only about 60% complete at high doses.

In the goat, elimination of orally administered CGA-279202 is primarily via the feces. The major residues were the parent compound and the acid metabolite (CGA-321113) plus its conjugates. In the hen, CGA-279202 is found as the major compound in tissues and in the excreta, but hydroxylation of the trifluormethyl-phenyl moiety and other transformations, including methyl ester hydrolysis and demethylation of the methoxyimino group, are also seen. In conclusion, the major pathways of metabolism in the rat, goat, and hen are the same.

7. *Metabolite toxicology*. Metabolism of CGA-279202 has been well characterized in plants, soil, and animals. In plants and soil, photolytically induced isomerization results in a few minor metabolites not seen in the rat; however, most of the applied materials remained as parent compound as shown in the apple and cucumber studies. All quantitatively major plant and/or soil metabolites were also seen in the rat. The toxicity of the major acid metabolite, CGA-321113 (formed by hydrolysis of the methyl ester), has been evaluated in cultured rat hepatocytes and found to be 20-times less cytotoxic than the parent compound. Additional toxicity studies were conducted for several minor metabolites seen uniquely in plants and/or soil. The studies indicate that these metabolites, including CGA-357261, CGA-373466, and NOA-414412, are not mutagenic to bacteria and are of low acute toxicity (LD_{50} >2,000 mg/kg). In conclusion, the metabolism and toxicity profiles support the use of an analytical enforcement method that accounts for parent CGA-279202.

8. *Endocrine disruption*. CGA-279202 does not belong to a class of chemicals known for having adverse effects on the endocrine system. Developmental toxicity studies in rats and rabbits and reproduction study in rats gave no indication that CGA-279202 might have any effects on endocrine function related to development and reproduction. The subchronic and chronic studies also showed no evidence of a long-term effect related to the endocrine system.

C. Aggregate Exposure

1. *Dietary exposure*. For the purposes of assessing the potential dietary exposure under the proposed tolerances for the residue of CGA-279202 and its metabolites, Novartis has estimated aggregate exposure based upon the Theoretical Maximum Residue Concentration (TMRC). The values range from 0.0031 ppm in milk to 1.5 ppm in grapes and include tolerances for various crops; pome fruit - 0.4 ppm for the raw agricultural commodities (RAC); cucurbits - 0.25 ppm for the RAC; grapes - 1.5 ppm for the RAC; peanuts - 0.02 ppm for the RAC; banana - 0.1 ppm for the RAC. The TMRC is a ''worst case'' estimate of dietary exposure since it assumes 100% of all crops for which tolerances are established are treated and that pesticide residues are at the tolerance levels, resulting in an overestimate of human exposure.

2. *Food*—i. *Chronic*. The RfD of 0.025 mg/ kg/day is derived from the 24-month rat NOEL of 2.5 mg/kg/day. Even under worst-case assumptions, dietary exposure analysis for CGA-279202 in the most exposed population (non-nursing infants <1-year old) shows the percent RfD utilization to be only 18.9%. Although tolerances in meat and milk are not required for these uses, anticipated residues in meat and milk were also included in this exposure analysis. For average U.S. populations (48 States), dietary exposure for CGA-279202 shows a minimal utilization of 3.4% of the RfD.

ii. *Acute*. For CGA-279202, the appropriate NOEL for acute exposure is 2,000 mg/kg/day from the acute oral neurotoxicity study in rats. Acute dietary exposure analysis predicted the general population will be exposed to less than 0.0045 mg/kg/day of CGA-279202, which corresponds to a MOE of 44,237 at the 99.9 percentile. Children 1-6 years constitute the sub-population with the highest predicted exposure. Predicted acute exposure for this subgroup is less than 0.026 mg/kg/day, corresponding to a MOE of at least 7,797 for 99.9% of the individuals.

3. *Drinking water*. The potential for exposure to CGA-279202 through drinking water (surface or ground water) is low; this is due to the strong binding affinity of CGA-279202 to soil and to its low use rates (0.04-0.125 lb ai/acre/application). The highest average (56-days) surface water concentration due to runoff predicted by the GENEEC model is 0.06 ppb, resulting from application on turf. Assuming a daily water consumption rate of 2 L/day for an adult (70 kg), this would lead to an adult intake of 0.0000017 mg/kg/day which is only 0.007% of the chronic reference dose of 0.025 mg/kg/day. Assuming a three-fold increase in water consumption per unit body weight for children, the potential exposure increases only to 0.02% of RfD for this population subgroup. Estimated concentrations for treating other crops or for ground water are even lower and do not indicate any cause for concern.

4. *Non-dietary exposure*. Non-dietary exposure to CGA-279202 is considered negligible as the chemical is intended primarily for commercial and agricultural use. Exposure due to professional use on turf is considered negligible. For workers handling this chemical, acceptable margins of exposure (in the range of thousands) have been obtained for both acute and chronic scenarios.

D. Cumulative Effects

Consideration of a common mechanism of toxicity is not appropriate at this time since there is no information to indicate that toxic effects produced by CGA-279202 would be cumulative with those of any other types of chemicals. Furthermore, the oximinoacetate is a new type of fungicide and no compound in this general chemical class currently has a significant market share. Consequently, Novartis is considering only the potential exposure to CGA-279202 in its aggregate risk assessment.

E. Safety Determination

1. *U.S. population*. Using the conservative exposure assumptions described above and based on the completeness and reliability of the toxicity data base for CGA-279202,

Novartis has calculated aggregate exposure levels for this chemical. The calculation shows that only 3.4% of the RfD will be utilized for the U.S. population based on chronic toxicity endpoints. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Novartis concludes that there is a reasonable certainty that no harm will result from aggregate exposure to CGA-279202 residue.

2. *Infants and children*. Developmental toxicity, manifested as reduced weaning pup weight, enlarged thymus, or fused sternabrae, was observed in the teratology study and 2-generation rat reproduction studies at maternally toxic doses. All of these findings are judged to be non-specific, secondary effects of maternal toxicity. The lowest NOEL for developmental toxicity was established in the rat reproduction study at 5 mg/kg, a level that is likely to be an overly low estimate (as a result of dose gap) but is still higher than the chronic NOEL of 2.5 mg/kg on which the RfD is based. Using the same conservative exposure assumptions as employed for the determination in the general population, Novartis has calculated that the percent of the RfD that will be utilized by aggregate exposure to residues of CGA-279202 is only 19% for non-nursing infants less than 1-year old (the most impacted sub-population). Therefore, based on the completeness and reliability of the toxicity data base and the conservative exposure assessment, Novartis concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to CGA-279202 residues.

F. International Tolerances

No Codex MRLs have been established for residues of CGA-279202. (Janet Whitehurst).

[FR Doc. 98–22012 Filed 8–14–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Title: National Flood Insurance Program Biennial Report.

Type of Information Collection: Reinstatement, with change of a previously approved collection for which approval has expired.

OMB Number: 3067–0018.

Abstract: The Federal Emergency Management (FEMA) requires that communities participating in the National Flood Insurance Program submit a biennial report on progress made in local floodplain management. The use of a simple, standard format facilitates FEMA's reporting of response, thus enhancing the reports value as a management tool. The following three FEMA forms are used to collect data for the biennial report:

FEMA Form 81–28, Regular Program and Emergency Program (Minimally Floodprone). The hour burden estimate is 35 minutes per response.

FEMA Form 81–29, Regular Program (with Base Flood Elevations). The hour burden estimate is 1 hour per response.

FEMA Form 81–29A, Regular Program (No Special Flood Hazard Area). The hour burden estimate is 12 minutes per response.

Affected Public: State, Local or Tribal Government.

Number of Respondents: 9,089.

Estimated Total Annual Burden Hours: 7,546.

Frequency of Response: Biennially.

COMMENTS: Interested persons are invited to submit written comments on the proposed information collection to the Desk Officer for the Federal Emergency Management Agency, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 within 30 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 311, Washington, DC 20472. Telephone number (202) 646–2625, FAX number (202) 646–3524 or email address at muriel.anderson@fema.gov.

Dated: August 10, 1998.

Reginald Trujillo,

Director, Program Services Division, Operations Support Directorate.

[FR Doc. 98–22048 Filed 8–14–98; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1203–DR]

State of California; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California, (FEMA–1203–DR), dated February 9, 1998, and related determinations.

EFFECTIVE DATE: August 3, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of California, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 9, 1998:

Del Norte County for Individual Assistance (already designated for Public Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–22046 Filed 8–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1223–DR]

Florida; Amendment No. 9 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida (FEMA–1223–DR), dated June 18, 1998, and related determinations.

EFFECTIVE DATE: July 22, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective July 22, 1998.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–22041 Filed 8–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1234–DR]

Indiana; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Indiana (FEMA–1234–DR), dated July 22, 1998 and related determinations.

EFFECTIVE DATE: July 22, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 22, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

As requested, I have declared a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended (the Stafford Act) for the State of Indiana due to damage resulting from severe storms, tornadoes and flooding on June 11, through July 7, 1998. I have authorized Federal relief and recovery assistance in the affected area.

Public Assistance and Hazard Mitigation will be provided. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs in the designated areas.

The Federal Emergency Management Agency (FEMA) will coordinate Federal assistance efforts and designate specific areas eligible for such assistance. The Federal Coordinating Officer will be Mr. Philip Zaferopulos of FEMA. He will consult with you and assist in the execution of the FEMA-State Disaster Assistance Agreement governing the expenditure of Federal funds.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Philip Zaferopulos of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Indiana to have been affected adversely by this declared major disaster:

Fayette, Franklin, Gibson, Greene, Howard, Knox, Lawrence, Monroe, Montgomery, Orange, Owen, Putnam, and Vigo Counties for Public Assistance.

All counties within the State of Indiana are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

James L. Witt,

Director.

[FR Doc. 98–22035 Filed 8–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1234–DR]

Indiana; Amendment Number 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Indiana, (FEMA–1234-DR), dated July 22, 1998, and related determinations.

EFFECTIVE DATE: August 5, 1998

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Indiana, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 22, 1998:

Benton, Clay, Crawford, Madison, Miami, Parke, Pike, Rush, Union, and Warren Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–22049 Filed 8–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1230–DR]

Iowa; Amendment No. 8 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Iowa, (FEMA–1230–DR), dated July 2, 1998, and related determinations.

EFFECTIVE DATE: July 31, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Iowa, is hereby amended to include the following areas among those areas determined to have been adversely

affected by the catastrophe declared a major disaster by the President in his declaration of July 2, 1998:

Clayton County for Public Assistance.
Jasper County for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Laurence W. Zensinger,

Division Director, Response and Recovery Directorate.

[FR Doc. 98–22038 Filed 8–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1230–DR]

Iowa; Amendment No. 7 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Iowa, (FEMA–1230–DR), dated July 2, 1998, and related determinations.

EFFECTIVE DATE: July 31, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Iowa, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 2, 1998:

Adair, Appanoose, Buena Vista, Cerro Gordo, Clay, Clinton, Delaware, Des Moines, Dickinson, Hancock, Palo Alto, and Pocahontas Counties for Individual Assistance.
Floyd County for Individual Assistance (already designated for Public Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–22039 Filed 8–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1230–DR]

Iowa; Amendment No. 6 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Iowa, (FEMA–1230–DR), dated July 2, 1998, and related determinations.

EFFECTIVE DATE: July 22, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Iowa, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 2, 1998:

Floyd County for Public Assistance.
Mahaska and Wapello Counties for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–22040 Filed 8–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1230–DR]

Iowa; Amendment No. 9 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Iowa, (FEMA–1230–DR), dated July 2, 1998, and related determinations.

EFFECTIVE DATE: August 6, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Iowa, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 2, 1998:

Emmet, Kossuth, Webster, and Winnebago for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–22047 Filed 8–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1232–DR]

Maine; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Maine (FEMA–1232–DR), dated July 2, 1998, and related determinations.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery

Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective July 1, 1998.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–22036 Filed 8–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1226–DR]

Michigan; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Michigan (FEMA–1226–DR), dated June 24, 1998, and related determinations.

EFFECTIVE DATE: June 24, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 24, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Michigan, resulting from severe storms and straight-line winds on May 31, 1998, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended (''the Stafford Act'').

I, therefore, declare that such a major disaster exists in the State of Michigan.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance and Hazard Mitigation in the designated areas and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Gary K. Pierson of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Michigan to have been affected adversely by this declared major disaster:

Bay, Clinton, Gratiot, Ionia, Kent, Mason, Montcalm, Muskegon, Newaygo, Oceana, Ottawa, Saginaw, and Shiawassee for Public Assistance.

All counties within the State of Michigan are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 98–22030 Filed 8–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1226–DR]

Michigan; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Michigan, (FEMA–1226–DR), dated June 24, 1998, and related determinations.

EFFECTIVE DATE: August 3, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for Muskegon County has been reopened. The incident period for this county is May 29 to May 31, 1998.

The following Catalog of Federal Domestic Assistance Numbers—

(CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lawrence W. Zensinger,

Division Director, Human Services, Response and Recovery Directorate.

[FR Doc. 98–22031 Filed 8–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1231–DR]

New Hampshire; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New Hampshire, (FEMA–1231–DR), dated July 2, 1998, and related determinations.

EFFECTIVE DATE: July 28, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of New Hampshire, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 2, 1998.

Hillsborough County for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used

for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–22037 Filed 8–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1220–DR]

North Dakota; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of North Dakota, (FEMA–1220–DR), dated June 15, 1998, and related determinations.

EFFECTIVE DATE: July 27, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of North Dakota, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 15, 1998:

Cass, LaMoure, and Walsh Counties for Public Assistance and Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Bruce P. Baughman,

Division Director, Response and Recovery Directorate.

[FR Doc. 98–22043 Filed 8–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1220–DR]

North Dakota; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of North Dakota (FEMA–1220–DR), dated June 15, 1998, and related determinations.

EFFECTIVE DATE: July 18, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective July 18, 1998.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–22044 Filed 8–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1227–DR]

Ohio; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Ohio, (FEMA–1227–DR), dated June 30, 1998, and related determinations.

EFFECTIVE DATE: July 20, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Ohio, is hereby amended to include the following areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 30, 1998:

Morrow for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–22032 Filed 8–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1221–DR]

Oregon; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Oregon (FEMA–1221–DR), dated June 12, 1998, and related determinations.

EFFECTIVE DATE: June 12, 1998.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 12, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Oregon, resulting from flooding on May 28–June 3, 1998, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288, as amended (''the Stafford Act''). I, therefore, declare that such a major disaster exists in the State of Oregon.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, Public Assistance, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Mark Ekman of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Oregon to have been affected adversely by this declared major disaster:

Crook County for Individual Assistance and Public Assistance.

All counties within the State of Oregon are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 98–22042 Filed 8–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1218–DR]

South Dakota; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of South Dakota, (FEMA–1218–DR), dated June 1, 1998, and related determinations.

EFFECTIVE DATE: July 22, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of South Dakota, is hereby amended to include the following area determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 1, 1998:

Brown, Codington, and Roberts Counties for Public Assistance and Individual Assistance.

Day County for Individual Assistance (already designated for Public Assistance and Disaster Unemployment Assistance).

Clark, Marshall, and Spink Counties for Individual Assistance (already designated for Public Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–22045 Filed 8–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1229–DR]

West Virginia; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of West Virginia, (FEMA–1229–DR), dated July 1, 1998, and related determinations.

EFFECTIVE DATE: July 21, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of West Virginia, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 1, 1998:

Cabell County for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–22033 Filed 8–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1229–DR]

West Virginia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of West Virginia (FEMA–1229–DR), dated July 1, 1998, and related determinations.

EFFECTIVE DATE: July 27, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective July 27, 1998.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Bruce P. Baughman,

Division Director, Response and Recovery Directorate.

[FR Doc. 98–22034 Filed 8–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 31, 1998.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. John Edwin Moats, M.D., Bryan, Ohio, and Mark Charles Moats, Defiance, Ohio; to acquire voting shares of Sherwood Banc Corporation, Sherwood, Ohio, and thereby indirectly acquire voting shares of Sherwood State Bank, Sherwood, Ohio.

Board of Governors of the Federal Reserve System, August 11, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–21946 Filed 8–14–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 11, 1998.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. National City Bancshares, Inc., Evansville, Indiana; to merge with Commonwealth Commercial Corp., Crittenden, Kentucky, and thereby indirectly acquire Bank of Crittenden, Crittenden, Kentucky.

Board of Governors of the Federal Reserve System, August 11, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–21947 Filed 8–14–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 11, 1998.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Cooper Life Sciences, Inc. and Greater American Finance Group, Inc., both of New York, New York; to become bank holding companies by acquiring 100 percent of the voting shares of The Berkshire Bank, New York, New York.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Flag Financial Corporation, LaGrange, Georgia; to merge with Empire Bank Corp., Homerville, Georgia, and thereby indirectly acquire Empire Banking Company, Homerville, Georgia.

In connection with this application, Applicant also has applied to acquire E.B.C. Financial Services, Inc., Homerville, Georgia, and thereby engage in insurance agency activities in a town of less than 5,000, pursuant to § 225.28(b)(11)(iii) of Regulation Y.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Eagle Lake Bancshares, Inc., Eagle Lake, Texas, and FINABEL Corporation, Dover, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of The First National Bank, Eagle Lake, Texas.

2. Keene Bancorp, Inc., 401(k) Employee Stock Ownership Plan and Trust, Keene, Texas; to acquire 47.12 percent of the voting shares of Keene Bancorp, Inc., Keene, Texas, and thereby indirectly acquire First State Bank, Keene, Texas.

Board of Governors of the Federal Reserve System, August 12, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–22088 Filed 8–14–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Thursday, August 20, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: August 13, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–22154 Filed 8–13–98; 11:37 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 94P–0110 and 95N–0245]

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 ''Food Labeling: Statement of Identity, Nutrition Labeling, and Ingredient Labeling of Dietary Supplements'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: Margaret R. Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 5, 1998 (63 FR 30615), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the PRA (44 U.S.C. 3507). 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. OMB has now approved the information collection and has assigned OMB control number 0910–0351. The approval expires on July 31, 2001.

Dated: August 4, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–21997 Filed 8–14–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0565]

Off-the-Shelf Software Use in Medical Devices; Draft Guidance; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance document entitled ''Off-the-Shelf Software Use in Medical Devices.'' This draft guidance document is not final or in effect at this time. The purpose of the draft guidance document is to describe the information that should be provided in a medical device application involving Off-the-Shelf (OTS) software. While the draft guidance document is not intended for compliance with Quality System requirements, many of the principles outlined may be helpful to device manufacturers in establishing design controls and validation plans for use of off-the-shelf software in their devices.

DATES: Submit written comments by November 16, 1998. After the close of the comment period, written comments may be submitted at any time to Daniel A. Spyker (address below).

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit written requests for single copies on a 3.5'' diskette of the draft guidance document entitled ''Off-the-Shelf Software Use in Medical Devices'' to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Daniel A. Spyker, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8320.

SUPPLEMENTARY INFORMATION:

I. Background

This draft guidance document was developed to address the many questions asked by medical device manufacturers regarding what they need to provide to FDA when they use OTS software. The response to these questions depends on the medical device in question and the impact on patient safety when the OTS software fails. Thus, the answer to the question ''What do I need to do or document?'' will be based on the hazard analysis that is an integral part of designing a medical device. The detail of documentation to be provided to FDA and the level of life cycle control necessary for the medical device manufacturer increase as the hazard to the patient from software failure increases.

This draft guidance document lays out in broad terms how the medical device manufacturer should determine what is necessary to do and to document for submission to the agency. A ''BASIC'' set of need-to-do items is proposed for OTS software, and a detailed discussion is provided on additional (''SPECIAL'') needs and responsibilities of the manufacturer when hazards from OTS software failure become more significant.

II. Significance of Guidance

This draft guidance document represents the agency's current thinking on use of OTS software in medical devices. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted Good Guidance Practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This draft guidance document is issued as a Level 2 guidance document

consistent with GGP's. This draft guidance document was first made available on the internet on June 20, 1997. FDA now believes that it would be useful to make the document more widely available for comment.

III. Electronic Access

In order to receive the draft guidance document ''Off-the-Shelf Software Use In Medical Devices,'' via your fax machine, call the CDRH Facts-On-Demand (FOD) at 800–899–0381 or 301–827–0111 from a touch-tone-telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number (585) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the World Wide Web (WWW). CDRH maintains an entry on the WWW for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Web. Updated on a regular basis, the CDRH home page includes ''Off-the-Shelf Software Use In Medical Devices'' device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at ''http://www.fda.gov/cdrh''.

IV. Comments

Interested persons may, on or before November 16, 1998, submit to the Dockets Management Branch (address above) written comments regarding this draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

After November 16, 1998, written comments regarding this draft guidance document may be submitted at any time to the contact person (address above).

Dated: August 4, 1998.

D.B. Burlington,

Director, Center for Devices and Radiological Health.

[FR Doc. 98–21996 Filed 8–14–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Council on Graduate Medical Education Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of September 1998:

Name: Council on Graduate Medical Education.

Date and Time: September 9, 1998, 8:30 a.m.–5:00 p.m.; September 10, 1998, 8:30 a.m.–12:00 p.m.

Place: Holiday Inn, Capital, 550 C Street, S.W., Washington, D.C.

This meeting is open to the public.

Agenda: The agenda will include: opening comments, welcome, and presentations from the Administrator, Health Resources and Services Administration, the Acting Associate Administrator for Health Professions and the Acting Executive Secretary of COGME; a panel on Beyond Medicare: Ambulatory GME Financing; a panel on Innovation and Models in Ambulatory GME Arrangements; and presentations on the Balanced Budget Act and other third-party payers. The Council will discuss ambulatory GME issues. Action will be taken on the GME Policy and Financing Report. Future Council direction will be discussed.

Anyone requiring information regarding the subject should contact F. Lawrence Clare, M.D., M.P.H., Deputy Executive Secretary, telephone (301) 443–6326, Council on Graduate Medical Education, Division of Medicine, Bureau of Health Professions, Room 9A–27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Agenda items are subject to change as priorities dictate.

Dated: August 11, 1998.

Jane Harrison,

Division of Policy Review and Coordination.

[FR Doc. 98–22000 Filed 8–14–98; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. PRT—TE 000894–0

Applicant: Sul Ross State University, Department of Biology, Alpine, Texas.

Applicant requests authorization to take 500 Big Bend gambusia (*Gambusia gaigei*) from springs in the vicinity of Rio Grande Village and Boquillas crossing in Big Bend National Park for genetic analysis.

Permit No. PRT—TE000948–0

Applicant: Western New Mexico University, Silver City, New Mexico.

Applicant requests authorization to conduct presence/absence surveys for bald eagles (*Haliaeetus leucocephalus*), peregrine falcons (*Falco peregrinus*), and southwestern willow flycatchers (*Empidonax traillii extimus*) in southwest New Mexico.

Permit No. PRT—814933

Applicant: Texas Parks and Wildlife, Austin, Texas.

Applicant requests authorization to conduct activities for scientific research and recovery purposes for black-capped vireos (*Vireo atricapillus*), Texas blind salamanders (*Typhlomolge rathbuni*), San Marcos salamanders (*Eurycea nana*), Barton Springs salamanders (*Eurycea sosorum*), San Marcos gambusia (*Gambusia georgei*), fountain darter (*Etheostoma fonticola*), Texas wildrice (*Zizania texana*), Comal Springs riffle beetles (*Heterelmis comalensis*), Chisos Mountain hedgehog cactus (*Echinocereus chisoensos*), Lloyd's mariposa cactus (*=Echinomastus (=Echinocactus, =Sclerocactus, =Neolloydia mariposensis*), bunched cory cactus (*Coryphantha ramillosa*), Big Bend gambusia (*Gambusia gaigei*), Clear Creek gambusia (*Gambusia heterochir*), Comanche Springs pupfish (*Cyprinodon elegans*), and Leon Springs pupfish (*Cyprinodon bovinus*).

Permit No. PRT—826091

Applicant: Bureau of Land Management, Phoenix Field Office, Phoenix, Arizona.

Applicant requests authorization to conduct presence/absence surveys and monitoring activities for peregrine falcons (*Falco peregrinus*), Sonoran pronghorn (*Antilocapra americana sonoriensis*), and cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*) on lands administered by the Bureau of Land Management, Phoenix, Arizona.

Permit No. TE001623–0

Applicant: University of New Mexico, Department of Biology, Museum of Southwestern Biology, Albuquerque, New Mexico.

Applicant requests authorization for research and recovery purposes to

collect Rio Grande Silvery minnow (*Hybognathus amarus*) between Cochiti Dam and Elephant Butte Reservoir in New Mexico.

Permit No. PRT—813088

Applicant: Bureau of Reclamation, Albuquerque, New Mexico.

Applicant requests authorization for research and recovery purposes to collect Rio Grande silvery minnow (*Hybognathus amarus*) in various sites along the Rio Grande River in New Mexico.

Permit No. TE001669–0

Applicant: Southwest Texas State University, Edwards Aquifer Resource and Data Center, San Marcos, Texas.

Applicant requests authorization for scientific research and recovery purposes to conduct activities and salvage Texas blind salamanders (*Typhlomolge rathbuni*), San Marcos salamanders (*Eurycea nana*), and fountain darter (*Etheostoma fonticola*) in the Edwards Aquifer region of Texas.

Permit No. TE001660–0

Applicant: Arizona Cooperative Fish and Wildlife Research Unit, U.S.G.S.—BRD, University of Arizona, Tucson, Arizona.

Applicant requests authorization for scientific research and recovery purposes to conduct activities for Gila topminnow (*Poeciliopsis occidentalis*), razorback sucker (*Xyrauchen texanus*), and Colorado squawfish (*Ptychocheilus lucius*).

DATES: Written comments on these permit applications must be received on or before September 16, 1998.

ADDRESSES: Written data or comments should be submitted to the Legal Instruments Examiner, Division of Endangered Species/Permits, Ecological Services, PO Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: U.S. Fish and Wildlife Service, Ecological Services, Division of Endangered Species/Permits, PO Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when requesting copies of documents. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice, to the address above.

Susan MacMullin,

ARD-Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 98–21988 Filed 8–14–98; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permits Issued

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of permits issued for the months of January 1998–July 1998.

Notice is hereby given that the U.S. Fish and Wildlife Service, Region 3, has taken the following action with regard to permit applications duly received in accordance with section 10 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1539, *et seq.*). Each permit listed as issued was granted only after it was determined that it was applied for in good faith, that by granting the permit it will not be to the disadvantage of the endangered species, and that it will be consistent with the purposes and policy set forth in the Endangered Species Act of 1973, as amended.

Name	Permit number	Date issued
U.S. Fish and Wildlife Service, Region 3, Assistant Regional Director—Ecological Services	PRT 697830 A2*	03/07/98
3D/International Environmental Group	PRT 809227 A6**	05/14/98
3D/International Environmental Group	PRT 809227 A7**	05/28/98
3D/International Environmental Group	PRT 809227 A8**	06/17/98
3D/International Environmental Group	PRT 809227 A9**	06/25/98
U.S. Army Corps of Engineers, St. Paul District Office	PRT 809890 A1**	06/24/98
Francesca J. Cuthbert	PRT 810834 A1**	05/01/98
Wisconsin Department of Natural Resources, Bureau of Endangered Resources	PRT 825384 A1**	05/18/98
Wayne P. Steffens	PRT 826077 A1**	05/27/98
William D. Hendricks	PRT 830273 A1**	05/14/98
L. David Mech	PRT 831774	04/08/98
Ohio Department of Natural Resources	PRT 838053	04/08/98
Ecological Specialists	PRT 838055	03/23/98
Joseph Holomuzki	PRT 838056	03/05/98
U.S. Army Corps of Engineers, Memphis District Office	PRT 838058	05/23/98
U.S. Army Corps of Engineers, Memphis District Office	PRT 838058 A1**	05/01/98
David Kamms	PRT 838059	04/20/98
The Nature Conservancy of Ohio	PRT 838715	04/10/98
John Whitaker	PRT 839763	04/20/98
Patrick Redig	PRT 839766	03/31/98
Michael J. Harvey	PRT 839774	05/13/98
Don Helms	PRT 839777	05/14/98
Bruce A. Kingsbury	PRT 839779	05/13/98
The Nature Conservancy of Michigan	PRT 840112	05/27/98
Lynne W. Robbins	PRT 840524	05/27/98
QST Environmental	PRT 842310	07/01/98
Everett D. Cashatt	PRT 842313	06/18/98
Everett D. Cashatt	PRT 842313 A1**	06/24/98
Everett D. Cashatt	PRT 842313 A2**	07/16/98
Mark A. Sellers	PRT 842314	07/15/98
The Raptor Resource Project	PRT 842366	07/06/98

Name	Permit number	Date issued
R. ffrench-Constant	PRT 842392	07/24/98

* Indicates permit renewal and amendment.
** Indicates permit amendment.

Additional information on these permit actions may be requested by contacting the U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, telephone 612/713–5332, during normal business hours (7:30am–4:00pm) weekdays.

Dated: August 11, 1998.

John A. Blankenship,

Assistant Regional Director, IL, IN, MO (Ecological Services), Region 3, Fort Snelling, Minnesota.

[FR Doc. 98–21991 Filed 8–14–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of the Draft Environmental Assessment and Land Protection Plan for the Louisiana Black Bear Habitat Protection Project, Tensas, Concordia, and St. Mary Parishes, Louisiana

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of the Draft Environmental Assessment and Land Protection Plan for the Louisiana Black Bear Habitat Protection Project.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service, Southeast Region, proposes to establish two new national wildlife refuges and expand an existing national wildlife refuge in the State of Louisiana for the benefit of the Louisiana black bear, a federally listed threatened species. The purpose of the proposal is to facilitate the recovery of the Louisiana black bear by protecting currently occupied bear habitat, enhancing potential immigration areas, and establishing core areas to serve as key links in bear movement corridors. These actions are recommended by the Black Bear Conservation Committee, a group whose membership includes over 50 wildlife management agencies and conservation organizations. If implemented, the project would help meet the goals of the Louisiana Black Bear Recovery Plan.

A Draft Environmental Assessment and Land Protection Plan for the Louisiana Black Bear Habitat Protection Proposal has been developed by Service biologists in coordination with the Louisiana Department of Wildlife and Fisheries, the Black Bear Conservation Committee, parish officials, and other local entities. The assessment considers the biological, environmental, and socioeconomic effects of implementing the project and evaluates two alternative actions and their potential impacts on the environment. Written comments or recommendations concerning the proposal are welcomed and should be sent to the address given below.

DATES: Land acquisition planning for the project is currently underway. The draft environmental assessment and land protection plan will be available to the public for review and comment on August 17, 1998. Written comments must be received no later than September 18, 1998, in order to be considered for the preparation of the final environmental assessment.

ADDRESSES: Comments and requests for copies of the draft environmental assessment and for further information on the project should be addressed to Mr. Charles R. Danner, Team Leader, Planning and Support Team, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Atlanta, Georgia 30345, or by telephone at 800/419–9582.

SUPPLEMENTARY INFORMATION: The proposal would establish the Glade Woods National Wildlife Refuge on 13,000 acres in Tensas Parish and the Bayou Teche National Wildlife Refuge on 28,000 acres in St. Mary Parish, Louisiana. It would also add 5,000 acres to the existing Bayou Cocodrie National Wildlife Refuge in Concordia Parish, Louisiana. The project lands are being proposed for protection and management by the Service through fee title purchases from willing sellers. The management objectives of the two new refuges and the refuge expansion would be to (1) contribute to the Recovery Plan goals for the Louisiana black bear; (2) provide habitat for a diversity of other wildlife, including white-tailed deer, turkey, woodcock, wading birds, wood ducks, wintering waterfowl, and neotropical migratory birds; and (3) provide opportunities for compatible public use, such as hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

Dated: August 7, 1998.

Sam D. Hamilton,

Regional Director.

[FR Doc. 98–22129 Filed 8–14–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–037–5700–00; WYN–26292]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following public lands in Carbon County, Wyoming have been examined and found suitable for classification and conveyance under the Recreation and Public Purposes Act, as amended, (43 U.S.C. 869 *et seq.*).

6th Principal Meridian

T. 17 N., R. 83 W.,
Section 8, SW¼
The above land contains 160 acres.

FOR FURTHER INFORMATION CONTACT: Marilyn Nickerson-Roth, Realty Specialist, Great Divide Resource Area, 1300 North 3rd St., Rawlins, Wyoming, 82301, (307) 328–4259.

SUPPLEMENTARY INFORMATION: The lands are not needed for Federal purposes. Conveyance of this land to the Upper Platte River Solid Waste Disposal District for sanitary landfill purposes is consistent with the Great Divide Resource Management Plan and would be in the public interest.

The patent when issued, will be subject to the following terms, conditions and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. Those rights for WYW–120214, WYW–142462.

Conveyance of these land to Upper Platte River Solid Waste Disposal

District is consistent with applicable Federal and county land use plans and will help meet the needs of Carbon County residents for solid waste disposal. Persons wishing to obtain detailed information on this action may contact or write the Area Manager, Great Divide Resource Area, 1300 N. 3rd St., Rawlins, Wyoming, 82301, (307) 328–4200.

Upon publication of this notice in the **Federal Register**, the above described lands will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

For a period of 45 days from the date of this publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed conveyance or classification of the land to the District Manager, Bureau of Land Management, 1300 N, 3rd St., Rawlins, Wyoming, 82301.

Classification Comments

Interested parties may submit comments involving the suitability of the land for a sanitary landfill. Comments on the classification are restricted to whether the land is physically suited for a sanitary landfill, whether the use will maximize the future uses of the land, whether the use is consistent with local planning and zoning or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application for conveyance and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a sanitary landfill. An adverse comments will be viewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of the notice in the **Federal Register**.

Dated: August 5, 1998.

Kurt Kotter,

District Manager.

[FR Doc. 98–21994 Filed 8–14–98; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice and Agenda for Meeting of the Royalty Policy Committee of the Minerals Management Advisory Board

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Secretary of the Department of the Interior (Department) has established a Royalty Policy Committee (Committee), on the Minerals Management Advisory Board, to provide advice on the Department's management of Federal and Indian minerals leases, revenues, and other minerals related policies.

Committee membership includes representatives from States, Indian Tribes and allottee organizations, minerals industry associations, the general public, and Federal Departments.

At this seventh meeting, the Minerals Management Service (MMS) will be prepared to respond to questions concerning plans to implement previously approved reports.

The Committee will consider recommendations by the Net Receipts Sharing Subcommittee and progress reports by the other active subcommittees. Additionally, the Committee will hear status reports from some of the current efforts being undertaken by MMS's Royalty Management Program.

DATES: The meeting will be held on: Tuesday, September 22, 1998, 8:30 a.m.–4:00 p.m. Mountain time.

ADDRESSES: The meeting will be held at the Sheraton Denver West, 360 Union Boulevard, Lakewood, Colorado 80228, telephone number (303) 987–2000.

FOR FURTHER INFORMATION CONTACT: Mr. Michael A. Miller, Chief, Program Services Office, Royalty Management Program, Minerals Management Service, P.O. Box 25165, MS 3060, Denver, CO 80225–0165, telephone number (303) 231–3413, fax number (303) 231–3362.

SUPPLEMENTARY INFORMATION: The location and dates of future meetings will be published in the **Federal Register**.

The meetings will be open to the public without advanced registration. Public attendance may be limited to the space available.

Members of the public may make statements during the meetings, to the extent time permits, and file written statements with the Committee for its consideration.

Written statements should be submitted to Mr. Michael A. Miller, at the address listed **FOR FURTHER INFORMATION CONTACT** section. Minutes of Committee meetings will be available 10 days following each meeting for public inspection and copying at the Royalty Management Program, Building No. 85, Denver Federal Center, Denver, Colorado.

These meetings are being held by the authority of the Federal Advisory Committee Act, Pub. L. No. 92–463, 5 U.S.C. Appendix 1, and Office of Management and Budget Circular No. A–63, revised.

Dated: August 8, 1998.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 98–21979 Filed 8–14–98; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Sleeping Bear Dunes National Lakeshore, Michigan; Concession Contract Negotiations

SUMMARY: Public notice is hereby given that the National Park Service proposes to award a concession contract authorizing continued scheduled passenger ferry boat transportation services to the Manitou Islands, within Sleeping Bear Dunes National Lakeshore for a period of ten (10) years from January 1, 1999, through December 31, 2008.

EFFECTIVE DATE: November 16, 1998.

ADDRESSES: Interested parties should contact the Superintendent, Sleeping Bear Dunes National Lakeshore, 9922 Front Street, Highway M–72, Empire, Michigan 49630, or call 616–326–5134 to obtain a copy of the prospectus describing the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The existing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on April 30, 1996, and therefore pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. et seq.), is entitled to be given preference in the renewal of the contract and in the

negotiation of a new proposed contract providing that the existing concessioner submits a responsive offer which meets the terms and conditions of the Prospectus. This means that the contract will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by the existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the contract will be awarded to the existing concessioner. If the existing concessioner does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the contract will then be awarded to the party that has submitted the best responsive offer.

The Secretary of the Interior will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be received by the Superintendent not later that 4:30 p.m. EST (Eastern Standard Time) on November 17, 1998.

FOR FURTHER INFORMATION CONTACT: George R. Frederick, Chief, Concessions Management, 1709 Jackson Street, Omaha, Nebraska 68102, or call 402–221–3612.

Dated: August 6, 1998.

David N. Given,

Acting Regional Director, Midwest Region.

[FR Doc. 98–21981 Filed 8–14–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft Environmental Impact Statement for General Management Plan Redwood National and State Parks Humboldt; and Del Norte Counties, California' Availability

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (Pub. L. 81–190 as amended), the National Park Service, Department of the Interior, has prepared a draft Environmental Impact Statement (DEIS) assessing the potential impacts of adopting a General Management Plan for Redwood National and State Parks. These areas comprise a 105,516-acre cooperative federal-state park area that preserves some of the last remaining stands of the world's tallest trees along 35 miles of scenic northwestern California coastline. The DEIS identifies and evaluates the environmental consequences of a proposed action and three alternatives; mitigation measures are noted and evaluated. Once approved, the plan will guide site planning, resource management, interpretation, and other operations for the next 10–15 years.

Background

This document presents and analyzes four alternatives for joint management of the combined Redwood National and State Parks. The concept under Alternative 1, the proposed action alternative, would be to achieve a balance between resource protection and visitor use, preserving and protecting the parks' natural and cultural resources but emphasizing restoration more than currently where sensitive resources are at risk. Under Alternative 2, no action, existing programs and management policies would be continued, with some trail development and new campgrounds as described in approved plans for the area. Under Alternative 3, natural and cultural resource restoration, protection, and preservation would be emphasized to a greater degree than under the other alternatives. Under Alternative 4 the highest priority would be placed on providing a wide spectrum of appropriate visitor experiences that relate to the parks' resources.

The degree of impact varies according to each alternative, and includes: major beneficial impacts from watershed and estuary restoration; some adverse effects from proposed facility development and visitor use activities; and substantial economic benefits from park visitation, operations, and construction in the Humboldt-Del Norte area. Appropriate mitigation measures are identified and evaluated for each alternative. Estimated costs to implement the alternatives are presented in the appendixes.

Public Review

For more information or to obtain a copy of the document, contact the Superintendents, Redwood National and State Parks, 1111 Second Street, Crescent City, CA 95531; or telephone 1–800–423–6101 or voice/TDD 707–464–6101; or e-mail: redw__superintendent@nps.gov. The document will also be available at area libraries. All written review comments should be directed to the superintendents as noted above, and must be postmarked or transmitted by October 9, 1998.

Dated: July 27, 1998.

Patricia L. Neubacher,

Acting Regional Director, Pacific West Region.

[FR Doc. 98–22018 Filed 8–14–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of the Finding of No Significant Impact for the Establishment of the World War II Memorial in Washington, DC

ACTION: Notice of availability of the decision notice (DN)/finding of no significant impact (FONSI) for the establishment and operation of the World War II Memorial in Washington, DC.

SUMMARY: Pursuant to the Council of Environmental Quality regulations and National Park Service (NPS) policy, NPS prepared an environmental assessment (EA) for the establishment of the World War II Memorial in Washington, DC. The availability of the EA for a 30-day public comment period was announced in the **Federal Register** on May 13, 1998. After the end of the 30-day public comment period, NPS selected the preferred alternative which is the proposed action, followed by a determination that the establishment of this memorial will not cause significant environmental impact (FONSI).

The proposed action, this memorial, will be constructed at the Rainbow Pool site along 17th Street in West Potomac Park which is administered by the National Park Service. The World War II Memorial is being established by the American Battle Monuments Commission, an independent agency of the U.S. Government, pursuant to the Commemorative Works Act, 40 U.S.C. 1001 *et seq.*

SUPPLEMENTARY INFORMATION: Requests for copies of the DN/FONSI, or for any additional information, should be directed to: Mr. John G. Parsons, Associate Superintendent, Stewardship and Partnerships, National Capital Support Office, National Park Service, 1100 Ohio Drive, SW., Room 220, Washington, DC 20242, Telephone: (202) 619–7025.

Dated: August 5, 1998.

Terry R. Carlstrom,

Regional Director, National Capital Region.

[FR Doc. 98–21980 Filed 8–14–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, and Section 122 of CERCLA, 42 U.S.C. 9622, notice is hereby given that on July 29, 1998, a proposed Consent Decree in *United States* v. *Standard Detroit Paint Company*, Civil Action No. 98–73268, was lodged with the United States District Court for the Eastern District of Michigan, Southern Division. This consent decree represents a settlement of claims of the United States against Standard Detroit Paint Company for reimbursement of response costs and injunctive relief in connection with the Metamora Landfill Superfund Site (''Site'') pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.*

Under this settlement with the United States, Standard Detroit Paint Company will pay $120,000 pursuant to a five-year payment plan, plus accrued interest, in reimbursement of response costs incurred by the United States Environmental Protection Agency at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Standard Detroit Paint Company*, D.J. Ref. 90–11–3–289H.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Michigan, Southern Division, 211 West Fort Street, Suite 2300, Detroit, MI 48226, at the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604–3590, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $5.25 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Bruce Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 98–21912 Filed 8–14–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Criminal Justice Information Services (CJIS) Advisory Policy Board Meeting

The Criminal Justice Information Services (CJIS) Advisory Policy Board will meet on December 16–17, 1998, from 9 a.m., until 5 p.m., at the Marina Beach Marriott, 4100 Admiralty Way, Marina del Rey, California, telephone (310) 301–3000, to formulate recommendations to the Director, Federal Bureau of Investigation (FBI), on the security, policy, and operation of the National Crime Information Center (NCIC), NCIC 2000, the Integrated Automated Fingerprint Identification System (IAFIS), and the Uniform Crime Reporting and National Incident Based Reporting System programs.

The topics to be discussed will include the progress of the NCIC 2000 and IAFIS projects, and other topics related to the operation of the FBI's criminal justice information systems.

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public may file a written statement concerning the FBI CJIS Division programs or related matters with the Board. Anyone wishing to address this session of the meeting should notify the Designated Federal Employee, at least 24 hours prior to the start of the session. The notification may be by mail, telegram, cable, facsimile, or a hand-delivered note. It should contain the requestor's name, corporate designation, consumer affiliation, or Government designation, along with a short statement describing the topic to be addressed, and the time needed for the presentation. A non-member requestor will ordinarily be allowed not more than 15 minutes to present a topic, unless specifically approved by the Chairman of the Board.

Inquiries may be addressed to the Designated Federal Employee, Mr. Don Johnson, Section Chief, Programs Development Section CJIS Division, FBI, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306–0145, telephone (304) 625–2740, facsimile (304) 625–5090.

Dated: August 31, 1998.

Don M. Johnson,

Section Chief, Programs Development Section, Federal Bureau of Investigation, Designated Federal Employee.

[FR Doc. 98–21976 Filed 8–14–98; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1903–98]

Overseas Refugee Processing; Derivative Refugees

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice informs the public and organizations that assist overseas refugee applicants that the Immigration and Naturalization Service (Service) will grant derivative refugee status under section 207(c)(2) of the Immigration and Nationality Act (the Act) only to a person who is the spouse or child of a refugee who qualifies for admission under section 207(c)(1) of the Act. This is a change from the current practice in some U.S. programs of admitting a qualifying refugee's other family members to the United States as derivative refugees. These other family members may still be processed as part of the same case as the principal refugee, but must now establish refugee eligibility in their own right under sections 101(a)(42) and 207(c)(1) of the Act. This action is necessary to avoid the granting of derivative refugee status to persons without a statutory basis. This notice also informs the public that those persons approved for admission to the United States as derivative refugees under section 207(c)(2) may not be admitted to the United States unless they accompany the principal refugee to the United States or follow to join the principal refugee in the United States.

DATES: This notice is effective September 16, 1998.

FOR FURTHER INFORMATION CONTACT: Karen McCoy, Immigration Officer, Immigration and Naturalization Service; 425 I Street, NW, Washington, DC 20536, Attn: ULLICO Bldg., 3rd Floor, Phone: (202) 305–2760.

SUPPLEMENTARY INFORMATION: The Service has become aware that some of its current practices in processing refugee applications have resulted in the granting of derivative refugee status to persons without a statutory basis. The Service has also admitted to the United States persons who have been approved

for derivative refugee status but are not accompanying or following to join the principal applicant, as required under section 207(c)(2) of the Act.

Qualifying for Derivative Refugee Status

Section 101(a)(42) of the Act defines a refugee as a person who is unable or unwilling to return to (or under circumstances specified by the President to remain in) his or her country of origin ''because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.'' The Act provides two means by which a person may be admitted to the United States with refugee status. Section 207(c)(1) of the Act allows the Attorney General, within certain numerical limitations set by the President, to admit to the United States as refugees, persons who apply for refugee status from abroad and who are determined to meet this definition. Persons who qualify as refugees under section 101(a)(42) of the Act are often referred to as principals, principal refugees, or principal applicants. Subject to the numerical limitations established pursuant to subsections 207(a) and (b) of the Act, section 207(c)(2) entitles eligible spouses and children, defined in section 101(b)(1) of the Act as unmarried children under the age of 21, of any refugee who qualifies for admission under section 207(c)(1) of the Act to be admitted with refugee status if accompanying or following to join the principal refugee. Spouses and children who accompany or follow to join a principal refugee under section 207(c)(2) are often referred to as derivatives or derivative refugees. These are the only means provided for in the Act by which a person may be admitted with refugee status.

The plain language of section 207(c)(2) of the Act provides for only spouses and children to derive refugee status from a principal refugee. There is no basis in law to expand the category of persons who may derive refugee status. Accordingly, persons other than spouses and children, as defined in section 101(b)(1) of the Act, of a principal refugee are not eligible for derivative refugee status and must qualify as principal refugees under sections 101(a)(42) and 207(c)(1) of the Act in order to be admitted to the United States with refugee status.

Because section 207(c)(2) of the Act requires that a derivative refugee accompany or follow to join the principal refugee, a person approved for derivative refugee status as the spouse or child of a principal refugee may not be admitted to the United States prior to the admission of the principal refugee.

Eligibility for Service Interview

While the statute is clear on who can derive refugee status, the Service realizes there may be humanitarian reasons to include in a case unit other individuals who cannot derive refugee status, such as an elderly parent or an unmarried adult son or daughter. As these persons cannot statutorily derive refugee status from the principal applicant, they must qualify as refugees in their own right. However, such individuals may be given a refugee interview as long as they are household members and are part of the same economic unit as the interviewed principal refugee applicant. In such cases these individuals are not required to fall within a designated processing priority to gain access to the U.S. refugee program, as they may be accorded the same priority as the principal applicant.

Lautenberg Amendment

When processing refugee cases under the special adjudication procedures based on section 599D of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1990, Public Law 101–167 dated November 11, 1989, Amendment 290 known as the Lautenberg Amendment, the Service officer must determine whether additional family members qualify for category membership under the Lautenberg Amendment. In an April 24, 1990 memorandum, the Attorney General specified that certain persons who are not themselves category members may be adjudicated as if they were category members. According to this memorandum, persons who are members of the same household and/or are economically dependent on a category applicant, are physically present with the category applicant at the time of the interview, and would be traveling with the category aplicant will be considered category applicants for purposes of adjudication of their refugee claims. Accordingly, applications by persons who fall within these criteria may be adjudicated under the reduced evidentiary burden of the Lautenberg Amendment.

Dated: July 28, 1998.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 98–21948 Filed 8–14–98; 8:45 am]

BILLING CODE 4410–10–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Additional Changes to the General Records Schedules; Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Services—Washington, DC.

ACTION: Notice.

SUMMARY: NARA is required by 44 U.S.C. 3303a(a) to provide an opportunity for public comment on proposed records schedules that will authorize the destruction of Federal records, including General Records Schedules issued by NARA to provide mandatory disposal authorities for temporary administrative records common to several or all Federal agencies (44 U.S.C. 3303a(d)). This notice contains the full text of additional proposed changes to the General Records Schedules that were not published in the **Federal Register** notice of August 5, 1998 [63 FR 41868]. This notice also includes the rationale for the proposed changes, equivalent to the appraisal report. Consequently, this notice provides all available information for interested parties who may wish to comment.

DATES: Comments on these proposed changes must be received on or before September 16, 1998. There is no extension on the comment period for the proposed changes published in the August 5, 1998, **Federal Register** notice.

ADDRESSES: Comments may be sent electronically to the e-mail address <records.mgt@arch2.nara.gov>. If attachments are sent, please transmit them in ASCII, WordPerfect 5.1/5.2, or MS Word 6.0. Comments may also be submitted by mail to the Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, or by FAX to 301–713–6852 (attn: Marc Wolfe). In order for comments to be considered, the NARA registration number for this schedule—N1–GRS–98–2a—must be included in a subject line or otherwise prominently stated.

FOR FURTHER INFORMATION CONTACT: Michael L. Miller, Director Modern Records Programs (NWM), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–713–7110. E-mail: <records.mgt@arch2.nara.gov>.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this

accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs the records to conduct its business. No Federal records are authorized for destruction without the approval of the Archivist of the United States. Two mechanisms are used to provide that approval—agency schedules and General Records Schedules. Agencies develop and submit to NARA for approval schedules for the records that are unique to the agency. Once approved by the Archivist, the agencies may apply the approved disposition authorities to the records for as long as they remain unchanged. To reduce the effort required of agencies in scheduling all their records, the National Archives and Records Administration issues General Records Schedules to provide disposal authorities for temporary administrative records that are common to several or all agencies.

The changes described in this **Federal Register** notice consist of General Records Schedule items that are currently scheduled with an indefinite retention, e.g., ''destroy when no longer needed.'' These items were inadvertently omitted from the August 5 **Federal Register** notice.

The proposed schedule, N1–GRS–98–2, published in the August 5, 1998 notice, is being amended to include the following provisions:

General Records Schedule 9, Travel and Transportation Records

1. Commercial Freight and Passenger Transportation Files

e. Unused ticket redemption forms, such as SF 1170.

Destroy 3 years after the year in which the transaction is completed.

5. Records Relating to Official Passports

c. Passport registers.

Registers and lists of agency personnel who have official passports.

Destroy when superseded or obsolete.

GRS 23, Records Common to Most Offices Within Agencies

1. Office Administrative Files (See note)

Records accumulated by individual offices that relate to the internal administration or housekeeping activities of the office rather than the functions for which the office exists. In general, these records relate to the office organization, staffing, procedures, and communications, including facsimile machine logs; the expenditure of funds, including budget records; day-to-day administration of office personnel including training and travel; supplies and office services and equipment requests and receipts; and the use of office space and utilities. They may also include copies of internal activity and workload reports (including work progress, statistical, and narrative reports prepared in the office and forwarded to higher levels) and other materials that do not serve as unique documentation of the programs of the office.

Destroy when 2 years old.

Note: This schedule is not applicable to the record copies of organizational charts, functional statements, and related records that document the essential organization, staffing, and procedures of the office, which must be scheduled prior to disposition by submitting an SF 115 to NARA.

7. Transitory Files

Documents of short-term interest which have no documentary or evidential value and normally need not be kept more than 90 days. Examples of transitory correspondence are shown below.

a. Routine requests for information or publications and copies of replies which require no administrative action, no policy decision, and no special compilation or research for reply.

b. Originating office copies of letters of transmittal that do not add any information to that contained in the transmitted material, and receiving office copy if filed separately from transmitted material.

c. Quasi-official notices including memoranda and other records that do not serve as the basis of official actions, such as notices of holidays or charity and welfare fund appeals, bond campaigns, and similar records.

Destroy when 3 months old.

8. Tracking and Control Records

Logs, registers, and other records used to control or document the status of correspondence, reports, or other records that are authorized for destruction by the GRS or a NARA-approved SF 115.

Destroy or delete when 2 years old.

9. Finding Aids (or Indexes)

Indexes, lists, registers, and other finding aids used only to provide access to records authorized for destruction by the GRS or a NARA-approved SF 115, EXCLUDING records containing abstracts or other information that can be used as an information source apart from the related records.

Destroy or delete with the related records.

Explanation of Changes

1. GRS 9, item 1e, Unused ticket redemption forms, such as SF 1170. Current disposition instruction: Destroy when no longer needed for administrative use. Revised disposition instruction: Destroy 3 years after the year in which the transaction is completed.

Three years is the basic audit cycle specified by the General Accounting Office for those records documenting financial transactions that are not considered site audit records.

2. GRS 9, item 5c, Passport registers. Current disposition instruction: Destroy when no longer needed. Revised disposition instruction: Destroy when superseded or obsolete. These registers will be of value to the agency only as long as they contain current information. Agencies submit an annual report to the Department of State which lists official passports issued and information concerning control of passports issues to agency personnel. The register is another tool to keep track of passports on hand.

3. GRS 23, Item 1, Office Administrative Files. Current disposition instruction: Destroy when 2 years old, or when no longer needed, whichever is sooner. Revised disposition instruction: Destroy when 2 years old.

This retention period will satisfy administrative needs and ensure consistency in retention among agencies.

4. GRS 23, Item 7, Transitory Files. Current disposition: Destroy when 3 months old, or when no longer needed, whichever is sooner. Revised disposition instruction: Destroy when 3 months old.

This retention period will satisfy administrative needs and ensure consistency in retention among agencies.

5. GRS 23, Item 8, Tracking and Control Records. Current disposition instruction: Destroy or delete when no longer needed. Revised disposition instruction: Destroy or delete when 2 years old, or 2 years after the date of the latest entry, whichever is applicable.

These administrative records are comparable to those covered by item 1 of this schedule. A two-year retention period should be adequate.

6. GRS 23, Item 9, Finding Aids (or indexes). Current disposition instruction: Destroy or delete with the related records or sooner is no longer

needed. Revised disposition instruction: Destroy or delete with the related records.

Finding aids for temporary records are not needed after the related records are destroyed when they do not serve as an independent information resource. Maintenance of the finding aids for the life of the related records will help the agency to make the records accessible.

Dated: August 13, 1998.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. 98–22221 Filed 8–14–98; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Science Foundation.

ACTION: Notice.

TITLE OF COLLECTION: Survey of Industrial Research and Development (OMB Control No. 3145–0027).

SUMMARY: Under the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3501 *et seq.*), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public or other Federal agencies to comment on this proposed continuing information collection.

FOR FURTHER INFORMATION CONTACT: For further information or for a copy of the collection instrument and instructions contact Ms. Mary Lou Higgs, Acting Clearance Officer, via surface mail: National Science Foundation, ATTN: NSF Reports Clearance Officer, Suite 295, 4201 Wilson Boulevard, Arlington, VA 22230; telephone (703) 306–2063; e-mail mlhiggs@nsf.gov, or FAX (703) 306–0201.

SUPPLEMENTARY INFORMATION:

1. Abstract

The proposed continuing information collection involves the estimation of the expenditures on research and development performed within the United States by industrial firms. A mail survey, the Survey of Industrial Research and Development, has been conducted annually since 1953. Industry accounts for over 70 percent of total U.S. R&D each year and since its inception, the survey has provided continuity of statistics on R&D expenditures by major industry groups and by source of funds. The survey is the industrial component of the NSF statistical program that seeks to ''provide a central clearinghouse for the collection, interpretation, and analysis of data on the availability of, and the current and projected need for, scientific and technical resources in the United States, and to provide a source of information for policy formulation by other agencies of the Federal government'' as mandated in the National Science Foundation Act of 1950. Statistics from the survey are published in NSF's annual publication series Research and Development in Industry. The proposed collection will continue the survey for three years.

2. Expected Respondents

The survey will be mailed to a statistical sample of approximately 23,400 companies to collect information on the amount and sources of funds for and character of R&D performed and contracted out by industrial firms, and information on sales and employment of the firms themselves.

3. Burden on the Public

To minimize burden, over 90-percent of the companies selected for the Survey of Industrial Research and Development are asked to respond to the Form RD–1A, the abbreviated version of the basic survey questionnaire, Form RD–1. Further, only companies with five paid employees or more are asked to participate in the survey and extensive use is made of the descriptive codes and information on the establishment list that is the source of the survey sample to avoid sampling firms in industries that traditionally do not perform R&D. NSF, with input from the Bureau of the Census, the collection and compiling agent for the survey, estimates that the average annual reporting and record keeping burden on each Form RD–1A respondent will be 1 hour and on Form RD–1 respondents will be 15 hours. The total annual burden is estimated at 43,000 hours, calculated as follows:

RD–1A respondents: 22,000 respondents x 1 response x 1 burden hour=22,000 hours/year.

RD–1 respondents: 1,400 respondents x 1 response x 15 burden hours=21,000 hours/year.

All respondents: 22,000+21,000=43,000 burden hours/year during 1999, 2000, and 2001.

Comments Requested

Dates: NSF should receive written comments on or before October 16, 1998.

Addresses: Submit written comments to Ms. Mary Lou Higgs, Acting Clearance Officer, through surface mail at: National Science Foundation, ATTN: NSF Reports Clearance Officer, Suite 295, 4201 Wilson Boulevard, Arlington, VA 22230; through e-mail to mlhiggs@nsf.gov; or via FAX (703) 306–0201.

Special Areas for Review: NSF especially request comments on:

(a) whether the proposed collection of information is necessary for the proper performance of the functions of the Foundation, including whether the information will have utility;

(b) the accuracy of the Foundation's estimate of the burden of the proposed collection of information;

(c) ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) ways to minimize the burden of the collection of information on those who are to respond, e.g., permitting submission of responses through the use of automated, electronic, mechanical, or other technological collection techniques.

Dated: August 12, 1998.

Mary Lou Higgs,

Acting NSF Clearance Officer.

[FR Doc. 98–22007 Filed 8–14–98; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection:

—10 CFR Part 35, Medical Use of Byproduct Material

—NRC Form 313 Application for Material License, and Supplemental Forms, NRC Form 313A, Training and Experience, and NRC Form 313B, Preceptor Statement

3. The form number if applicable: NRC Form 313, 313A and 313B.

4. How often the collection is required: Reports of medical events;

doses to an embryo/fetus or nursing child, or leaking sources are reportable on occurrence. An organization desiring to become a certifying entity must tender an application upon intent.

5. Who will be required or asked to report: Physicians and medical institutions holding an NRC license authorizing the administration of byproduct material or radiation therefrom to humans for medical use.

6. An estimate of the number of responses: 93,966 (26,850 NRC licensees, 67,116 Agreement State licensees). In addition, 4 new organizations are expected to apply to become certifying entities and 35 will be required to submit modified procedures.

7. The estimated number of annual respondents: 1,902 NRC licensees and 4,755 Agreement State licensees.

8. An estimate of the total number of hours needed annually to complete the requirement or request: Part 35: 877,807 hours (251,192 hours for NRC licensees, 626,381 hours for Agreement State licensees, and 234 hours for certifying organizations) (an average of 132 hours per licensee). In addition, there is a one-time burden of 2,956 hours for certifying organizations to submit new or modified procedures. NRC Form 313: 68 additional hours (48 hours for NRC licensees and 20 hours for Agreement State licensees).

9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Applicable

10. Abstract: 10 CFR Part 35, ''Medical Use of Byproduct Material,'' is being restructured into a risk-informed performance-based regulation. The proposed rule contains mandatory requirements that apply to NRC licensees authorized to administer byproduct material or radiation therefrom to humans for medical use. In addition, requirements are being added for organizations desiring to be recognized by NRC as certifying organizations.

The information in the required reports and records is used by the NRC to ensure that public health and safety is protected, and that the possession and use of byproduct material is in compliance with the license and regulatory requirements.

Submit, by September 16, 1998, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. The proposed rule indicated in ''The title of the information collection'' is or has been published in the **Federal Register** within several days of the publication date of this **Federal Register** Notice. Instructions for accessing the electronic OMB clearance package for the rulemaking have been appended to the electronic rulemaking. Members of the public may access the electronic OMB clearance package by following the directions for electronic access provided in the preamble to the titled rulemaking.

Comments and questions should be directed to the OMB reviewer by September 16, 1998:

Erik Godwin, Office of Information and Regulatory Affairs (3150–0010, and –0120), NEOB–10202, Office of Management and Budget, Washington DC 20503

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 11th day of August 1998.

For the Nuclear Regulatory Commission.

Beth St. Mary,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–22085 Filed 8–14–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission: Revision.

2. The title of the information collection:

10 CFR 35.32 and 35.33 ''Quality Management Program and Misadministrations''

3. The form number if applicable: Not Applicable.

4. How often the collection is required:

For quality management program (QMP):

Reporting: New applicants for medical use licenses, who plan to use byproduct material in limited diagnostic and therapy quantities under Part 35, must develop a written QMP and submit a copy of it to NRC. When a new modality involving therapeutic quantities of byproduct material is added to an existing license, current licensees must submit QMP modifications.

This ICR burden estimate is inflated by the one-time cost for the development and submission of QMPs for approximately 2000 Agreement States licensees in the ten Agreement States who have not adopted the rule and are not required to.

Recordkeeping: Records of written directives, administered dose or dosage, annual review, and recordable events, for 3 years.

For Misadministrations:

Reporting: Whenever a misadministration occurs.

Recordkeeping: Records of misadministrations for 5 years.

5. Who will be required or asked to report: NRC Part 35 licensees who use byproduct material in limited diagnostic and therapeutic ranges and similar type of licensees regulated by Agreement States.

6. An estimate of the number of responses: 3,194.

7. The estimated number of annual respondents: 6300 (for both reporting and recordkeeping).

8. An estimate of the total number of hours needed annually to complete the requirement or request: 34,743 hours for applicable licensees (Reporting: 24,400 Hrs/yr, and Recordkeeping: 10,343 Hrs/yr, or an average of 5.5 hrs per licensee).

9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Not Applicable.

10. Abstract: In the medical use of byproduct material, there have been instances where byproduct material was not administered as intended or was administered to a wrong individual, which resulted in unnecessary exposures or inadequate diagnostic or therapeutic procedures. The most frequent causes of these incidents were:

insufficient supervision, deficient procedures, failure to follow procedures, and inattention to detail. In an effort to reduce the frequency of such events, the NRC requires licensees to implement a quality management program (§ 35.32) to provide high confidence that byproduct material or radiation from byproduct material will be administered as directed by an authorized user physician.

Collection of this information enables the NRC to ascertain whether misadministrations are investigated by the licensee and that corrective action is taken. Additionally, NRC has a responsibility to inform the medical community of generic issues identified in the NRC review of misadministrations.

On May 6, 1998, an invitation to comment on the information collection requirements for 10 CFR 35.32 and 35.33 was published in the **Federal Register** (63 FR 25098). NRC received two responses. The NRC is evaluating the reporting and recordkeeping requirements associated with this clearance as part of NRC's efforts to revise 10 CFR Part 35, ''Medical Use of Byproduct Material,'' in its entirety, The proposed rule is expected to be published for comment in August 1998. The comments received in response to the May 1998 **Federal Register** notice will be considered during development of the final rule.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov) under the FedWorld collection link on the home page tool bar. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer by September 16, 1998: Erik Godwin, Office of Information and Regulatory Affairs (3150–0171), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 5th day of August 1998.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–22086 Filed 8–14–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–413 and 50–414]

Duke Energy Corporation; 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. NPF–35 and NPF–52, issued to Duke Energy Corporation (the licensee), for operation of the Catawba Nuclear Station, Units 1 and 2, located in York County, South Carolina.

The proposed amendments would revise the Technical Specifications (TS), deleting Surveillance Requirement 4.8.1.1.2.i.2. This requires the performance, every 10 years, of a pressure test of those portions of the diesel fuel oil system designed to Section III, subsection ND of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (ASME Code) at a test pressure equal to 110 percent of the system design pressure. This requirement is in conflict with a relief granted by the staff on February 13, 1995, authorizing the licensee to implement the alternative rules of ASME Section XI, Code Case N–498–1. Code Case N–498–1 permits the use of VT–2 visual examination in conjunction with a system pressure test on Class 3 systems in lieu of hydrostatic testing. The deletion of TS 4.8.1.1.2.i.2 would remove such conflict.

The licensee requested approval on an exigent basis pursuant to its request for enforcement discretion. The staff verbally granted the enforcement discretion on August 6, 1998, and affirmed it by a subsequent notice of enforcement discretion (NOED) letter dated August 7, 1998. The NOED stated that the enforcement discretion is in effect until the issuance of amendments to revise TS 4.8.1.1.2.i.2. The staff intends to issue such amendments within 4 weeks of the NOED letter. This issuance schedule would not be accommodated by the normal 30-day notice to the public.

Before issuance of the proposed license amendments, 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:

First Standard

Implementation of this amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. Approval of this amendment will have no significant effect on accident probabilities or consequences. The diesel generator fuel oil system is not an accident initiating system; therefore, there will be no impact on any accident probabilities by the approval of this amendment. Each unit's diesel generator fuel oil system is currently fully capable of meeting its design basis accident mitigating function. Therefore, there will be no impact on any accident consequences.

Second Standard

Implementation of this amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated. No new accident causal mechanisms are created as a result of NRC approval of this amendment request. No changes are being made to the plant which will introduce any new accident causal mechanisms. This amendment request does not impact any plant systems that are accident initiators, since the diesel generator fuel oil system is an accident mitigating system.

Third Standard

Implementation of this amendment would not involve a significant reduction in a margin of safety. Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The performance of these fission product barriers will not be impacted by implementation of this proposed amendment. The diesel generator fuel oil system for each unit is already capable of performing as designed. No safety margins will be impacted.

Based upon the preceding analysis, Duke Energy [Corporation] has concluded that the proposed amendment does not involve a significant hazards consideration.

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 amendments 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 or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 14-day notice period, provided that its final determination is that the amendments involve 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 and Directives Branch, Division of Administrative 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 6D59, 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 September 16, 1998, the licensee may file a request for a hearing with respect to issuance of the amendments 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 York County Library, 138 East Black Street, Rock Hill, South Carolina. 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 amendments 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 amendments are 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 amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

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 amendments.

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: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. 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 Mr. Paul R. Newton, Legal Department (PB05E), Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina, 28242, 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 amendments dated August 6, 1998, 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 York County Library, 138 East Black Street, Rock Hill, South Carolina.

Dated at Rockville, Maryland, this 11th day of August 1998.

For the Nuclear Regulatory Commission.

Peter S. Tam,

Senior Project Manager, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–22081 Filed 8–14–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–423]

Northeast Nuclear Energy Company; 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–49 issued to Northeast Nuclear Energy Company (the licensee) for operation of Millstone Nuclear Power Station, Unit 3, located in New London County, Connecticut.

The latest Millstone Unit No. 3 steam generator tube inspection began on September 24, 1996, and was complete on October 1, 1996. The inspection results placed the steam generators in category C–2. Technical Specification Surveillance 4.4.5.3.a establishes an allowable inspection interval of 24 calendar months. Without an extension of the interval, Millstone Unit No. 3 must shut down prior to September 24, 1998. This proposed amendment would request a one-time extension to the surveillance interval until the next refueling outage.

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:

The proposed revision does not involve a [significant hazards consideration] because the revision would not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated.

This proposed revision to Technical Specification 4.4.5.3.a for a one time extension to the surveillance interval until the next refueling outage will not increase the potential to impact steam generator tube integrity by allowing a steam generator tube to be degraded and go undetected. The only active damage mechanism, affecting the steam generator tubes is vibration wear adjacent to an antivibration bar that occurs during power operation. Since this surveillance interval extension will not increase the actual plant operating time, the vibration wear will not be increased. If there is no increase in tube degradation, there will be no increase in the probability of occurrence or consequence of a Steam Generator Tube Rupture. The failure of a Steam Generator tube is evaluated within Final Safety Analyses Report Section 15.6.3 and fully bounds this proposed surveillance interval extension.

Thus it is concluded that the proposed revision does not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed revision to the surveillance interval does not change the operation of any plant system or component during normal or accident conditions. The Final Safety Analyses Report evaluation for a failure of a Steam Generator tube bounds this proposed surveillance interval extension.

Thus, this does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The proposed revision to Technical Specification 4.4.5.3.a for a one time extension to the surveillance interval until the next refueling outage will not deviate from the guidance of Reg [Regulatory] Guide 1.121. The active damage mechanism resulting in Steam Generator tube degradation currently experienced at Millstone Unit No. 3 has been primarily anti-vibration bar wear and is dependent on power operation. Since this extension will not increase the actual plant operating time, the vibration wear will not be increased.

Thus, it is concluded that the proposed revision does not involve a significant reduction in a margin of safety.

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 Chief, Rules and Directives Branch, Division of Administrative 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 6D59, 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 September 16, 1998, 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 Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and at the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut. 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: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. 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 Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut 06141–0270, 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)(l)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 6, 1998, 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 Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and at the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Dated at Rockville, Maryland, this 11th day of August 1998.

For the Nuclear Regulatory Commission.

Stephen Dembek,

Project Manager, Special Projects Office—Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 98–22080 Filed 8–14–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–282 and 50–306]

Northern States Power Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses DPR–42 and DPR–60; 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 Licenses DPR–42 and DPR–60 issued to Northern States Power Company (the licensee) for operation of the Prairie Island Nuclear Generating Plant, Units 1 and 2, located in Goodhue County, Minnesota.

The proposed amendments would allow a design modification to the existing Anticipated Transient Without Scram (ATWS) Mitigation System Actuation Circuitry (AMSAC). The

design modification would install a Diverse Scram System (DSS) designed to meet the requirements of a DSS described by 10 Code of Federal Regulations (10 CFR) 50.62 (ATWS Rule) for non-Westinghouse designed plants and make major modifications to the existing AMSAC.

Before issuance of the proposed license amendments, 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 amendments 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. Does operation of the facility with the proposed amendment[s] involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes affect two systems which are contributors to initiating events for previously evaluated anticipated operational occurrences. These systems are rod control and turbine generator. The AMSAC also affects the auxiliary feedwater system. The interaction of the AMSAC/DSS with these systems will not significantly increase the probability or consequences of an accident previously evaluated.

The addition of another means of initiating a signal to cause rods to drop into the core introduces an increased probability for an RCCA [rod cluster control assembly] Misalignment event (USAR [Updated Safety Analysis Report section] 14.4.3). Because the AMSAC/DSS circuitry has been designed to minimize spurious actuations, this increased probability is not significant. In addition, because the AMSAC/DSS circuitry is designed to provide a signal to each rod control power cabinet resulting in the cancellation of gripper coil current for all rods powered from that cabinet, the probability of dropping a single rod of sufficiently small worth not to trigger the negative rate reactor trip is not significant. Previous analysis has indicated that more than one rod dropping into the core at the same time will trigger the negative rate reactor trip.

The addition of another means of initiating a signal to cause a turbine trip introduces an increased probability for an event nearly identical to a Loss of External Electrical Load event (USAR 14.4.9). Because the AMSAC/DSS circuitry has been designed to minimize spurious actuations, this increased probability is not significant.

The addition of another means of initiating a signal to start auxiliary feedwater flow to the steam generators introduces an increased probability for an event similar to an Excessive Heat Removal Due to Feedwater System Malfunction event (USAR 14.4.6) though greatly reduced in magnitude. Because the flow capacity of the auxiliary feedwater system is much less than the flow capacity of the main feedwater system, the consequences of any spurious actuation of the auxiliary feedwater system are bounded by the Feedwater System Malfunction event. In addition, because the AMSAC/DSS circuitry has been designed to minimize spurious actuations the increased probability of this ''event of negligible consequence'' is not significant.

2. Does operation of the facility with the proposed amendment[s] create the possibility of a new or different kind of accident from any accident previously evaluated?

The AMSAC/DSS is an instrumentation system that is separated and isolated from the reactor protection system. The AMSAC/DSS may initiate a spurious signal which results in tripping the turbine generator, dropping some or all control rods into the core, starting auxiliary feedwater flow to the steam generators, or any combination of these events. Individually and in combination these events are well understood and have been previously analyzed. Review of this modification does not indicate that it will create the possibility for a new or different kind of accident from any accident previously evaluated.

3. Does operation of the facility with the proposed amendment[s] involve a significant reduction in a margin of safety?

Deterministic analyses have demonstrated that the proposed AMSAC/DSS will preserve all safety margins inherent in the fuel cladding and the RCS [reactor coolant system] boundary during postulated ATWS events.

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 Chief, Rules and Directives Branch, Division of Administrative 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 6D59, 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 September 16, 1998, 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 Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401. 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: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by close of business on the above date. 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 Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037, 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 February 27, 1998, as supplemented July 14, 1998, 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 Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Rockville, Maryland, this 11th day of August 1998.

For the Nuclear Regulatory Commission.

Tae Kim,

Senior Project Manager, Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–22082 Filed 8–14–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–213]

Connecticut Yankee Atomic Power Company, Haddam Neck Plant; Environmental Assessment and Finding of no Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission or NRC) is considering issuance of an exemption from certain requirements of its regulations to Facility Operating License No. DPR–61, a license held by the Connecticut Yankee Atomic Power Company (CYAPCO or the licensee). The exemption would apply to the Haddam Neck Plant (HNP), a permanently shutdown and defueled plant located at the CYAPCO site in Middlesex County, Connecticut.

Environmental Assessment

Identification of the Proposed Action

The proposed exemption would modify emergency response plan requirements, in response to the permanently shutdown and defueled status of the Haddam Neck facility.

The proposed action is in accordance with the licensee's application dated May 30, 1997, as supplemented or modified by letters of September 19, September 26, October 21, and December 18, 1997, and January 22, March 25, June 19, and July 31, 1998. The requested action would grant an exemption from certain requirements of 10 CFR 50.54(q) to discontinue offsite emergency planning activities and reduce the scope of onsite emergency planning.

The Need for the Proposed Action

By letter dated December 5, 1996, the licensee submitted certifications that it had permanently ceased operations at HNP and that all fuel had been permanently removed from the reactor. In accordance with 10 CFR 50.82(a)(2), upon docketing of the certifications, CYAPCO was no longer authorized to operate the reactor or to retain fuel in the reactor vessel. In this permanently shutdown and defueled condition, the facility poses a reduced risk to public health and safety. Because of this reduced risk, certain provisions of 10

CFR 50.54(q) are no longer required. An exemption is required from portions of 10 CFR 50.54(q) to allow the licensee to implement a revised Defueled Emergency Plan (DEP) that is appropriate for the permanently shutdown and defueled reactor facility.

Environmental Impact of the Proposed Action

The Commission has completed its evaluation of the proposed action. The Commission concludes that exemptions from certain portions of 10 CFR 50.54(q) are acceptable given the reduced risk and reduced consequences of an accident occurring at a permanently defueled reactor site with a substantially reduced decay heat load produced by the spent fuel held in storage.

The proposed change will not increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off-site, and there is no significant increase in the allowable individual or cumulative occupational exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action. With regard to potential non-radiological impacts, the proposed action does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed action, any alternative with equal or greater environmental impact need not be evaluated. The principal alternative to the action would be to deny the request (no-action alternative). Denial of the exemption request would not change any current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the final environmental statement related to operation of HNP issued in October 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on August 5, 1998, the NRC staff consulted with Mr. D. Galloway of the State of Connecticut, Department of Environmental Protection, regarding the environmental impact of the proposed action. The NRC staff and the State official discussed the proposed issuance of the exemption. The State official did not object to issuance of the exemption.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the licensee's letters, dated May 30, September 19, September 26, October 21, and December 18, 1997, and January 22, March 25, June 19, and July 31, 1998, which are available for public review at the NRC's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the Local Public Document Room at the Russell Public Library, 123 Broad Street, Middletown, Connecticut 06457.

Dated at Rockville, Maryland, this 11th day of August 1998.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–22084 Filed 8–14–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–309]

Maine Yankee Atomic Power Company, Maine Yankee Atomic Power Station; Environmental Assessment and Finding of no Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of its regulations to Facility Operating License No. DPR–36, a license held by the Maine Yankee Atomic Power Company (MYAPCo or the licensee). The exemption would apply to the Maine Yankee Atomic Power Station, a permanently shutdown plant located at the MYAPCo site in Lincoln County, Maine.

Environmental Assessment

Identification of the Proposed Action

The proposed exemption would modify emergency response plan requirements due to the permanently shutdown and defueled status of the Maine Yankee facility.

The proposed action is in accordance with the licensee's application dated November 6, 1997, as supplemented by letter dated June 29, 1998. The requested action would grant an exemption from certain requirements of 10 CFR 50.54(q) to discontinue offsite planning activities and reduce the scope of onsite emergency planning.

The Need for the Proposed Action

Maine Yankee was shut down in December 1996. By letter dated August 7, 1997, the licensee informed the Commission that it had decided to permanently cease operations at Maine Yankee Atomic Power Station and that all fuel had been permanently removed from the reactor. In accordance with 10 CFR 50.82(a)(2), upon docketing of the certifications in the letter of August 7, 1997, the facility operating license no longer authorizes MYAPCo to operate the reactor and to load fuel in the reactor vessel. In this permanently shutdown condition, the facility poses a reduced risk to public health and safety. Because of this reduced risk, certain requirements of 10 CFR 50.54(q) are no longer required. An exemption is required from portions of 10 CFR 50.54(q) to allow the licensee to implement a revised Defueled Emergency Plan that is appropriate for the permanently shutdown and defueled reactor facility.

Environmental Impact of the Proposed Action

The Commission has concluded that the granting of the exemption will not increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no measurable environmental impact associated with the proposed action, any alternative with equal or greater environmental impact need not be evaluated. The

principal alternative to the action would be to deny the request (no-action alternative). Denial of the exemption request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement related to Operation of Maine Yankee Atomic Power Station (July 1972).

Agencies and Persons Consulted

In accordance with its stated policy, on July 31, 1998, the NRC staff consulted with Mr. Patrick Dostie of the State of Maine, Department of Human Services, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the licensee's letters, dated November 6, 1997, and June 29, 1998, which are available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, D.C., and at the Local Public Document Room at the Wiscasset Public Library, High Street, Post Office Box 367, Wiscasset, Maine 04578.

Dated at Rockville, Maryland, this 11th day of August 1998.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–22083 Filed 8–14–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on September 2–4, 1998, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Thursday, November 20, 1997 (62 FR 62079).

Wednesday, September 2, 1998

8:30 A.M.—8:45 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting.

8:45 A.M.—10:15 A.M.: Power Level Increase Request for the Edwin I. Hatch Nuclear Plant, Units 1 and 2 (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the Southern Nuclear Operating Company (SNOC) and the NRC staff regarding the SNOC's application for a power level increase of 8% for the Edwin I. Hatch Nuclear Plant, Units 1 and 2.

[**Note:** A portion of this session may be closed to discuss General Electric Nuclear Energy proprietary information.]

10:30 A.M.—12:00 Noon: Impact of the Probabilistic Risk Assessment (PRA) Results and Insights on the Regulatory System (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the Nuclear Energy Institute regarding situation-specific cases where PRA results and insights have improved the existing regulatory system, and specific areas in which PRA can have a positive impact on the regulatory system.

1:00 P.M.—2:30 P.M.: Establishing a Benchmark on Risk During Low-Power and Shutdown Operations (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding staff activities associated with establishing a benchmark on risk during low-power and shutdown operations, and related matters.

2:45 P.M.—4:15 P.M.: Emergency Core Cooling System Strainer Blockage (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and BWR Owners Group regarding the NRC staff's safety evaluation of the BWR Owners Group Utility Resolution Guide for emergency core cooling system strainer blockage.

4:30 P.M.—7:00 P.M.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting. In addition, the Committee will discuss proposed ACRS reports on the lessons learned from the review of the AP600 passive plant design and on the U.S. Naval Reactors program. The Committee will also discuss proposed technical papers to be presented at the October 1998 Quadripartite meeting.

Thursday, September 3, 1998

8:30 A.M.—8:35 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting.

8:35 A.M.—10:00 A.M.: Proposed Resolution of Generic Safety Issue 171, ''Engineered Safety Feature Failure from Loss of Offsite Power Subsequent to a Loss-of-Coolant Accident'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed resolution of Generic Safety Issue 171.

10:15 A.M.—11:45 A.M.: Meeting with the Director of the NRC Office for Analysis and Evaluation of Operational Data (AEOD) (Open)—The Committee will hear presentations by and hold discussions with the AEOD Director regarding items of mutual interest, including:

- Long-term strategy for the Accident Sequence Precursor (ASP) computer codes, including Criteria for accuracy, range of application, and treatment of uncertainty.
- Methods for planning case studies. How these plans are affected by emphasis on risk-information in the regulatory process. Shaping these case studies for use in validating PRA methods.
- Strategy for encouraging greater use of AEOD studies within the NRC and within the larger reactor safety community.
- Should AEOD be collecting data etc., outside the nuclear industry? For example, should AEOD collect data on the vulnerabilities of digital electronic systems and software encountered in other industries and applications?
- AEOD activities associated with evaluating foreign event data.

11:45 A.M.—12:00 Noon: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports, including EDO's responses to ACRS comments and recommendations on the NRC Reactor Fuels Research Program, Draft Supplement 1 to NUREG 1552, ''Fire Barrier Penetration Seals in Nuclear Power Plants'', and on the Proposed Final Standard Review Plan Section 3.9.8 and Regulatory Guide 1.178 for Risk-Informed Inservice Inspection of Piping.

1:00 P.M.—2:15 P.M.: Degraded Auxiliary Feedwater System Capability During a Rapid Downpower Event at the Catawba Nuclear Plant, Unit 1 (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the May 7, 1998 incident at Catawba, Unit 1 involving degraded auxiliary feedwater system capability.

2:15—3:00 P.M.: Prioritization of Generic Safety Issues (Open)—The Committee will hold discussions with representatives of the NRC staff regarding ACRS members' comments on the priority rankings proposed by the staff for a group of Generic Safety Issues.

3:15 P.M.—4:30 P.M. Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, and organizational and personnel matters relating to the ACRS, including qualifications of candidates for ACRS membership.

[**Note:** A portion of this session may be closed to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of this Advisory Committee, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.]

4:45 P.M.—7:00 P.M.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

Friday, September 4, 1998

8:30 A.M.—9:15 A.M.: Future ACRS Activities (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings.

9:15 A.M.—4:00 P.M. (12:00—1:00 P.M. lunch): Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

4:00 P.M.—4:30 P.M.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 4, 1997 (62 FR 46782). In accordance with these procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Mr. Sam Duraiswamy, Chief of the Nuclear Reactors Branch, at least five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman.

Information regarding the time to be set aside for this purpose may be obtained by contacting the Chief of the Nuclear Reactors Branch prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Chief of the Nuclear Reactors Branch if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d), P.L. 92–463, I have determined that it is necessary to close portions of this meeting noted above to discuss matters that relate solely to the internal personnel rules and practices of this Advisory Committee per 5 U.S.C. 552b(c)(2), General Electric Nuclear Energy proprietary information per 5 U.S.C. 552b(c)(4), and to discuss information the release of which would constitute a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting Mr. Sam Duraiswamy, Chief of the Nuclear Reactors Branch (telephone 301/415–7364), between 7:30 A.M. and 4:15 P.M. EDT.

ACRS meeting agenda, meeting transcripts, and letter reports are available for downloading or reviewing on the internet at http://www.nrc.gov/ACRSACNW.

Dated: August 11, 1998.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 98–22087 Filed 8–14–98; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Reclearance of a Revised Information Collection: RI 20–1

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget a request for reclearance of a revised information collection. Annuitants who were entitled to minimum annuity before the repeal of the minimum annuity provisions on February 27, 1986, continue to be paid minimum annuity. OPM uses RI 20–1, Application for Minimum Annuity, to determine if an annuitant qualifies for minimum annuity.

Approximately 50 RI 20–1 forms will be completed annually. We estimate it takes approximately 15 minutes to complete the form. The annual burden is 13 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or E-mail to mbtoomey@opm.gov

DATES: Comments on this proposal should be received by September 16, 1998.

ADDRESSES: Send or deliver comments to—

Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349, Washington, DC 20415–0001

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Donna G. Lease, Budget & Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–21944 Filed 8–14–98; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Review of a New Generic Clearance Plan

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget a request for review of a new Generic Clearance Plan to measure customer satisfaction with the Retirement and Insurance Service's (RIS) programs and services. This Plan satisfies the requirements of Executive Order 12862 and the guidelines set forth in OMB's ''Resource Manual for Customer Surveys''. RIS is requesting approval for conducting these voluntary customer satisfaction surveys in fiscal years 1998, 1999, and 2000.

For RIS survey questionnaires, we estimate surveying approximately 464,975 customers per year for an annual burden of 109,101 hours for FY 1998 and 94,517 hours each for fiscal years 1999 and 2000. For our telephone surveys, including Interactive Voice Response (IVR) technology, we estimate surveying 264,080 customers per year for an annual burden of 22,072 hours. For Internet surveys, we estimate surveying 1,000 Internet readers for an annual burden of 167 hours. For Focus Groups, we estimate that we may have 10–20 focus groups consisting of 10–15 participants (300 total per year), lasting up to about two hours each for an annual burden of 600 hours. For Comment Card/Postcard surveys that the RIS Washington, DC, Retirement Information Office may use, we estimate that it would take about 7 minutes to complete and 3,000 customers may respond for an annual burden of 350 hours. *The total annual estimated burden is 133,000 hours in FY 1998 and 118,000 hours each for fiscal years 1999 and 2000.*

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or E-mail to mbtoomey@opm.gov.

DATES: Comments on this proposal should be received on or before September 16, 1998.

ADDRESS: Send or deliver comments to—

Christopher G. Brown, Acting Chief, Quality Assurance Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 4316, Washington, DC 20415

and

Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Donna G. Lease, Budget & Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 98–22017 Filed 8–14–98; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

Requests Under Review by Office of Management and Budget

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extensions:

Reg. 12B, SEC File No. 270–70, OMB Control No. 3235–0062.
Form 15, SEC File No. 270–170, OMB Control No. 3235–0167.
Form S–4, SEC File No. 270–287, OMB Control No. 3235–0324.
Form F–4, SEC File No. 270–288, OMB Control No. 3235–0325.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for approval of extension on the following:

Regulation 12B governs all registration statements filed pursuant to Sections 12(b) and 12(g) under the Securities Exchange Act of 1934 (''Exchange Act'') and all reports filed pursuant to Sections 13 and 15(d) of the Exchange Act, including amendments thereto. The information is needed to provide guidance on how to prepare these filings. Public companies are the likely respondents. Regulation 12B does not directly impose any information collection burdens on respondents and is assigned one burden hour for administrative convenience.

Form 15 is filed by public companies subject to the Exchange Act reporting requirements to certify termination of registration of a class of security under Section 12(g) or notice of suspension of a duty to file reports pursuant to Sections 13 and 15(d) of the Exchange Act. Approximately 1,644 respondents file Form 15 annually for a total annual burden of 1,644 hours.

Forms S–4 and F–4 are filed by companies to register securities issued in business combination and exchange transactions under the Securities Act. Approximately 505 registrants file Form S–4 annually for a total annual burden of 622,665 hours. Approximately 2 respondents file Form F–4 annually for a total annual burden of 2,616 hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: August 10, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–21960 Filed 8–14–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23383; 812–11164]

Countrywide Investment Trust, et al.; Notice of Application

August 11, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 17(a)(1) and (2) and 17(e) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit Countrywide Investment Trust, Countrywide Tax-Free Trust, and Countrywide Strategic Trust (collectively, the ''Trusts'' and individually, a ''Trust'') to engage in certain securities transactions with banks, bank holding companies, and their affiliates that are ''affiliates'' of a Trust solely because they own, hold, or

control 5% or more of the outstanding voting securities of the Trust, or are an affiliated person, within the meaning of section 2(a)(3) of the Act, of the bank, bank holding company or its affiliate (collectively, ''Affiliated Banks'').

APPLICANTS: The Trusts and Countrywide Investments, Inc. (the ''Adviser'').

FILING DATES: The application was filed on June 1, 1998 and amended on June 23, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

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 September 8, 1998, 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 may request notification of a hearing by writing the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants: 312 Walnut Street, 21st Floor, Cincinnati, Ohio 45202.

FOR FURTHER INFORMATION CONTACT: J. Amanda Machen, Senior Counsel, at (202) 942–7120, or Nadya B. Roytblat, Assistant Director, 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 at the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549 (tel. 202–942–8090).

Applicants' Representations

1. Each Trust is organized as a Massachusetts business trust and is registered under the Act as an open-end management investment company. All of the Trusts have multiple portfolios (each a ''Fund''). The Adviser, a wholly-owned indirect subsidiary of Countrywide Credit Industries, Inc., is an investment adviser registered under the Investment Advisers Act of 1940 and serves as investment adviser to each of the Funds. Applicants request that the relief apply to any other existing or future registered open-end management investment company for which the Adviser, or any entity controlling, controlled by, or under common control with the Adviser, may in the future act as investment adviser.[1]

2. Applicants request an order that would permit the Funds to engage in securities transactions with Affiliated Banks that involve: (a) U.S. government securities; (b) municipal securities, repurchase agreements, bank obligations, synthetic municipal securities, and commercial paper (''Qualified Securities''); and (c) reverse repurchase agreements (collectively, ''Covered Securities'').

3. All Qualified Securities will meet the following credit standards:

a. For obligations that have a remaining maturity of 397 days or less, each security shall constitute an ''Eligible Security'' within the meaning of rule 2a–7; provided that, in the case of unrated securities (as defined in rule 2a–7(a)(28)), in addition to the requirements of rule 2a–7 applicable to the unrated securities, all determinations with respect to the comparability of the securities to rated securities (as defined in rule 2a–7(a)(19)) are also reviewed and approved at least quarterly by a majority of the Trust's trustees who are not interested persons of the Trust or Fund.

b. For obligations that have a remaining maturity of more than 397 days, each security (or another long-term security of the same issuer having comparable priority and security to such obligation) shall have been rated by a nationally-recognized statistical rating organization (''NRSRO'') in one of the four highest rating categories for long-term obligations; or, if the security and issuer have not been rated by any NRSRO, are determined by the Trust's or Fund's investment adviser to be comparable in credit quality to a security carrying a long-term rating in one of the four highest rating categories of an NRSRO, and the determination is reviewed and approved at least quarterly by a majority of the Trust's trustees who are not interested persons of the Trust or Fund.

c. Any repurchase agreements will be collateralized fully within the meaning of rule 2a–7.

d. For obligations subject to unconditional, irrevocable credit enhancement (including, without limitation, a guarantee, letter of credit or put), the Trust or Fund may rely upon the NRSRO ratings of the provider of the credit enhancement to determine whether the obligation satisfies the requirements of paragraphs (a) and (b) above. Such obligations shall be treated as rated securities to the extent that the credit enhancement is of comparable priority and security to the rated obligations of the provider of the credit enhancement.

4. Applicants also request relief to permit the Funds to pay compensation to Affiliated Banks within the limits of section 17(e)(2) of the Act when the Affiliated Bank acts as agent for the Funds in executing transactions in Covered Securities.

Applicants' Legal Analysis

1. Sections 17(a)(1) and 17(a)(2) of the Act prohibit an affiliated person of a registered investment company, or an affiliated person of an affiliated person of the registered company, from knowingly selling to or purchasing from the registered company any security or other property.

2. Section 17(e)(1) of the Act prohibits any affiliated person of a registered investment company, or any affiliated person of such person, when acting as agent, from accepting from any source any compensation (other than a regular salary or wages from the registered company) for the purchase or sale of any property to or for the registered company, except in the course of the person's business as an underwriter or broker. Section 17(e)(2) of the Act provides that an affiliated person of a registered investment company, when acting as broker in the sale of securities to the registered company, may not receive compensation that exceeds: (a) The usual and customary broker's commission for sales made on a securities exchange; (b) 2% of the sales price for sales made in a secondary distribution of the security; or (c) 1% of the purchase or sale price of the securities sold in any other manner.

3. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (a) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the other person; and (c) any person directly or indirectly controlling, controlled by, or under common control with, the other person.

4. Applicants state that where an entity is a record owner of 5% or more of the outstanding shares of a Fund, the entity may be considered an affiliated person (''first-tier affiliate'') of the Fund. Applicants further state that an entity

[1] All existing entities that currently intend to rely on the requested order are named as applicants. Any other entities that subsequently rely on the order will comply with the terms and conditions of the application.

that is an affiliated person of a Fund may also be deemed an affiliated person of each other Fund that is advised by the same investment adviser. Moreover, an entity that is an affiliated person of the first-tier affiliate, also would be an affiliated person of an affiliated person of the Funds. Thus, applicants state that Affiliated Banks would be prohibited by sections 17(a)(1) and (2) of the Act from engaging in securities transactions with the Funds. Applicants further state that banks are specifically excluded from the definition of broker in section 2(a)(6) of the Act. Thus, an Affiliated Bank that is a bank may be prohibited by section 17(e) from accepting any consideration in connection with a brokerage transaction when it acts as agent for the Funds.

5. Section 17(b) of the Act provides that the SEC may exempt a transaction from the prohibitions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of the registered investment company concerned and with the general purposes of the Act.

6. Section 6(c) of the Act provides that the SEC may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provisions of the Act, if and to the extent the 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.

7. Applicants request an exemption under sections 17(b) and 6(c) from sections 17(a)(1) and 17(a)(2) to permit the Funds to engage in transactions in Covered Securities with Affiliated Banks. Applicants also request an exemption under section 6(c) to permit Affiliated Banks to receive brokerage commissions from the Funds within the limits of section 17(e)(2) in connection with transactions in Covered Securities.

8. Applicants assert that their proposal does not raise the concerns underlying sections 17(a) and 17(e) of the Act because of the technical nature of affiliation between the Affiliated Banks and the Funds and the types of securities that are Covered Securities. Applicants believe the applicability of sections 17(a)(1) and (2) of the Act to securities transactions between the Funds and Affiliated Banks in Covered Securities unnecessarily reduces the breadth of investment alternatives available to the Funds and would cause a significant disadvantage to the Funds' shareholders by restricting and inhibiting portfolio management. In addition, applicants state that the prohibitions of section 17(e) would inhibit the Funds' discretion to select the best agent for execution of their Covered Securities transactions.

9. Applicants state that no Fund will engage in transactions with an Affiliated Bank that serves as investment adviser (including sub-adviser) or sponsor to the Fund or Trust. Moreover, no Fund will engage in transactions in Covered Securities with any Affiliated Bank that controls the Fund or Trust within the meaning of section 2(a)(9) of the Act.

10. Applicants also represent that there is no express or implied understanding between them and any Affiliated Bank that the applicants will cause the Funds to enter into transactions with the Affiliated Bank. Applicants further state that they will give no preference to any Affiliated Bank in effecting transactions between a Fund and an Affiliated Bank because the Affiliated Bank or its customers purchase shares of any of the Funds.

11. Applicants also state that the conditions to the requested order would assure that the proposed transactions would be reasonable and fair, would not involve any overreaching, and would be consistent with the policies under section 17(a) and (e) of the Act.

12. Applicants also state that in circumstances in which a Fund enters into a hold-in-custody repurchase agreement with an Affiliated Bank that is its custodian, they have adopted detailed procedures designed to give the Fund an ownership and/or perfected security interest in the collateral (*i.e.,* the securities underlying the repurchase agreement). Applicants believe that these procedures ameliorate the risks associated with repurchase transactions when custody is maintained by the counterparty and not transferred to a third party. These risks may involve the insolvency of, and consequent default by, the repurchase counterparty, an attempt by the counterparty to retain assets (or offset against assets) when a dispute arises between the parties, or losses resulting from fraud or operational error due to the Fund's inability to determine whether the collateral exists.

13. Applicants represent that the securities underlying a hold-in-custody repurchase transaction are maintained either in the Fund's custody account or on behalf of the specific Fund in an omnibus custodial account maintained by the Fund's custodian at the Federal Reserve Bank of Cleveland. Applicants further state that, in both cases, the securities are transferred to, or identified in, the custody account against a transfer of monies out of the Fund's account to the custodian's proprietary account. Applicants contend that the repurchase securities so maintained are the assets of the Fund, not of the custodian. Accordingly, applicants assert that the risk of insolvency and the risks associated with commingling of assets are eliminated. Moreover, applicants state that the Fund's custodian, in its capacity as such, marks its books and records to reflect the Fund's interest in the hold-in-custody repurchase securities. In addition, applicants state that written confirmations specifying the particular securities which are the subject of the hold-in-custody repurchase transactions currently are sent to the Funds at the end of each trading day. In applicants' view, these procedures provide the Funds the same types of protections as would be the case if the securities were transferred to a third party.

14. Applicants also represent that, at the time a Fund enters into a reverse repurchase agreement, the Fund will segregate assets with an approved custodian, consisting of cash, U.S. government securities, or other appropriate high-grade debt securities having a value not less than the value of the proceeds received plus accrued interest. The segregated assets will be marked-to-market daily and additional assets will be segregated on any day in which the assets fall below the repurchase price (plus accrued interest). Applicants submit that the credit standards applied to transactions with Affiliated Banks limit the risk of counterparty insolvency and that the solicitation procedures provide a high level of assurance that quoted rates will be representative of the prevailing available reverse repurchase rates. Applicants further assert that under the conditions to the application, the terms of reverse repurchase agreements will reflect arms-length negotiations and that the terms will be no less favorable to the Funds than similar agreements with other parties.

Applicants' Conditions

Applicants agree that any order of the SEC granting the requested relief will be subject to the following conditions:

A. General Conditions

1. *The board of trustees of each of the Trusts, including a majority of the trustees who are not interested persons of the Trust:* (a) Will adopt procedures that are reasonably designed to provide that the conditions set forth below and

the requirements of Investment Company Act Release No. 13005 (Feb. 2, 1983), have been complied with; (b) will make and approve from time to time such changes to the procedures as are deemed necessary; and (c) will determine no less frequently than quarterly that the transactions made pursuant to the order during the preceding quarter were effected in compliance with such procedures. The Adviser may implement these procedures, subject to the direction and control of the board of trustees of the relevant Trust.

2. *Each Trust:* (a) Will maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications to them); and (b) will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transactions occurred, the first two years in an easily accessible place, a written record of each such transaction setting forth a description of the transaction, including the identity of the person on the other side of the transaction, the terms of the transaction, and the information or material upon which the determinations described below were made.

3. No Fund will engage in a transaction with an Affiliated Bank that is an investment adviser or sponsor to that Fund, or an Affiliated Bank controlling, controlled by, or under common control with the investment adviser or sponsor. No Fund will engage in transactions with an Affiliated Bank if such entity exercises a controlling influence over that Fund (and ''controlling influence'' shall be deemed to include, but is not limited to, directly or indirectly owning, controlling, or holding with power to vote more than 25% of the outstanding voting securities of that Fund). No Fund will purchase obligations of any Affiliated Bank (other than repurchase agreements) if, as a result, more than 5% of that Fund's total assets would be invested in obligations of that Affiliated Bank.

4. The transactions entered into by a Fund will be consistent with the investment objectives and policies of that Fund as recited in the Trust's registration statement and reports filed under the Act. Further, the security to be purchased or sold by that Fund will be comparable in terms of quality, yield, and maturity to other similar securities that are appropriate for that Fund and that are being purchased or sold during a comparable period of time.

5. The Funds will engage in transactions with Affiliated Banks only in U.S. government securities, reverse repurchase agreements, or Qualified Securities.

B. U.S. Government and Qualified Securities

1. Before any transaction in U.S. government securities or Qualified Securities may be entered into with an Affiliated Bank, the Fund or the Adviser will obtain such information as it deems necessary to determine that the price or rate to be paid or received for the security is at least as favorable as that available from other sources for the same or substantially comparable securities in terms of quality and maturity. In this regard, the Fund or the Adviser will obtain and document competitive quotations from at least two other dealers or counterparties with respect to the specific proposed transaction. Competitive quotation information will include price or yield and settlement terms. These dealers or counterparties will be those who, in the experience of the Fund and the Adviser, have demonstrated the consistent ability to provide professional execution of U.S. government security and Qualified Security transactions at competitive market prices or yields. These dealers or counterparties also must be those who are in a position to quote favorable prices.

2. Any repurchase agreement will be ''collateralized fully'' within the meaning of rule 2a–7.

3. The commission, fee, spread, or other remuneration to be received by the Affiliated Bank as agent in transactions involving U.S. government and Qualified Securities will be reasonable and fair compared to the commission, fee, spread, or other remuneration received by other brokers or dealers in connection with comparable transactions involving similar securities being purchased or sold during a comparable period of time, but in no event will such commission, fee, spread or other remuneration exceed that which is stated in section 17(e)(2) of the Act.

C. Reverse Repurchase Agreements

Before any transaction in reverse repurchase agreements may be entered into with an Affiliated Bank, the Fund or the Adviser will obtain such information as it deems necessary to determine that the rate to be paid for the agreement is at least as favorable as that available from other sources. In this regard, the Fund or the Adviser will obtain and document quoted rates from at least two unaffiliated potential counterparties with which the Funds have arrangements to engage in such transactions. Solicited terms shall include the repurchase price, interest rates, repurchase dates, acceleration rights, maturity, collateralization requirements, and transaction charges.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40310; File No. SR–NASD–98–14]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') Concerning Related Performance Information

August 7, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] notice is hereby given that on March 12, 1998, that National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly-owned subsidiary, NASD Regulation, Inc. (''NASD Regulation''), filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization.[2] 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

NASD Regulation is proposing amendments to Rule 2820 (the ''Variable

[1] 15 U.S.C. 78s(b)(1).

[2] NASD Regulation initially submitted the proposed rule change on February 17, 1998; however, the submission failed to provide a statutory basis section. Because proposed rule changes are not deemed filed until all necessary components, such as a statutory basis section, are provided, the proposed rule change was deemed filed when the Commission received NASD Regulation's amendment providing the statutory basis for the proposed rule change (''Amendment No. 1''). *See* Letter to Katherine A. England, Assistant Director, Commission, from Joan C. Conley, Secretary, NASD Regulation, dated March 12, 1998. NASD Regulation submitted another amendment on June 11, 1998, making certain technical corrections (''Amendment No. 2''). Amendment No. 2, however, was insufficient in form. As a result, on July 13, 1998, NASD Regulation filed another amendment, superseding and replacing all previous versions of the filing (''Amendment No. 3''). The substance of Amendment No. 3 is being published today.

Contracts Rule'') and Rule 2830 (the ''Investment Company Rule'') of the Conduct Rules of the NASD. The Investment Company Rule would be amended to (1) provide maximum aggregate sales charge limits for fund of funds arrangements; (2) permit mutual funds to charge installment loads; (3) prohibit loads on reinvested dividends; (4) impose redemption order requirements for shares subject to contingent deferred sales loads; and (5) eliminate duplicative prospectus disclosure. The Variable Contracts Rule would be amended to eliminate the specific sales charge limitations in the rule and a filing requirement relating to changes in sales charges. Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are [bracketed].

2800 SPECIAL PRODUCTS

* * * * *

2820 VARIABLE CONTRACTS OF AN INSURANCE COMPANY

(a) Application

This Rule shall apply exclusively (and in lieu of Rule 2830) to the activities of members in connection with variable contracts to the extent such activities are subject to regulation under the federal securities laws.

(b) Definitions

(1) The term ''purchase payment'' as used throughout this Rule shall mean the consideration paid at the time of each purchase or installment for or under the variable contract.

(2) The term ''variable contracts'' shall mean contracts providing for benefits or values which may vary according to the investment experience of any separate or segregated account or accounts maintained by an insurance company.

[(c) Sales Charges]

[No member shall participate in the offering or in the sale of variable annuity contracts if the purchase payment includes a sales charge which is excessive:]

[(1) Under contracts providing for multiple payments a sales charge shall not be deemed to be excessive if the sales charge stated in the prospectus does not exceed 8.5% of the total payments to be made thereon as of a date not later than the end of the twelfth year of such payments, provided that if a contract be issued for any stipulated shorter payment period, the sales charge under such contract shall not exceed 8.5% of the total payments thereunder for such period.]

[(2) Under contracts providing for single payments a sales charge shall not be deemed to be excessive if the prospectus sets forth a scale of reducing sales charges related to the amount of the purchase payment which is not greater than the following schedule:

First $25,000–8.5% of purchase payment
Next $25,000–7.5% of purchase payment
Over $50,000–6.5% of purchase payment

[(3) Under contracts where sales charges and other deductions for purchase payments are not stated separately in the prospectus the total deductions from purchase payments (excluding those for insurance premiums and premium taxes) shall be treated as a sales charge for purposes of this rule and shall not be deemed to be excessive if they do not exceed the percentages for multiple and single payment contracts described in paragraphs (1) and (2) above.]

[(4) Every member who is an underwriter and/or issuer of variable annuities shall file with Advertising/ Investment Companies Regulation Department, prior to implementation, the details of any changes or proposed changes in the sales charges of such variable annuities, if the changes or proposed changes would increase the effective sales charge on any transaction. Such filings should be clearly identified as an ''Amendment to Variable Annuity Sales Charges.'']

[d]*(c)* Receipt of Payment

No member shall participate in the offering or in the sale of a variable contract on any basis other than at a value to be determined following receipt of payment therefore in accordance with the provisions of the contract, and, if applicable, the prospectus, the Investment Company Act of 1940 and applicable rules thereunder. Payments need not be considered as received until the contract application has been accepted by the insurance company, except that by mutual agreement it may be considered to have been received for the risk of the purchaser when actually received.

[e]*(d)* Transmittal

Every member who receives applications and/or purchase payments for variable contracts shall transmit promptly to the issuer all such applications and at least that portion of the purchase payment required to be credited to the contract.

[f]*(e)* Selling Agreements

No member who is a principal underwriter as defined in the Investment Company Act of 1940 may sell variable contracts through another broker/dealer unless (1) Such broker/ dealer is a member, and (2) there is a sales agreement in effect between the parties. Such sales agreement must provide that the sales commission be returned to the issuing insurance company if the variable contract is tendered for redemption within seven business days after acceptance of the contract application.

[g]*(f)* Redemption

No member shall participate in the offering or in the sale of a variable contract unless the insurance company, upon receipt of a request in proper form for partial or total redemption in accordance with the provisions of the contract undertakes to make prompt payment of the amounts requested and payable under the contract in accordance with the terms thereof, and, if applicable, the prospectus, the Investment Company Act of 1940 and applicable rule thereunder.

2830 INVESTMENT COMPANY SECURITIES

(a) Application

This Rule shall apply exclusively to the activities of members in connection with the securities of companies under the Investment Company Act of 1940 (*the 1940 Act*); provided however, that Rule 2820 shall apply, in lieu of this Rule, to members' activities in connection with ''variable contracts'' as defined therein.

(b) Definitions

(1) ''Associated persons of an underwriter,'' as used in paragraph (l), shall include an issuer for which an underwriter is the sponsor or a principal underwriter, any investment adviser of such issuer, or any affiliated person (as defined in Section 2(a)(3) of the [Investment Company Act of 1940] *1940 Act*) of such underwriter, issuer or investment adviser.

(2) ''Brokerage commissions,'' as used in paragraph (k), shall not be limited to commissions on agency transactions but shall include underwriting discounts or concessions and fees to members in connection with tender offers.

(2) ''Covered account,'' as used in paragraph (k), shall mean (A) any other investment company or other account managed by the investment adviser of such investment company, or (B) any other account from which brokerage commissions are received or expected as a result of the request or direction of any principal underwriter of such investment company or of any affiliated person (as defined in the [Investment Company Act of 1940] *1940 Act*) of such

investment company or of such underwriter, or of any affiliated person of an affiliated person of such investment company.

(4) ''Person'' shall mean ''person'' as defined in the [Investment Company Act of 1940] *1940 Act.*

(5) ''Prime rate,'' as used in paragraph (d) shall mean the most preferential interest rate on corporate loans at large U.S. money center commercial banks.

(6) ''Public offering price'' shall mean a public offering price as set forth in the prospectus of the issuing company.

(7) ''Rights of accumulation'' as used in paragraph (d), shall mean a scale of reducing sales charges in which the sales charge applicable to the securities being purchased is based upon the aggregate quantity of securities previously purchased or acquired and then owned plus the securities being purchased.

The quantity of securities owned shall be based upon:

(A) the current value of such securities (measured by either net asset value or maximum offering price); or

(B) Total purchases of such securities at actual offering prices; or

(C) The higher of the current value or the total purchases of such securities.

The quantity of securities owned may also include redeemable securities of other registered investment companies having the same principal underwriter.

(8) ''Sales Charge'' and ''sales charges,'' as used in paragraph (d), shall mean all charges or fees that are paid to finance sales or sales promotion expenses, including front-end deferred and asset-based sales charges, excluding charges and fees for ministerial, recordkeeping or administrative activities and investment management fee. For purposes of this Rule, members may rely on the sales-related fees and charges disclosed in the prospectus of an investment company.

(A) An ''asset-based sales charge'' is a sales charge that is deducted from the net assets of an investment company and does not include a service fee.

(B) A ''deferred sales charge'' is [a sales charge that is deducted from the proceeds of the redemption of shares by an investor, excluding any such charges that are (i) nominal and are for services in connection with a redemption or (ii) discourage short-term trading, that are not used to finance sales-related expenses, and that are credited to the net assets of the investment company] *any amount properly chargeable to sales or promotional expenses that is paid by a shareholder after purchase but before or upon redemption.*

(C) A ''front-end sales charge'' is a sales charge that is included in the public offering price of the shares of an investment company.

(9) ''Service fees,'' as used in paragraph (d), shall mean payments by an investment company for personal service and/or the maintenance of shareholder accounts.

(10) The terms ''underwriter,'' ''principal underwriter, ''redeemable security,'' ''periodic payment plan,'' ''open-end management investment company,'' and ''unit investment trust,'' shall have the same definitions used in the [Investment Company Act of 1940] *1940 Act.*

(11) A ''fund of funds'' is an investment company that invests any portion of its assets in the securities of registered open-end investment companies or registered unit investment trusts. An ''acquiring company'' in a fund of funds is the investment company that purchases or otherwise acquires the securities of another investment company and an ''acquired company'' is the investment company whose securities are acquired.

(12) ''Investment companies in a single complex'' are any two or more companies that hold themselves out to investors as related companies for purposes of investment and investor services.

(c) Conditions of Discounts to Dealers

No member who is an underwriter of the securities of an investment company shall sell any such security to any dealer or broker at any price other than a public offering price unless such sale is in conformance with Rule 2420 and, if the security is issued by an open-end management company or by a unit investment trust which invests primarily in securities issued by other investment companies, unless a sales agreement shall set forth the concessions to be received by the dealer or broker.

(d) Sales Charge

No member shall offer or sell the shares of any open-end investment company or any ''single payment'' investment plan issued by a unit investment trust (collectively ''investment companies'') registered under the [Investment Company Act of 1940] *1940 Act* if the sales charges described in the prospectus are excessive. Aggregate sales charges shall be deemed excessive if they do not conform to the following provisions:

(1) Investment Companies Without an Asset-Based Sales Charge

(A) *Aggregate* front-end and[/or] deferred sales charges described in the prospectus which may be imposed by an investment company without an asset-based sales charge shall not exceed 8.5% of the offering price.

[(B)(i) Dividend reinvestment may be made available at net asset value per share to any person who requests such reinvestment.

(ii) If dividend reinvestment is not made available as specified in subparagraph (B)(i) above, the maximum aggregate sales charge shall not exceed 7.25% of offering price.]

[(C)(i)]*(B)(i)* Rights of accumulation (cumulative quantity discounts) may be made available to any person in accordance with one of the alternative quantity discount schedules provided in subparagraph [(D)]*(C)(i)* below, as in effect on the date the right is exercised.

(ii) If rights of accumulation are not made available on terms at least as favorable as those specified in subparagraph (C)(i) the maximum aggregate sales charge shall not exceed[:]

[(a)] 8.0% of offering price. [if the provisions of subparagraph (B)(i) are met; or

(b) 6.75% of offering price if the provisions of subparagraph (B)(i) are not met.]

[(D)]*(C)(i)* Quantity discounts, if offered, shall be made available on single purchases by any person in accordance with one of the following two alternatives:

a. A maximum aggregate sales charge of 7.75% on purchases of $10,000 or more and a maximum aggregate sales charge of 6.25% on purchases of $25,000 or more, or

b. A maximum aggregate sales charge of 7.50% on purchases of $15,000 or more and a maximum aggregate sales charge of 6.25% on purchases of $25,000 or more.

(ii) If quantity discounts are not made available on terms at least as favorable as those specified in subparagraph [(D)(i)]*(C)(i))* the maximum aggregate sales charge shall not exceed:

a. 7.75% of offering price if the provisions of subparagraphs [(B)(i) and (C)(i)*(B)* are met.

b. 7.25% of offering price if [the provisions of subparagraph (B)(i) are met but] the provisions of subparagraph [(C)(i)]*(B)* are not met.

[c. 6.50% of offering price if the provisions of subparagraph (C)(i) are met but the provision of subparagraph (B)(i) are not met.]

[d. 6.25% of offering price if the provisions of subparagraphs (B)(i) and (C)(i) are not met.]

[(E)]*(D)* If an investment company without an asset-based sales charge pays a service fee, the maximum aggregate sales charge shall not exceed 7.25% of the offering price.

[(F) If an investment company without an asset-based sales charge reinvests dividends at offering price, it shall not offer or pay a service fee unless it offers quantity discounts and rights of accumulation and the maximum aggregate sales charge does not exceed 6.25% of the offering price.]

(2) Investment Companies with an Asset-Based Sales Charge

(A) Except as provided in subparagraph (C) and (D), the aggregate asset-based, front-end and deferred sales charges described in the prospectus which may be imposed by an investment company with an asset-based sales charge, if the investment company has adopted a plan under which service fees are paid, shall not exceed 6.25% of total new gross sales (excluding sales from the reinvestment of distributions; [and] exchanges of shares between investment companies in a single complex, between classes [of shares] of an investment company with multiple classes of shares or between series [shares] of a series investment company) plus interest charges on such amount equal to the price rate plus one percent per annum. The maximum front-end or deferred sales charge resulting from any transaction shall be 6.25% of the amount invested.

(B) Except as provided in subparagraph (C) and (D), if an investment company with an asset-based sales charge does not pay a service fee, the aggregate asset-based, front-end and deferred sales charges described in the prospectus shall not exceed 7.25% of total new gross sales (excluding sales from the reinvestment of distributions; [and] exchanges of shares between investment companies in a single complex, between classes [of shares] of an investment company with multiple classes of shares or between series [shares] of a series investment company) plus interest charges on such amount equal to the prime rate plus one percent per annum. The maximum front-end or deferred sales charge resulting from any transaction shall be 7.25% of the amount invested.

(C) The maximum aggregate sales charge on total new gross sales set forth in subparagraph (A) and (B) may be increased by an amount calculated by applying the appropriate percentages of 6.25% or 7.25% of total new gross sales which occurred after an investment company first adopted an asset-based sales charge until July 7, 1993 plus interest charges on such amount equal to the prime rate plus one percent per annum less any front-end, asset-based or deferred sales charges on such sales or net assets resulting from such sales.

(D) The maximum aggregate sales charges of an investment company in a single complex, a class or share issued by an investment company with multiple classes of shares or a separate series of a series investment company, may be increased to include sales of exchanged shares provided that such increase is deducted from the maximum aggregate sales charges of the investment company, class or series which redeemed the shares for the purpose of such exchanges.

(E) No member shall offer or sell the shares of an investment company with an asset-based sales charge if:

(i) The amount of the asset-based sales charge exceeds .75 of 1% per annum of the average annual net assets of the investment company; or

(ii) Any deferred sales charges deducted from the proceeds of a redemption after the maximum cap described in subparagraph (A), (B), (C) and (D) hereof, has been attained are not credited to the investment company.

(3) Fund of Funds

(A) If neither an acquiring company nor an acquired company in a fund of funds structure has an asset-based sales charge, the maximum aggregate front-end and deferred sales charges that may be imposed by the acquiring company, the acquired company and those companies in combination, shall not exceed the rates provided in paragraph (d)(1).

(B) Any acquiring company or acquired company in a fund of funds structure that has an asset-based sales charge shall individually comply with the requirements of paragraph (d)(2), provided:

(i) If the acquiring and acquired companies are in a single complex and the acquired fund has an asset-based sales charge, sales made to the acquiring fund shall be excluded from total gross new sales for purposes of acquired fund's calculations under subparagraphs (d)(2)(A) through (d)(2)(D); and

(ii) If both the acquiring and acquired companies have an asset-based sales charge: (a) the maximum aggregate asset-based sales charge imposed by the acquiring company, the acquired company and those companies in combination, shall not exceed the rate provided in subparagraph (d)(2)(E)(i); and (b) the maximum aggregate front-end or deferred sales charges shall not exceed 7.25% of the amount invested, or 6.25% if either company pays a service fee.

(C) The rates described in subparagraphs (d)(4) and (d)(5) shall apply to the acquiring company, the acquired company and those companies in combination. The limitations of subparagraph (d)(6) shall apply to the acquiring company and the acquired company individually.

[(3)]*(4)* No member or person associated with a member shall, either orally or in writing, describe an investment as being ''no load'' or as having ''no sales charge'' if the investment company has a front-end or deferred sales charge or whose total charges against net assets to provide for sales related expenses and/or service fees exceed .25 of 1% of average net asset per annum.

[(4) No member or person associated with a member shall offer or sell the securities of an investment company with an asset-based sales charge unless its prospectus discloses that long-term shareholders may pay more than the economic equivalent of the maximum front-end sales charges permitted by this Rule. Such disclosure shall be adjacent to the fee table in the front section of a prospectus. This subparagraph shall not apply to money market mutual funds which have asset-based sales charges equal to or less than .25 of 1% of average net assets per annum.]

(5) No member or person associated with a member shall offer or sell the securities of an investment company if the service fees paid by the investment company, as disclosed in the prospectus, exceed .25 of 1% of its average annual net assets or if a service fee paid by the investment company, as disclosed in the prospectus, to any person who sells its shares exceeds .25 of 1% of the average annual net asset value of such shares.

(6) No member or person associated with a member shall offer or sell the securities of an investment company if:

(A) The investment company has a deferred sales charge paid upon redemption that declines over the period of a shareholder's investment (''contingent deferred sales load''), unless the contingent deferred sales load is calculated as if the shares or amounts representing shares not subject to the load are redeemed first, and other shares or amounts representing shares are then redeemed in the order purchased, provided that another order of redemption may be used if such order would result in the redeeming shareholder paying a lower contingent deferred sales load; or

(B) The investment company has a front-end or deferred sales charge imposed on shares, or amounts representing shares, that are purchased through the reinvestment of dividends, unless the registration statement registering the investment company's

securities under the Securities Act of 1933 became effective prior to [insert the effective date of this rule amendment].

* * * * *

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

a. Background. Regulatory initiative adopted in 1996 by Congress and the Commission provide mutal funds and variable insurance sponsors with greater flexibility in structuring distribution arrangements. In 1997, NASD Regulation published Notice to Members 97–48 requesting comment on proposed amendments to the sales charge provisions in the Investment Company Rule and the Variable Contracts Rule that would adapt the rules to these regulatory initiatives and new distribution arrangements. NASD Regulation received nine comment letters in response to Notice to Members 97–48. The commenters generally supported the proposed amendments to the Investment Company Rule. The commenters strongly supported the proposed amendments to the Variable Contracts Rule.

b. Description. (1) Proposed Amendments to the Investment Company Rule. (A) Fund of Funds. The National Securities Markets Improvement Act of 1996 (the ''1996 Amendments'') amended the Investment Company Act of 1940 (''1940 Act'') to, among other things, broaden the ability of mutual fund sponsors to establish ''fund of funds'' arrangements.

The Investment Company Rule currently does not take into account two-tier fund of funds structures in which asset-based sales charges are imposed at both the acquiring and acquired fund levels. The proposed amendments would amend the Investment Company Rule to ensure that if a fund of funds charges distribution fees at both levels, the combined sales charges do not exceed the maximum percentage limits currently contained in the rule.

(B) Deferred Sales Loads. In September 1996, the Commission amended Rule 6c–10 under the 1940 Act to permit new types of deferred loads, such as back-end and installment loads. The proposed amendments to the Investment Company Rule also would permit these types of deferred sales charges. The amendments would conform the definition of ''deferred sales charge'' in the Investment Company Rule to the definition of ''deferred sales load'' in Rule 6c–10 (*i.e.*, ''any amount properly chargeable to sales or promotional expenses that is paid by a shareholder after purchase but before or upon redemption'').

(C) Loads on Reinvested Dividends. The proposed amendments would prohibit loads on reinvested dividends. When NASD Regulation proposed to prohibit loads on reinvested dividends in Notice to Members 97–48, commenters representing unit investment trust (''UIT'') sponsors objected to the proposed amendments. NASD Regulation, however, continues to believe that it is appropriate to prohibit loads on reinvested dividends for all investment companies, including UITs. In order to minimize the possibility that investors could incur additional costs associated with the restructuring of distribution financing to eliminate loads on reinvested dividends, the proposed amendments include a ''grandfather provision'' that would exempt from the operation of the prohibition all investment companies that currently impose such fees.

(D) CDSL Calculations. The proposed amendments would prohibit members from selling fund shares that impose a CDSL unless the method used by the fund to calculate CDSLs in partial redemptions requires that investors be given full credit for the time they have invested in the fund. Because a CDSL declines over the period of a shareholder's investment, a first-in first-out (''FIFO'') redemption order requirement generally would ensure that transactions are subject to the lowest applicable CDSL. The proposed amendments, however, also would expressly provide that if a redemption order other than FIFO (for example, last-in first-out) would result in a redeeming shareholder paying a lower CDSL, the other method could be used.

(E) Prospectus Disclosure. The Investment Company Rule currently prohibits a member from offering or selling shares of a fund with an asset-based sales charge unless its prospectus disclosures that long-term shareholders may pay more than the economic equivalent of the maximum front-end sales charges permitted by the rule. In March 1998, the Commission adopted significant revisions to prospectus disclosure requirements for mutual funds. Included in the amendments is a requirement that the prospectuses of funds with asset-based sales charges include disclosure regarding Rule 12b–1 plans that is similar to the disclosure required in the Investment Company Rule. Accordingly, the proposed amendments would eliminate the prospectus disclosure requirement in the Investment Company Rule.

(2) Proposed Amendments to the Variable Contracts Rule. In Notice to Members 97–48, NASD Regulation proposed to amend the Variable Contracts Rule to eliminate the maximum sales charge limitations. The commenters strongly supported the proposed amendment because they view specific sales charge limits in the Variable Contracts Rule as unnecessary and inconsistent with the ''reasonableness'' standard enacted in the 1996 Amendments. Consistent with these comments, the proposed amendments would eliminate the maximum sales charge limitations in the Variable Contracts Rule. The proposed amendments also would make a conforming change to eliminate the requirements in the rule to file with the Advertising/Investment Companies Regulation Department the details of any changes in a variable annuity's sales charges.

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[3] which requires, among other things, that the Association's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest, in that the proposed rule change, by adapting the Investment Company Rule and the Variable Contracts Rule to take into account recent legislation, regulations promulgated by the Commission, and new distribution arrangements, will further these requirements.

[3] 15 U.S.C. 78o–3.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The commenters generally supported the proposed amendments to the Investment Company Rule. The commenters strongly supported the proposed amendments to the Variable Contracts Rule. The comments are summarized below.

1. Amendments to the Investment Company Rule

a. Fund of Funds. NASD Regulation proposed to amend the Investment Company Rule to ensure that the combined sales charges for funds of funds that charge a sales load or asset-based distribution fee at both the acquiring and underlying fund levels do not exceed the maximum percentage limits that are currently contained in the Rule. The proposed amendments, however, would not require funds of funds to calculate cumulative sales charge limits required for funds that charge asset-based fees. The Investment Company Institute (ICI) and the Securities Industry Association (SIA) supported the proposed approach to regulating fees charged by funds of funds. The ICI recommended certain technical changes to the proposed rule language to clarify that the limits apply to the aggregate rate of asset-based sales charges rather than the amount deducted based on net asset values. In addition, the ICI recommended that NASD Regulation clarify that the acquiring and acquired funds in a fund of funds structure remain individually subject to the cumulative limits in the rule.

Banc One Corporation (Banc One) stated that the cumulative limits should apply to funds of funds. Banc One noted that acquiring funds in a fund of funds structure typically purchase institutional class shares in underlying funds that typically do not carry an asset-based sales charge. Accordingly, Banc One believes that it is feasible for the acquiring fund to calculate a single remaining amount that reflects both its own gross new sales and its proportionate share of the underlying fund's new sales and charges.

b. Installment Loads. NASD Regulation proposed to amend the definition of ''deferred sales charge'' in the Investment Company Rule to permit installment loads. The ICI was the only commenter on this proposal, which it supported.

c. Loads on Reinvested Dividends. NASD Regulation proposed to prohibit sales loads on reinvested dividends. The ICI and Davis Polk & Wardell (Davis Polk) opposed this proposal. The ICI believes that, as an alternative to prohibiting loads on reinvested dividends, funds that impose such charges should be subject to lower maximum limits in the Rule and be required to make appropriate disclosure.

d. CDSL Calculations. NASD Regulation proposed to impose redemption order requirements (first-in-first-out or FIFO) for shares subject to contingent deferred sales loads so that investors incur only the lowest applicable CDSL. The proposed amendments also would provide that if a redemption order other than FIFO (*e.g.*, LIFO) would result in a redeeming shareholder paying a lower CDSL, that method could be used. In addition, the Notice to Members clarified that the proposed amendment would concern only the manner in which a fund calculated the CDSL and should not affect a shareholder's ability to identify for tax purposes which shares have been redeemed. The ICI did not object to NASD Regulation's approach. The SIA, however, stated that NASD Regulation should not impose order of redemption requirements because marketing or business considerations may justify use of methodologies other than FIFO, and investors should retain the right to designate which shares they wish to sell for tax purposes.

e. Prospectus Disclosure. In deference to the recent adoption by the SEC of new prospectus disclosure regarding the long-term effects of Rule 12b–1 fees, NASD Regulation proposed to eliminate the equivalent prospectus disclosure requirement in the Investment Company Rule. The ICI and the SIA supported this proposal.

f. Other Comments. Federated Investors (Federated) recommended that NASD Regulation consider an additional amendment to the Investment Company Rule that would permit funds to calculate the cumulative limits in the Rule by aggregating all shares of the same class within a fund complex that have exchange privileges, rather than calculating the cap for each fund individually. For example, all sales charges for ''B'' shares in a fund complex and gross new sales of B shares would be aggregated to determine the remaining amount under the Rule.

Federated claimed that the current calculation methods for the transfer of remaining amount balances in share exchanges within a fund complex result in some funds being undercharged while others are overcharged. (The Investment Company Rule permits a fund either to increase its remaining amount by treating the shares received through an exchange as gross new sales and deducting the amount of such increase from the remaining amount of the fund from which shares were exchanged, or to transfer less than this maximum amount pursuant to a fund policy that is consistently applied.) Federated believes that if fund companies are permitted to aggregate the remaining amount pools for exchangeable shares, inaccuracies inherent in the current methods would be significantly reduced.

2. Amendments to the Variable Contracts Rule

a. Sales Charge Limits. The National Association for Variable Annuities (NAVA), Allstate Life Financial Services (Allstate), and New England Insurance and Investment Company (New England) strongly supported the proposed amendment to the Variable Contracts Rule to eliminate the sales charge limit for variable annuities. They viewed the specific sales charge limits in the Rule as unnecessary and inconsistent with the ''reasonableness standard'' enacted in the 1996 Amendments. NAVA described the reasonableness standard as a compromise between the SEC and the insurance industry that was intended to eliminate SEC regulation of individual charges in favor of the new comprehensive standard. Allstate believes that the intent of the 1996 Act was to eliminate specific limits on fees in favor of a reasonableness standard for aggregate fees. New England also noted that practical considerations render the fee limits in the Variable Contracts Rule ineffective because distribution expenses typically are not recovered by charging sales loads on premium payments.

b. Limitations on Sales Charges of Underlying Funds. NAVA and New England believe that sales charge limits on funds underlying variable annuities would be unnecessary and inconsistent with the 1996 Act. NAVA notes that the 1996 Act provides that for purposes of the reasonableness requirement, ''the fees and charges deducted under the contract shall include all fees and charges imposed for any purpose and in any manner.'' Allstate stated that specific limits on underlying funds should not be necessary, but NASD

Regulation should consider how insurance company issuers are administering the ''reasonableness'' requirement. The NASD has determined not to impose sales charge limits in the Investment Company Rule on funds underlying variable annuities. The Variable Contracts Rule will continue to apply exclusively to the activities of members in connection with variable contracts.

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 arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. In addition, the Commission solicits comment on whether the proposed ''grandfather provision'' relating to the prohibition on loads on reinvested dividends should become effective as of the date this proposed rule change is approved, or, rather, as of the date the proposed rule change was filed with the Commission. 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 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 Room, located at the above address. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–98–14 and should be submitted by September 8, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–21957 Filed 8–14–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40317; File No. SR–OCC–98–07]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Regarding the Short Option Adjustment as Applied to Non-Equity Options

August 11, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 10, 1998, The Options Clearing Corp. (''OCC'') 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 primarily by OCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to amend OCC's Rule 602 to modify the ''short option adjustment'' as it applies to non-equity options in OCC's margin system, the theoretical intermarket margin system (''TIMS'' or ''NEO TIMS'').[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC requires its clearing members to adjust their margin deposits with OCC in the morning on every business day based on OCC's overnight calculations. OCC imposes a margin requirement on short positions in each clearing member account and gives margin credit for unsegregated long positions.[4] Under TIMS, positions in a class group are margined based on premium levels at the close of trading on the preceding day which are then increased or decreased by the additional margin amount for that class group.[5]

TIMS calculates additional margin amounts using options price theory. TIMS first calculates the theoretical liquidating value for the positions in each class group by assuming either an increase or decrease in the market value of the underlying asset in an amount equal to the applicable margin interval. The margin interval is the maximum one price movement that OCC wants to protect against in the price of the underlying asset.[6] Margin intervals are determined separately for each underlying interest to reflect the volatility in the price of the underlying interest.

TIMS then selects the theoretical liquidating value that represents the greatest decrease (where the actual liquidating value is positive) or increase (where the actual liquidating value is negative) in liquidating value compared with the actual liquidating value based on the premium levels at the close of trading on the preceding day. The difference between that theoretical

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[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] ''TIMS'' refers to OCC's margin system as it applies to stock options and ''NEO TIMS'' refers to OCC's margin system as it applies to non-equity options.

[3] The Commission has modified the text of the summaries prepared by OCC.

[4] A long position is unsegregated for OCC's purposes if OCC has a lien on the position (*i.e.*, it has recourse to the value of the position in the event that the clearing member does not perform an obligation to OCC). Long positions in firm accounts and market-maker accounts are unsegregated. Long positions in the clearing member's customers' accounts are unsegregated only if the clearing member submits instructions to that effect in accordance with Rule 611.

[5] For purposes of NEO TIMS, a class group consists of all put and call options, certain market baskets, and commodity options and futures that are subject to margin at OCC because of a cross-margining program with a commodity clearing organization. A class group may also contain stock loan baskets and stock borrow baskets.

[6] Some combinations of positions can present a greater net theoretical liquidating value at an intermediate value than at either of the endpoint values. As a result, TIMS also calculates the theoretical liquidating value for the positions in each class group assuming intermediate market values of the underlying asset.

liquidating value and the actual liquidating value is the additional margin amount for that class group unless the class group is subject to the short option adjustment.

For net short positions [7] in deep out of the money options, little or no change in value would be predicted given a change in value of the underlying interest equal to the applicable margin interval. As a result, TIMS would calculate additional margin amounts of zero or close to zero for deep out of the money options. However, volatile markets could cause such positions to become near to or in the money and thereby could create increased risk to OCC. OCC protects against this risk with an adjustment to the additional margin calculation known as the short options adjustment.[8]

Originally, the short option adjustment calculated a minimum additional margin amount for all net short positions in an options series for which the ordinary calculation of the additional margin requirement was less than twenty-five percent of the applicable margin interval. The original methodology applied the short option adjustment to all such short option positions and did not attempt to match or pair net short positions with net long positions which would substantially reduce or eliminate the risk of such net short positions.[9] OCC concluded several years ago that this method required clearing members to deposit margin in excess of the risk presented by certain net short positions in deep out of the money options.

As a result, OCC modified the short option adjustment so that it applied only to unpaired net short positions in deep out of the money options.[10] Currently, the term unpaired is defined to mean that a net short position is not offset by a net long position on the same underlying interest. By excluding paired net short positions from the short option adjustment, OCC no longer needs to collect margin calculated pursuant to the short option adjustment for many short option positions which in fact pose little or no risk to OCC under OCC's ordinary additional margin methodology.[11]

Excluding paired net short positions from the short option adjustment reduced the overcollateralization caused by the short option adjustment. However, OCC believes that the short option adjustment still requires members to deposit margin in excess of the risk created by certain net short positions. This remaining overcollateralization occurs because Interpretation .06 to OCC Rule 602 currently provides that a net short position is unpaired unless the position is offset by a net long position in the same class group (*i.e.*, the net short and long positions have the same underlying interest). Therefore, Interpretation .06 treats a net short position as unpaired even if the net short position is offset by a net long position in a highly correlated class group. In other words, Interpretation .06 treats a net short position on an index options that is offset by a net long position on a highly correlated index option as unpaired for purposes of the short option adjustment.

To reduce this remaining overcollateralization, OCC will refine the short option adjustment logic of NEO TIMS so that it recognizes spreads between net long and short positions on underlying interests that exhibit price correlation of seventy percent or greater in addition to spreads between net long and short positions on the same underlying interests.[12] Under the proposed rule change, OCC will modify Rule 602 to provide that NEO TIMS (1) will continue to pair all net short contracts on a particular underlying interest against all net long contracts on the same underlying interest and (2) will then pair any remaining net short positions against any net long positions that remain in other class groups that exhibit seventy percent or greater price correlation.[13] Any short contracts remaining unpaired after this pairing process will be subject to the short option adjustment.[14]

Interpretation .06 currently states that those short contracts having the lowest premium margin values will be deemed to be unpaired. Premium margin value is an important criterion used by OCC to identify the excess short contracts that OCC will deem unpaired, but is not the only criterion.[15]

Under the proposed rule change, Interpretation .06 will be modified to provide that OCC will identify which of the excess short contracts will be deemed unpaired and therefore be subject to margin requirements using the short option adjustment.

OCC believes that pairing net short positions with net long positions that do not exhibit one hundred percent price correlation will create some incremental risk to OCC. However, OCC believes that this incremental risk is relatively small and that OCC's ordinary additional margin calculations should generate margin requirements sufficient to protect OCC.

OCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act [16] and the rules and regulations thereunder because it should further the public interest by eliminating overcollateralization of certain short positions in deep out of the money options where the risk of such positions is offset by long positions on a highly correlated underlying interest. OCC believes further that the proposed rule change will remove an impediment to market liquidity without reducing OCC's protection with respect to truly uncovered short positions in deep out of the money options.

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[7] A net position in an option series in an account is the position resulting from offsetting the gross unsegregated long position in that series against the gross short position in that series. After netting, an account will reflect a net short position or a net long position for each series of options held in the account.

[8] The short option adjustment for non-equity options is described in OCC Rule 602(c)(1)(ii)(C)(1).

[9] The term unpaired is defined in Interpretation .04 to Rule 601 for equity options and Interpretation .06 to Rule 602 for non-equity options.

[10] Securities Exchange Act Release No. 31682 (December 31, 1992), 58 FR 3318 [File No. SR–OCC–91–12].

[11] A pair consisting of a net short position and a net long position on the same underlying interest (*i.e.*, in the same class group) will pose no risk to OCC if the exercise price of the short position is higher (in the case of calls) or lower (in the case of puts) than the exercise price of the long position. A pair consisting of a net short position and a net long position will pose a risk to OCC consisting of the difference between the exercise prices of the short position and long position if the exercise price of the short position is lower (in the case of calls) or higher (in the case of puts) than the exercise price of the long position. However, this risk is relatively small and is not open-ended (*i.e.*, the risk cannot be greater than the difference between the two exercise prices times the applicable unit of trading or index multiplier and the number of contracts).

[12] OCC is not proposing to refine the short option adjustment in TIMS for equity options. OCC attributes a thirty percent price correlation to the class groups in the equity option product group, and the modified short option adjustment would therefore have no effect on equity options even if Interpretation .04 to Rule 601 were revised.

[13] The class groups in OCC's stock index and currency option product groups satisfy the requirement for seventy percent or greater price correlation.

[14] Commodity options and futures held in cross-margin accounts, market baskets, and stock loan and borrow baskets also will be included in the pairing process. Long calls, futures, commodity calls, market baskets, and stock loan baskets will be netted against short calls and commodity calls. Long puts, commodity puts, short futures, market baskets, and stock borrow baskets will be netted against short puts and commodity puts.

[15] Other criteria may include identifying contracts that are furthest from expiration, those that have the highest exercise price (in the case of calls) or the lowest exercise price (in the case of puts), or those that have been assigned the largest margin interval.

[16] 15 U.S.C. 78q–1(b)(3)(A).

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will have any material impact on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited by OCC with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for no finding or (ii) as to which OCC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549.

Copies of such filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–98–07 and should be submitted by September 8, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–21958 Filed 8–14–98; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 2865]

Determination on U.S. Bilateral Assistance To the Republika Srpska

Pursuant to the authority vested in me by section 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118) (''FOAA''), I hereby waive the application of section 573(a) of the FOAA in order to provide up to $7 million of U.S. bilateral assistance to reduce official debt owed to the United States of America by the government of Bosnia and Herzegovina.

I hereby determine that this assistance directly supports the implementation of the Dayton Agreement and its Annexes.

This determination shall be published in the **Federal Register**.

Dated: July 27, 1998.

Strobe Talbott,

Acting Secretary of State.

[FR Doc. 98–21768 Filed 8–14–98; 8:45 am]

BILLING CODE 4710–23–M

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Tennessee Valley Authority (Meeting No. 1507).

TIME AND DATE: 9 a.m. (CDT), August 19, 1998.

PLACE: West Tennessee Center for Agriculture Research, Extension and Public Service Assembly Room B, 605 Airways Boulevard, Jackson, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on July 15, 1998.

New Business

B—Purchase Award

B1. Increase and extension of Blanket Purchase Order No. 98P8D–220675 with Alcan Cable for aluminum conductor steel reinforced for Transmission Power Supply.

E—Real Property Transactions

E1. Grant of a 20-year public recreational easement to the Athens, Tennessee, Board of Education affecting approximately 11.73 acres of land on Watts Bar Lake in Meigs County, Tennessee (Tract No. XTWBR–138RE).

E2. Grant of permanent easement to the Meigs County Highway Department for a road affecting approximately 15.15 acres of land on Watts Bar Lake, Meigs County, Tennessee (Tract No. XTWBR–137H).

E3. Nineteen-year commercial recreation lease to John Cooper and Greg Yarbrough affecting 10.78 acres of land on Guntersville Lake, Jackson County, Alabama (Tract No. XGR–748L), for development of Wood Yard Marina and amendment of the Guntersville Reservoir Land Management Plan (Tract No. XGR–105PT) to change the allocated use from barge terminal to commercial recreation.

E4. Nineteen-year commercial recreation lease of the May Springs Recreation Area to Claudia Ann Holbrook, d/b/a Greenlee Campground, R.V. & Marine, affecting approximately 104 acres of land on Cherokee Lake in Grainger County, Tennessee (Tract No. XCK–580L).

E5. Sale of a permanent easement to D.L. Hutson for a road, affecting approximately 0.5 acre of land on Norris Lake in Campbell County, Tennessee (Tract No. XNR–904H).

Information Items

1. Approval to file condemnation cases for transmission line easements and rights-of-way for the Oneida-McCreary line in Scott County, Tennessee, and the Freeport-Miller line in DeSoto County, Mississippi.

2. Approval of Fiscal Year 1998 Performance Incentive Goals and Amendment of the Performance Incentive Plan.

3. Approval of new Labor Relations agreements between TVA and the Office and Professional Employees' International Union.

For more information: Please call TVA Public Relations at (423) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999. Dated: August 12, 1998.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 98–22126 Filed 8–13–98; 10:39 am]

BILLING CODE 8120–08–M

[17] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 49105.

Date Filed: September 1, 1993.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: September 29, 1993.

Description: Application of Allcanada Express Limited d./b/a Allcanada Express pursuant to Section 402 and Subpart Q, applies for authority to engage in charter air transportation of property and mail between any point or points in Canada and any point or points in the United States.

Docket Number: OST–1996–1327.

Date Filed: April 30, 1996.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: May 28, 1996.

Description: Application of Inter-Canadien (1991) Inc./Inter-Canadian (1991) Inc. pursuant to 49 U.S.C. Section 41301 and Subpart Q of the Regulations, applies for a foreign air carrier permit to provide scheduled and charter foreign air transportation services available to Canadian carriers pursuant to the Air Transport Agreement between the Government of Canada and the Government of the United States.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 98–21983 Filed 8–14–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Research, Engineering and Development (R,E&D) Advisory Committee

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the FAA Research, Engineering and Development Advisory Committee. The meeting will be held on September 15–16, at the Holiday Inn Rosslyn Westpark Hotel, 1900 North Fort Myer Drive, Arlington, Virginia.

On Tuesday, September 15 the meeting will begin at 9 a.m. and end at 5 p.m. On Wednesday, September 16 the meeting will begin at 8:30 a.m. and end at 12 noon.

The meeting agenda will include receiving guidance from the Committee for FAA's fiscal year 2001 research and development investments in the areas of air traffic services, airports, aircraft safety, security, human factors and environment and energy. The Committee will also receive updates on the Free Flight Phase I program and the Flight 2000 program.

Attendance is open to the interested public but limited to space available. Persons wishing to attend the meeting or obtain information should contact Lee Olson at the Federal Aviation Administration, AAR–200, 800 Independence Avenue, SW, Washington, DC 20591 (202) 267–7358. Attendance must be confirmed to receive a meeting package.

Members of the public may present a written statement to the Committee at any time.

Issued in Washington, DC on August 11, 1998.

Jan Brecht-Clark,

Deputy Director, Office of Aviation Research.

[FR Doc. 98–22006 Filed 8–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Assessment: Warwick, Rhode Island

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA, in cooperation with the Rhode Island Department of Transportation, is issuing this notice to advise the public that an Environmental Assessment (EA) will be prepared for the proposed intermodal station and airport connection project in Warwick, Rhode Island.

FOR FURTHER INFORMATION CONTACT: Ralph J. Rizzo, Transportation Planner, Federal Highway Administration, 380 Westminster Mall, Room 547, Providence, Rhode Island 02903. Telephone (401) 528–4548, or William Chuck Alves, Chief, Intermodal Transportation Planning, Rhode Island Department of Transportation, Two Capitol Hill, Room 372, Providence, Rhode Island, 02903. Telephone (401) 222–4203 ext. 4233.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Rhode Island Department of Transportation (RIDOT), will prepare an Environmental Assessment (EA) on a proposal to construct an intermodal station on the Northeast Corridor (NEC) with an airport connection to the T.F. Green Airport, located within the City of Warwick, Rhode Island. This notice is issued in the event that an Environmental Impact Statement (EIS) is required.

The proposed improvement would involve the construction of new combined commuter rail/Amtrak intermodal station with a connection to the existing T.F. Green Airport terminal. The purpose of the project is to provide a seamless intermodal link between intercity and commuter rail services on Amtrak's Northeast Corridor and T.F. Green State Airport. The need for this link arises from projected increases in passengers utilizing the airport, especially those from outside the State of Rhode Island. This intermodal link should affect a modal shift among a portion of those passengers thereby reducing future congestion on local roadways and the associated impacts to air quality and noise in the Hillsgrove area of Warwick.

Alternatives under consideration include: (1) Taking no action; (2) Construction of an intermodal station including station building with passenger waiting and ticketing facilities, passenger platforms, and an airport shuttle connection to the airport; (3) Construction of an intermodal station including station building with passenger waiting and ticketing facilities, passenger platforms, and an automated people mover connection to the airport. Additional reasonable alternatives may be identified during the scoping process.

A public scoping meeting with interested agencies and members of the public will be held on August 27, 1998 at 9:00 a.m. at the RIDOT Traffic Operations Center (TOC) Conference

Room. The meeting will continue on August 27, 1998 in Warwick, Rhode Island at the Radisson Airport Hotel, 2081 Post Road at 6:30 p.m. The second part of the scoping meeting will be preceded by a workshop to explain the components of the projects. The workshop will open at 5:00 p.m. and project planners and engineers will be in attendance to answer questions from 7–8:00 p.m. Written comments received by September 28, 1998 will be incorporated into this NEPA scoping process.

To ensure that a full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and/or questions concerning this proposed project may be presented at the August 27, 1998 scoping session or directed to FHWA and RIDOT at the addresses provided above.

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued: August 11, 1998.

Gordon G. Hoxie,

Division Administrator, Federal Highway Administration, Providence, Rhode Island.

[FR Doc. 98–21990 Filed 8–14–98; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Voluntary Intermodal Sealift Agreement (VISA)

AGENCY: Maritime Administration, DOT.

ACTION: Notice of Open Season For Enrollment in Fiscal Year (FY) 1999 VISA Program.

Introduction

The VISA program was established pursuant to section 708 of the Defense Production Act of 1950, as amended, which provides for voluntary agreements for emergency preparedness programs. After review of a one-year prototype, VISA was approved January 30, 1997, and published in the **Federal Register** on February 13, 1997 (62 FR 6837). As implemented, VISA is open to U.S.-Flag Vessel Operators of militarily useful vessels, including bareboat charter operators if satisfactory signed agreements are in place committing the assets of the owner to the bareboat charterer for purposes of VISA. By order of the Maritime Administrator on August 4, 1997, participation of U.S.-flag deepwater tug/barge Operators in VISA was encouraged. Time, voyage, and space charterers are not considered U.S.-Flag Vessel Operators for purposes of VISA eligibility.

Participation in VISA, as evidenced by a fully executed VISA Agreement with the Maritime Administration (MARAD), satisfies the requirement of section 653 of the Maritime Security Act of 1996 (P.L. 104–239) for Maritime Security Program (MSP) participants to enter into an Emergency Preparedness Agreement with the Secretary of Transportation and to receive DoD peacetime contract award priority by participation in a Emergency Preparedness Program, approved by the Secretary of Defense (SECDEF).

VISA Concept

The mission of VISA is to provide commercial sealift and intermodal shipping services and systems, including vessels, vessel space, intermodal equipment and related management services, to the Department of Defense (DoD), as necessary, to meet national defense contingency requirements or national emergencies.

VISA provides for the staged, time-phased availability of participants' shipping services/systems to meet contingency requirements through prenegotiated contracts between the Government and participants. Such arrangements will be jointly planned with MARAD, USTRANSCOM, and participants in peacetime to allow effective and best valued use of commercial sealift capacity, to provide DoD assured contingency access, and to minimize commercial disruption, whenever possible.

VISA Stages I and II provide for prenegotiated contracts between the DoD and participants to provide sealift capacity to meet all projected DoD contingency requirements. These contracts will be executed in accordance with approved DoD contracting methodologies. VISA Stage III will provide for additional capacity to the DoD when Stage I and II commitments or volunteered capacity are insufficient to meet contingency requirements, and adequate shipping services from non-participants are not available through established DoD contracting practices or U.S. Government treaty agreements.

FY 1999 VISA Enrollment Open Season

The purpose of this notice is to invite interested, qualified U.S.-Flag Vessel Operators to participate in the VISA program for FY 1999 (October 1, 1998 thru September 30, 1999). This is the first annual enrollment period since the commencement of VISA during which time participants have been enrolled in the program on an ad-hoc basis. This enrollment method was adequate during the early period of the program while the DoD VISA contracting process was under development. However, now that VISA has been fully integrated into DoD's priority for award of cargo to VISA participants, it is necessary to link the VISA enrollment cycle with DoD's peacetime cargo contracting cycle.

Existing VISA participants and new applicants are required to enroll/re-enroll for the FY 1999 VISA program as described in this Notice. This alignment of VISA enrollment and eligibility for VISA priority will solidify the linkage between commitment of contingency assets by VISA participants and receiving VISA priority consideration for award of FY 1999 DoD peacetime cargo.

It is the only planned enrollment period for carriers to join VISA and derive benefits for DoD peacetime contracts during FY 1999. The only exception to this open season period for VISA enrollment will be for a non-VISA carrier that reflags a vessel into U.S. registry. That carrier may join VISA upon completion of reflagging at any time during the fiscal year.

Advantages of Peacetime Participation

Because enrollment of carriers in VISA provides the DoD with assured access to sealift services during contingencies based on a level of commitment, as well as a mechanism for joint planning, the DoD awards peacetime cargo contracts to VISA participants on a priority basis. This applies to liner trades and charter contracts alike. Award of DoD cargoes to meet DoD peacetime and contingency requirements is made on the basis of the following priorities:

- U.S.-flag vessel capacity operated by VISA participants, and U.S.-flag Vessel Sharing Agreement (VSA) capacity held by VISA participants.
- U.S.-flag vessel capacity operated by non-participants.
- Combination U.S.-flag/foreign-flag vessel capacity operated by VISA participants, and combination U.S.-flag/foreign-flag VSA capacity held by VISA participants.
- Combination U.S.-flag/foreign-flag vessel capacity operated by non-participants.
- U.S.-owned or operated foreign-flag vessel capacity and VSA capacity held by VISA participants.
- U.S.-owned or operated foreign-flag vessel capacity and VSA capacity held by non-participants.
- Foreign-owned or operated foreign-flag vessel capacity of non-participants.

Participants

Any U.S.-Flag Vessel Operator organized under the laws of a state of the United States, or the District of Columbia, who is able and willing to commit militarily useful sealift assets and assume the related consequential risks of commercial disruption, may be eligible to participate in the VISA program. While vessel brokers and agents play an important role as a conduit to locate and secure appropriate vessels for the carriage of DoD cargo, they may not become participants in the VISA program due to lack of requisite vessel ownership or operation. Brokers and agents should encourage the carriers they represent, however, to join the program.

Commitment

Any U.S.-Flag Vessel Operator desiring to receive preference in the award of DoD peacetime contracts must commit no less than 50 percent of its total U.S.-flag militarily useful capacity in Stage III of the VISA program. A participant desiring to bid on DoD peacetime contracts will be required to provide commitment levels to meet DoD-established Stage I and/or II minimum percentages of the participant's military useful, oceangoing U.S-flag fleet capacity on an annual basis. The United States Transportation Command (USTRANSCOM) and MARAD will coordinate to ensure that the amount of sealift assets committed to Stages I and II will not have an adverse national economic impact. To minimize domestic commercial disruption, participants operating vessels in the domestic Jones Act trades are not required to commit the capacity of those U.S. domestic trading vessels to VISA Stages I and II. Overall VISA commitment requirements are based on annual enrollment.

In order to protect a U.S.-Flag Vessel Operator's market share during contingency activation, VISA allows participants to join with other vessel operators in Carrier Coordination Agreements (CCA's) to satisfy commercial or DoD requirements. VISA provides a defense against antitrust laws in accordance with section 708 of the Defense Production Act of 1950. CCA's must be submitted to MARAD for coordination with the Department of Justice for approval, before they can be utilized.

Compensation

In addition to receiving priority in the award of DoD peacetime cargo, compensation during contingency activation provides multiple methodologies that each participant may choose during enrollment which are commensurate with risk and service provided. The rate methodology determinations for liners and charters are undergoing development, but will be available for use at the commencement of the FY 1999 VISA participation period.

Enrollment

Immediately following publication of this Notice, current VISA participants will receive a re-enrollment package from the Director, Office of Sealift Support, which will also include VISA Stage III capacity calculation worksheets to review and approve. These documents must be returned to MARAD no later than August 31, 1998, to allow processing time for the October 1, 1998, commencement date of the FY 1999 VISA participation period.

New applicants may enroll by obtaining a VISA application package from the Director, Office of Sealift Support. The application package will include the February 13, 1997 VISA Agreement, instructions for completing and submitting the application, blank VISA Application forms, and a request for information regarding the operations and U.S. citizenship of the applicant in order to assist MARAD in making a determination of the applicant's eligibility. An applicant must be able to provide an affidavit that demonstrates that it is at least a citizen of the United States, for purposes of vessel documentation, within the meaning of 46 U.S.C., section 12102, and that it owns, or bareboat charters and controls, oceangoing, militarily useful vessel(s) for purposes of committing assets to VISA. New VISA applicants must return completed FY 1999 VISA application documents to MARAD not later than August 31, 1998. Once MARAD has reviewed the application and determined VISA eligibility, MARAD will sign the VISA application document which completes the eligibility phase of the VISA enrollment process; however, the applicant is not yet a VISA participant, due to the remaining requirement to enter into contingency contracts with DoD.

For the FY 1999 VISA open season, and prior to being re-enrolled in VISA, all current VISA participants and eligible new VISA applicants will be required to execute a joint Voluntary Enrollment Contract (VEC) with the DoD [Military Traffic Management Command (MTMC) and Military Sealift Command (MSC)] which will specify the participant's Stage III commitment for FY 1999. Once the VEC is completed, the applicant completes the DoD contracting process by executing a Drytime Contingency Contract (DCC) with MSC (for Charter Operators) and/or as applicable, a VISA Contingency Contract (VCC) with MTMC (for Liner Operators). Once the DoD contingency contract(s) are completed, the Maritime Administrator will confirm the participant's enrollment/re-enrollment by letter agreement, with a copy to all appropriate parties.

FOR ADDITIONAL INFORMATION AND APPLICATIONS CONTACT: Raymond Barberesi, Director, Office of Sealift Support, U.S. Maritime Administration, Room 7307, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366–2323. Fax (202) 493–2180. The full text of this **Federal Register** Notice and other information about the VISA can be found on MARAD's Internet Web Page at http://www.marad.dot.gov.

By Order of the Maritime Administrator.

Dated: August 13, 1998.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 98–22127 Filed 8–14–98; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 3911

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 3911, Taxpayer Statement Regarding Refund.

DATES: Written comments should be received on or before October 16, 1998 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 should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111

Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Taxpayer Statement Regarding Refund.

OMB Number: 1545–1384.

Form Number: Form 3911.

Abstract: Form 3911 is used by taxpayers to notify the IRS that a tax refund previously claimed has not been received. The form is normally completed by the taxpayer as the result of an inquiry in which the taxpayer claims non-receipt, loss, theft or destruction of a tax refund, and IRS research shows that the refund has been issued. The information on the form is needed to clearly identify the refund to be traced.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 520,000.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 43,160.

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: August 11, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–21953 Filed 8–14–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4996

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 4996, Electronic/Magnetic Media Filing Transmittal for Wage and Withholding Tax Returns.

DATES: Written comments should be received on or before October 16, 1998 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 should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Electronic/Magnetic Media Filing Transmittal for Wage and Withholding Tax Returns.

OMB Number: 1545–1463.

Form Number: Form 4996.

Abstract: Form 4996 is required in accordance with regulation section 31.6011(a)–8 as part of a ''composite return'' when employment tax returns are submitted electronically or magnetic media. The composite return consists of Form 4996, which identifies the specific transmission or magnetic tape and the type of tax returns being submitted, and an attachment of magnetic tape or approved media. The reporting agent signs Form 4996 and this serves as the legal signature for each return submitted.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Responses: 1,700.

Estimated Time Per Response: 6 minutes.

Estimated Total Annual Burden Hours: 170.

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: August 11, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–21954 Filed 8–14–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–54–94]

Proposed Collection; Comment Request for Regulation Project

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 an existing final regulation, PS–54–94 (TD 8668), Environmental Settlement Funds—Classification (§ 301.7701–4).

DATES: Written comments should be received on or before October 16, 1998 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 regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Environmental Settlement Funds—Classification.

OMB Number: 1545–1465.

Regulation Project Number: PS–54–94.

Abstract: This regulation provides guidance to taxpayers on the proper classification of trusts formed to collect and disburse amounts for environmental remediation of an existing waste site to discharge taxpayers' liability or potential liability under applicable environmental laws. Section 301.7701–4(e)(3) of the regulation provides that the trustee of an environmental remediation trust must furnish to each grantor a statement that shows all items of income, deduction, and credit of the trust for the taxable year attributable to the portion of the trust treated as owned by the grantor. The statement must provide the grantor with the information necessary to take the items into account in computing the grantor's taxable income.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 4 hours.

Estimated Total Annual Burden Hours: 2,000.

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: August 10, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–21955 Filed 8–14–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Citizen Advocacy Panel: Open Meeting

ACTION: Notice of open meeting of Citizen Advocacy Panel.

SUMMARY: An open meeting of the Citizen Advocacy Panel will be held in Sunrise, Florida.

DATES: The meeting will be held Friday, August 28, 1998 and Saturday, August 29, 1998.

FOR FURTHER INFORMATION CONTACT: Nancy Ferree at 1–888–912–1227, or 954–572–6231.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Citizen Advocacy Panel will be held Friday, August 28, 1998 from 6:00 pm to 9:00 pm in Room 225, CAP Office, 7771 W. Oakland Park Blvd., Sunrise, Florida 33351, and on Saturday, August 29, 1998 from 9:00 am to 12 noon at the Dan Pearl Sunrise Library conference room, 10500 W. Oakland Park Blvd., Sunrise, FL 33351. The public is invited to make oral comments from 10:00 am to 11:00 am on Saturday, August 29, 1998. If you would like to have the CAP consider a written statement, please call 1–888–912–1227 or 954–572–6231, or write Nancy Ferree, CAP Office, 7771 W. Oakland Park Blvd., Rm. 225, Sunrise, FL 33351.

Due to limited conference space, notification of intent to attend the meeting must be made with Nancy Ferree. Ms. Ferree can be reached at 1–888–912–1227 or 954–572–6231.

The agenda will include the following: Various IRS issue updates and reports by the CAP sub-groups.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: August 5, 1998.

Mary Ellen Ledger,

Designated Federal Official, Internal Revenue Service.

[FR Doc. 98–21952 Filed 8–14–98; 8:45 am]

BILLING CODE 4830–01–U

federal register

Monday
August 17, 1998

Part II

Department of Agriculture

Forest Service

36 CFR Part 242

Department of the Interior

Fish and Wildlife Service

50 CFR Part 100

Subsistence Management Regulations for Public Lands in Alaska (Subparts C and D): Subsistence Taking of Fish and Wildlife, 1999–2000; Proposed Rule

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018–AE69

Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—1999–2000; Subsistence Taking of Fish and Wildlife Regulations

AGENCIES: Forest Service, Agriculture and Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise regulations for seasons, harvest limits, methods, and means related to taking of wildlife for subsistence uses during the 1999–2000 regulatory year. The rulemaking is necessary because Subpart D is subject to an annual public review cycle. When final, this rulemaking will replace the wildlife regulations included in the ''Subsistence Management Regulations for Public Lands in Alaska, Subpart D—1998–1999 Subsistence Taking of Fish and Wildlife Regulations,'' which expire on June 30, 1999. This rule would also amend the Customary and Traditional Use Determinations of the Federal Subsistence Board (Section _____.24 of Subpart C).

DATES: The Federal Subsistence Board must receive your written public comments and proposals to change this proposed rule no later than October 23, 1998. Federal Subsistence Regional Advisory Councils (Regional Councils) will hold public meetings to receive proposals to change regulations contained in this proposed rule from September 9–October 23, 1998, at various locations in Alaska. See **SUPPLEMENTARY INFORMATION** for additional information on meetings.

ADDRESSES: You may submit written comments and proposals to the Office of Subsistence Management, 1011 E. Tudor Road, Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Thomas H. Boyd, Office of Subsistence Management; (907) 786–3888. For questions specific to National Forest System lands, contact Ken Thompson, Regional Subsistence Program Manager, USDA, Forest Service, Alaska Region, (907) 271–2540.

SUPPLEMENTARY INFORMATION:

Meeting Locations and Written Comment Procedures

The Federal Subsistence Board (Board) will hold meetings on this proposed rule at the following locations in Alaska:

Southeast Regional Council—Haines
Southcentral Regional Council—Anchorage
Kodiak/Aleutians Regional Council—King Cove
Bristol Bay Regional Council—Naknek
Yukon-Kuskokwim Delta Regional Council—Kwigillingok
Western Interior Regional Council—Allakaket or Galena
Seward Peninsula Regional Council—Nome
Northwest Arctic Regional Council—Kotzebue
Eastern Interior Regional Council—Minto or Venetie
North Slope Regional Council—Barrow

We will publish notice of specific dates, times, and meeting locations in local and statewide newspapers prior to the meetings. We may need to change locations and dates based on weather or local circumstances. The amount of work on each Regional Council's agenda will determine the length of the Regional Council meetings. We will compile and distribute for additional public review during early November 1998 the written proposals to change Subpart D hunting and trapping regulations and customary and traditional use determinations in Subpart C. A 30-day public comment period will follow distribution of the compiled proposal packet. Written public comments on distributed proposals will be accepted during the public comment period. You may present comments on published proposals to change hunting and trapping and customary and traditional use determination regulations to the Regional Councils at their winter meetings; locations, dates, and times to be announced. The Board will deliberate and take final action on proposals received that request changes to this proposed rule at a public meeting to be held in Anchorage during April 1999.

Our review of your comments would be facilitated by your providing the following information: (a) The name, address, and telephone number of the individual or organization submitting the proposal; (b) The section and/or paragraph of the proposed rule for which the change is being suggested; (c) A statement explaining why the change is necessary; (d) A proposed solution; (e) Suggested wording for the regulation addition or change; and (f) Any additional information you believe will be helpful to the Board in evaluating your proposal.

Public Review Process—Regulation Comments, Proposals, and Public Meetings

You may submit written comments or proposed regulation changes in writing to the address identified at the beginning of this rulemaking by October 23, 1998. You may also present comments or proposals at Regional Council meetings to be held from September 9–October 23, 1998.

The Board Will Not Consider Proposals for Changes Relating to Fish or Shellfish Regulations, and Changes to the Overall Program at This Time. Fish and shellfish regulations are currently extended through December 31, 1999, pending further development of a separate rulemaking process resulting from the consolidated ''Katie John'' litigation and petitions to the Secretaries regarding extended jurisdiction.

Following public distribution of proposals for changes to the 1999–2000 proposed regulations, we will provide a comment period to allow public review of those proposals that will be considered by the Board. We will also hold a second series of Regional Council meetings in February and March 1999, to assist the Regional Councils in developing recommendations to the Board. Submit written comments on proposals to the U.S. Fish and Wildlife Service before conclusion of the comment period which is presently scheduled to end on January 8, 1999. The Board will discuss and evaluate proposed changes to this rule during a public meeting scheduled to be held in Anchorage, April 1999. The public may provide additional oral testimony on specific proposals before the Board at that time.

We also invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§'' and a numbered heading; for example, §[_____.24 Customary and traditional determinations.]) (5) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the rule? What else could we do to make the rule easier

to understand. Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW, Washington, DC 20240. You may also e-mail the comments to this address: Exsec@ios.doi.gov.

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, the Departments established a Federal Subsistence Board 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. 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, a petition to the Secretaries of the Interior and Agriculture addressing jurisdiction in navigable waters, and activities in the State Legislature, 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 (1992), and for the purposes identified therein, we divide Alaska into ten subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council (Regional Council). The Regional Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Alaska pubic lands. The Regional Council members represent varied geographical, cultural, and user diversity within each region.

The Regional Councils have a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, the Council Chairs, or their designated representatives, will present their Council's recommendations at the Board meeting in April 1999.

Proposed Changes From 1998–1999 Seasons and Bag Limit Regulations

Subpart D regulations are subject to an annual cycle and require development of an entire new rule each year. Customary and traditional use determinations are also subject to an annual review process providing for modification each year. Regulations contained in this proposed rule will take effect on July 1, 1999, unless elements are changed by subsequent Board action following the public review process outlined herein.

The text of the 1998–1999 Subparts C and D Final Rule served as the foundation for the 1999–2000 Subparts C and D proposed rule. We have reworded much of the text to improve readability.

Conformance With Statutory and Regulatory Authorities

National Environmental Policy Act Compliance

The Departments distributed a Draft Environmental Impact Statement (DEIS) that described four alternatives for developing a Federal Subsistence Management Program 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 Departments published a Final Environmental Impact Statement (FEIS) 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, the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, through the U.S. Department of Agriculture-Forest Service, decided 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. As part of the FEIS process, we completed a Section 810 analysis. 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, which expires 5/31/2000. The Board may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current OMB control number.

We will achieve the collection of information through the use of the Federal Subsistence Hunt Permit Application. This collection 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. The Board may impose additional information collection requirements if Local Advisory Committees subject to the Federal Advisory Committee Act are established under Subpart B.

Economic Effects

This rule is not subject to OMB review under Executive Order 12866. Executive Order 12866 requires each agency to write regulations that are easy to understand.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires the 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. Therrefore, 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 implementation of this rule is by Federal agencies and there is no cost imposed on any State or local entities or tribal governments.

The Service has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

In accordance with Executive Order 12612, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA specifically provides for Federal management of a subsistence priority for fish and wildlife resources on Federal lands.

Drafting Information

William Knauer drafted these regulations 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 Curt Wilson, 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, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

For the reasons set out in the preamble, the Federal Subsistence Board proposes to amend Title 36, part 242, and Title 50, part 100, of the Code of Federal Regulations, 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 is proposed to continue 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 proposed to be revised to read as follows:

§_____.24 Customary and traditional use determinations.

(a) The Federal Subsistence Board has determined that rural Alaska residents of the listed communities and areas 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	Residents of Unit 1(C), 1(D), 3, and residents of Hoonah, Pelican, Point Baker, Sitka, and Tenakee Springs.
1(A)	Brown Bear	Residents of Unit 1(A) except no subsistence for residents of Hyder.
1(B)	Brown Bear	Residents of Unit 1(A), Petersburg, and Wrangell, except no subsistence for residents of Hyder.
1(C)	Brown Bear	Residents of Unit 1(C), Haines, Hoonah, Kake, Klukwan, Skagway, and Wrangell, except no subsistence for residents of Gustavus.
1(D)	Brown Bear	Residents of 1(D).
1(A)	Deer	Residents of 1(A) and 2.
1(B)	Deer	Residents of Unit 1(A), residents of 1(B), 2 and 3.
1(C)	Deer	Residents of 1(C) and (D), and residents of Hoonah, Kake, and Petersburg.
1(D)	Deer	No Federal subsistence priority.
1(B)	Goat	Residents of Units 1(B) and 3.
1(C)	Goat	Residents of Haines, Kake, Klukwan, Petersburg, and Hoonah.
1(B)	Moose	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	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	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	Goat	Residents of Unit 5(A).
5	Moose	Residents of Unit 5(A).
5	Wolf	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(A)	Goat	Residents of Unit 5(A), 6(C), Chenega Bay and Tatitlek.
6(C) and (D)	Goat	Residents of Unit 6(C) and (D).
6(A)	Moose	Unit 6(A)—Residents of Units 5(A), 6(A), 6(B) and 6(C).
6(B) and (C)	Moose	Residents of Units 6(A), 6(B) and 6(C).

Area	Species	Determination
6(D)	Moose	No Federal subsistence priority.
6(A)	Wolf	Residents of Units 5(A), 6, 9, 10 (Unimak Island only), 11–13 and the Residents of Chickaloon, and 16–26.
6, remainder	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)	Brown Bear	Residents of Pedro Bay.
9(B)	Brown Bear	Residents of Unit 9(B).
9(C) and (D)	Brown Bear	No Federal subsistence priority.
9(E)	Brown Bear	Residents of Chignik Lake, Egegik, Ivanof Bay, Perryville, and Port Heiden/Meshik.
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), & (E)	Beaver	Residents of Units 9(A), (B), (C), (E), and 17.
Unit 10 Unimak Island	Caribou	Residents of False Pass, King Cove, and Sand Point.
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, north of the Sanford River	Black Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Tazlina, Tonsina, and Units 11 and 12.
11, remainder	Black Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Tazlina, Tonsina, and Unit 11.
11, north of the Sanford River	Brown Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Tazlina, Tonsina, and Units 11 and 12.
11, remainder	Brown Bear	Residents of Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Tazlina, Tonsina, and Unit 11.
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, Glennallen, Gulkana, Mentasta Lake, Tazlina, Tonsina, and Dot Lake.
11, north of the Sanford River	Moose	Residents of Units 11, 12, and 13 (A)–(D) and the residents of Chickaloon and Dot Lake.
11, remainder	Moose	Residents of Unit 11 and Unit 13 (A)–(D) and the residents of Chickaloon.

Area	Species	Determination
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—Milepost 0–62 (McCarthy Road).
11, remainder	Sheep	Residents of the communities and areas of Chisana, Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, Mentasta Lake, Slana, McCarthy/South Wrangell/South Park, Tazlina and Tonsina; Residents along the Tok Cutoff—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 Sharp-tailed).	Residents of Units 11, 12, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
11	Ptarmigan (Rock, Willow and White-tailed).	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, Chistochina, Gakona, Mentasta Lake, and Slana.
12	Caribou	Residents of Unit 12 and residents of Dot Lake, Healy Lake, and Mentasta Lake.
12, south of a line from Noyes Mountain, southeast of the confluence of Tatschunda Creek to Nabesna River.	Moose	Residents of Unit 11 north of 62nd parallel (excluding North Slana Homestead and South Slana Homestead); and residents of Unit 12, 13(A)–(D) and the residents of Chickaloon, Dot Lake, and Healy 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 and Healy Lake.
12, remainder	Moose	Residents of Unit 12 and residents of Dot Lake, Healy Lake, and Mentasta Lake.
12	Sheep	Residents of Unit 12 and residents of Chistochina, Dot Lake, Healy Lake, and Mentasta Lake.
12	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 13	Brown Bear	Residents of Unit 13.
13(B)	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, residents of Unit 20(D) except Fort Greely, and the residents of Chickaloon.
13(C)	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, and the residents of Chickaloon, Dot Lake and Healy Lake.
13(A) & (D)	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, and the residents of Chickaloon.
13(E)	Caribou	Residents of Units 11, 12 (along the Nabesna Road), 13, and the residents of Chickaloon, 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.
13(C)	Moose	Residents of Units 12, 13 and the residents of Chickaloon and Dot Lake.
13(E)	Moose	Residents of Unit 13 and the residents of Chickaloon and 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.

Area	Species	Determination
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(B)	Black Bear	Residents of Unit 16(B).
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(A) and that portion of 17(B) draining into Nuyakuk Lake and Tikchik Lake.	Black Bear	Residents of Units 9(A) and (B), 17, and residents of Akaik and Akiachak.
17, remainder	Black Bear	Residents of Units 9(A) and (B), and 17.
17(A)	Brown Bear	Residents of Unit 17, and residents of Akiak, Akiachak, 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), that portion draining into Nuyakuk Lake and Tikchik Lake.	Brown Bear	Residents of Akaik and Akiachak.
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.
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 Holy Cross, Stebbins, St. Michael, Twin Hills, 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.

Area	Species	Determination
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. Marys, 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) and (B)	Brown Bear	Residents of Units 19 and 18 within the Kuskokwim River drainage upstream from, and including, the Johnson River.
19(C)	Brown Bear	No Federal subsistence priority.
19(D)	Brown Bear	Residents of Units 19(A) and (D), and residents of Tulusak and Lower Kalskag.
19(A) and (B)	Caribou	Residents of Units 19(A) and 19(B), residents of Unit 18 within the Kuskokwim River drainage upstream from, and including, the Johnson River, and residents of St. Marys, Marshall, Pilot Station, Russian Mission.
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)	Caribou	Residents of Cantwell, Nenana, and those domiciled between milepost 216 and 239 of the Parks Highway. No subsistence priority for residents of households of the Denali National Park Headquarters.
20(B)	Caribou	Residents of Unit 20(B), Nenana, and Tanana.
20(C)	Caribou	Residents of Unit 20(C) living east of the Teklanika River, residents of Cantwell, Lake Minchumina, Manley Hot Springs, Minto, Nenena, Nikolai, Tanana, Talida, and those domiciled between milepost 216 and 239 of the Parks Highway and between milepost 216 and 239 of the Parks Highway and between milepost 300 and 309. No subsistence priority for residents of households of the Denali National Park Headquarters.
20(D) and (E)	Caribou	Residents of 20(D), 20(E), and Unit 12 north of the Wrangell-St. Elias National Park and Preserve.
20(F)	Caribou	Residents of 20(F), 25(D), and Manley.
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—residents of Unit 20(B), and residents of Nenana and Tanana.

Area	Species	Determination
20(C)	Moose	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	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	Residents of Units 21 and 23.
21(A)	Caribou	Residents of Units 21(A), 21(D), 21(E), Aniak, Chuathbaluk, Crooked Creek, McGrath, and Takotna.
21(B) & (C)	Caribou	Residents of Units 21(B), 21(C), 21(D), and Tanana.
21(D)	Caribou	Residents of Units 21(B), 21(C), 21(D), and Huslia.
21(E)	Caribou	Residents of Units 21(A), 21(E) and Aniak, Chuathbaluk, Crooked Creek, McGrath, and Takotna.
21(A)	Moose	Residents of Units 21(A), (E), Takotna, McGrath, Aniak, and Crooked Creek.
21(B) and (C)	Moose	Residents of Units 21(B) and (C), Tanana, Ruby, and Galena.
21(D)	Moose	Residents of Units 21(D), 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. Marys, 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	Black Bear	Residents of Unit 23, Alatna, Allakaket, Bettles, Evansville, Galena, Hughes, Huslia, and Koyukuk.
23	Brown Bear	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.

Area	Species	Determination
23, remainder	Muskox	Residents of Unit 23 east and north of the Buckland River drainage.
23	Sheep	Residents of Point Lay and 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.
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, 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)	Black Bear	Residents of Unit 25 (D).
25, remainder	Brown Bear	No Federal subsistence priority.
25(D)	Caribou	Residents of 20(F), 25(D), and Manley.
25(A)	Moose	Residents of Units 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, Anaktuvuk Pass and Point Hope.
26(B)	Caribou	Residents of Unit 26, Anaktuvuk Pass, Point Hope, and Wiseman.
26(C)	Caribou	Residents of Unit 26, 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, Anaktuvuk Pass, 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.

Area	Species	Determination
Kotzebue District	Salmon	Residents of Kotzebue District.
NORTON SOUND-PORT CLARENCE AREA	Salmon	Residents of Norton Sound-Port Clarence Area.
YUKON AREA	Salmon	Residents of the Yukon Area, including the community of Stebbins.
	Yukon River Fall chum salmon.	Residents of the Yukon River drainage, including the communities of Stebbins, Scammon Bay, Hooper Bay, and Chevak.
	Freshwater fish species, including sheefish, whitefish, lamprey, burbot, sucker, grayling, pike, char, and blackfish.	Residents of the Yukon Area.
KUSKOKWIM AREA	Salmon	Residents of the Kuskokwim Area, except those persons residing on the United States military installation located on Cape Newenham, Sparevohn USAFB, and Tatalina USAFB.
	Rainbow trout	Residents of the communities of Quinhagak, Goodnews Bay, Kwethluk, Eek, Akiak, and Platinum.
	Pacific cod	Residents of the communities of Chevak, Newtok, Tununak, Toksook Bay, Nightmute, Chefornak, Kipnuk, Mekoryuk, Kwigillingok, Kongiganak, Eek, and Tuntutuliak.
Waters adjacent to the western- most tip of the Naskonant Peninsula and the terminus of the Ishowik River and around Nunivak Island.	Herring and herring roe	Residents within 20 miles of the coast between the westernmost tip of the Naskonant Peninsula and the terminus of the Ishowik River and on Nunivak Island.
BRISTOL BAY AREA—Nushagak District, including drainages flowing into the district.	Salmon	Residents of the Nushagak District and freshwater drainages flowing into the district.
Naknek-Kvichek District—Naknek River drainage	Salmon	Residents of the Naknek and Kvichek 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, which is 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 Imuya 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.
KOKIAK 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 Islands, 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 village of Tatitlek and Ellamar.
YAKUTAK 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 of Point Manby.	Dolly Varden char, steelhead trout, and smelt.	Residents of the area east of Yakutat Bay, including the islands within Yakutat Bay, west of the Situk River drainage, and south of and including Knight Island.
SOUTH-EASTERN ALASKA AREA—District 1—Section 1–E in waters of the Naha River and Roosevelt Lagoon.	Salmon and Dolly Varden char.	Residents of the City of Saxman.
District 1—Section 1–F in Boca de Quadra in waters of Sockeye Creek and Hugh Smith Lake within 500 yards of the terminus of Sockeye Creek.	Salmon and Dolly Varden char.	Residents of the City of Saxman.
District 2—north of the latitude of the northern-most tip of Chasina Point and west of a line from the northern-most tip of Chasina Point to the eastern-most tip of Grindall Island to the eastern-most tip of the Kasaan Peninsula.	Salmon and Dolly Varden char.	Residents of the City of Kasaan and 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.

Area	Species	Determination
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	Samon 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 proposed to be revised effective July 1, 1999, through June 30, 2000, 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, elk, or moose.

Antlered means any caribou, deer, elk, or moose having at least one visible antler.

Antlerless means any caribou, deer, elk, 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, elk, 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, elk, 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 means 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 in this paragraph (a), or regulated under other Federal law as listed in paragraph (i) of this section.

Ungulate means any species of hoofed mammal, including deer, caribou, elk, 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) Hunters may take wildlife 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, elk, 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 to take ungulates, bear, wolf, or wolverine in any area restricted to hunting by bow and arrow only;

(xiii) Taking of ungulates, bear, wolf, or wolverine with a bow, unless the bow is capable of casting a ⅞ 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, you may use bait to take wolves and wolverine with a trapping license, and, you may use bait 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) Before establishing a black bear bait station, you must register the site with ADF&G;

(B) When using bait you must clearly mark the site with a sign reading ''black bear bait station'' that also displays your hunting license number and ADF&G assigned number;

(C) You may use only biodegradable materials for bait; you may use only the head, bones, viscera, or skin of legally harvested fish and wildlife for bait;

(D) You may not use bait within one-quarter mile of a publicly maintained road or trail;

(E) You may not 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) When using bait, you must remove litter and equipment from the bait station site when done hunting;

(G) You may not give or receive payment for the use of a bait station, including barter or exchange of goods;

(H) You may not have more than two bait stations with bait present at any one time;

(xv) Taking swimming ungulates, bears, 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 you may disturb a muskrat pushup or feeding house 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 you may use firearms 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, you may not take a species of wildlife in any Unit, or portion of a Unit, if your 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 if you have taken a harvest limit for a particular species under a trapping season, you 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) You may not 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, you may not 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, you may not 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, you may not possess or transport the moose carcass or its parts unless both antlers accompany the carcass or its parts. If you possess a set of antlers with less than the required number of brow tines on one antler, you must 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.

(11) You must leave all edible meat from caribou and moose harvested in Units 9(B), 17, and 19(B) prior to October 1 on the bones of the front quarters and hind quarters until you remove the meat from the field or process it for human consumption.

(d) If you take an animal that has been marked or tagged for scientific studies, you 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. You also must retain any ear tag, collar, radio, tattoo, or other identification with the hide until it is sealed, if sealing is required; in all cases, you must return any identification equipment to the ADF&G or to an agency identified on such equipment.

(e) Sealing of bear skins and skulls. (1) Sealing requirements for bear shall apply to brown bears taken in all Units, except as specified in this paragraph, and black bears of all color phases taken in Units 1–7, 11–17, and 20.

(2) You may not 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) You must keep a bear 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, you may not 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, you must first have it 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 you remove the skin or skull of a bear taken in the Northwestern Alaska Brown Bear Management Area from the area or present it for commercial tanning within the Management Area, you must be first have it sealed by an ADF&G representative in Barrow, Fairbanks, Galena, Nome, 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 you remove the skin or skull of a bear taken in Unit 5 from the area, you must first have it 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) You may not 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. You may not 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) You must seal any wolf taken in Unit 2 on or before the 30th day after the date of taking.

(2) You must leave the radius and ulna of the left foreleg 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) You may not 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, you may not

use the breast meat of grouse and ptarmigan as animal food or bait;

(iv) Unclassified wildlife.

(2) If you take wildlife for subsistence, you must 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) You must salvage the edible meat of ungulates, bear, grouse and ptarmigan.

(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. 1091, 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. You may take for subsistence unclassified wildlife, all squirrel species, and marmots in all Units, without harvest limits, for the period of July 1-June 30. You may not take for subsistence wildlife outside established Unit seasons, or in excess of the established Unit harvest limits, unless otherwise provided for by the Board. You may take wildlife under State regulations on public lands, 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*) You may not hunt within one-fourth mile of Mendenhall Lake, the U.S. Forest Service Mendenhall Glacier Visitor's Center, and the Center's parking area;

(*2*) You may not take mountain goat in 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;

(vi) You may not trap furbearers for subsistence uses in Unit 1(C), Juneau area, 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) You may hunt black bear with bait in Units 1(A), 1(B), and 1(D) between April 15 and June 15;

(B) You may not use boats to take ungulates, bear, wolves, or wolverine, unless you are certified as disabled;

(C) You may take 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, if:

(*1*) The person organizing the religious ceremony, or designee, contacts 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, and 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.
Unit 1(C)—remainder—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.
Unit 1(D)—remainder—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)—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.
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 only.	Sept. 15–Oct. 15.
Unit 1(C)—remainder, 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.
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) You may use bait to hunt black bear between April 15 and June 15;

(B) You may not use boats to take ungulates, bear, wolves, or wolverine, unless you are certified as disabled;

(C) You may take 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, if:

(*1*) The person organizing the religious ceremony, or designee, contacts 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, and 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 by Federal 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	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.
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, you may not take ungulates, bear, wolves, and wolverine along a strip one-fourth mile wide on each side of the Mitkof Highway from Milepost 0 to Crystal Lake campground;

(B) You may not take black bears in the Petersburg Creek drainage on Kupreanof Island;

(C) You may not hunt in the 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.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may not use boats to take ungulates, bear, wolves, or wolverine, unless you are certified as disabled;

(C) You may take 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, if:

(*1*) The person organizing the religious ceremony, or designee, contacts 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, and 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.
Unit 3—remainder—2 antlered deer	Aug 1.–Nov. 30.
Moose: 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.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe and Tundra): 5 hares per day	Sept. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: 5 wolves	Aug. 1–Apr. 30.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1–May 15.
TRAPPING	
Beaver:	
Unit 3—Mitkof Island—No limit	Dec. 1–Apr. 15.
Unit 3—except Mitkof Island—No limit	Dec. 1–May 15.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
Marten: No limit	Dec. 1–Feb. 15.
Mink and Weasel: No limit	Dec. 1–Feb. 15.
Muskrat: No limit	Dec. 1–Feb. 15.
Otter: No limit	Dec. 1–Feb. 15.
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) You may not take bears in 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;

(B) You may not take bears in the Salt Lake Closed Area (Admiralty Island) including all lands within one-fourth mile of Salt Lake above Klutchman Rock at the head of Mitchell Bay;

(C) You may not take brown bears in the Port Althorp Closed Area (Chichagof Island), that area within the Port Althorp watershed south of a line from Point Lucan to Salt Chuck Point (Trap Rock);

(D) You may not use any motorized land vehicle for brown bear hunting in the 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.

(E) You may not use any motorized land vehicle for the taking of marten, mink, and weasel on Chichagof Island.

(iii) Unit-specific regulations:

(A) You may not use boats to take bear, wolves, or wolverine, unless you are 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) You may take 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, if:

(*1*) The person organizing the religious ceremony, or designee, contacts 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, and 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.

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.
Unit 4—remainder—1 bear every four regulatory years by State registration permit only	Sept. 15–Dec. 31. Mar. 15–May 20.
Deer: 6 deer; however, antlerless deer may be taken only from Sept. 15–Jan. 31	Aug. 1–Jan. 31.
Goat: 1 goat by State registration permit only	Aug. 1–Dec. 31.
Coyote: 2 coyotes.	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases): 2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe and Tundra): 5 hares per day	Sept. 1–Apr. 30.
Lynx: 2 lynx	Dec. 1–Feb. 15.
Wolf: 5 wolves	Aug. 1–Apr. 30.
Wolverine: 1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): 5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 1.–May 15.
TRAPPING	
Beaver:	
Unit 4—that portion east of Chatham Strait—No limit	Dec. 1–May 15.
Remainder of Unit 4	No open season.
Coyote: No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases): No limit	Dec. 1–Feb. 15.
Lynx: No limit	Dec. 1–Feb. 15.
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) You may not take wildlife for subsistence uses on public lands within Glacier Bay National Park.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may not use boats to take ungulates, bear, wolves, or wolverine, except for persons certified as disabled;

(C) You may hunt brown bear in Unit 5 with a Federal registration permit in lieu of a State metal locking tag; if you have obtained a Federal registration permit prior to hunting;

(D) You may take 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, if:

(*1*) The person organizing the religious ceremony, or designee, contacts 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, and 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 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: 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) You may not take mountain goat in 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;

(B) You may not take mountain goat in 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.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may take coyotes 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.

Harvest limits	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.
Unit 6(C)—remainder—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.
Unit 6(C)—remainder—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–Feb. 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.

(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) You may not take wildlife for subsistence uses in the Kenai Fjords National Park;

(B) You may not hunt in 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; however, you may hunt grouse, ptarmigan, hares, and squirrels with shotguns after September 1.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15; except in the drainages of 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–Feb. 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: No limit	Nov. 10–Feb. 28.
Wolf: No limit	Nov. 10–Feb. 28.

Harvest limits	Open season
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) If you have a trapping license, you may take beaver with a firearm 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–Jan. 31.	Aug 1.–Jan 31.
Unit 8—remainder—5 deer; however, antlerless deer may be taken only from Oct. 1–Jan. 31; no more than 1 antlerless deer may be taken from Oct. 1–Nov. 30.	Aug. 1–Jan. 31.
Elk: Afognak Island above mean high tide—1 elk per household by Federal registration permit only; only 1 elk in possession for each two hunters in a party. Entry for elk hunting shall be from marine waters only.	Sept. 1–Sept. 25
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) You may not take wildlife for subsistence uses in Katmai National Park;

(B) You may not use motorized vehicles, except aircraft, boats, or snowmobiles used for hunting and transporting a hunter or harvested animal parts 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, you may use 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) If you have a trapping license, you may use a firearm 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, residents of Nondalton, Iliamna, Newhalen, Pedro Bay, and Port Alsworth, 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) Residents of Newhalen, Nondalton, Iliamna, Pedro Bay, and Port Alsworth may take up to a total of 10 bull moose in Unit 9(B) for ceremonial purposes, under the terms of a Federal

registration permit from July 1 through June 30. Permits will be issued 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), remainder—1 bear by State registration permit only	Sept. 1–May 31.
Unit 9(E)—1 bear by Federal registration permit	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—closed to all hunting of caribou.	No open season.
Unit 9(E)—remainder—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 bull	Sept. 1–Sept. 15.
Unit 9(B)—1 bull	Aug. 20–Sept. 15. Dec. 1–Dec. 31.
Unit 9(C)—that portion draining into the Naknek River from the north—1 bull	Sept. 1–Sept. 15. Dec. 1–Dec. 31.
Unit 9(C)—that portion draining into the Naknek River from the south—1 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.	Aug. 20–Sept. 15. Dec. 1–Dec. 31.
Unit 9(C)—remainder—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 bull	Sept. 1–Sept. 20. Dec. 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.
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.
Unit 9—remainder—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) You may not take any wildlife species for subsistence uses on Otter Island in the Pribilof Islands.

Harvest limits	Open season
HUNTING	
Caribou:	

Harvest limits	Open season
Unit 10—Unimak Island only	No open season.
Unit 10—remainder—No limit	July 1–June 30.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
TRAPPING	
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sept. 1–Feb. 15.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(11) *Unit 11.* Unit 11 consists of that area draining into the headwaters of the Copper River south of Suslota Creek and the area drained by all tributaries into the east bank of the Copper River between the confluence of Suslota Creek with the Slana River and Miles Glacier.

(i) Unit-specific regulations:

(A) You may use bait 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	No open season.
Sheep:	
1 sheep	Aug. 10–Sept. 20.
1 sheep by Federal registration permit only by persons 60 years of age or older. No designated hunter permits will be issued for this hunt.	Sept. 21–Oct. 20.
Goat: Unit 11—that portion within the Wrangell-St. Elias National Park and Preserve—1 goat by Federal registration permit only. Federal public lands will be closed to the harvest of goats when a total of 45 goats have been harvested between Federal and State hunts.	Aug. 25–Dec. 31.
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–Feb. 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) You may use bait to hunt black bear between April 15 and June 30;

(B) You may not use a steel trap, or a snare using cable smaller than $\frac{3}{32}$ inch diameter to trap wolves in Unit 12 during April and October;

(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.
Brown Bear: 1 bear	Aug. 10–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.
Unit 12—remainder—1 bull	Sept. 1–Sept. 20.
1 bull caribou may be taken by a Federal registration permit during a winter season to be announced	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 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 and 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. 1–Feb. 15.
Marten: No limit	Nov. 1–Feb. 28.
Mink and Weasel: No limit	Nov. 1–Feb. 28.
Muskrat: No limit	Sept. 20–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf: No limit	Oct. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Feb. 28.

(13) *Unit 13.* (i) Unit 13 consists of that area westerly of the east bank of the Copper River and drained by all tributaries into the west bank of the Copper River from Miles Glacier and including the Slana River drainages north of Suslota Creek; the drainages into the Delta River upstream from Falls Creek and Black Rapids Glacier; the drainages into the Nenana River upstream from the southeast corner of Denali National Park at Windy; the drainage into the Susitna River upstream from its junction with the Chulitna River; the drainage into the east bank of the Chulitna River upstream to its confluence with Tokositna River; the drainages of the Chulitna River (south of Denali National Park) upstream from its confluence with the Tokositna River; the drainages into the north bank of the Tokositna River upstream to the base of the Tokositna Glacier; the drainages into the Tokositna Glacier; the drainages into the east bank of the Susitna River between its confluences with the Talkeetna and Chulitna Rivers; the drainages into the north bank of the Talkeetna River; the drainages into the east bank of the Chickaloon River; the drainages of the Matanuska River above its confluence with the Chickaloon River:

(A) Unit 13(A) consists of that portion of Unit 13 bounded by a line beginning at the Chickaloon River bridge at Mile 77.7 on the Glenn Highway, then along the Glenn Highway to its junction with the Richardson Highway, then south along the Richardson Highway to the foot of Simpson Hill at Mile 111.5, then east to the east bank of the Copper River, then northerly along the east bank of the Copper River to its junction with the Gulkana River, then northerly along the west bank of the Gulkana River to its junction with the West Fork of the Gulkana River, then westerly along the west bank of the West Fork of the Gulkana River to its source, an unnamed lake, then across the divide into the Tyone River drainage, down an unnamed stream into the Tyone River, then down the Tyone River to the Susitna River, then down the southern bank of the Susitna River to the mouth of Kosina Creek, then up Kosina Creek

to its headwaters, then across the divide and down Aspen Creek to the Talkeetna River, then southerly along the boundary of Unit 13 to the Chickaloon River bridge, the point of beginning;

(B) Unit 13(B) consists of that portion of Unit 13 bounded by a line beginning at the confluence of the Copper River and the Gulkana River, then up the east bank of the Copper River to the Gakona River, then up the Gakona River and Gakona Glacier to the boundary of Unit 13, then westerly along the boundary of Unit 13 to the Susitna Glacier, then southerly along the west bank of the Susitna Glacier and the Susitna River to the Tyone River, then up the Tyone River and across the divide to the headwaters of the West Fork of the Gulkana River, then down the West Fork of the Gulkana River to the confluence of the Gulkana River and the Copper River, the point of beginning;

(C) Unit 13(C) consists of that portion of Unit 13 east of the Gakona River and Gakona Glacier;

(D) Unit 13(D) consists of that portion of Unit 13 south of Unit 13(A);

(E) Unit 13(E) consists of the remainder of Unit 13.

(ii) Within the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. 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) You may not use motorized vehicles or pack animals for hunting from Aug. 5–Aug. 25 in the Delta Controlled Use Area, the boundary of which is defined as: a line beginning at the confluence of Miller Creek and the Delta River, then west to vertical angle bench mark Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 Richardson Highway, then north along the Richardson Highway to its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head of the Cantwell Glacier, then west along the north bank of the Cantwell Glacier and Miller Creek to the Delta River;

(C) Except for access and transportation of harvested wildlife on Sourdough and Haggard Creeks, Meiers Lake trails, or other trails designated by the Board, you may not use 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) You may use bait 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: 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. Oct. 21–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–Feb. 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) You may not take wildlife for subsistence uses in the Fort Richardson and Elmendorf Air Force Base Management Areas, consisting of the Fort Richardson and Elmendorf Military Reservation;

(B) You may not take wildlife for subsistence uses in the Anchorage Management Area, consisting of all drainages south of Elmendorf and Fort Richardson military reservations and north of and including Rainbow Creek.

(iii) Unit-specific regulations:

Harvest limits	Open season
HUNTING	
Black Bear: Unit 14(C)—1 bear	July 1–June 30.
Coyote: Unit 14(C)—2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): Unit 14(C)—2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe and Tundra): Unit 14(C)—5 hares per day	Sept. 8–Apr. 30.
Lynx: Unit 14(C)—2 lynx	Dec. 15–Jan. 15.
Wolf: Unit 14(C)—5 wolves	Aug. 10–Apr. 30.
Wolverine: Unit 14(C)—1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): Unit 14(C)—5 per day, 10 in possession	Sept. 8–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed): Unit 14(C)—10 per day, 20 in possession	Sept. 8–Mar. 31.
TRAPPING	
Beaver: 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(C)—No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases): Unit 14(C)—1 fox	Nov. 10–Feb. 28.
Lynx: Unit 14(C)—No limit	Dec. 15–Jan. 15.
Marten: Unit 14(C)—No limit	Nov. 10–Jan. 31.
Mink and Weasel: Unit 14(C)—No limit	Nov. 10–Jan. 31.
Muskrat: Unit 14(C)—No limit	Nov. 10–May 15.
Otter: Unit 14(C)—No limit	Nov. 10–Feb. 28.
Wolf: Unit 14(C)—No limit	Nov. 10–Feb. 28.
Wolverine: Unit 14(C)—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) You may not take wildlife, except for grouse, ptarmigan, and hares that may be taken only from October 1–March 1 by bow and arrow only, in 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.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 15;

(B) You may not trap furbearers for subsistence in the Skilak Loop Wildlife Management Area;

(C) You may not trap marten in that portion of Unit 15(B) east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier;

(D) You may not take red fox in Unit 15 by any means other than a steel trap or snare;

(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.

Harvest limits	Open season
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: No limit	Jan. 1–Feb. 15.
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) You may not take wildlife for subsistence uses in the Mount McKinley National Park, as it existed prior to December 2, 1980. 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) You may use bait 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.
Unit 16(B)—remainder—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.

Harvest limits	Open season
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 legal hunting camps, you may not use any motorized vehicle for hunting ungulates, bears, wolves, and wolverine, including transportation of hunters and parts of ungulates, bear, wolves or wolverine in the Upper Mulchatna Controlled Use Area consisting of Unit 17(B), from Aug. 1–Nov. 1;

(B) You may hunt brown bear by State registration permit in lieu of a resident tag in 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, if you have obtained a State registration permit prior to hunting.

(iii) Unit-specific regulations:

(A) You may use bait 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—1 bear by State registration permit only	Sept. 1–May 31.
Caribou:	
Unit 17(A) and (C)—that portion of 17(A) and (C) consisting of the Nushagak Peninsula south of the Igushik River, Tuklung River and Tuklung Hills, west to Tvativak Bay—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–Sept. 30. 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(A)	No open season.
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. 15 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. 15.
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. 15 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. 15.
Unit 17(A)—remainder and 17(C)—remainder—1 bull by State registration permit only during the periods Aug. 20–Aug. 31 and Dec. 1–Dec. 31. During the period Sept. 1–Sept. 15 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. 15. Dec. 1–Dec. 31.
Coyote: 2 coyotes.	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase): No limit	Dec. 1—Mar. 15.
Fox, Red (including Cross, Black and Silver Phases): 2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 10–Feb. 28.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
TRAPPING	
Beaver: Unit 17—40 beaver per season	Nov. 10–Feb. 28.
Coyote: No limit	Nov. 10–Mar. 31.

Harvest limits	Open season
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–Feb. 28.
Mink and Weasel: No limit	Nov. 10–Feb. 28.
Muskrat: 2 muskrats	Nov. 10–Feb. 28.
Otter: No limit	Nov. 10–Feb. 28.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Feb. 28.

(18) *Unit 18.* (i) Unit 18 consists of that area draining into the Yukon and Kuskokwim Rivers downstream from a straight line drawn between Lower Kalskag and Paimiut and the drainages flowing into the Bering Sea from Cape Newenham on the south to and including the Pastolik River drainage on the north; Nunivak, St. Matthew, and adjacent islands between Cape Newenham and the Pastolik River.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) In 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, you may not use 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) You may hunt brown bear by State registration permit in lieu of a resident tag in 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, if you have obtained a State registration permit prior to hunting.

(iii) Unit-specific regulations:

(A) If you have a trapping license, a firearm may be used to take beaver 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 by State registration permit only	Sept. 1–May 31.
Caribou:	
Unit 18—that portion south of the Yukon River—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.
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—south of and including the Kanektok River drainages	No 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.
Unit 18—remainder—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 Federally-qualified rural Alaska residents 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.

Harvest limits	Open season
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) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. 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) In 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, you may not 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) You may hunt brown bear by State registration permit in lieu of a resident tag in 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, if you have obtained a State registration permit prior to hunting.

(iii) Unit-specific regulations:

(A) You may use bait 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)—those portions which are downstream of and including the Aniak River drainage—1 bear	Sept. 1–May 31.
Unit 19(A)—remainder, 19(B)—remainder, and Unit 19(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.
Unit 19(D)—remainder—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:	

Harvest limits	Open season
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.
Unit 19(A)—remainder—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(C)—1 bull by State registration permit	Jan. 15–Feb. 15.
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.
Unit 19(D)—remainder—1 antlered bull	Sept. 1–Sept. 30. Dec. 1–Dec. 15.
Coyote: 2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra): No limit	July 1–June 30.
Lynx: 2 lynx	Nov. 1–Feb. 28.
Wolf: 5 wolves	Aug. 10–Apr. 30.
Wolverine: 1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–Apr. 30.
TRAPPING	
Beaver: No limit	Nov. 1–Jun. 10.
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–Apr. 30.
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) You may not take wildlife for subsistence uses on lands within Mount McKinley National Park as it existed prior to December 2, 1980. 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) You may not use motorized vehicles or pack animals for hunting 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) You may not use motorized vehicles, except aircraft and boats, and to licensed highway vehicles, snowmobiles, and firearms except as provided below in 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. The use of snowmobiles is authorized only for the subsistence taking of wildlife by residents living within the Dalton Highway Corridor Management Area. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. Only the residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor;

(D) You may not use any motorized vehicle for hunting from August 5–September 20 in 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; however, this does not prohibit motorized access via, or transportation of harvested wildlife on, the Taylor Highway or any airport;

(E) You may by permit only hunt moose on 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;

(F) You may hunt moose by bow and arrow only in 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.

(iii) Unit-specific regulations:

(A) You may use bait to hunt black bear between April 15 and June 30;

(B) You may not use a steel trap, or a snare using cable smaller than 3/32 inch diameter to trap wolves in Unit 20(E) during April and October;

(C) Residents of Unit 20 and 21 may take up to three moose per regulatory year 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(E)—1 bear	Aug. 10–June 30.
Unit 20–remainder—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. 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)—remainder—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.
Unit 20(C)—remainder—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 within Yukon Charley National Preserve—1 bull	Aug. 20–Sept. 30.

Harvest limits	Open Season
Unit 20(E)—that portion drained by the Ladue, Sixty-mile, and Forty-mile Rivers (all forks) from Mile 9½ to Mile 145 Taylor Highway, including the Boundary Cutoff Road—1 antlered bull; 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.
Unit 20(F)—that portion within the Dalton Highway Corridor Management Area—1 antlered bull by Federal registration permit only.	Sept. 1–Sept. 25.
Unit 20(F)—remainder—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.
Unit 20—remainder—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. 1–Feb. 15.
Unit 20(F) and the remainder of 20(C)—No limit	Nov. 1–Feb. 28.
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.
Unit 20—remainder—No limit	Nov. 1–June 10.
Otter: No limit	Nov. 1–Apr. 15.
Wolf:	
Unit 20(E)—No limit	Oct. 1–Apr. 30.
Unit 20—remainder—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 drainage upstream 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) You may use bait to hunt black bear between April 15 and June 30;

(B) If you have a trapping license, you may use a firearm to take beaver in Unit 21(E) from Apr. 1–June 1;

(C) The residents of Unit 20 and 21 may take up to three moose per regulatory year 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 residents of Unit 21 may take up to three moose per regulatory year 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)—1 caribou	Aug. 10–Sept. 30. Dec. 10–Dec. 20.
Unit 21(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—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 within the Koyukuk Controlled Use Area.	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: No limit	Nov. 1–June 10.
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–Apr. 30.
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) You may hunt brown bear by State registration permit in lieu of a resident tag in the Northwest Alaska Brown Bear Management Area, which consists of Unit 22, except 22(C), those portions of Unit 23, except the Baldwin Peninsula north of the Arctic Circle, Unit 24, and Unit 26(A), if you have 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) If you have a trapping license, you may use a firearm to take beaver 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 State registration permit by residents of Unit 22(A) only	Sept. 1–May 31.
Unit 22(B)—1 bear by State registration permit by residents of Unit 22(B) only	Sept. 1–May 31.
Unit 22(C)	No open season.
Unit 22—remainder—1 bear by State registration permit	Sept. 1–May 31.
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 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)—that portion within the Kuzitrin River drainage—1 antlered bull	Aug. 1–Jan. 31.
Unit 22(D)—remainder—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)—1 bull by Federal registration permit or State Tier II permit. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users. Twelve Federal permits may be issued in conjunction with the State Tier II hunt; the combined total of Federal and State permits will not exceed 36 permits. Six Federal permits will be issued for National Park Service lands and six for Bureau of Land Management lands.	Aug. 1–Mar. 15.
Unit 22(E)—1 bull by Federal registration permit or State Tier II permit. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users. Nine Federal permits may be issued in conjunction with the State Tier II hunt; the combined total of Federal and State permits will not exceed 18 permits.	Aug. 1–Mar. 15.
Unit 22—remainder	No open season.
Beaver:	
Unit 22(A), (B), (D), and(E)—50 beaver	Nov. 1–June 10.
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.
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: 3 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffled, 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

Harvest limits	Open season
TRAPPING	
Beaver:	
Unit 22(A), (B), (D), and (E)—50 beaver	Nov. 1–June 10.
Unit 22(C)	No open season.
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) You may not use aircraft in any manner either for hunting of ungulates, bear, wolves, or wolverine, or for transportation of hunters or harvested species in 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. 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) You may hunt brown bear by State registration permit in lieu of a resident tag in the Northwest Alaska Brown Bear Management Area, which consists of Unit 22, except 22(C), those portions of Unit 23, except the Baldwin Peninsula north of the Arctic Circle, Unit 24, and Unit 26(A); if you have 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) You may take caribou from a boat under power in Unit 23;

(B) You may take swimming caribou with a firearm using rimfire cartridges;

(C) If you have a trapping license, you may take beaver with a firearm 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.
Unit 23—remainder—1 bear every four regulatory year.	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.
Unit 23—remainder—1 ram with 7/8 curl horn or larger	Aug. 10–Sept. 20.
Unit 23—remainder—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.
Unit 23—remainder—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 or State Tier II permit. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users. Eight Federal permits may be issued in conjunction with the State Tier II hunt; the combined total of Federal and State permits will not exceed 10 permits.	Aug. 1–Mar. 15.
Unit 23—remainder	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.

Harvest limits	Open season
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.
Unit 23—remainder—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) You may not use motorized vehicles, except aircraft and boats, and licensed highway vehicles, snowmobiles, and firearms in 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, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor is authorized only for subsistence taking of wildlife;

(B) You may not use aircraft for hunting moose, including transportation of any moose hunter or moose part in 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; 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) You may not use aircraft for hunting moose, including transportation of any moose hunter or moose part in 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; 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) You may hunt brown bear by State registration permit in lieu of a resident tag in the Northwest Alaska Brown Bear Management Area, which consists of Unit 22, except 22(C), those portions of Unit 23, except the Baldwin Peninsula north of the Arctic Circle, Unit 24, and Unit 26(A), if you have obtained a State registration permit prior to hunting. You may not use aircraft 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) You may use bait 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:	

Harvest limits	Open season
Unit 24—(Anaktuvuk Pass residents only)—that portion within the Gates of the Arctic National Park—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 24—(excluding Anaktuvuk Pass residents)—that portion within the Gates of the Arctic National Park—3 sheep.	Aug. 1–Apr. 30.
Unit 24—that portion within the Dalton Highway Corridor Management Area; except, Gates of the Arctic National Park—1 ram with 7/8 curl horn or larger by Federal registration permit only.	Aug. 10–Sept. 20.
Unit 24—remainder—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, upstream from Huslia antlerless moose may only be taken during the periods of Sept. 21–Sept. 25, Dec. 1–Dec. 10, and Mar. 1–Mar. 10.	Sept. 1–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.
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.
Unit 24—remainder—1 antlered bull. Public lands in the Kanuti Controlled Use Area are closed to taking of moose, except by eligible rural Alaska residents.	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—Apr. 30.
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) You may not use motorized vehicles, except aircraft and boats, and licensed highway vehicles, snowmobiles, and firearms in 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, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. Residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor;

(B) The Arctic Village Sheep Management Area consists of 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 2 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) You may use bait to hunt black bear between April 15 and June 30;

(B) You may take caribou and moose 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.
Unit 25(A)—remainder—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 Yukon Charley National Preserve—1 bull	Aug. 20–Sept. 30.
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, other than Yukon Charley National Preserve, 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.
Unit 25(B)—remainder—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.
Unit 25(D)—remainder—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.
Unit 25—remainder—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.
Unit 25—remainder—15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	

Harvest limits	Open season
Unit 25(C)—those portions within 5 miles of Route 6 (Steese Highway)—20 per day, 40 in possession	Aug. 10–Mar. 31.
Unit 25—remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
TRAPPING	
Beaver:	
Unit 25(C)—25 beaver	Nov. 1–Apr. 15.
Unit 25—remainder—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: 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.
Unit 25—remainder—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) You may not use 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 in Unit 26(A). 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) You may not use motorized vehicles, except aircraft and boats, and licensed highway vehicles, snowmobiles, and firearms in 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, except as follows: Residents living within the Dalton Highway Corridor Management Area may use snowmobiles only for the subsistence taking of wildlife. You may use licensed highway vehicles only on designated roads within the Dalton Highway Corridor Management Area. The residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor may use firearms within the Corridor;

(C) You may hunt brown bear by State registration permit in lieu of a resident tag in the Northwest Alaska Brown Bear Management Area, which consists of Unit 22, except 22(C), those portions of Unit 23, except the Baldwin Peninsula north of the Arctic Circle, Unit 24, and Unit 26(A), if you have obtained a State registration permit prior to hunting. You may not use aircraft 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) You may take caribou from a boat under power in Unit 26;

(B) You may take swimming caribou 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 Killik River are closed to the taking of caribou by non-Federally qualified subsistence users from Aug. 1—Sept. 30.	July 1–June 30.
Unit 26(B)—10 caribou per day; however, cow caribou may be taken only from Oct. 1–Apr. 30	July 1–June 30.
Unit 26(C)—10 caribou per day	July 1–Apr. 30.

Harvest limits	Open season
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) and (B)—(Anaktuvuk Pass residents only)—that portion within the Gates of the Arctic National Park—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)—(excluding Anaktuvuk Pass residents)—those portions within the Gates of the Arctic National Park—3 sheep.	Aug. 1–Apr. 30.
Unit 26(A)—that portion west of Howard Pass and the Etivluk River	No open season.
Unit 26(B)—that portion within the Dalton Highway Corridor Management Area—1 ram with 7/8 curl horn or larger by Federal registration permit only.	Aug. 10–Sept. 20.
Unit 26(A)—remainder and 26(B)—remainder—including the Gates of the Arctic National Preserve—1 ram with 7/8 curl horn or larger.	Aug. 10–Sept. 20.
Unit 26(C)—a3 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.
Unit 26—remainder	No open season.
Muskox: Unit 26(C)—1 muskox by Federal registration permit only; 12 permits for bulls and 3 permits for cows 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 open seasons	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: No limit	Nov. 1–Apr. 30.
Wolverine: No limit	Nov. 1–Apr. 15.

Dated: July 23, 1998.

James A. Caplan,

Acting Regional Forester, USDA—Forest Service.

Dated: July 22, 1998.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

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federal register

Monday
August 17, 1998

Part III

Office of Management and Budget

Draft Report to Congress on the Costs and Benefits of Federal Regulations; Notice

OFFICE OF MANAGEMENT AND BUDGET

Draft Report to Congress on the Costs and Benefits of Federal Regulations

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice and request for comments.

SUMMARY: The Office of Management and Budget (OMB) requests comments on the attached draft report to Congress on the costs and benefits of Federal regulations. The draft report is divided into an introduction and four chapters. The introduction sets the context and provides the background for the next four chapters. Chapter I presents OMB's best estimate of the total costs and benefits of Federal regulatory programs and discusses several retrospective studies of specific regulatory programs to gain insight on how actual costs and benefits of regulations may differ from the effects predicted prior to regulation. Chapter II provides data on the costs and benefits of each of the economically significant regulations reviewed by OMB under Executive Order 12866 in the last year. Chapter III provides additional data on the costs and benefits of the economically significant regulations reviewed by OMB from April 1, 1995 through March 31, 1998. Chapter IV discusses how OMB implemented last year's recommendations and presents the Administration's proposal to restructure and deregulate the electricity sector.

DATES: To ensure consideration of comments as OMB prepares this draft report for submission to Congress on or before September 30, 1998, comments must be in writing and received by OMB no later than September 16, 1998.

ADDRESSES: Comments on this draft report should be addressed to John F. Morrall III, Office of Information and Regulatory Affairs, Office of Management and Budget, NEOB, Room 10235, 725 17th Street, NW., Washington, DC 20503.

Comments may also be submitted by facsimile to (202) 395–6974, or by electronic mail to MORRALL__J@A1.EOP.GOV. (Please note that the ''l'' in ''A1'' is the number one and not the letter ''l''.) Be sure to include your name and complete postal mailing address in the comments sent by electronic mail. If you submit comments by facsimile or electronic mail, please do not submit them by regular mail also.

Electronic availability and addresses: This **Federal Register** notice is available electronically from the OMB homepage on the World Wide Web: http://www.whitehouse.gov/WH/EOP/OMB/html/fedreg.html.

FOR FURTHER INFORMATION CONTACT: John F. Morrall III, Office of Information and Regulatory Affairs, Office of Management and Budget, NEOB, Room 10235, 725 17th Street, NW., Washington, DC 20503. Telephone: (202) 395–7316.

SUPPLEMENTARY INFORMATION: Congress directed OMB to prepare a report to Congress on the costs and benefits of Federal regulations. Specifically, under section 625 of the Treasury and Government Appropriations Act, 1998 (Pub. L. 105–61), the Director of OMB is to submit to Congress, no later than September 30, 1998, a report that, in summary, provides (1) estimates of the total annual costs and benefits of Federal regulatory programs, (2) estimates of the costs and benefits of each rule that is likely to have a gross annual effect on the economy of $100,000,000 or more in increased costs, (3) an assessment of the direct and indirect impacts of Federal rules, and (4) recommendations from OMB and a description of significant public comments to reform or eliminate any Federal regulatory program that is inefficient, ineffective, or is not a sound use of the Nation's resources.

The attached document is a draft of this report to Congress. OMB is to provide public notice and an opportunity to comment on the report before it is submitted to Congress no later than September 30, 1998.

Issues for Comment

Accordingly, OMB seeks comment on all aspects of the attached draft report, particularly comments and suggestions pertaining to the following:

- The validity and reliability of our new estimates of the costs and benefits of regulations in the aggregate, as well as by regulatory program or program element;
- Our discussion of the methodological problems of estimating the costs and benefits of existing rules, e.g., the baseline and comparability problems and complications introduced by using prospective studies to evaluate existing programs; and difficulties reconciling quantitative and qualitative estimates of costs and benefits;
- Our review of several case studies of the costs and benefits of existing regulations and the lessons we draw from them;
- Any additional studies that might provide reliable estimates or assessments of the annual costs and benefits, or direct and indirect effects on the private sector, State and local government, and the Federal Government, of regulation in the aggregate or of the individual regulations that we discuss;
- Our approach to estimating the costs and benefits of the individual regulations issued between April 1, 1995, and March 31, 1998, that we discuss, and;
- Programs or program elements on which there is objective and verifiable information that would lead to a conclusion that such programs are inefficient or ineffective and should be eliminated or reformed.

Bruce McConnell,

Acting Administrator, Office of Information and Regulatory Affairs.

Draft Report to Congress on the Costs and Benefits of Federal Regulations

Introduction

The Office of Management and Budget issued its first report to Congress on the costs and benefits of Federal regulations on September 30, 1997. Section 625 of the Treasury and Government Appropriations Act, 1998 (P.L. 105–61) directs OMB to issue a second regulatory accounting report. The requirements of the report are the same as those of last year. Section 625(a) directs the Director of the Office of Management and Budget to submit to Congress, no later than September 30, 1998, a report that provides:

''(1) Estimates of the total annual costs and benefits of Federal regulatory programs, including quantitative and non-quantitative measures of regulatory costs and benefits;

''(2) Estimates of the costs and benefits (including quantitative and non-quantitative measures) of each rule that is likely to have a gross annual effect on the economy of $100,000,000 or more in increased costs;

''(3) An assessment of the direct and indirect impacts of Federal rules on the private sector, State and local government, and the Federal Government; and

''(4) Recommendations from the Director and a description of significant public comments to reform or eliminate any Federal regulatory program or program element that is inefficient, ineffective, or is not a sound use of the Nation's resources.''

In last year's report we indicated that a complete accounting of total costs and benefits of Federal regulation was a difficult undertaking. The 1997 report was our effort to begin an incremental process which we believe will lead to improved information on the effects of regulations, and will help solve the many methodological problems associated with this exercise. This year's report builds on last year's work. In particular, we have additional data to

supplement our discussion of the aggregate costs and benefits of regulation and expand our database of costs and benefits of individual, major rules from one year (1997) to three years (1996 to 1998). In addition, we have more experience in dealing with the methodological problems.

One fact has not changed since the first report. There are still enormous data gaps in the information available on regulatory benefits and costs. Although accurate data is still sparse and agreed-upon methods for estimating many effects are still lacking, we have made significant progress in improving these estimates, especially for the major rules of the last three years. As we stated last year, explicitly quantifying and monetizing benefits and costs significantly enhances our ability to compare alternative approaches to achieving regulatory goals, ultimately producing more benefits with fewer costs. President Clinton's Executive Order 12866, ''Regulatory Planning and Review,'' recognizes and incorporates this principle, requiring agencies to quantify both costs and benefits to the best of their ability and to the extent permitted by law. We continue to recognize that significant regulatory costs and benefits may not be quantifiable, but may have to be described in qualitative terms. All information, both qualitative and quantitative, contributes to our understanding of the effects of regulation.

This year's report presents new information on both the total costs and benefits of regulation and the costs and benefits of major individual regulations. We hope to continue this important dialogue to improve our knowledge about the effects of regulation on the public, the economy, and American society.

This document is a draft of our report. Section 625(b) requires the Director of OMB to provide public notice and an opportunity to comment on the report before it is submitted to Congress at the end of September 1998. Furthermore, the final report is to contain a description of significant public comments. Accordingly, we seek comments on all aspects of this document, but in particular are interested in comments and suggestions pertaining to the following:

- The validity and reliability of our new estimates of the costs and benefits of regulations in the aggregate, as well as by regulatory program or program element;
- Our discussion of the methodological problems of estimating the costs and benefits of existing rules, e.g., the baseline and comparability problems and complications introduced by using prospective studies to evaluate existing programs;
- Our review of several case studies of the costs and benefits of existing regulations and the lessons we draw from them;
- Any additional studies that might provide reliable estimates or assessments of the annual costs and benefits, or direct and indirect effects on the private sector, State and local government, and the Federal Government, of regulation in the aggregate or of the individual regulations that we discuss;
- Our approach to estimating the costs and benefits of the individual regulations issued between April 1, 1995, and March 31, 1998, that we discuss; and
- Programs or program elements on which there is objective and verifiable information that would lead to a conclusion that such programs are inefficient or ineffective and should be eliminated or reformed.

All comments received will be carefully considered in preparing the final report that will be submitted to Congress.

The draft report is divided into four chapters. In accordance with section 625(a)(1), chapter I presents our best estimate of the total costs and benefits of Federal regulation. It builds on chapter II of last year's report presenting updated and more detailed estimates of the total annual costs and benefits of major Federal regulatory programs.[1] In particular, this year we present more categories of regulatory costs and benefits than last year and use our own estimates based on agency data of costs and benefits of individual rules issued over the last three years (April 1, 1995 to March 31, 1998) to update the aggregate estimates. We also chose this year to provide ranges of costs and benefits rather than point estimates to emphasize the uncertainty embodied in the estimates.

As we did last year, we use the study by Hahn and Hird (1991) for the costs and benefits of regulations as of 1988, supplemented by an Environmental Protection Agency (EPA) Cost of a Clean Environment report to Congress (1990). We also use a new (1997) retrospective EPA report to Congress (The Benefits and Costs of the Clean Air Act, 1970 to 1990). Because there are no studies comparable to the Hahn and Hird or the EPA retrospective studies for the regulations issued after 1988,[2] we use information about costs and benefits from agency prospective regulatory impact analyses (RIAs) to account for the major regulations that have been issued since 1988. In almost all cases, the RIAs have been subject to notice and comment and have been reviewed by OMB. This year we have systematically started to improve the consistency of the agency estimates and to show monetized estimates of benefits where appropriate and feasible. We have completed this analysis for the last three years and plan to complete additional years in the future.

The new estimates range from $170 billion to $224 billion in annual costs and $258 billion to about $3.55 trillion in annual benefits for social, i.e., health, safety, and environmental regulation. Using the ranges to reflect the substantial uncertainty in the estimates, quantified (and monetized) net benefits could be as low as $34 billion, or as high as $3.38 trillion. The main reason why these estimates are different from last year, especially on the upper end of the range of benefits, is that we have incorporated retrospective estimates from a recent EPA report on the benefits and costs of the Clean Air Act. This report, discussed in detail in chapter I, estimates the benefits of the Clean Air Act at up to $3.2 trillion. Three new regulations also included in the estimates (EPA's revised particulate matter and ozone primary National Ambient Air Quality Standards and OSHA's respirator rule) are estimated (using midpoints) to provide approximately $35 billion in benefits per year. While this information is useful, we still believe that the limitations of these estimates for use in making recommendations about reforming or eliminating regulatory programs are severe. Aggregate estimates of the costs and benefits of regulation offer little guidance on how to improve the efficiency, effectiveness, or soundness of the existing body of regulations.

Chapter I also discusses the impacts of other types of regulation and regulatory-like activities and reviews several estimates of the aggregate costs of regulation as well as several retrospective case studies. Estimates of

[1] Chapter I of last year's report discussed the role of economic analysis in regulatory reform. We discussed the growth and nature of regulation, the development of the U.S. regulatory analysis and review program and the basic principles that should be used in assessing regulatory costs and benefits. We did not repeat that discussion this year but it is still useful for understanding the context of this year's report. (See OMB 1997 or http://www.whitehouse.gov/WH/EOP/OMB/html/rcongress.htm).

[2] EPA's Clean Air Act report covers effects through 1990. However, for the annual estimates that appear in table 1 and in the text, we have, in consultation with EPA staff, adjusted EPA's estimates to reflect only effects as of 1988.

the impacts of economic efficiency losses, disclosure regulation, economic transfers, tax compliance costs, Federal on-budget regulatory expenditures, and the possible indirect effects of regulation on the economy as directed by section 625(a)(3) are also presented and discussed.

In fulfillment of section 625(a)(2), chapter II provides data from the agencies on the costs and benefits of each of the economically significant regulations reviewed by OMB under Executive Order 12866 over the period from April 1, 1997, to March 31, 1998. The data were developed by the agencies as required by the Executive order. For the most part, these data were subject to notice and public comment and reviewed by OMB. We also examined the reports on major rules that GAO provides to Congress for the independent agencies not subject to Executive Order 12866; however, these generally were not of sufficient detail or quality to provide much useful information for the purposes of this report. Finally, this chapter also highlights examples where agencies have done a particularly exemplary job of following the guidance in the Best Practices [3] document, which is on our web site at http://www.whitehouse.gov/WH/EOP/OMB/html/miscdoc/riaguide.html.

Chapter III provides estimates of the costs and benefits for the economically significant/major rules issued between April 1, 1995 and March 31, 1998, for which we were able to estimate costs and benefits. The estimates that we present in chapter III for regulations issued during these three years are either straightforward agency estimates, or estimates that we calculated using a consistent methodology and value estimates used by the agencies for other regulations or in some cases found in the academic literature. We estimate annual costs of major rules for these three years to be about $28 billion while annual benefits range from $30 to $97 billion.

Chapter IV discusses how we implemented last year's recommendations aimed at further developing the information, methodologies, and analyses necessary for improving the efficiency, effectiveness, and soundness of regulatory programs and program elements as required by section 625(a)(4). We discuss how the agencies and OMB worked together to improve the quality of the data and analysis found in the economic impact studies submitted to OMB under Executive Order 12866, and in particular how we promoted the use of the Best Practices guidance document. Finally, also in fulfillment of section 625(a) (4), we present a discussion of the Administration's proposal to restructure and deregulate the electricity sector.

[3] OMB published in 1996 a document that describes ''Best Practices'' for preparing the economic analysis called for by Executive Order 12866 for significant regulatory actions. This document represents the culmination of a two-year effort by an interagency group to review the state of the art for economic analyses required by the Executive order.

Chapter I: Estimating the Total Annual Costs and Benefits of Federal Regulatory Programs

A. Overview

By using new data from agency regulatory impact analyses that accompany regulations, this chapter builds on chapter II of last year's report (OMB 1997) to present updated and more detailed estimates of the total annual costs and benefits of Federal regulatory programs. We also discuss and present quantitative estimates where available of indirect impacts and other effects of regulation and related Government policies. Finally, several retrospective studies of specific regulatory programs are reviewed to gain insight on how the actual costs and benefits of regulations may differ from the effects predicted prior to regulation.

We respond to the comments we received on last year's report in several ways. First, we present more details by regulatory program and build on agency analyses to monetize benefits estimates. Second, we review the analyses from independent agencies and present more systematic data on the costs and benefits of economic regulation, tax compliance costs, transfers, Federal regulatory expenditures, and indirect impacts. Finally, our review of several important retrospective studies responds to important methodological issues raised regarding the use of prospective studies to estimate the costs and benefits of existing regulations.

1. Estimation Problems

Before proceeding with our new estimates, we reiterate and reemphasize the methodological concerns and caveats that were discussed in last year's report. These concerns remain of critical importance. It remains extremely difficult, if not impossible, to estimate the actual total costs and benefits of all existing Federal regulations with any degree of precision. There is a variety of estimation problems for both individual estimates and aggregate estimates.

In order to estimate the impact of regulations on society and the economy, one has to determine how things would have been if the regulation had not been issued. In other words, what is the baseline against which costs and benefits should be measured? With respect to estimating total costs and benefits of all Federal regulations, the baseline problem has several dimensions. First, what would have happened in the absence of regulation can only be an educated guess since it never happened. Furthermore, the greater the regulatory change, the more problematic the exercise. For example, the assumptions of welfare economics, upon which benefit-cost analysis is based, hold only for marginal changes in economic activities. The larger the changes, the less sure we are of the predictions. In other words, we can be more confident in our estimates of the costs and benefits of a small change in the level of automobile emissions permitted than in the costs and benefits of all Clean Air Act regulations and still more confident than in estimates of the costs and benefits of all regulations issued by the Federal Government since the early 1900s. If we use as a baseline a world with no regulation, one can reasonably argue that the benefits of regulation must clearly swamp any likely cost.

Even disregarding the problem of modeling large changes, there are significant difficulties in determining the counterfactual or baseline for individual regulations that one could begin to aggregate. One can survey firms and other regulated entities on their expected compliance costs either prospectively, before the regulation is implemented, or retrospectively, after the regulation has gone into effect. For both types of studies, the problem of potential estimation bias must be kept in mind since regulators and regulatees may have different interests in the outcomes. The problem of bias is potentially greater for prospective studies because both the baseline and the regulatory effects must be predicted while for retrospective studies only the baseline or counterfactual must be predicted. In the ordinary course, therefore, the best estimates of the costs and benefits of regulation are likely to be retrospective studies done by individuals who do not have vested interests, but do have reputations as objective analysts to uphold.

To make matters even more complicated, a third type of study is actually needed before recommendations can be made to eliminate or modify regulatory programs. That is a hybrid study

somewhere between pure prospective and pure retrospective. The ideal hybrid study would be a retrospective study of the existing regulation with prospectively estimated costs and benefits of eliminating or modifying it. A hybrid study is needed because ''sunk costs,'' such as specialized capital costs and the cost of changing procedures already in place, make the cost savings from eliminating regulation less than the cost of complying with those regulations. Furthermore, on the benefit side there appears to exist an asymmetry between giving someone a benefit and taking it away. Studies have shown that people are willing to pay less for a benefit than what they are willing to accept in return for its loss. In other words, once people have attained safer jobs or cars, or cleaner air or water, they appear willing to pay more for keeping such benefits than they were willing to pay to attain them. Very few studies of health, safety, and environmental regulation have attempted to estimate the actual cost savings and benefit losses that would result from reducing or eliminating an existing regulation.[4]

Further, virtually all of the studies of the costs of regulation produced to date measure the expenditures of firms required by regulation, whereas the cost to society of regulation should be measured by the change in consumer and producer ''surplus'' associated with the regulation and with any price and/or income changes that may result (Cropper and Oates 1992). At one extreme, ignoring the consumer surplus loss produced by a ban on the sale of a product understates costs to society because although no compliance expenditures are required, consumers can no longer buy the product. At the other extreme, calculating compliance expenditures based on pre-regulation output overstates costs because if the firm raises prices to cover compliance costs, consumers will shift to other products and thereby reduce their welfare losses (Cropper and Oats 1992, p. 722).

Another problem is the fact that many studies that we rely on for cost and benefit estimates are dated. Over time the dynamic nature of the economy may affect the estimation of both benefits and costs. Technological improvements are often cited as the reason that predicted costs of compliance often turn out to be less than actual costs (Office of Technology Assessment 1995). Less well noted, however, is that technological progress also takes place on the benefit side. For example, medical progress can reduce the future benefits estimated for health, safety and environmental regulations, just as productivity improvements in manufacturing reduce the costs of compliance of some regulations. New drugs or medical procedures can reduce the benefits of regulations aimed at reducing exposure to certain harmful agents such as an infectious disease. Regulations aimed at increasing the energy efficiency of consumer products or buildings may see their expected benefits reduced by new technology that reduces the cost of producing energy. Furthermore, productivity improvements lead directly to higher incomes, which lead people to demand better health and more safety. Business responds to these demands by providing safer products and workplaces, even in the absence of regulation. Individuals with rising incomes may also purchase or donate land to nature conservancies to provide ecological benefits. Yet, as on the cost side, the baseline that is used is almost always the *status quo*, rather than what is likely to be true in the future.

It is often difficult to attribute changes in behavior to specific Federal regulations apart from the many other motivating factors. In addition to overlapping Federal regulations, often from different agencies, e.g., environmental issues may be regulated by the Environmental Protection Agency (EPA), the Department of Agriculture (USDA), the Department of Energy (DOE), the Department of the Interior (DOI), the Department of Commerce (DOC) and the Department of Transportation (DOT), state and local regulations also require compliance. The tort system, voluntary standards organizations, and public pressure also cause firms to provide a certain degree of public protection in the absence of Federal regulation. As the General Accounting Office (GAO) points out, determining how much of the costs and benefits of these activities to attribute solely to Federal regulation is a difficult undertaking (GAO 1996).

Adding to the complexity, the degree to which these other factors cause firms and other regulated entities to provide safe and healthful products and workplaces and engage in environmentally sound practices changes over time, generally increasing with increasing *per capita* incomes and knowledge about cause and effect. Thus, although the National Highway Traffic Safety Administration (NHTSA) has significantly increased the safety of automobiles, it is not likely that if the agency's regulations were eliminated the automobile companies would discontinue all the safety features that have been mandated. Consumers are demanding safer cars and automobile companies are concerned about product liability. This same phenomenon is taking place in the environmental area. Environmentally responsible behavior is good for the bottom line. Over time, this ''rising baseline'' phenomenon, if correct, should reduce the true costs and benefits of health, safety, and environmental regulations. Estimates of the aggregate costs and benefits of regulation that include unadjusted estimates from aging studies are thus likely to overestimate the current costs and benefits of those regulations.

Yet another problem may be termed the ''apples and oranges problem.'' The attempts to aggregate the total costs and benefits of Federal regulations have simply added together a diverse set of individual studies. Unfortunately, these individual studies vary in quality, methodology, and type of regulatory costs included. In addition to using different assumptions about baselines and time periods problems discussed above, the studies use different discount rates, different valuations for the same attribute, and different concepts of costs and approaches to dealing with uncertainty, to mention a few. Furthermore, the possibility of interaction effects between the tens of thousands of regulations is not addressed.

A final reason that any regulatory accounting effort has limits is the lack of information on the effects of regulations on distribution or equity. None of the analyses addressed in this report provides quantitative information on the distribution of benefits or costs by income category, geographic region, or any other equity-related factor. As a result, there is no basis for quantifying distributional or equity impacts.

2. Types of Regulation

Because there are so many different types of Federal regulations, it is useful to break this heterogeneous body up into categories. As we did last year we describe five commonly used categories.

Environmental. The true social cost of regulations aimed at improving the quality of the environment is represented by the total value that society places on the goods and services foregone as a result of resources being diverted to environmental protection.

[4] Note that the problem of bias may be the greatest in this case because often both the regulators and the regulatees will prefer the status quo, i.e., regulation. This appears to be the lesson from the Occupational Health and Safety Administration's (OSHA) reconsideration of the cotton dust standard during the Reagan Administration. After opposing the regulation at the proposal stage during the Carter Administration, the industry did not support the Reagan Administration's proposal to withdraw it. (See Viscusi 1992).

(EPA's Cost of a Clean Environment, pp. 1–2, 1–3.) These social costs include the direct compliance costs of the capital equipment and labor needed to meet the standard, as well as the more indirect consumer and producer surplus losses from lost or delayed consumption and production opportunities due to the higher prices and reduced output needed to pay for the direct compliance costs. In the case of a product ban or prohibitive compliance costs, almost all of the costs represent consumer and producer surplus losses. Most of the cost estimates used in this report do not include consumer and producer surplus losses because it is difficult and often impractical to estimate the demand and supply curves needed to do this type of analysis.

Further indirect effects on productivity and efficiency result from price and output changes that spread through other sectors of the economy. Estimates of compliance costs likely understate substantially the true long-term costs of pollution control.[5] The estimates used in this report do not include these indirect and general equilibrium effects.

The benefits of environmental protection are represented by the value that society places on improved health, recreational opportunities, quality of life, visibility, preservation of ecosystems, biodiversity, and other attributes of protecting or enhancing our environment. This value is best measured by society's willingness-to-pay (WTP) for these attributes. Because most types of improvement in environmental quality are not traded in markets, benefits must be estimated by indirect means using sophisticated statistical techniques or ''contingent valuation'' survey methods that generally make benefit estimation more problematic than cost estimation.

Other Social. This category of regulation includes rules designed to advance the health and safety of consumers and workers, as well as regulations aimed at promoting social goals such as equal opportunity, equal access to facilities, and protection from fraud and deception. They are often lumped together with environmental regulation in the category of ''Social Regulation.'' Social regulation is mainly concerned with controlling or reducing the harmful or unintended consequences of market transactions, such as air pollution, occupationally induced illness, or automobile accidents. These consequences are commonly called ''negative externalities'' and regulation designed to deal with them attempts to ''internalize'' the externalities. This can be done by regulating the amount of the externality, e.g., banning a pollutant or limiting it to a ''safe'' level, or regulating how a product is produced or used. Social regulation may also require the disclosure of information about a product, service, or manufacturing process where access to inadequate or asymmetric information may place consumers, citizens, or workers at a disadvantage. The techniques and methodological concerns involved in the estimation of the social costs and benefits generated by these rules are similar to those involved in the estimation of costs and benefits of environmental regulation discussed above. In the results that we report below, we further break ''Other Social'' into three categories: transportation, labor and other regulations. The third category includes food and drug safety, energy efficiency, and quality of medical care regulations.

Economic. Economic regulation restricts firms' primary economic activities, e.g., their pricing and output decisions. It may also limit the entry or exit of firms into or out of certain specific types of businesses. Such regulations are usually applied on an industry wide basis, e.g., agriculture, trucking, or communications. In the United States, this type of regulation at the Federal level has often been administered by ''independent'' commissions, e.g., the Federal Communications Commission (FCC), the Securities and Exchange Commission (SEC), or the Federal Energy Regulatory Commission (FERC), whose members are appointed but not removable without good cause by the President. The economic losses caused by this type of regulation result from the higher prices and inefficient operations that often occur when competition is prevented from developing.

The costs of such regulation are usually measured by modeling or comparing specific regulated sectors with less regulated sectors, estimating the consumer and producer surplus losses that result from higher prices and lack of service, and estimating the excess costs that may result from the lack of competition. In contrast to social regulatory cost estimates, these are estimates of mainly indirect costs.

Economic regulation may produce social benefits when natural monopolies are regulated to simulate competition. Although Hahn and Hird (1991) argue that the dollar amount of such efficiency benefits are small in a dynamic and technologically vibrant economy, their judgment is an educated guess based on a reading of recent history, rather than the result of an empirical study. It appears to be based largely on the widely accepted view that the U.S. economy has become more competitive over time, with fewer long-lasting natural monopolies, and on the observation that much of the motivation for economic regulation is to enhance one group at the expense of another. But even though monopoly power may not be long lasting in a dynamic U.S. economy, it does exist at a given point in time.[6]

Moreover, while Hahn and Hird (1991) define economic regulation as including only regulation of entry, output, and prices, in practice they appear to lump all Federal regulation of banking and other financial institutions, as well as consumer protection regulation through mandated disclosure requirements, into the ''economic regulation'' category of their cost estimates. In our view, chartering, branching, interest rate, and activity regulation are the only major categories of banking regulation that conform to the definition of economic regulation used here. The other categories are ''safety-and-soundness'' regulation and ''consumer information and protection'' regulation, both of which fit more logically into the ''other social regulations'' category used in this study (White 1991, pp. 32–33). Consideration of this definitional issue is important because the type and magnitude of benefits associated with the different categories of banking regulation differ greatly. In particular, while costs may exceed benefits for some types of economic regulation (entry, output, and prices), safety-and-soundness regulation is essential to a well functioning financial system and thus fully justifies the cost (White 1991), and the consumer protection regulation applicable to banking is similar to consumer protection information for other industries where there is general agreement that the benefits exceed the costs.

Transfer. As discussed in OMB's Best Practices document, transfers are payments from one group in society to another and, therefore, are not real net costs to society as a whole. Nonetheless, the consequences for individuals can be very significant. One person's loss is another person's gain. Examples of transfers include payments to Social

[5] See Jaffe, Peterson, Portney, and Stavins' survey (1995), p. 153.

[6] We are not including antitrust activities such as preventing the formation of monopolies through mergers or anticompetitive behavior in our definition of economic regulation. Clearly this type of Government policy creates important social benefits.

Security recipients from taxpayers and the higher profits that farmers receive as a result of the higher prices consumers must pay for farm products limited by production quotas. Our guidance document states that transfers should not be added to the cost and benefit totals included in regulatory assessments but should be discussed and noted for policy makers.

Process. Process costs are the administrative or paperwork costs of filling out Government forms such as income tax, immigration, social security, procurement, etc. The majority of process costs is due to program administration, Government procurement, and tax compliance, which do not fall into either the social or economic regulatory categories. Some of these, such as procurement costs, are reflected in the Federal budget as greater fiscal expenditures and care must be taken not to count them twice. Process costs can be viewed as part of the costs of providing Government services or collecting revenues that should be minimized for a given level or quality of service or revenue. We break these types of costs into further categories and discuss their effects in more detail below.

B. New Estimate of the Costs and Benefits of Existing Social Regulations

Several commentators on last year's report called for more detail on the costs and benefits of regulatory programs. It is important to note that, as was the case last year, this section includes only estimates of costs and benefits that have been quantified and monetized. As we discuss elsewhere in this report, the fact that an effect has not been monetized or quantified does not necessarily mean that it is small or unimportant.

Last year we broke out costs and benefits of existing social regulations into two categories: environmental and other social (OMB 1997, table 1). This year we have been able to further subdivide other social into three categories: labor, transportation, and other social regulation, mainly regulations from HHS, DOE, and USDA. We were able to do this by further utilization of the results of the 1991 article by Hahn and Hird and the 1996 book by Hahn as well as the Cost of a Clean Environment report (EPA 1990), and by making new estimates of the costs and benefits of regulations issued over the last three years (April 1, 1995 to March 31, 1998), which we derive in chapter III using data from the Regulatory Impact Analyses submitted by the agencies to OMB under E.O. 12866. We have also incorporated EPA's recently published report, The Benefits and Costs of the Clean Air Act, 1970–1990 (EPA 1997), hereafter referred to as the ''Section 812 Retrospective.'' In addition, we examined data submitted to GAO by the independent agencies over the last two years under the Congressional Review Act for major rules. In order to estimate aggregate regulatory costs and benefits, we combine three data sources covering three time periods—pre-1988, 1988 to 1994, and 1995 to 1998.

Since Hahn and Hird provide cost and benefit estimates for more than two categories of social regulations, we were able to expand our estimate detail from two categories last year to four this year. We were limited to four categories because the cost data we relied upon to fill the gap between the 1988 Hahn and Hird data and our cost and benefit estimates starting in 1995, (from the 1996 OMB report, More Benefits, Fewer Burdens) contain only the four categories listed above. We also use additional information on the distribution of benefits that we did not use last year. Last year we used Hahn and Hird's conclusion that ''the net benefits of social regulation are positive but small'' (p. 253) to estimate that the costs and benefits of both environmental and other social regulations were approximately equal. They came to this conclusion by taking the midpoint of their ranges for costs and benefits. However, as we pointed out last year, there is much uncertainty associated with these estimates. Moreover, we were criticized for presenting point estimates when ranges would have been more appropriate (Hahn 1998). This year we have elected to present ranges both for the base case and later for our estimates of the costs and benefits of the regulations that have been issued since the base period. Table 1 shows these cost and benefit estimates derived from Hahn and Hird for the four regulatory program areas as of 1988.[7] Table 1 also includes new estimates from the Section 812 Retrospective.[8]

The addition of the Section 812 Retrospective significantly changes the upper bound benefit estimate for environmental regulation, i.e., more than 15 times the upper bound of the Hahn and Hird study. As we outlined at the beginning of this chapter, there are a number of critical estimation problems that must be confronted in developing benefit and cost estimates. The available studies, such as the Hahn and Hird study and the Section 812 Retrospective, also have had to confront these problems and each study has had to make difficult choices. As a result, there are advantages and disadvantages that attend each of these studies. The EPA estimates of $378 million to $3.2 trillion per year are substantially larger than the estimates presented by Hahn and Hird. The Hahn and Hird estimates were based on a 1982 study by Freeman that provided a synthesis of the available benefits literature. These estimates do not reflect the benefits associated with Clean Air Act initiatives in the 1980s, e.g., EPA's lead phasedown program. They also do not reflect the recent literature suggesting an association between exposure to fine particulate matter and premature mortality. In addition, the 1982 Freeman estimates were based on actual air quality improvements over the 1970s, i.e., they did not attempt to account for the benefits associated with preventing degradation in air quality.

The Section 812 Retrospective estimates were developed through an EPA Science Advisory Board peer review process. It presents a more comprehensive set of the benefits and costs under the Clean Air Act over the period from 1970 to 1990; for example, it includes regulatory actions taken during the 1980s. In addition, these estimates also include the benefits and costs of preventing any deterioration in air quality and reflect the benefits and costs of all air pollution control efforts, not just the Federal Clean Air Act. Our detailed discussion in section D below presents a more complete description of the Section 812 Retrospective and identifies some key uncertainties and assumptions underlying the benefit estimates that may have an important effect on the magnitude of these estimates.

To get the costs of existing regulations as of 1997, last year's report added to the 1988 base the costs of the major regulations reviewed by OMB between 1987 and 1996 as estimated from the RIAs agencies provided OMB under Executive Order 12866 and its predecessor Executive Order 12291 (OMB 1996). To estimate benefits, last year we used benefit/cost ratios for environmental and other social regulation calculated from Hahn (1996), who estimated benefits and costs of

[7] We do not repeat the discussion of the derivation and the qualifications of these estimates that appeared in last year's report. We refer the reader to that discussion (OMB 1997 pp. 27–33) for this information. Suffice it to say here that we realize, as several commenters have pointed out, that there are gaps and weaknesses in underlying studies that Hahn and Hird rely on for their estimates and that not all the costs and benefits of social regulation are captured in these estimates. We hope in future years to fill in the gaps and use more accurate, up-to-date studies for our estimates when such studies become available.

[8] Table 1 (and all succeeding tables mentioned in the text) can be found in sequential order at the end of this report.

agency rules from 1990 to mid-1995, for a subset of our rules, to estimate benefits that correspond to our rules. We then added that total to the benefit estimate as of 1988 from Hahn and Hird. This year we improve on that exercise by using benefit/cost ratios from Hahn (1996) for environmental, transportation, labor, and other social regulation to estimate benefits for rules issued between 1987 and 1995.[9] For the rules issued from 1995 through the first quarter of 1998, we used information from agency-supplied RIAs modified for consistency with Best Practices as appropriate and extended to provide more monetized estimates of benefits and costs using consensus value estimates used by the agencies or found in the literature. These calculations are shown and explained in chapter III. Our latest estimates are shown in table 2.

Table 3 combines the results from tables 1 and 2 to present our new estimates for the existing costs of social regulation as of the first quarter in 1998. It shows that health, safety and environmental regulation produces between $34 and $3.38 trillion of net benefits per year.

We must underline the uncertainty of these estimates. They are useful primarily for drawing general conclusions about categories of regulations that should be corroborated by additional data and analysis. As specific values, however, they are fraught with uncertainties. As discussed above, the baseline, apples and oranges, and other methodological problems significantly reduce the likelihood that these findings are robust. In addition to these problems, we are also concerned that as the aggregate categories are divided into smaller parts, the accuracy of the estimates may weaken because it is less likely that randomly distributed errors in the data and analysis even out. Furthermore, one must be doubly careful about drawing conclusions from these results because these estimates are average benefits and costs for aggregates of existing regulations, not the incremental costs and benefits that are required to be able to make reliable recommendations to improve specific regulatory programs or regulations. Also note that these estimates are a combination of the 1988 baseline estimates, which are mostly from retrospective studies, and the 1988 to 1998 estimates that are from the prospective studies for individual rules. How well the cost and benefit estimates of prospective studies predict actual costs and benefits is a question that has not been answered. In section D of this chapter, we review the evidence from several case studies that might shed light on this question. Where we can make direct comparisons between prospective and retrospective analyses, we find that both costs and benefits were sometimes overestimated by prospective studies. In other instances, costs were underestimated.

Finally regarding the utility of these estimates for making recommendations for changes in regulatory programs, it bears repeating that the actual costs and benefits of a regulation or regulatory program are not the appropriate calculation. Rather, before a recommendation is made to repeal or modify a regulation or regulatory program, the necessary question is: ''What would be the incremental costs and benefits of repealing the regulation or regulatory program.''

C. Other Regulatory Impacts

Despite the weaknesses in the estimates of the costs and benefits of social regulation, the estimates of the costs and especially the benefits of the other types of regulation are even more problematic. In last year's report, we made the assumption that the costs and benefits of fundamentally different types of regulations and government policies could be aggregated and displayed in one table, with caveats. In doing this, however, we were adding regulatory programs together that had quantified costs and unquantified benefits with regulatory programs that had quantified costs and quantified benefits. We also added together the direct compliance costs of social regulation with the indirect, mostly consumer surplus, losses of economic regulation. However, direct compliance costs may have significantly different long run effects than indirect consumer surplus losses. We have concluded this year that such totals are more misleading than helpful, even with extensive explanation of the absent benefit estimates and the apples and oranges and other problems. To prevent confusion, this year we are presenting the estimates separately in table 4.

Table 4 presents a list of the other types of regulation or regulatory-like activities. In some cases we do not agree that these activities are true regulations or should be considered in the same category with what we have classified as social regulation. However, this wide range of activities was noted by several commenters who urged us to include them in this year's report. Table 4 also lists costs and benefits, and is followed by a discussion of each.

1. Efficiency Losses From Economic Regulation

In last year's report, we presented an estimate that the efficiency costs of economic, i.e., price and entry, regulation amounted to about $71 billion. This is based on an estimate by Hopkins (1992) of $81 billion, which we adjusted downward by $10 billion to account for the deregulation and increase in competition that has occurred in the financial and telecommunications sectors since Hopkins' estimates were made in 1992. Our estimate has recently been corroborated by analysis in a recent, comprehensive two volume Organization for Economic Cooperation and Development (OECD) report, OECD Report on Regulatory Reform (OECD 1997), which attempts to estimate the benefits of further economic deregulation of five sectors of the economy (electricity, airlines, trucking, telecommunications, and retail and wholesale distribution) for five countries (the U.S., Japan, Germany, France, and the U.K.). Adding up any remaining benefits from deregulating these sectors and using a macroeconomic model to simulate the economy-wide effects on GDP, the OECD estimated that U.S. GDP would increase by 0.9 percent from these actions. This estimate implies that the current costs of regulation in these sectors is $68 billion (0.9 percent of 1996's GDP of $7.6 trillion). Although the two estimates are not strictly comparable, because our estimate of $71 billion includes import restrictions and the OECD estimate does not and our estimate is only for Federal regulation and the OECD estimate includes State and local as well as National, the two estimates are close enough to be mutually supportive.

There appear to be no reliable quantified estimates of the total benefits of economic regulation. We pointed out last year that price regulation of natural monopolies does have the potential to provide consumer surplus benefits. However, most economists believe that few natural monopolies, except perhaps in local distribution markets, have long staying power because of the globalization of markets and rapidly changing technology. Over time both the benefits and costs of regulation (assuming regulation does not change) are eroded by changes in technology and adaptive behavior, i.e., the rising baseline phenomenon discussed above.

[9] Admittedly this is a crude estimation procedure because Hahn's inventory of rules begins in 1990 and ours extends back to 1987. Consequently, we are assuming that the relationship between costs and benefits that Hahn found for the later period extends back three years. Still, we know of no other approach to fill this gap in the data until RIAs for these years are re-examined.

The static welfare benefits of economic regulation are not likely to be long lasting in a dynamic world. The OECD report also implies that few benefits are produced by sectoral entry restrictions. The report points out that the loss of universal service may be a concern, but states that methods besides regulation, e.g., targeted subsidies, can be adopted to provide services to worthy entities less able to pay full costs. In table 4 we enter under the benefits of economic regulation the term ''expected to be small.''

Last year, we received comments from several independent economic regulatory agencies suggesting that we had not emphasized the potential benefits of economic regulation enough. The comments made good points. Economic regulatory agencies are producing significant benefits. However, these benefits do not flow from their imposing new restrictions on entry. Rather, the benefits stem from their efforts to open up markets and promote competition, which often means preempting State competition or correcting past mistakes. In other words, some agencies view the reduced costs created by deregulating as a benefit of regulation. The correct view is determined by the baseline. Is the baseline the existing patchwork of State and Federal regulation, which has produced artificially constructed telecommunications and financial services firms, or the more competitive environment that most likely would have existed if we had not had these restrictions? There is no inconsistency in saying that economic regulation has produced few significant benefits, as Hahn and Hird (1992) state in summarizing the consensus view of economists on this subject, and saying that economic regulatory agencies are currently providing important benefits to society by promoting competition.

The OECD study points out the important role that regulators have in smoothing the transition toward a more competitive environment. Regulators must carefully consider the issues of stranded capital costs, unemployment, and universal service as competition is introduced. However, the long run benefits of reform appear to have been worth the transitional costs. The OECD study points out that the US's regulatory reform efforts have already produced major benefits, especially compared to the other major industrial countries. The study estimates that the average GDP gain for the other seven countries from deregulation of the five sectors would be 4.7 percent, ranging from 3.5 percent for the U.K. to 5.6 percent for Japan. The 4.7 percent of GDP estimate would be equivalent to $360 billion if applied to U.S. GDP. The study also points out that a significant portion of the 0.9 percent remaining benefits for the U.S. is likely to be achieved by regulatory reform efforts already underway because of the Telecommunications Act of 1996 and the early State efforts at electricity restructuring. Clearly economic deregulation does not imply that the economic regulatory agencies' jobs are done.

2. Disclosure Regulation

A second type of regulation often mixed in with economic regulation is information disclosure. There is a strong consensus among economists that regulations requiring the disclosure of information about the price and quality of products and services can produce significant benefits for consumers and improve the functioning of markets when this information would not otherwise be available. Our estimate, based on burden-hour calculations for the independent regulatory agencies, e.g., SEC, FCC, FTC, reported in OMB's Information Collection Budget for FY 1998 (272 million hours) and Hopkins' opportunity costs of time estimate ($26.50 per hour), is that disclosure costs are about $7 billion. Although benefits have not been quantified, we expect that they are significantly greater than $7 billion.

3. Transfers From Economic Regulation

Economic regulation often produces income transfers from one group to another. These transfers are not social costs or benefits; they neither create new net benefits for society nor reduce society's scarce resources. Consequently benefit-cost analysis is not appropriate or meaningful for evaluating transfer programs. As the Best Practices document makes clear, distributional analysis, which should be part of the economic assessment, is the proper method of analyzing transfers. Table 4 includes an estimate for transfers based on the Hopkins approach that assumes that the transfers created by economic regulation are about twice the economic efficiency loss. The estimate is $140 billion (two times $70 billion), which we enter in both the costs and benefits columns.

Although as one commenter pointed out (Hopkins 1997), transfers may be associated with real lobbying costs, this fact of life does not justify equating transfer costs with social costs. Lobbying goes on for all sorts of Government policies including expenditure, tax, and regulatory policies whether they exist or not, which are impossible to measure separately. For example, lobbying goes on in an attempt to impose regulations that do not now exist and therefore have no efficiency costs. In this case, the multiple of two times the efficiency loss would estimate social costs of zero. The best approach to including these types of costs is by directly estimating the costs of lobbying rather than using a multiple of economic efficiency losses. Once that is done it is not clear how to evaluate the social benefits of lobbying, which clearly produces benefits because at least some amount of lobbying, i.e., citizen participation, is a necessary part of a democratic government.

4. Tax Compliance

Last year we stopped short of including tax compliance costs and transfer costs in the totals. Although we were criticized for that (Hopkins 1997 and Dudley and Antonelli 1997), other commenters (Hahn 1998) agreed with us that such data should be reported, but not included in the totals. As we pointed out in last year's report, a major reason for not including tax compliance costs in our totals, despite their real nature and obvious concern to the public, is that it would be misleading to add these types of costs to the totals without accounting for the fact that taxes are necessary for the basic functions of government. Cost-effectiveness analysis, not benefit-cost analysis, is the appropriate way to evaluate the efficiency of tax policy. In Table 4, we present an estimate of the paperwork costs of the tax code by multiplying the number of hours of tax preparation time required to file tax forms (5.3 billion in FY 1997) according to OMB's Information Collection Budget (OMB 1998) by an estimate of the opportunity costs of the average hour spent on the forms ($26.50) based on Hopkins (1991). That cost estimate is $140 billion. While we do not have quantitative estimates of the aggregate benefits of tax compliance, they are undoubtedly very large. Tax compliance is necessary for the whole range of services the government provides.

5. Federal Budgetary Expenditures

Several comments also suggested that we report the Federal budgetary costs of regulation. These Federal expenditures include the costs of developing and issuing regulations and enforcing them once they are on the books. For many years, the Center for the Study of American Business at Washington University has compiled Federal Expenditures for the Regulatory Agencies of the U.S. Government. Douglas, Orlando, and Warren (1997) have produced the latest estimates.

Table 4 presents these estimates for both social and economic regulation.[10] For benefits, we reproduce the quantified estimate of the net benefits for social regulation as shown above in table 3 and summarize the earlier discussion of qualitative benefits of economic regulation.

6. Welfare Effects

A final category of regulatory effects, which several commenters suggested we include in our estimates, is the indirect or full welfare impacts of regulation. The estimates presented above for social regulation are mostly estimates of direct compliance costs. However, as our Best Practices document points out, the proper concept of the cost of regulation is the best estimate of the value of the opportunity foregone as a result of the imposition of the regulation. The opportunity costs are likely to be greater than direct compliance costs. In addition to the consumer surplus losses that result when compliance costs drive up prices and reduce consumption of the goods and services produced by the regulated entity, there may be secondary effects on other markets, which reduce consumer welfare. The effects result because regulation increases the overall costs of consumption relative to output and reduces investment and productivity. These effects can only be estimated with a computable general equilibrium model that traces the myriad interrelationships that make up the modern economy. Unfortunately the results of these models are highly dependent on model specifications, which are not transparent to outside reviewers making it difficult to determine the reasonableness of model estimates.[11]

The two most well known models that have been used to estimate the general equilibrium effects apply to environmental regulation. These models find that by 1990 the social welfare effects were about twice the direct compliance cost effects (Hazilla and Kopp 1990 and Jorgenson and Wilcoxen 1990). In table 4 we present this estimate for environmental regulation but not for workplace and product regulation. The reasons are that the estimates were made for environmental regulation and there is no theoretical reason why the effect should be the same for the two types of regulation. This is because the benefits of environmental regulation generally flow to third parties not involved in the production of the regulated product, while the benefits of workplace health and safety regulation and product safety and energy-efficiency regulations mostly flow to parties that are part of the transaction (workers and consumers of the product). This factor causes the costs to the regulated firms to be less than the direct compliance costs because firms will likely eventually reap at least a portion of the benefits of the regulation through lower employee costs for workplace regulation and higher product quality for product safety and energy-efficiency regulation. If the actual costs of compliance to firms are less than the estimated direct compliance costs, the general equilibrium effects will also likely be smaller.

The general equilibrium or secondary effects of the regulation on the benefit side are less well understood than they are for the cost side. But as discussed in last year's report, the health and safety benefits of regulation, in particular, should result in indirect welfare benefits for the economy. Because a healthier and longer-living population is likely to have a longer time horizon and more optimistic outlook, it is also likely to work more years more productively and save and invest more. These effects could very well expand economic activity and increase the standard of living significantly, especially in the long run.

D. Lessons Learned from Studies of Federal Regulation

A review of several studies of the costs and benefits of regulation offers insights into both the actual effects of regulations and into the problems that attend any estimation of their benefits and costs. Below we discuss the two key studies underlying our estimate of the aggregate benefits and costs of environmental regulation and a new study by Robert Hahn of 106 regulations using prospective estimates of costs and benefits published by the agencies at the time the final rules were issued (Hahn forthcoming). We also review two additional retrospective studies that compare the actual and predicted costs and benefits of regulation.

First, as noted earlier, EPA recently published its Section 812 Retrospective study of the costs and benefits of the Clean Air Act, as required by section 812 of the Clean Air Act of 1990. It estimated that the present value of benefits of the Clean Air Act regulations issued between 1970 and 1990 is $22.2 trillion (central estimate, 1990$). Publication of the Section 812 Retrospective provides an opportunity to compare it with the Hahn and Hird study, which served as the basis for our estimates in last year's report.

Hahn's study expands on his earlier one, which we used in section 2 in our aggregate estimate to cover the years 1987 to 1994 (Hahn 1996). The 106 final regulations with both costs and benefits in the new study were issued between 1982 and mid-1996 by EPA, OSHA, NHTSA, HHS, HUD, and USDA. Hahn uses consensus estimates to value reduced units of pollution and increased life-years to calculate benefits of health, safety and environmental regulation. He takes as given the quantity estimates of benefits and the monetized estimates of costs found in the agency-produced regulatory impact analyses. He also converted to constant 1995 dollars and used a 5 percent discount rate to put costs and benefits in a consistent present value framework. Hahn estimated that the net present value of benefits of the 106 regulations is about $1.6 trillion. However, he also found that not all agency rules provided net benefits. In fact, less than half of all final rules provided benefits greater than costs. The main reason for his large estimate of net benefits and relatively poor performance for many individual regulations was that a few rules provided most of the net benefits. NHTSA's automatic restraints in cars and EPA's lead phasedown in gasoline provided just over 70 percent of total net benefits (Hahn forthcoming, p. 15).

1. EPA's Retrospective Report to Congress on the Benefits and Costs of the Clean Air Act

EPA's Section 812 Retrospective represents the culmination of a six-year effort by EPA. The Section 812 Retrospective also reflects, as required by section 812, peer review by an independent, external panel of economists, health scientists, and environmental scientists known as the Science Advisory Board Council on Clean Air Act Compliance Analysis (Council). The Council provided detailed review and guidance throughout each step of study design, implementation, and report drafting. The quality and reliability of the Section 812 Retrospective was addressed by the Council in its review closure letter by stating that the Council ''finds that the Retrospective Study Report to Congress by the Agency is a serious, careful study and employs sound methods along with the best data available.'' [12] The Council further concluded that the Section 812

[10] Note that they do not consider the Internal Revenue Service to be a regulatory agency and therefore do not include it in their estimates. Their approach is consistent with ours and inconsistent with Hopkins (1997).

[11] See Hahn and Hird, pp. 244–246, for a discussion of these problems and several others.

[12] SAB Council, letter to EPA Administrator Browner, July 8, 1997, p. 1.

Retrospective's findings are ''consistent with the weight of available evidence.'' [13]

The Section 812 Retrospective presents estimates of monetized benefits ranging from $6 to $50 trillion (present value in 1990$) over the period from 1970 through 1990, with a central estimate of $22 trillion. Over this same period, the Section 812 Retrospective estimated direct compliance expenditures of roughly $0.5 trillion. The estimated net monetized benefits for the 1970 to 1990 period range from $5.1 to $48.9 trillion dollars, with a central estimate of $21.7 trillion. The Section 812 Retrospective also notes that the monetized benefits estimate may understate benefits because a number of benefit categories were not quantified and/or monetized, e.g., air toxics effects and ecosystem effects. Table 5 presents the non-monetized benefits listed by the Section 812 Retrospective.

While the findings of the Section 812 Retrospective suggest that the aggregate historical benefits of the clean air regulatory programs substantially exceed the aggregate costs, the Section 812 Retrospective itself provides the following cautionary note on page ES–10:

> Finally, the results of the retrospective study provide useful lessons with respect to the value and limitations of cost-benefit analysis as a tool for evaluating environmental programs. Cost-benefit analysis can provide a valuable framework for organizing and evaluating information on the effects of environmental programs. When used properly, cost-benefit analysis can help illuminate important effects of changes in policy and can help set priorities for closing information gaps and reducing uncertainty. Such proper use, however, requires that sufficient levels of time and resources be provided to permit careful, thorough, and technically and scientifically sound data-gathering and analysis. When cost-benefit analyses are presented without effective characterization of the uncertainties associated with the results, cost-benefit studies can be used in highly misleading and damaging ways. Given the substantial uncertainties which permeate cost-benefit assessment of environmental programs, as demonstrated by the broad range of estimated benefits presented in this study, cost-benefit analysis is best used to inform, but not dictate, decisions related to environmental protection policies, programs, and research.

In terms of our charge under section 625(a), we must also consider these new benefit and cost estimates in developing an overall estimate of the benefits and costs of Federal regulation. The magnitude of EPA's benefit estimate, $22 trillion over the 1970 to 1990 period, is very large. The expected value of the estimated monetized benefit for 1990 is $1.25 trillion per year. This represents approximately 20 percent of total 1990 Gross Domestic Product and is comparable in magnitude to total 1990 U.S. expenditures on nondurable goods. There are several important elements of the analysis in the Section 812 Retrospective which deserve further discussion in order to understand the basis for the benefit estimates over the 1970 to 1990 period.[14]

(a) Establishing a baseline. The Section 812 Retrospective uses as a counter-factual ''baseline'' the modeled air quality in the United States over the 1970 to 1990 period for a scenario in which control technology and requirements are frozen at the levels mandated in 1970. It assumed that no additional air pollution controls would have been imposed by any other level of government or voluntarily initiated by private entities after 1970. The Section 812 Retrospective acknowledges that this is an obvious oversimplification and that, in fact, State and local governments as well as private initiatives were responsible for an important fraction of the estimated benefits and costs over the period from 1970 to 1990.[15] At the same time, it notes that the Federal CAA played an essential role in achieving these results and leaves to others the question of parsing out the precise fraction of costs and benefits attributable to the Federal CAA.[16]

Because the modeled baseline includes significant growth in population, car and truck travel, and economic activity, there is a marked deterioration in baseline air quality over the period from 1970 to 1990. While there is no direct sensitivity analysis of alternative baselines, the available documentation for the ''no control'' scenario suggests that a substantial fraction of the estimated benefits are attributable to the degradation in modeled air quality from 1970 levels, rather than the result of an improvement in air quality from the levels that existed in the United States in 1970.[17]

In any event, considerable uncertainty necessarily surrounds ''what would have happened'' over this 20-year period, rendering all attempts to construct aggregate benefit and cost estimates somewhat speculative.

(b) Key benefit categories. The Section 812 Retrospective developed monetized benefit estimates for ten benefit categories, including mortality, hospital admissions, chronic bronchitis, soiling damage, and visibility. (See table 6.) As indicated by table 6, the monetized benefit estimates associated with reducing exposure to fine particulate matter (PM) account for 90 percent of the total estimated benefits. The discussion below discusses three key elements in developing benefit estimates associated with reductions in PM levels.

(i) Uncertainties in magnitude and causation. The Section 812 Retrospective describes some elements of the uncertainty in the estimates of health risks, focusing on those elements of uncertainty that are most readily quantifiable. For example, it addresses specific, quantifiable elements of the uncertainty in the benefits estimates through the use of a ''Monte Carlo'' analysis. It also presents a thoughtful, qualitative discussion of some of the uncertainties associated with the estimated mortality risk—for example, the effect of an historical trend in particulate matter levels and the effect of intercity movement of population on the concentration-response relationship.

The Section 812 Retrospective offers little discussion, however, of the uncertainty associated with the critical question of the causal relationship between fine particulate matter levels and mortality. It observes that the Clean Air Scientific Advisory Committee has pointed out that a causal mechanism has not been clearly established. It concludes that ''the well-established correlation between exposure to elevated PM and premature mortality is sufficiently compelling to warrant an

[13] Ibid.

[14] ''A final, brief interagency review, pursuant to Circular A–19, was organized in August 1997 by the Office of Management and Budget and conducted following the completion of the extensive expert panel peer review by the SAB Council. During the course of the final interagency discussions, it became clear that several agencies held different views pertaining to several key assumptions in this study as well as to the best techniques to apply in the context of environmental program benefit-cost analyses, including the present study. These concerns include: (1) The extent to which air quality would have deteriorated from 1970 to 1990 in the absence of the Clean Air Act, (2) the methods used to estimate the number of premature deaths and illnesses avoided due to the CAA, (3) the methods used to estimate the value individuals place on avoiding those risks, and (4) the methods used to value non-health related benefits. However, due to the court deadline the resulting concerns were not resolved during this final, brief interagency review. Therefore, this report reflects the findings of EPA and not necessarily other agencies in the Administration.'' See Section 812 Retrospective, p. ES–2.

[15] Section 812 Retrospective, pp. 2–3.

[16] Ibid, p. 3.

[17] Of course, any change in the baseline scenario would also require revision of the cost estimates. The Section 812 Retrospective specifically notes that the ''no control'' scenario avoids the difficulties of sorting out the fraction of costs required to maintain an alternative baseline, such as maintaining air quality at 1970 levels. See Section 812 Retrospective, pp. 2–3.

assumption of a causal relationship and derivation of quantitative estimates of a PM-related mortality.'' [18]

The preamble to EPA's 1996 proposal to revise the National Ambient Air Quality Standard for Particulate Matter (PM NAAQS) discusses at greater length the difficulties associated with the interpretation of specific concentration-response relationships, pointing out that it is the most problematic issue in conducting risk assessments for PM-associated health effects. These include: [19]

(1) The absence of clear evidence regarding mechanisms of action for the various health effects of interest;

(2) Uncertainties about the shape of the concentration-response relationships; and

(3) Concern about whether the use of ambient $PM_{2.5}$ and ambient PM_{10} fixed-site monitoring data adequately reflects the relevant population exposures to PM that are responsible for the reported health effects.

(ii) Timing of effects. The Section 812 Retrospective assumed that reductions in ambient PM concentrations yield contemporaneous reductions in the mortality and chronic health risks associated with long-term exposure. Given that the concentration-response relationships in the underlying study are presumptively thought to be the result of long-term exposure, the assumption of a contemporaneous response—that is, a zero lag in the response—represents only one end in a range of possibilities. It is quite possible, however, that there is a lag in the changes in the risk of chronic health effects and mortality with changes in exposure to particulate matter. Other researchers (World Health Organization, 1996) have assumed the effect of particulate matter exposure does not begin until 15 years of exposure.[20] The incorporation of a latency period can have an important effect on the benefits estimate. The adoption of an alternative latency assumption of 15 years, for example, would reduce the estimated present value of the mortality benefits by a factor of two, given the discount rate of five percent used in the Section 812 Retrospective.

(iii) Valuation of changes in health risk (''benefits transfer''). The Section 812 Retrospective also highlights the difficulties of transferring estimates from other settings to value the projected benefits of a regulatory initiative, e.g., changes in mortality risk. In valuing changes in mortality risk, EPA reviewed 26 studies to develop an estimate of the ''value of a statistical life'' based on the willingness-to-pay (WTP) of individuals to avoid small increases in mortality risk. Using a Weibull distribution to fit the estimates from these 26 studies, the Section 812 Retrospective estimated a mean value of $4.8 million per statistical life (with a standard deviation of $3.2 million in 1990).[21] This estimate reflects a WTP of $5 for a reduction in mortality risk of one in a million.

This estimate is derived from studies involving very small changes in mortality risk. However, the changes in mortality risk associated with changes in particulate matter exposure estimated in the Section 812 Retrospective are roughly 10 to 100 times greater than the changes associated with these valuation studies. When the marginal valuation of $5 for a one in a million change in mortality risk is applied to the ''no control'' scenario where modeled baseline mortality risk is on the order of 1 in a 1000, the resulting WTP estimates for changes in mortality risk represent a large share of each household's annual budget, i.e., household ability to pay. Since the total outlay for risk reduction represents a large share of the household budget, this situation is very different from that examined by the 26 valuation studies where the WTP estimates were a small fraction of household budgets.

(c) Hahn and Hird's estimate for environmental benefits. For its environmental benefit estimate, the Hahn and Hird assessment relied on an analysis by Freeman conducted in the late 1970s (Freeman, 1982).[22] The Freeman analysis largely represented a synthesis of the best existing work of the 1970s. The analysis estimates air pollution control benefits for the year 1978, and water pollution control benefits for the year 1985. Hahn and Hird adjust the Freeman estimates to account for inflation; but these adjustments do not reflect other changes—for example, additional regulations—in the air pollution control program between 1978 and 1988 and in the water pollution program control between 1985 and 1988. For water pollution control benefits, the Freeman analysis may still represent the most comprehensive estimate available. There are, however, several elements of the Freeman analysis that deserve further discussion in order to understand the strengths and limitations of the benefit estimates used by Hahn and Hird.

(i) Establishing a baseline. As noted elsewhere in this report, choice of an analytic baseline can be difficult, since many options are available, and the preferred baseline may be unworkable due to the inadequacy of available data. In the Freeman analysis, different baselines were chosen for the air and water benefits analyses.

The Freeman analysis evaluated the improvement in ambient air quality between 1972 and 1978, and did not consider the deterioration in air quality that might have occurred in the absence of air pollution regulations.[23] In effect, the counterfactual baseline was assumed to be the level of air quality in 1972. As a result, the air quality improvements that were analyzed were much smaller than those incorporated in the CAA Section 812 Retrospective (EPA, 1997). Furthermore, the baseline used for the air benefits analysis was not consistent with that used for Freeman's cost analysis, which estimated all air pollution control costs.

The baseline used for the water analysis, on the other hand, assumed changing population and recreational participation rates between 1972 and 1985. The baseline used for the water benefits analysis was consistent with that used for Freeman's water pollution control cost analysis.

(ii) Key benefit categories. Freeman's air pollution benefits analysis developed monetized benefit estimates for six categories: human health (mortality), human health (morbidity), soiling and cleaning, vegetation, materials, and property values. Approximately two thirds of the monetized benefits were for human health improvements, primarily reduced mortality incidence, due to reductions in ambient air concentrations of particulate matter and sulfur oxides. His analysis does not include any estimate of the benefits arising from reductions in airborne lead (Pb) concentrations, which were a significant source of air pollution control benefits found by later studies. The discussion below addresses 3 key factors to bear in mind when interpreting the primary benefit category, i.e., reduced mortality, found in the air benefits estimates of his analysis.

[18] Ibid., p. 34.

[19] 61 FR 65650. The preamble to the final rule reaffirms these concerns by citing the proposal and a more complete discussion in the criteria document (chapters 10–13) and the staff paper (chapter IV). See 62 FR 38655 and 38656.

[20] Section 812 retrospective, p. D–17.

[21] Section 812 Retrospective, p.44.

[22] See Hahn and Hird (1991 pages 253, 273; Portney (1990) pages 54–60; Freeman (1990 in Portney (1990) page 123.

[23] Implicitly, the Analysis assumed increased state, local, and private initiatives great enough to offset air quality deterioration due to increased economic activity, population growth, and vehicle-miles-traveled (VMT) by automobiles and trucks during the 1972 to 1978 period.

1. Uncertainties in Magnitudes of Physical Effects: The Freeman analysis surveys seven studies from the 1970s which developed a dose-response relationship between particulate matter and human mortality.[24] Based on these studies, Freeman provides a range of possible results, with a ''best-guess'' estimate assumed to be at the midpoint of the range. Since 1978, a number of additional epidemiological studies have been completed on the relationship between particulate matter and human mortality rates. It does not reflect the advances in knowledge achieved in the 1980s and 1990s.

2. Timing of Effects: The Freeman analysis assumed that reductions in ambient PM concentrations yield contemporaneous reductions in the mortality risks associated with exposure to PM. If one were to assume, for example, a significant lag, e.g., many years, between changes in exposure and changes in risk, then the mortality benefit estimates would be reduced.

3. Valuation of Changes in Health Risk: The Freeman analysis assumed a value per statistical life (VSL) of $2.4 million.[25] Since 1978, there have been significant additional contributions to the economic literature on the value of mortality risk. After considering these more recent studies, the Section 812 Retrospective adopted a midpoint of $4.8 million ($1990) as a better estimate on the population's willingness-to-pay for reductions in mortality risk. Use of an alternative valuation for mortality risk would have a significant effect on the aggregate benefit estimate in the Freeman analysis.

Freeman's water pollution benefits analysis developed monetized benefits estimates for four categories: recreation, nonuse, commercial fisheries, and diversionary uses. Approximately half of the monetized benefits are attributable to recreation. This analysis is based on a number of studies carried out in the 1960s and 1970s, with benefits projected forward to reflect projected population and recreational participation rates in 1985. However, these estimates do not include benefits associated with the reduction in toxic loadings in waste water discharges, even though Freeman's cost estimates include ''substantial costs for the control of discharges of these substances'' (Freeman, 1982). Benefits of non-point source pollution control also were not included. Benefits to new and existing recreational users for hiking, picnicking and nature observation that might result from improvements in water quality were also omitted because of the absence of data for these activities.

(d) Summary assessment of Section 812 Retrospective. The discussion above illustrates the difficulty, which we emphasize throughout this report, of developing aggregate estimates of the benefits and costs of major Federal regulatory programs. The results obtained in both the Section 812 Retrospective and the Freeman analysis used by Hahn and Hird appear to be sensitive to choices made concerning the baseline for the analysis and the translation of the reduction of air pollution into human health benefits.

2. Two Other Retrospective Studies

In general, retrospective studies are likely to provide more accurate results than prospective studies because there are fewer unknowns to deal with. Prospective studies must estimate what will happen as a result of a proposed regulation and compare it with what would happen without the regulation (the counterfactual). Retrospective studies only need to measure the actual and estimate the counterfactual. Below we discuss several case studies from the literature that compare retrospective studies with their respective prospective studies. NHTSA recently completed the third in a series of studies of its 1983 center high-mounted stop lamp regulation. In brief the studies found that although benefits exceeded costs, costs had been underestimated by a factor of two and that the effectiveness of the rule had been over estimated by a factor of seven in the prospective study. The second case study examines eight regulations issued by OSHA between 1974 and 1989 by drawing on an Office of Technology Assessment (1995) report and a book by Viscusi (1992) that examined the cost estimates and actual impacts of various OSHA regulations. The case studies reveal that in some cases the agency overestimated expected costs compared to the actual and in other cases it underestimated them. The OTA study itself concluded that the agency had a tendency to overestimate costs because of unanticipated improvements in compliance technology after the regulations were issued. However, as in the NHTSA example, the agency also appears to have overestimated the effectiveness of its rule, if not the benefits.

(a) The Center High-Mounted Stop Lamp Case. A comparison of NHTSA's prospective with its retrospective analyses of its Center High-Mounted Stop Lamp (CHMSL)[26] regulation illustrates how the benefits and costs of a rule can be substantially different in practice than what one would have expected based solely on the prospective work.[27] It further illustrates that early post-rule estimates may differ substantially from long-term estimates. In the case of the CHMSL rule, the Final Regulatory Impact Analysis (FRIA) in support of the rule made what appeared to be an overwhelming case that the rule would generate very large net benefits. The FRIA was based on substantial amounts of experimental data and for many years served as a model of an RIA that consistently employed sound benefit-cost analysis principles. Nevertheless, when compared with NHTSA's long-term evaluation, the FRIA overestimated the actual effectiveness (though not the consequent benefits) of CHMSLs by a factor of more than seven and underestimated the cost by a factor of more than two. Despite these revelations, however, the analyses continue to confirm that the rule generates positive net benefits, though not nearly as large as what one might have expected at the time the rule was proposed or even based on the early post-rule analyses.

(i) 1980 and 1983 Regulatory Impact Analyses. In early 1981 NHTSA proposed to require CHMSLs. At that time the agency estimated in its Preliminary Regulatory Impact Analysis (PRIA) that the rule would reduce rear-end collisions by 35 percent (see table 7). NHTSA estimated this would lead to 1,511,000 fewer crashes per year once the entire passenger-car fleet was so equipped. NHTSA also estimated that an additional 1,339,000 crashes per year would be less severe than they otherwise would have been. The combined value of the savings in property damage would range from $1.3 to $2.3 billion per year. In addition, the PRIA estimated the rule would prevent 66,000 injuries and 533 fatalities per year. NHTSA estimated the cost of the proposal at $49 million per year. Thus the analysis of the proposal held out the

[24] Freeman (1982), pages 63–66. Five of the seven studies relied on the statistical work by Lave and Seskin from 1970, 1973, and 1977.

[25] Freeman (1982), page 68. The estimate of $1 million in 1978 is converted to 1996 using the CPI.

[26] CHMSLs are the ''third tail light'' found on all new cars beginning with the 1986 model year. The purpose of CHMSLs is to reduce the time it takes for following drivers to react when drivers in front of them put on their brakes, allowing them to stop sooner and thereby avoid crashes (or reduce the speed at which impact occurs).

[27] Over the years, NHTSA has conducted a total of five distinct analyses of its rule. These include two prospective analyses (preliminary and final regulatory impact analyses) and three retrospective analyses.

promise of very large net benefits in property damage reductions alone.[28]

NHTSA completed its FRIA and published the final rule in 1983. In response to comments it received on the proposal and in light of some new evidence of the effectiveness of CHMSLs, NHTSA revised several components of its benefit estimates downward. The FRIA also included a somewhat refined cost estimate. The FRIA estimated the effectiveness of CHMSL at 33 percent. In order to provide a more ''conservative'' estimate of the benefits, NHTSA applied this effectiveness rate to a smaller proportion of rear-end crashes than in the PRIA.[29] In the FRIA, NHTSA also assumed a lower value of damage per crash avoided ($510 vs. $1,116 in the PRIA). The result of these and other related adjustments was estimates of 902,500 fewer crashes, $434 million in reduced property damage, 40,000 fewer injuries and no estimate of reduced fatalities.

The effectiveness estimates were based on three separate experimental studies for which CHMSLs had been installed on fleets of taxis and telephone company passenger cars. The three studies covered over 3,000 vehicles and over 150 million vehicle miles. Nevertheless, as early as 1980, NHTSA recognized the possibility that the effectiveness estimate based on experimental studies may overstate the true effectiveness of CHMSLs if there is a ''novelty'' effect which caused following drivers to react more quickly than they would once CHMSLs became commonplace. The effectiveness estimate was critical to the decision to go forward with the rule because it underlies all components of the benefit estimates. To its credit, NHTSA committed at the time it proposed the rule to reassess the effectiveness after the fact, if NHTSA adopted a CHMSL requirement in a final rule.

(ii) 1987, 1989, and 1998 retrospective studies. Since the rule became effective with the 1986 model year, NHTSA has conducted three analyses with the benefit of hindsight. The most important results of these studies are that: (1) The effectiveness of CHMSLs is considerably lower than NHTSA estimated in the PRIA and FRIA; (2) the effectiveness has fallen over time, though it now appears to have stabilized; (3) actual costs are about double those estimated in the RIAs; and, most importantly, (4) despite these findings, the rule still generates net benefits.

In 1987, NHTSA conducted a preliminary evaluation of the effectiveness of production CHMSLs.[30] It found an effectiveness of about 15 percent. Thus, even though the CHMSLs were installed in a small percentage of cars nationwide, i.e., when any ''novelty effect'' would most likely occur, effectiveness was less than half of the estimates in the RIAs.

In 1989, NHTSA conducted the second of its retrospective studies. This study was based on 1987 data, by which time about one-fourth of the passenger car fleet was equipped with CHMSLs. By this time, the estimate of effectiveness had fallen again, to about 11 percent. Despite the drop in estimated effectiveness and a corresponding reduction in the number of accidents prevented compared with the FRIA, the estimated benefits of CHMSLs increased. The number of injuries prevented rose to between 79,000 and 101,000 and the estimate of property damage prevented increased to $774 million per year. At that time, NHTSA also concluded that CHMSLs were unlikely to prevent any fatalities. The reasons for the increase in the benefits estimate despite the reduction in effectiveness is due to three factors: (1) The retrospective estimate includes all accidents (not just urban ones); (2) the injury reduction estimate was based on actual crashes whereas the estimates in the RIAs were modeled based on estimates of the reduced speeds at which crashes that weren't avoided would occur; and (3) the actual value of property damage given an accident was much higher than NHTSA assumed in the FRIA. In other words, had NHTSA used the same methodology and data for the FRIA and the retrospective, each of the benefit categories would contain a value of about one-third of what the FRIA reported, as the difference in effectiveness rates would suggest.

Earlier this year, NHTSA completed its long-term study of the benefits and costs of CHMSLs.[31] This most recent estimate of the effectiveness of CHMSLs is 4.3 percent. NHTSA does not expect it to fall further since it has remained steady throughout the last seven years of data NHTSA has analyzed (1989 to 1995). Part of the decline in effectiveness between the 1989 study and this one is attributable to a further refinement in NHTSA's methodology which more accurately controls for vehicle age, which is a factor in rear-end crashes. (Had NHTSA used the same methodology in the 1989 study, the effectiveness would have been about 8.5 percent, rather than 11.3 percent, and the corresponding benefits would have been proportionately lower.) Thus, the long-term effectiveness of CHMSLs is about one-eighth of NHTSA's original estimate, while the costs are more than double. Even so, these estimates imply that the rule continues to produce net benefits, though not nearly as large as what NHTSA estimated prospectively.

The FRIA included an aggregate cost estimate of $70 million ($7 per vehicle) in each of the first two years and $40 million ($4 per vehicle) each year thereafter. The retrospective analyses estimated the cost at $89 million (about $9 per vehicle) per year, or more than twice the long-term cost estimate in the FRIA.

(iii) Lessons learned from CHMSLs. These analyses confirm what many believe: that benefits and costs are difficult to estimate prospectively. In this instance, the RIAs overstated the effectiveness of CHMSLs despite the advantage of substantial data from field experiments. The estimates of benefits in the FRIA were not nearly as large as those estimates presented in the PRIA. Nevertheless, the FRIA estimates overstated the effectiveness of the rule by a factor of more than seven. The changes in effectiveness estimates over time suggest that it is important to re-evaluate the effects of regulations, particularly where behavioral responses to the regulation may evolve over time.

With respect to cost, even though the only cost component was a fairly simple piece of hardware, the FRIA estimate was less than half the actual cost. It is interesting that, in their comments on the proposed rule, the three domestic manufacturers estimated costs in the $8 to $15 range. The low end of this range was lower than NHTSA's actual (long-term retrospective) estimate and the high end was only slightly further from actual costs than the FRIA estimate.

[28] Since the costs occur when the vehicles are manufactured and the benefits occur over the lifetime of the vehicle, it is inappropriate simply to subtract annual costs from benefits. Even after discounting, however, the PRIA estimates would yield net benefits of between $600 million and $1.3 billion annually in property damage alone.

[29] For example, the estimate excluded rural accidents, which account for nearly one quarter of all accidents, because the test fleets were driven in urban areas only thus leaving NHTSA with no evidence that CHMSLs would be effective in rural settings. As NHTSA later discovered, the actual effectiveness was about the same between urban and rural settings.

[30] This study did not attempt to evaluate the benefits in a broader sense or the costs.

[31] In the early 1990s, NHTSA extended the CHMSL requirement to include ''light trucks,'' i.e., minivans, sport-utility vehicles, and pickup trucks, which comprise about 40 percent of the fleet. The estimates in the long-term study include the effects on these vehicles as well. However, in order to facilitate comparisons with NHTSA's previous estimates which pertained to cars only, all aggregate estimates in this study have been reduced by 40 percent to reflect the effects on cars only.

(b) Eight OSHA cases. The Office of Technology Assessment was asked by Congress in 1992 to examine how well OSHA had estimated the impacts of the regulations it had issued. OTA attempted to answer this question by comparing OSHA's prospective analysis of impacts with actual outcomes for a selective set of regulations. Although OTA did not directly attempt to estimate actual benefits, in some cases they can be inferred from the discussion and in other cases other information sources, e.g., Viscusi 1992, can be used. Because of funding constraints, three of the eight cases—vinyl chloride, cotton dust, and ethylene oxide—were chosen because existing studies had already been done. For the other five, new retrospective studies were commissioned.

The eight cases examined exhibited a variety of outcomes. Table 8, based on our analysis of the report's findings as well as other information, shows that costs and benefits were both over-and underestimated and that benefits were sometimes overestimated by OSHA in its prospective analyses of the impacts of the rules. The 1974 regulation of vinyl chloride is often cited as an example of an agency overestimating costs, although to be fair to OSHA the cost estimate was supplied by industry and OSHA at that time did not conduct its own economic analyses of prospective regulations. When cotton dust was issued four years later, the agency was conducting economic analyses for major rules. Cotton dust is also often cited as an example of the agency overestimating compliance costs. OSHA, itself, contracted for a retrospective study of the regulation five years after the rule was issued but before the final controls took effect. The study found that OSHA had earlier overestimated actual capital costs by a factor of five (Viscusi 1992). The later study also found that benefits had also been overestimated by at least two fold because of mistakes in methodology and overcounting of the number of exposed individuals.

In the secondary lead smelters case, also issued in 1978, OSHA underestimated costs and overestimated benefits. The OTA report (p. 62) points out that as of 1995 secondary lead smelters were not able to comply with the engineering controls requirement to reduce air-lead levels to the permissible exposure limit because compliance was economically infeasible, i.e., costs had been underestimated. However, smelters had found less expensive and more direct ways than engineering controls to reduce blood-lead levels, the key health indicator and performance goal. In other words, reducing air-lead levels through engineering controls was not needed to attain the sought-after health benefits. The benefits of engineering controls had been overestimated.

In the 1984 ethylene oxide regulation of hospitals, OTA found that OSHA had underestimated the costs of ventilation equipment but that hospitals had little trouble complying with the standard by other means. OTA found that overall hospitals spent more than expected, but that was because they brought exposure levels down significantly below the regulated level. On average, the agency had estimated costs about right.

The agency appears to have overestimated costs by about a factor of two for metal foundries in its 1987 regulation of formaldehyde because firms used low-formaldehyde resins rather than the predicted ventilation controls to attain compliance.

The next three case studies were for safety standards and the findings are difficult to summarize. The OTA study did not directly estimate costs or benefits for grain handling but found that the standard was economically feasible. The PSDI power presses and powered platforms rules were actually attempts at deregulation. In both cases the cost savings that were predicted failed to materialize because firms did not take advantage of the newly offered flexibility, presumably because the agency had underestimated the costs and/or overestimated the benefits of the flexibility. (See OTA 1995 p. 62.)

Looking at this evidence, OTA concluded that OSHA tended to overestimate costs because new technology was often developed between the time the analysis was done, which in several cases was several years before the final rule was issued, and the compliance date. The report recommended that the agency consider the dynamic nature of technology including the possibility of ''regulation-induced innovation'' in order to set lower compliance levels (p. 11). However, there is an opportunity cost to forcing innovation that is being neglected. The resources that are directed at reducing compliance costs by developing new technologies have to be pulled from other projects, which presumably the company thought had a larger potential for payoff. Since adding another constraint to the economic system is not likely to increase the overall rate of technological progress for the economy, ''regulation-induced innovation'' is not likely to be the ''win-win'' situation that the report suggests (p. 53).

Taken as a whole, these retrospective studies show that OSHA has both underestimated and overestimated costs, sometimes by large amounts. At the same time, in instances where there are clear data, OSHA appears generally to have overestimated benefits. Although there are important cases of overestimating costs because technological progress and learning-by-doing over time reduced expected costs, it is not clear that agencies should compensate for this tendency by reducing costs estimates. These same factors may also lead to a tendency to overestimate benefits.

Chapter II: Estimates of Benefits and Costs of This Year's ''Economically Significant'' Rules

A. Scope

In this chapter, we examine the benefits and costs of ''each rule that is likely to have a gross annual effect on the economy of $100,000,000 or more in increased costs,'' as required by section 645(a)(2). We have included in our review those final regulations on which OIRA concluded review during the 12-month period April 1, 1997, through March 31, 1998. This ''regulatory year'' is the same time period we chose for last year's report. We chose this time period to ensure that we covered a full year's regulatory actions as close as practicable to the date our report is due, given the need to compile and analyze data and publish the report for public comment. In addition, we thought it would be useful to adopt a time period close to that used for the annual OMB report required by the Unfunded Mandates Reform Act of 1995.

The statutory language categorizing the rules we are to consider for this report is somewhat different from the definition of ''economically significant'' in Executive Order 12866 (section 3(f)(1)). It also differs from similar statutory definitions in the Unfunded Mandates Reform Act and subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996—Congressional Review of Agency Rulemaking. Given these varying definitions, we interpreted section 645(a)(2) broadly to include all final rules promulgated by an Executive branch agency that meet any one of the following three measures:

- Rules designated as ''economically significant'' under section 3(f)(1) of Executive Order 12866
- Rules designated as ''major'' under 5 U.S.C. 804(2) (Congressional Review Act)
- Rules designated as meeting the threshold under title II of the Unfunded Mandates Reform Act (2 U.S.C. 1531–1538)

This year we also include a discussion of major rules issued by independent regulatory agencies, although we do not review these rules under Executive Order 12866. This discussion is based on data provided by these agencies to the General Accounting Office (GAO) under the Congressional Review Act.

During the regulatory year selected, OIRA reviewed 33 final rules that met the criteria noted above. Of these final rules HHS submitted 10; EPA nine; USDA five; DOI and DOE two each; DOL, DOT, DOJ, and VA one each. In addition three agencies, DOL, HHS, and Treasury, worked together to issue one common rule. These 33 rules represent about 14 percent of the 230 final rules reviewed by OIRA between April 1, 1997, and March 31, 1998, and less than one percent of the 4,720 final rule documents published in the **Federal Register** during this period. Nevertheless, because of their greater scale and scope, we believe that they represent the vast majority of the costs and benefits of new Federal regulations during this period.

1. Overview

As noted in chapter I of last year's report, Executive Order 12866 ''reaffirms the primacy of Federal agencies in the regulatory decision-making process'' because agencies are given the legal authority and responsibility for rulemaking under both their organic statutes and certain process-oriented statutes, such as the Administrative Procedure Act, the Unfunded Mandates Reform Act, and the Small Business Regulatory Enforcement Fairness Act. The Executive order also reaffirms the legitimacy of centralized review generally and in particular review of the agencies' benefit-cost analyses that are to accompany their proposals. The Executive order recognizes that in some instances the consideration of benefits or costs is precluded by law. For example, the primary National Ambient Air Quality Standards under the Clean Air Act are to be health-based standards set by EPA solely on the basis of the scientific evidence. A variation is the Occupational Safety and Health Act, where health standards must be based on reducing significant risks to the extent doing so is economically and technologically feasible. However, the Executive order requires agencies to prepare and submit benefit-cost analyses even if those considerations are not a factor in the decision-making process. Again, it is the agencies that have the responsibility to prepare these analyses, and it is expected that OIRA will review (but not redo) this work. The costs and benefits identified may be attributable solely to the regulation in question, where the agency has substantial discretion, or they may in fact be attributable just as much to the act of Congress that they are implementing.

Reviewing for this report the benefit-cost analyses accompanying the 33 final rules listed in table 9, we found, as we did last year, a wide variety in the type, form, and format of the data generated and used by the agencies. For example, agencies developed estimates of benefits, costs, and transfers that were sometimes monetized, sometimes quantified but not monetized, sometimes qualitative, and, most often, some combination of the three. Generally, the boundaries between these types of estimates are relatively well defined.

2. Benefits and Costs of Economically Significant/Major Final Rules (April 1997 to March 1998)

(a) Social Regulation. Of the 33 rules reviewed by OIRA, 22 are regulations requiring substantial additional private expenditures and/or providing new social benefits.[32] (See table 9). EPA issued nine of these rules; USDA three; HHS three; DOI and DOE two each; DOT and DOL one each; and HHS/DOL/Treasury jointly issued one rule. Agency estimates and discussion are presented in a variety of ways, ranging from a purely qualitative discussion, e.g., the benefits of EPA's toxics release inventory rule, to a more complete benefit-cost analysis, e.g., DOE's energy conservation standards for refrigerators and freezers.

(i) Benefits analysis. Agencies monetized at least some benefit estimates in a number of cases including: (1) USDA's $2.41 billion over 15 years from the effects of its environmental quality incentives program on net farm income, pollution damage reductions, and wildlife enhancements; (2) EPA's $12 to $57 million per year in terms of better water quality from its pulp and paper effluent guidelines rule; and (3) DOE's $7.62 billion over 30 years in energy savings from its energy efficiency rule for refrigerators and freezers.

Of the 22 (non-transfer) rules listed in table 9, agencies monetized all the benefit estimates that they were able to quantify in eight cases. In five cases, agencies provided some of the benefit estimates in monetized and quantified form, but did not monetize other, important components of benefits. DOE's two energy efficiency rules monetized the value of energy savings and quantified, but did not monetize, the power plant emission reductions associated with the reduced energy consumption. DOL's respiratory protection rule monetized the out-of-pocket savings associated with its estimate of injury and illness reductions, but monetized neither the other aspects of those injuries and illnesses (such as pain and suffering) nor the fatalities avoided.

In three cases, agencies provided quantified but not monetized benefit estimates. These included: (1) HHS's 297 to 1306 life-years extended as a result of its organ transplant rule; (2) EPA's 593,000 tons of nitrogen oxide emission reductions per year from its highway heavy-duty engines rule; and (3) EPA's annualized emission reductions of 385,000 tons of nitrogen oxides, 6,000 tons of hydrocarbons and 4,000 tons of particulate matter from its locomotives rule.

Finally, in six cases, agencies reported neither monetized nor quantified benefit estimates. In many, though not all, of these cases, the agency provided a qualitative description of benefits. For example, HHS' animal feed rule discusses the potential benefits of avoiding an outbreak of ''mad cow'' disease, but does not estimate the probability of such an episode. EPA's analysis of its expansion of its toxic release inventory reporting rule includes a qualitative discussion of making these data available to the public.

(ii) Cost analysis. In 19 of the 22 cases, agencies provided monetized cost estimates. These include such items as: USDA's estimate of $1.65 billion over 15 years for its environmental quality incentives program; DOL's estimate of $111 million per year for its respiratory protection rule; and EPA's estimate of $37 billion per year to achieve full attainment of its revised primary National Ambient Air Quality Standard for particulate matter. For three deregulatory rules—USDA's Sonoran pork and Argentinian beef rules and EPA's PCB disposal rule—agencies' monetized cost estimates were small or zero.

For the remaining three rules, the agencies did not estimate costs. These included DOI's two migratory bird hunting rules and NHTSA's light truck fuel economy rule.

(iii) Net monetized benefits. Thirteen of these 22 rules provided at least some monetized estimates of both benefits and costs. Of those, six have positive net monetized benefits, that is, estimated monetized benefits that unambiguously exceed the estimated monetized costs of

[32] The other 11 are ''transfer'' rules.

the rules. For example, DOE's energy conservation standards for refrigerators and freezers will generate an estimated net benefit of $4.18 billion (present value) through 2030. EPA's PCB disposal rule will result in an estimated net benefit of about $161 million per year. Four rules resulted in negative net monetized benefits. These included DOL's respiratory protection rule and EPA's medical waste incinerator rule. Two rules resulted in monetized benefit estimates that were sufficiently uncertain as to include both possibilities (net benefits and net costs). For example, EPA's pulp and paper hazardous air pollutant rule was estimated to generate between $925 million in net benefits and $1.165 billion in net costs. Finally, one rule (USDA's Sonoran pork rule) was estimated to have $0 benefits and $0 costs.

(iv) Rules with quantified effects of less than $100 million per year. Seven of the rules in table 9 are classified as economically significant even though they have no quantified effects that exceed $100 million in any one year. These deserve comment:

USDA (2 Rules)—Importation of Pork from Sonora, Mexico, and Beef from Argentina: In 1997, USDA began implementing a new general policy allowing, under certain conditions, the importation of animal products from certain regions of countries shown to be free of pests. This policy was promulgated by rule on October 28, 1997 (62 FR 56000, 56027), but was not designated as major because the Department concluded that analysis of the benefits and costs of the general policy was infeasible. Instead, the Department undertook to perform such analyses on each significant action implementing the general policy:

> Because this framework will not be fully implemented until we receive a new request to allow the importation of animals or animal products into the United States, and because we do not know the number or sources of requests we will receive in the future, we cannot estimate the economic impact of this rule as stipulated in E.O. 12866. We are therefore committed to performing a risk assessment and cost-benefit analysis on a case-by-case basis for each request we receive in the near future. [62 FR 56010]

The individual rulemakings concerning the importation of pork from Sonora, Mexico, and beef from Argentina represent the first two applications of this general regionalization policy and were analyzed as if they were ''major'' pursuant to this departmental commitment.

HHS—Substances Prohibited in Animal Feed: FDA estimated that this rule will cost $53 million per year. It did not attempt to estimate the benefits to be expected from the rule because it was unable to estimate the probability of an outbreak of Bovine Spongiform Encephalopathy (''mad cow disease''). However, FDA did estimate that the consequences of an outbreak, should one occur, would be substantial. It estimated the losses from the destruction of exposed livestock would be about $3.8 billion.

DOI—Migratory Bird Hunting (2 Rules): These are unusual rules in that they are permissive rather than restrictive; that is, migratory bird hunting is prohibited absent these annual regulations which allow hunting, setting bag limits and other controls on both early and late season hunts. Thus the rules permit such spending rather than requiring the expenditure of private resources. DOI reports that the National Survey of Fishing, Hunting, and Wildlife Associated Recreation indicated that expenditures by migratory bird hunters (exclusive of licenses, tags, permits, etc.) totaled $686 million in 1991. Based on this estimate, DOI estimated expenditures for duck hunters would be over $400 million per year in 1995. However, this figure is not in the commonly used sense a social benefit.

DOE—Room Air Conditioners: This rule was proposed as part of a substantially larger rulemaking that included seven other types of household appliances, such as water heaters, fluorescent lamp ballasts, and mobile home furnaces. Energy efficiency standards for all eight combined clearly would have been economically significant. Even though the monetized effects of this rule are less than $100 million in any year, the annualized energy savings benefits (about $60 million per year) are substantial. This fact, combined with the rule's history led to the decision to maintain the ''economically significant'' designation.

DOT—Light Truck CAFE: Each year, DOT must establish a corporate average fuel economy (CAFE) standard for light trucks, including sport-utility vehicles and minivans. (DOT also sets a separate standard for passenger cars but is not required to revisit the standard each year.) For the past three years, however, appropriations language has prohibited NHTSA from spending any funds to change the standards. In effect, it has frozen the light truck standard at its existing level of 20.7 miles per gallon (mpg) and has prohibited NHTSA from analyzing effects at either 20.7 mpg or alternative levels. Although benefits and costs are not estimated, DOT's experience in previous years indicates that they may be substantial. Over 5 million new light trucks are subject to these standards each year, and the standard, at 20.7 mpg, is binding on several manufacturers. Some are just above the standard and at least one is currently below 20.7 mpg. Because of these likely, substantial effects, we designated the rule as economically significant even though analysis of the effects was prohibited by law.

(b) Transfer Regulations. Of the 33 rules listed in table 9, 11 were rules necessary to implement Federal budgetary programs. The budget outlays associated with these rules are ''transfers'' to program beneficiaries. Of the 11, two are USDA rules that implement Federal appropriations language regarding home day care meal programs and agricultural policies; seven are HHS rules that implement Medicare and Medicaid policy; one is a DOJ rule regarding immigration policy; and one is a VA rule regarding compensation of veterans who have cardiovascular disabilities.

(c) Major rules for independent agencies. Several commenters suggested that last year we omitted a major category of costs and benefits: the costs and benefits of major rules from the independent agencies. The General Accounting Office (GAO) is required to submit reports on major rules to the Committees of Jurisdiction in both houses of Congress under the congressional review provisions of the Small Business Regulatory Enforcement Fairness Act (SBREFA), including rules issued by agencies not subject to Executive Order 12866 (the so-called independent agencies). We reviewed the information on the costs and benefits of major rules contained in the GAO reports for the period April 1, 1996 to March 31, 1998. According to the GAO reports, five independent agencies issued 41 major rules during this period. The agencies are listed in table 10 along with a summary of the kinds of information provided by the agencies as summarized by GAO.

Table 10 clearly reveals that the independent agencies provide relatively little quantitative information on the costs and benefits of regulations for major rules, especially compared to the agencies subject to E.O. 12866. Indeed, according to a recent GAO report, Regulatory Reform: Major Rules Submitted for Congressional Review During the First 2 Years, (April 24, 1998), the independent agencies themselves reported doing benefit/cost analyses for only eight, or 18 percent, of the 44 major rules they submitted to GAO during this period. That compares to 72 out of 78 rules, or 92 percent, that

GAO examined for the agencies subject to Executive Order 12866. Table 10 also shows that 12 of the 41 rules, or 29 percent, from independent agencies in our sample, which were all in the GAO sample, included some discussion of benefits and costs even though in some cases the agencies reported that they did not do a benefit cost analysis. However, table 10 also reveals that only four of the 41 regulations had any monetized cost information and only one had any monetized benefit information.

The one rule in table 10 that estimated both benefits and costs was an SEC rule amending the Investment Advisors Act of 1940 to exempt certain types of investment advisors from the prohibition of SEC registration as investment advisors. The SEC estimated benefits of $7 million and costs of $930,000.The three other rules for which costs were estimated are the SEC's rule allowing electronic storage for brokers or dealer reporting, which the industry estimated would reduce costs by $160 million per year; a Federal Reserve Board (FRB) bank holding regulation that would reduce paperwork burden by $1.3 million per year; and an FCC regulation that requires that phones in most public facilities be hearing aid compatible with volume controls, which was estimated to increase the costs of a phone by from 50 cents to a dollar.

The only estimate of costs or benefits of approximately $100 million was the industry-supplied estimate of $160 million savings for the SEC's broker/dealer reporting rule. Since we have used a criterion of using only agency or academic peer reviewed estimates, we conclude that the 41 GAO reports contain no information useful for estimating the aggregate costs and benefits of regulations.

3. Best Practices and RIAs

Based on a review of the 21 agency cost-benefit analyses for the period from April 1, 1996 to March 31, 1997, last year's report concluded that we need better information in order to determine whether proposed regulations produce the greatest net benefits. Based on a review of 22 additional agency analyses for the year from April 1, 1997 to March 31, 1998, that conclusion still stands. Nevertheless, agencies are making significant efforts to apply the Best Practices principles in their RIAs. Below we discuss several examples of agencies' application of these principles to their analytical work.

Serious deviations from Best Practices on any one criterion can dramatically diminish the usefulness of the analysis, or worse, lead to analytical results that distort the facts and ultimately result in regulatory decisions that are far from optimal. Because of the importance of ''getting it right,'' we thought it would be instructive to select several criteria from the Best Practices document and discuss some examples of how agencies properly applied them in their regulatory analyses:

- Quantification and monetization of estimates and treatment of qualitative estimates
- Determination of a consistent and reasonable baseline
- Evaluation of regulatory options
- Treatment of bias and uncertainty
- Treatment of future streams of benefits and costs

(i) Quantification, monetization and treatment of qualitative estimates. All monetized estimates are, by definition, given in dollars and (unless there are overlapping effects of rules that are not accounted for) permit ready comparison and aggregation. Monetized estimates of effects are what is most generally considered the basis of benefit-cost analysis. Even when such figures are available, however, care must be taken when interpreting them because they depend for comparability on a number of distinct elements. Specifically, monetized estimates consist of: (1) The dollar value itself; (2) the base year of the dollar used; (3) the initial year in which the effects occur; (4) the final year after which the effects disappear; and (5) the discount rate used to convert future into current values (or vice versa).

Quantified estimates may take the form of a variety of different units, but they share in common a numeric measure. Generally, quantified estimates of benefits, costs, and transfers must be interpreted with the same elements noted above in mind. The most important difference, of course, is that quantified estimates are expressed in units other than dollars. Such estimates may be aggregated only if they are presented in the same or similar units. Also, a quantified estimate should identify the applicable time period, e.g., tons of pollution controlled per year, number of endangered species protected from extinction per decade. Quantified estimates that lack reference to the time periods to which they apply may be highly misleading, and should be converted to similar time periods to be comparable. Indeed, even when estimates of a similar type include explicit reference to their underlying time periods, care must be taken when aggregating or comparing them because of the risk of summing estimates based on different time periods or inconsistent base years.

In contrast, qualitative estimates may not have any units at all, or they may be expressed in units that do not lend themselves to simple comparisons. As has often been observed, it is more frequently the case that costs are monetized and that benefits are more often quantified or presented in qualitative form. Qualitative effects should be evaluated in terms of their uniqueness, reversibility, timing, and geographic scope and severity. These effects are the most difficult to interpret, and this may lead some to give them short shrift. The fact that an effect has not been monetized or quantified does not, however, necessarily mean that it is small or unimportant.

Qualitative effects must be used with care for other reasons as well. Because they tend to be general and descriptive, they may be broader than the incremental effects of the particular regulation being analyzed. For example, in developing a rule designed to address a particular safety problem, an agency may describe the extent of the problem—that is, so many persons injured per year from this particular cause. While important in estimating the benefits of the rule, this figure itself is not a benefit estimate unless and until it is linked to the likely effectiveness of the proposed rule. Finally, qualitative estimates cannot be aggregated at all because they do not contain units that permit arithmetic operations. In addition, not infrequently they fail to contain relevant information about the period of time during which they apply.

(ii) Baseline. One of the criticisms often cited in evaluating RIAs is the failure to use a consistent baseline against which to estimate both benefits and costs, or the failure to adopt a baseline that reflects current and future conditions (including current regulatory requirements). Using inconsistent or incorrect baselines will lead to biased estimates of benefits and/or costs. When this happens, the analysis may incorrectly make one or more of the various regulatory options appear reasonable or vice versa.

The Best Practices document states that the baseline should be the best assessment of the way the world would look absent the proposed regulation. In addition, when more than one baseline appears reasonable or the baseline is very uncertain, the agency may choose to measure benefits and costs against multiple alternative baselines as a form of sensitivity analysis.

In its analysis of the cost impacts for the final PCB disposal rule, for example, EPA considered three alternative baselines reflecting different interpretations of existing regulatory

requirements. EPA's preferred baseline scenario reflects EPA policy as it has evolved over the period since 1979 when EPA published an earlier final rule with regard to PCBs generally (although it does not reflect the special circumstances associated with the disposal of PCB-contaminated ship hulls). A second baseline reflects a literal interpretation of the 1979 rule; a third alternative, the ''special circumstances'' baseline, reflects current EPA policy because the Navy is already disposing of ship hulls in a manner consistent with the new rule. Using these alternative baselines, EPA estimates that the final PCB rule would yield net cost savings ranging from $150 million for the special circumstances baseline to $740 million for a literal interpretation of the 1979 rule. The use of multiple baselines is informative because it illustrates that changes in EPA policy in implementing regulations can have a substantial effect on the cost of a regulatory program. In this case, in the years after EPA adopted a final disposal rule in 1979, changes in EPA policy—especially allowing the disposal of automobile ''shredder fluff'' in municipal landfills—have operated to reduce the cost of the program by more than $500 million per year.

(iii) Regulatory options. The analysis should consider the most important alternative regulatory options in addressing the problem. Failure to do so may give the selected option the appearance of being the best alternative when in fact there are one or more others that result in higher benefits and/or lower costs and thus greater net benefits. It is critical that the alternatives analyzed be reasonable. Analyzing bogus or ''straw man'' options only exacerbates the problem.

The analysis might consider, for example, the use of performance-based standards, different levels of stringency, differential standards for different parts of the regulated population, and differential approaches for assuring compliance. If the proposed regulation is composed of a number of distinct provisions, it is important to evaluate the benefits and costs of the different provisions separately. Particularly in the case of alternative levels of stringency, the analysis should estimate the incremental benefits and costs of each option as compared with the next-less-stringent option.

DOE's final rule setting new energy efficiency standards for refrigerators and freezers, for example, includes analysis of a comprehensive set of options. For each of eight classes of refrigerators, e.g., top-mounted freezer with automatic defrost, DOE estimated the benefits and costs of at least 12 alternative levels of performance standards. For one class, DOE analyzed 28 options. This extensive analysis of alternatives provided DOE with a very rich array of information on the relative effects of alternative standards. For example, DOE's analysis of over 20 alternative performance standards for one class of top-mounted refrigerators enabled it to select an option that resulted in per-unit net benefits more than $200 greater than for the least attractive option considered in the analysis.

(iv) Bias and uncertainty. The analysis should address areas of uncertainty and potential bias. The analysis should also provide a clear discussion of the assumptions underlying the analysis and address the uncertainties that attend these assumptions. Sensitivity analysis helps to identify the truly critical assumptions, thereby enabling the analysts to focus their efforts on further refinements to the analysis in those areas.

The Best Practices document states that where benefit or cost estimates are heavily dependent on certain assumptions, it is essential to identify these assumptions explicitly and to carry out sensitivity analyses based on alternative plausible assumptions.

EPA's analysis for the two rules revising primary National Ambient Air Quality Standards (NAAQS) for ozone and particulate matter (PM) presents a plausible range for the benefits estimates; the range reflects alternative assumptions with respect to the estimates for specific benefit categories (EPA, RIA for PM and ozone primary NAAQS, pp. ES–9 and 10). For example, the analysis presents high and low ozone benefit estimates which reflect differences in the treatment of the possible effect of ozone on premature mortality. Similarly, the analysis presents high and low PM benefit estimates to reflect differences in the treatment of a possible threshold below which PM would have little or no effect on premature mortality.

(v) Future streams of benefits and costs. As discussed above, care must be taken in comparing estimates of effects to assure that they are presented in a comparable time frame. This requires consideration of several factors: (1) The initial year in which the effects occur; (2) the final year after which the effects disappear; (3) the discount rate used to convert future into current values (or vice versa); and (4) the format in which the value is presented.

Format means the characterization of the monetized or quantified effects over time. In the rules on which we are reporting, we found that agencies used a variety of formats:

(1) Annualized values;
(2) Present values;
(3) Constant annual values; and
(4) Other or unknown formats.

From the perspective of benefit-cost analysis, annualized and present value formats are always preferred because they permit aggregation and comparisons within and across regulatory actions. Constant annual values are slightly less desirable insofar as they require the additional step of discounting to permit such aggregation and comparison. Constant annual values are typically found in monetized cost estimates involving Federal budget outlays, and in quantified benefit estimates where agencies have chosen not to discount. Aggregation and comparison within and across regulations generally cannot be performed without a common discounting methodology. Where an agency's estimation methodology follows an unknown format, further research needs to be performed to ascertain how to convert or reconstruct annualized or present value estimates.

The analysis should present a schedule of the stream of benefits and costs where there is a variation in benefits and costs over time or where they occur in different years, e.g., where there is a delay in the timing of benefits relative to the costs. These streams of benefits and costs should either be discounted to yield ''present value'' estimates or ''annualized'' to provide an estimate of annual benefits and costs in a typical year so that they can be considered in a comparable time frame. Failure to do so will bias the analysis in favor of alternatives that deliver benefits later or impose costs sooner.

The Best Practices document refers to OMB Circular A–94 as the basic guidance on discount rates for regulatory analyses. As noted in the A–94 guidance, agencies may also present sensitivity analyses using other discount rates (with a justification for using these alternative rates).

For example, EPA's analysis of its final rule setting both effluent limits for wastewater discharges and air toxic emission limits for pulp and paper mills developed present value estimates using discount rates of three and seven percent for benefit and cost streams over a 30 year period (EPA, Economic Analysis * * *, October 1997, pp.10–3 and 10–4). EPA phased in the recreational benefits over a two-year period (full value in year three and thereafter) and the health benefits over a five year period (full value in year six and thereafter). On the cost side, EPA

assumed the capital costs would be incurred in years one and twenty-one with operations and maintenance costs incurred in the second through thirtieth years. The analysis adopted the 7 percent discount rate in accordance with OMB guidance and used 3 percent, reflecting the social rate of time preference, to reflect the sensitivity of these estimates to alternative discount rates. The benefit estimates (including the lower absolute value of the bound negative benefit estimate) are roughly 50 percent larger and the costs are roughly 40 percent larger using a 3 percent discount rate vis-a-vis a 7 percent discount rate.

4. GAO Report

A review completed by GAO looked at how well the regulatory impact analyses for 20 economically significant health, safety, and environmental regulations issued between July 1996 and March 1997 followed our Best Practices guidelines (GAO 1998). For example, according to GAO, five of the 20 rules examined did not discuss alternatives, six did not assign dollar values to benefits, and one did not assign dollar values to costs—all practices recommended by our guidance (GAO, 1998). In addition, GAO found that the analyses differed in their treatment of assumptions and uncertainty. For example, agencies used various discount rates that ranged from 2.1 percent to 10 percent, and for the six analyses that used an estimate for the value of a statistical life, the estimates ranged from $1.6 million to $5.5 million. GAO does point out, however, that the Best Practices guidance does allow agencies flexibility to vary the assumptions to fit the circumstances of the specific rules, although GAO also points out that in many cases the agencies do not explain why they varied from Best Practice recommendations.

On a more positive note, GAO also reported that according to agency officials, 12 of the 20 analyses were used to help identify the most cost-effective of several alternatives or to cost-effectively implement health-based regulations and that seven of the remaining analyses were used to define the scope and timing of implementation, document and defend regulatory decisions, and reduce health risks at feasible costs. Only one of the analyses played almost no part in regulatory decisions, and that was because the statute was too prescriptive to leave any discretion in implementing the regulation.

As we stated last year:

> Although considerable progress has been made in providing micro data in advance of regulatory proposals and in developing the Best Practices guidance, further progress is needed to continue improving regulatory decisions. Specifically, we need to ensure that the quality of data and analysis used by the agencies improves, that standardized assumptions and methodologies are applied more uniformly across regulatory programs and agencies, and that data and methodologies designed to determine whether existing regulations need to be reformed are developed and used appropriately.

Chapter III: Estimates of Benefits and Costs of ''Economically Significant'' Rules, April 1995–March 1998

In last year's report, we recommended that OIRA continue to develop a data base on benefits and costs of major rules. This chapter seeks to respond to that recommendation by presenting the available benefit and cost estimates for individual rules from April 1, 1995 through March 31, 1998. The summary of agency estimates for final rules from the current year (April 1, 1997 to March 31, 1998) is presented in chapter II, table 9. The summary of agency estimates for final rules from the preceding two years (April 1, 1995 to March 31, 1997) is presented in tables 17 and 18.

In assembling agency estimates of benefits and costs, we have:

(1) Applied a uniform format for the presentation of benefit and cost estimates in order to make agency estimates more closely comparable with each other, e.g., provided the benefit and cost streams over time, annualized benefit and cost estimates, etc., and

(2) Monetized quantitative estimates where the agency has not done so, e.g., converted tons of pollutant per year to dollars.

The adoption of a format that allows the presentation of agency estimates so that they are more closely comparable also allows, at least for purposes of illustration, the aggregation of benefit and cost estimates across rules. At the same time we caution the reader that agencies have used different methodologies and valuations in quantifying and monetizing effects and we have attempted to be faithful to the respective agency approaches. In this chapter, we also aggregate benefit and cost estimates for those Federal rules with significant quantified benefit and cost estimates.

As noted in chapters I and II, the substantial limitations of the available data on the benefits and costs for this set of rules raise significant obstacles to the development of a meaningful aggregate estimate of benefits and costs for even a single year's regulations. For example, in many cases agencies identified important benefits of their rules that were not quantifiable. In such cases, we necessarily omitted them from the monetized estimates we develop in this chapter. To the extent that these benefits are substantial, the monetized estimates will understate the total value of the benefits. The discussion below addresses other limitations in the data and outlines the steps we have taken in an effort to overcome some of them.

A. Monetized Benefit and Cost Estimates for Individual Rules

First, we have only included in this chapter those major rules with quantified estimates of benefits and costs. These include six rules from the 1995/96 period, 15 rules from the 1996/97 period, and 13 rules from 1997/98 period. We have excluded 13 rules without quantified estimates of either benefits or costs. (See table 11.) Six additional rules listed in table 12 have also been excluded from further discussion because only quantified cost estimates were available and/or there were only relatively small benefit and cost estimates.

Second, for some of the remaining rules, agencies quantified estimates of significant effects, but did not assign a monetized value to these effects. Some of the quantified effects—for example, small changes in the risk of premature death or serious injury—are frequently identified as outcomes for a variety of rules. In a number of instances, though, agencies did assign monetized estimates to these outcomes.

Differences in valuation across rules are often critical, particularly in comparisons between and among individual rules or programs. Furthermore, the different approaches in the quantification and monetization of these effects across agencies result in an ''apples and oranges'' problem in aggregating estimates; in particular, where effects have been quantified, but not monetized, the different quantitative effects cannot be summed because they are not expressed in common units. In order to address this problem, this section takes the additional step of assigning a monetized value in order to provide a more consistent set of estimates in those cases where agencies only quantified significant effects. We have not, however, attempted to quantify or monetize any qualitative effects identified by agencies where the agency did not at least quantify them.

Agencies have, over the years, taken, and continue to take, several different approaches toward rules that affect small risks of premature death. In some cases, such as FDA's tobacco rule, agencies have quantified and monetized

these effects in terms of ''quality-adjusted statistical life years.'' In other cases, such as FRA's roadway worker protection rule, agencies have quantified and monetized these effects in terms of statistical lives. In still other cases, such as HHS's organ procurement rule and NHTSA's air bag depowering rule, agencies have quantified risks of death in terms of life-years or lives, but have not monetized them. Finally, in some cases, such as FDA's animal feed rule, the agency did not develop a quantified estimate of the rule's mortality effects.

Estimates for the value of a statistical life varied across agencies. For the tobacco rule, FDA estimated benefits based on a value of $2.5 million per statistical life. For the roadway worker rule, FRA used $2.7 million per statistical life. For the upper-bound estimates of EPA's ozone and PM NAAQS rules, the agency used $4.8 million per statistical life; and for its mammography rule, FDA also used $5 million per statistical life.[33] Similarly, agency estimates for the value of a statistical life-year have also varied. FDA used $116,500 per life-year for its tobacco rule; EPA used $120,000 per life-year to produce its lower-bound estimates of benefits in its ozone and PM NAAQS rules; FDA used $368,000 per life-year in its mammography rule. As a general matter, we have deferred to the individual agency's judgment in this area. In cases where the agency both quantified and monetized fatality risks, we have made no adjustments to the agency's estimate.

In cases where the agency provided only a quantified estimate of fatality risk, but did not monetize it, we have monetized these estimates in order to convert these effects into a common unit. For example, in the case of HHS's organ donor rule, the agency estimated, but did not monetize, statistical life-years saved, although it discussed HHS's use of $116,500 per life-year in other contexts. We valued those life-years at $116,500 each. For NHTSA's air bag depowering rule, we used a value of $2.7 million per statistical life. In cases where agencies have not adopted estimates of the value of reducing these risks, we used estimates supported by the relevant academic literature. For DOL's respirator rule, for example, we used $5 million per statistical life. As a practical matter, the aggregate benefit and cost estimates are relatively insensitive to the values we have assigned for these rules because the aggregate estimates are dominated by the FDA tobacco rule and EPA's rules revising the ozone and PM primary NAAQS. Finally, we did not attempt to quantify or monetize fatality risk reductions in cases where the agency did not at least quantify them.

B. Valuation Estimates for Other Regulatory Effects

The following is a brief discussion of our valuation estimates for other types of effects which agencies identified and quantified, but did not monetize.

- *Injury.* For the air bag depowering rule, we adopted the Department of Transportation approach of converting injuries to ''equivalent fatalities.'' These ratios are based on DOT's estimates of the value individuals place on reducing the risk of injury of varying severity relative to that of reducing risk of death. For the two OSHA rules we used a ratio of 20 injuries per equivalent fatality.
- *Change in Gasoline Fuel Consumption.* We valued reduced gasoline consumption at $.80 per gallon pre-tax.
- *Reduction in Barrels of Crude Oil Spilled.* We valued each barrel prevented from being spilled at $2,000. This reflects double the sum of the most likely estimates of environmental damages plus cleanup costs contained in a recent published journal article (Brown and Savage, 1996).
- *Change in Emissions of Air Pollutants.* We used estimates of the benefits per ton for reductions in hydrocarbon, nitrogen oxide (NO_X), sulfur dioxide (SO_2), and fine particulate matter (PM) presented in EPA's Pulp and Paper cluster rule (October, 1997). These estimates were obtained from the RIA prepared for EPA's July, 1997 rules revising the primary NAAQS for ozone and fine PM. We note that in this area, as in others, the academic literature offers a number of methodologies and underlying studies to quantify the benefits. There remain considerable uncertainties with each of these approaches. For each of these pollutants, we used the following values (all in 1996$) for changes in emissions:[34]

Hydrocarbons: $519 to $2,360/ton;
Nitrogen Oxides: $519 to $2,360/ton;
Particulate Matter: $11,539/ton; and
Sulfur Dioxide: $3,768 to $11,539/ton.

Third, in order to make agency estimates more consistent, we developed benefit and cost time streams for each of the rules. Where agency analyses provide annual or annualized estimates of benefits and costs, we used these estimates in developing streams of benefits and costs over time. Where the agency estimate only provided annual benefits and costs for specific years, we used a linear interpolation to represent benefits and costs in the in-between years. In the case of EPA's Federal test procedure rule, for example, the analysis reported emission reductions for only four years, i.e., 2005, 2010, 2015, and 2020. We used linear interpolation to provide benefit and cost streams over the intervening years.

In addition, agency estimates of benefits and costs cover widely varying time periods. For example, EPA's analysis for the pulp and paper effluent guidelines rules developed annualized benefit estimates for a stream of benefits over 30 years. Annualized cost estimates for this rule were based on installation of control equipment in the first year with full replacement of the control equipment in year 21 at the end of the 20-year useful life for the control equipment and operating and maintenance costs after the first year. USDA's analysis of the conservation reserve program provided annual benefit and cost estimates for the five-year period from 1997 to 2002. On the other hand, DOE's analysis of energy conservation standards for refrigerators and freezers evaluated a much longer time frame from 2000 to 2030, and EPA's analysis of its rule setting emission standards for new locomotives used a time frame of forty years (2000 to 2040).

These differences in the time frames evaluated reflect specific characteristics of individual rules. The short time frame of USDA's conservation reserve program rule reflects, for example, the five-year legislative cycle of the farm bills. On the other hand, the longer time frames of DOE's refrigerators and freezers rule and EPA's new locomotives rule reflect the relatively long period required for turnover of the existing stock of equipment and replacement with equipment meeting the new standards. Because there are substantial differences in the time frame of analysis for these rules, we have decided—with the one exception of DOT's air bag depowering rule—to treat the benefit and cost streams as though all of these rules are in place through the year 2050. We made the one exception to this approach for DOT's air bag depowering rule because the rule automatically terminates at the end of five years. We believe that this is a reasonable treatment of the benefit and

[33] There is a relatively rich body of academic literature on this subject. The methodologies used and the resulting estimates vary substantially across the academic studies. Based on this literature, agencies have developed estimates they believe are appropriate for their particular regulatory circumstances.

[34] Where applicable, the lower (higher) end of the value ranges in all of the tables throughout this report reflect the lower (higher) values in these ranges.

cost streams because a number of these rules will not achieve their full effect for many years into the future. In addition, major regulatory programs tend to be long-lived and, thus, the adoption of a longer time horizon appears to be appropriate. This approach holds the baseline constant and does not consider, of course, the potential effect of a ''rising baseline'' as a result of technological change, cultural changes, etc. (See discussion in chapter I.)

Finally, we have not made any changes to agency monetized estimates. To the extent that agencies have adopted different monetized values for effects, e.g., different values for a statistical life, or different discounting methods, these differences remain embedded in tables 13 through 15. Any comparison or aggregation across rules should also consider a number of factors which the presentation in tables 13 through 15 does not address. First, for example, these rules may use different baselines in terms of the regulations and controls already in place. In addition, these rules may well treat uncertainty in different ways. In some cases, agencies may have developed alternative estimates reflecting upper- and lower-bound estimates. In other cases, the agencies may offer a midpoint estimate of benefits and costs, and in some cases the agency estimates may reflect only upper-bound estimates of the likely benefits and costs. Also, in order for comparisons or aggregation to be meaningful, benefit and cost estimates should correctly account for all substantial effects of regulatory actions, including potentially offsetting effects, which may or may not be reflected in the available data.

C. Aggregation of Benefit and Cost Estimates Across Rules

In table 16, we aggregated the estimates for individual rules from tables 13 through 15 by year. This approach yields *ex ante* estimates of the benefits and costs that Federal agencies expected from major rules issued in each of the last three years.

We have several important observations to offer on these aggregate estimates. First, the 1996 HHS rule placing restrictions on the sale of tobacco and EPA's 1997 rules revising the NAAQS for ozone and particulate matter dominate the annualized and present value aggregates presented in table 16. Changes in estimation methodology for these rules, as reflected by the ''plausible range'' adopted by the analysis for the EPA NAAQS rules for ozone and particulate matter, will have a marked effect on the aggregated benefit and cost estimates for the rules published over the period from April 1, 1995 to March 31, 1998. By the same token, the aggregate estimates are not very sensitive to different approaches for the remaining rules.

The presentation of these aggregates as annualized benefit and cost streams or as net present value estimates may obscure the actual timing of benefits and costs. In the case of the tobacco rule, for example, the annualized benefit estimates were estimated to be $9 to $10 billion per year. However, the health benefits associated with successfully reducing the number of young tobacco users will not begin to be realized until after 2015 because of the lag in the adverse effects associated with tobacco use.

In addition, the benefits and costs of the revised ozone and particulate matter NAAQS will only be realized in the years after 2005. These estimates of ''out-year'' benefits and costs are also uncertain. EPA will complete its next periodic review of the particulate matter NAAQS, scheduled for 2002, before it begins implementation of the revised particulate matter NAAQS. If this review yields a ''mid-course'' change in the standard, the estimates of benefits and costs could change. EPA has also expressed a continuing concern with the uncertainty of the full attainment cost estimates because EPA believes technological change over the next decade will yield lower-cost approaches that will achieve the revised NAAQS.

Second, as noted above, there are significant methodological issues that need to be confronted when aggregating estimates from a set of individual rules (as presented in tables 13 through 15) in an effort to obtain an estimate of the total benefits and costs of Federal regulation. These issues include:

(1) Adoption of a reasonable, consistent baseline (it is difficult to patch together a sensible baseline from the differing baseline scenarios adopted across rules).

(2) The use of *ex ante* estimates (versus *ex post* estimates) of the benefits and costs of regulation, e.g., the reliance on *ex ante* estimates may well fail to reflect important changes in taste, innovation by the private sector, or changes in Federal/State/local regulation.

(3) The ''apples and oranges'' problem associated with combining estimates from different studies, i.e., different measures of benefits and costs, double-counting of benefits and costs across related rules, differing approaches to uncertainty such as the use of upper- and lower-bound estimates versus the use of an upper-bound only estimate, different discount rates, etc.

Because of these concerns with aggregating the prospective benefit and cost estimates taken from the regulatory analysis for individual rules, we are interested in comments on:

(1) The merits of aggregating prospective estimates from individual rules to obtain an aggregate estimate of the benefits and costs of Federal regulation.

(2) The best approach to address the concerns with baseline, *ex ante* estimates, and the various ''apples and oranges'' problems identified above.

A final reason that any regulatory accounting effort has limits is the lack of information on the effects of regulations on distribution or equity. None of the analyses addressed in this report provides quantitative information on the distribution of benefits or costs by income category, geographic region, or any other equity-related factor. As a result, there is no basis for quantifying distributional or equity impacts.

Chapter IV: Recommendations

As with last year's report, this year's is to include ''recommendations from the Director of OMB and a description of significant public comments to reform or eliminate any Federal regulatory program or program element that is inefficient, ineffective, or is not a sound use of the Nation's resources' (section 625 (a)(4)). We are soliciting comments on a wide range of issues related to our discussion of the methodology used in evaluating total annual benefits and costs of Federal regulatory programs and on estimates of the benefits and costs of ''economically significant'' or ''major'' rules. In particular, we are soliciting comments on our approach to estimating the total costs and benefits of regulation by combining existing retrospective or *ex post* studies with agency-produced prospective or *ex ante* estimates; the best ways to deal with the baseline and apple and oranges problems discussed above; and whether we have missed important data sources that would fill in the gaps in our estimates. We are also seeking comment on regulatory programs or program elements that are ''inefficient, ineffective, or * * * not a sound use of the Nation's resources.''

In chapter I we presented aggregate estimates of the costs and benefits of several categories of regulation to further the discussion and generate comments that we hope will lead to better estimates. However, these aggregate estimates are at best only general indicators of the importance of regulation undertaken thus far and not guides to future specific regulatory changes. We discussed at some length

the various shortcomings of these estimates, including the problem that, most of them are based either on dated studies of existing regulations or on estimates for proposed regulations.

In chapter II, we presented the prospective cost and benefit data that the agencies had estimated for the major rules that they issued over the period April 1, 1997 to March 31, 1998. These data for individual regulations show that in many, but not all cases, agencies have done a good job following the recommendations of the Best Practices document. The overall picture remains one of slow but steady progress toward the Best Practices standards. In any case, even if Best Practices are fully adhered to in developing regulations, these prospective analyses alone would not be suitable for determining whether existing regulatory programs or program elements should be reformed or eliminated.

In spite of these methodological difficulties, we believe that prospective studies such as those discussed in chapter II do provide useful general information about existing regulatory programs. In this spirit, we developed in chapter III cost and benefit estimates for a set of major regulations issued by the agencies over the last three years by using standardized assumptions and common values on benefits derived from agency practice and the academic literature. These values and assumptions are not necessarily appropriate for all individual regulations but when applied to a set of analyses offer additional general information about agencies' regulatory systems. We are still in the early stages of this process and seek comments on whether this line of analysis should be pursued. In summary, at this stage we do not believe it is appropriate to make recommendations on specific regulatory programs based on the incomplete and uneven data that we discuss at length above. We note, however, that agencies are continuing to reform and improve their regulatory programs. These specific efforts are described at length in the Regulatory Plan, published each fall with the Unified Agenda of Federal Regulatory and Derergulatory Actions.

We have discerned some general themes during our review of the academic literature and analysis of data on the economic impacts of regulation. In particular, we note the general success of large scale regulatory reforms that have embraced industrial or business sectors. For example, the Federal government undertook reforms of the statutory and regulatory regimes that governed practices in the airline, trucking, and natural gas and oil markets in the 1970s and 1980s. The Clinton Administration has continued this work with regulatory reforms in banking, intrastate trucking, securities and financial services, pensions, and telecommunications. In many of these areas, the older regulatory schemes attempted to proscribe entry by firms into lines of business or to limit production for reasons other than health, safety, or environmental protection.

Although there exist theoretical arguments that in the case of natural monopolies entry of new firms could increase costs to consumers, these arguments are based primarily on static models not appropriate for our current dynamic, technological world. The consistency of the movement toward regulatory reform over the past 25 years is a tribute to the benefits that flow from opened markets. It appears that opening up markets to all qualified entities and individuals has been and continues to be a mainstay of regulatory reform. It is worth noting, however, that such regulatory reform does not mean the end of regulation. While outmoded regulatory programs are changed, new regulations are generally needed, particularly during transitions between the old and new systems, to open up markets and ensure that fair competition is maintained. For example, the Telecommunications Act of 1996 directs the FCC to establish the regulation that is needed to allow new entrants access to the local network in order to establish competition in local telecommunications markets. Without access to the local network, there would be little competition.

A. Electricity Restructuring

A new regulatory area in which the Administration is recommending reform is the decades old system of electricity generation. The Administration has transmitted to Congress a bill that would restructure this industry and bring substantial savings to consumers. Economic forces are forging a new era in electricity prices, where electricity prices will be determined primarily by the market rather than by regulation. Under this new system, often called ''retail choice,'' consumers are allowed to choose their electricity supplier, much as they have chosen long distance telephone service for over a decade. Electricity policy is moving in this direction because subjecting utilities to competition will lead to increased efficiency in the industry and thus benefit the economy and the environment.

In the past, electricity customers did not have the ability to choose their supplier. Instead, under State law, utilities generally were monopolies with both a right and responsibility to serve all consumers in a particular area. The State permitted the utility to charge customers a regulated rate for electric power based on the cost of producing such power plus a ''rate of return'' on investment. In general, the electric monopoly system has provided reliable power to electric consumers in the United States. However, a monopoly system has a fundamental weakness: it does not provide incentives to be cost-efficient because a monopoly supplier does not have to compete and essentially has a guarantee that its costs will be recovered.

Under electricity restructuring, competition will replace regulation as the primary mechanism for setting electricity generation prices. Utilities would be required to open up their distribution and transmission wires to all qualified sellers. The transmission and distribution of electricity would continue to be regulated because they will remain monopolies for the foreseeable future. The system would be restructured, not completely deregulated.

1. The Need for Federal Action

The Administration's proposal respects the actions of those States which are in the process of implementing retail competition and seeks to build on, rather than disrupt, those efforts. Nevertheless, effective retail competition is unlikely to happen without Federal legislation. First, electrons do not respect State borders. Accordingly, as States remove the constraints of monopoly franchise territories, electricity markets will naturally become more regionalized.

Only federal legislation can adequately address the needs of these regional markets. For example, to allow for effective and efficient competitive markets, FERC must have regulatory jurisdiction over all owners of transmission facilities. Currently, FERC has no regulatory authority to order open access to transmission facilities by municipal utilities, cooperatives, or federal power entities. Moreover, effective competitive markets require that FERC be given additional regulatory authority to require the formation of Independent System Operators and to address market power issues.

The electric industry is also hampered by statutes which inhibit the development of competitive markets. The entire Federal electricity law framework dates from the New Deal and is premised upon State-regulated monopolies rather than regional

competitive markets. Federal law should be updated so that it stimulates, rather than stifles, competition. For example, the Public Utility Holding Company Act, which regulates utility holding companies, and the ''must buy'' provision of section 210 of the Public Utility Regulatory Policies Act, which requires that utilities buy power from qualified cogenerators and small power producers, should be repealed.

Finally, the States alone cannot obtain the full economic and environmental benefits of competition for American consumers. Without comprehensive Federal electricity restructuring legislation, neither State nor Federal regulators will have the necessary tools to ensure that regional electricity markets are truly competitive and operate as efficiently as possible. Moreover, absent a Federal role, there will be no assurances that support for renewable technologies and other important public purpose programs will continue absent a Federal program. Without such tools, electricity prices will likely be higher and the environmental gains which we expect under the Administration's plan will not be fully realized.

2. Benefits of Electricity Restructuring

The Comprehensive Electricity Competition Plan embodies the overall agenda of the Clinton Administration to expand the economy and improve the environment. A more competitive electricity industry will provide large benefits to individual American consumers as well as being an overall boon to our economy. It will result in lower prices, a cleaner environment, greater innovation and new services, and a more reliable power supply grid. It will also save the government money.

The Department of Energy estimates that retail competition will save consumers at least $20 billion a year on their electricity bills. This translates into direct savings to the typical family of four of $104 per year. Indirect savings, which would arise from the lower costs of other goods and services in a competitive market, are $128 per year for a typical family of four. Thus, total projected savings for such a family are $232 a year.

Competition will also spark innovation in the American economy, creating new industries, jobs, products and services just as telecommunications reform spawned cellular phones and other new technologies. This will further strengthen our nation's position as the most vibrant and dynamic economy in the world.

Major benefits will accrue to the Federal, State and local governments through lower electricity prices. Total government spending on electricity was $19.5 billion in 1995. With competition, these costs are likely to decline by at least 10 percent, a savings of close to $2 billion year. This restructuring dividend will help governments maintain balanced budgets into the future while meeting critical public needs.

Restructuring will also produce significant environmental benefits through both market mechanisms and policies that promote investment in energy efficiency and renewable energy. Competitive forces will create an efficient, leaner, and cleaner industry. For, example, DOE estimates that the Administration's plan will reduce greenhouse gas emissions by roughly 25 to 40 million metric tons in 2010. A generator that wrings as much energy as it can from every unit of fuel will be rewarded by the market. Today, a monopoly supplier recovers its costs regardless of whether it uses its power resources efficiently. Competition also provides opportunities for consumers to vote with their wallets for green power and facilitates the marketing of energy efficiency services along with electricity.

Restructuring also makes possible the introduction of new policy mechanisms such as the renewable portfolio standard and enhanced public benefit funding, which will guarantee substantial environmental benefits notwithstanding market outcomes. The environmental benefits from the Administration's restructuring plan, which includes the renewable portfolio standard and the public benefit fund, will outweigh any negative effects associated with the demand increasing effects of lower prices or other factors.

The Administration's proposal for electricity competition legislation reflect the need for the simultaneous calibration of many elements in an interconnected statutory framework in order to achieve the desired bottom line: achieving the economic benefits of competition in a manner that is fair and improves the environmental performance of the electricity industry.

Our restructuring proposal is best understood in terms of five main objectives: (1) Encouraging States to implement retail competition; (2) protecting consumers by facilitating competitive markets; (3) assuring access to and reliability of the transmission system; (4) promoting and preserving public benefits; and (5) amending existing Federal statutes to clarify Federal and State authority.

B. Need for Further Methodological Progress: Steps Taken, Steps Needed

Last year we made five recommendations to improve the quality of data and analysis on individual regulations and on regulatory programs and program elements as a first step toward developing the evidence needed to propose major changes in regulatory programs:

- That OIRA lead an effort among the agencies to raise the quality of analyses used in developing new regulations by promoting greater use of the Best Practices guidelines and by offering technical outreach programs and training sessions on the guidelines;
- That an interagency group subject a selected number of agency regulatory analyses to *ex post* disinterested peer review in order to identify areas that need improvement and stimulate the development of better estimation techniques more useful for assessing existing regulations;
- That OIRA continue to develop a data base on benefits and costs of major rules by using consistent assumptions and better estimation techniques to refine agency estimates of incremental costs and benefits of regulatory programs and elements;
- That OIRA continue to work on developing methodologies appropriate for evaluating whether existing regulatory programs or their elements should be reformed or eliminated using its Best Practices document as the starting point; and
- That OIRA work toward a system to track the net benefits (benefits minus costs) provided by new regulations and reforms of existing regulations for use in determining the specific regulatory reforms or eliminations, if any, to recommend.

To implement these recommendations, we took several specific steps, which should be viewed as first steps in an ongoing effort:

- After the September 30, 1997 report was issued, we met with interested parties to hear their suggestions for implementing its recommendations and improving the next report. The interested parties included Congressional staffs, agency officials, academic experts, and the public at large at a well attended open meeting sponsored by the Brookings Institution and the American Enterprise Institute. We also put the report on the OMB home page at: http://www.whitehouse.gov/WH/EOP/OMB/html/rcongress.htm and distributed hundreds of hard copies to the interested public. We also discussed the report with our regulatory counterparts

from other countries and with officials at the OECD studying regulatory reform. These discussions have been very helpful, and their influences are reflected in this year's report.

- On December 12, 1997, the Administrator of OIRA sent a memorandum to the Regulatory Working Group made up of the top regulatory officials of the key agencies, requesting that they give greater attention to the analysis of economically significant rules and to focus specifically on the Best Practices guidance. The memorandum also told the agencies of our intention to disaggregate further our total benefit and cost estimates and to provide more information on economically significant rules, including filling gaps by monetizing benefit estimates where the agencies had quantified but not monetized. We have followed up the memorandum with meetings of the Regulatory Working Group and discussions with individual agency officials that emphasized the importance of good analysis.
- We reviewed examples of *ex post* analyses, including those of NHTSA, OSHA, and EPA regulations. This review helped contribute to an investigation of the methodological problems associated with regulatory analysis.
- We convened a meeting of an Interagency Technical Working Group (ITWG) of staff from the major regulatory agencies co-chaired by CEA to examine the methodological issues raised in the first report, review existing regulatory analyses, and propose better estimation techniques useful in evaluating new and existing regulations.[35] The group met several times a month throughout the first half of 1998, and invited individuals with recognized expertise to make presentations about estimation methods. The group heard presentations on methods of estimating the value of mortality risk reduction, the quantification of morbidity, the value of wetlands, and the value of changes in travel time. Materials used in these presentations are available in the OIRA public docket room. Based on these presentations, and its own discussions, the group considered the following recommendations to OMB in the context of OMB's report to Congress:

(1) That OMB complete agency estimates of reductions in mortality risk by estimating the additional longevity, e.g., years of life gained, to complement conventional estimates of statistical lives saved, in instances where supportable methods exist.

(2) That OMB complete agency estimates of small reductions in mortality risk by estimating the value of these changes using appropriate unit values from the literature on willingness-to-pay.

(3) That OMB complete agency estimates of the value of reductions in morbidity, taking into account lags, e.g., ''latency'' periods, if any, in the realization of harm due to disease or injury, using a range of appropriate discount rates.

(4) That OMB complete agency estimates of reductions in morbidity by estimating (1) the value of cases of disease or injury averted, where there are independent estimates of willingness-to-pay to reduce the risks of such disease or injury, and (2) where appropriate willingness-to-pay estimates are not available, an index of loss in function relative to death, such as a quality adjusted life-year approach.

(5) OMB not generally assign values to agency estimates of changes in the quantity or quality of wetlands, without specific information justifying the appropriateness of the unit values to the wetlands affected, given the wide variety of wetlands.

Recommendations (1) and (5) were adopted unanimously. Although the other recommendations enjoyed support from a majority of agencies, they were not supported unanimously. Another recommendation on the value of increases or decreases in travel time was discussed, but no recommendation has yet been made.

- As the report itself shows, we have begun to implement the recommendations that the ITWG discussed and considered in order to develop a data base on the costs and benefits of major rules using consistent assumptions and better estimation techniques to refine estimates of the incremental costs and benefits of regulatory programs and individual regulations. We hope this will enable us to move closer toward developing a system to track the net benefits provided by new regulations and reforms of existing regulation and for identification of specific regulatory reform proposals.

Last year's report established a much needed baseline from which progress toward better data and methods regarding the impacts of Federal regulation can be measured. We indicated that this statutory charge was an ambitious one, but believe a good start was made. This year we report steady progress toward better data and improved analysis. We have refined the aggregate estimates of benefits and costs; made progress in establishing more consistent data for ongoing benefit-cost analyses; widened our own data base from one to three years; further analyzed and refined our understanding of methodological difficulties; and recommended reform in the electricity generation industry.

We continue to view the task as a formidable one that must be approached with the expectation of a long steady movement forward. We believe this report represents a significant step down that path. We intend to continue these efforts to improve the quality of data and analysis needed to put us in a stronger position to continue to make more recommendations for regulatory reforms.

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Tables for Draft Report

Table 1:
Estimates of Total Annual Costs and Benefits of Social Regulation as of 1988
(Billions of 1996 dollars)

	Environment			Transportation	Labor	Other	Total
	Hahn & Hird (1991)	EPA	Combined Ranges [a]				
Costs	76 to 99	54 [b]	54 to 99	9 to 12	11 to 12	10 to 15	84 to 138
Benefits	22 to 180	378 to 3,222 [c]	22 to 3,222	34 to 60	not available [d]	not available [d]	56 to 3,282

Sources: Calculations based on information from Hahn and Hird (1991) unless otherwise noted.
[a] Combined ranges from Hahn and Hird (1991) and EPA section 812 retrospective (1997).
[b] Includes water pollution control costs from *Cost of Clean* (1990), air pollution control costs from EPA's Section 812 Retrospective Report (1997) less adjustments for 1998-1990 overlap.
[c] Benefits from air pollution control only, based on EPA section 812 retrospective (1997).
[d] Hahn and Hird (1991).

Table 2:
Estimates of Total Annual Costs and Benefits of Social Regulations Issued Between 1987 and First Quarter of 1998
(Billions of 1996 dollars)

Time Period	Environmental	Transportation	Labor	Other	Total
1987-1994					
Costs	42	5	7	5	59
Benefits	58	48	27	39	172
1995-1998					
Costs	24	1	< 1	2	28
Benefits	13- 73	2	1- 3	14-19	30- 97
1987-1998					
Costs	66	6	7	7	87
Benefits	71-131	50	28-30	53-58	202-269

Source: The 1987 to 1994 estimates of costs are from OMB (1996) p. A-5. The 1987 to 1994 estimates of benefits are calculated by taking the benefit/cost ratios for the final rules issued between 1990 and 1995 from Hahn (1996) Table 10-4 and applying them to our costs estimates to derive benefit estimates. (See caveats above and the discussion in OMB (1997) for the rationale for this approach). The benefit/cost ratios are 1.4 for environmental, 9.7 for transportation, 3.8 for labor and 7.9 for other social regulations. The estimates for 1995 through the first quarter of 1998 are derived as described in tables 13 through 16, chapter III. Note that totals may not add because of rounding.

Table 3:
Estimates of Total Annual Costs and Benefits of Social Regulations
(Billions of 1996 dollars as of 1998, Q1)

	Environmental	Transportation	Labor	Other	Total
Costs	$ 120- 165	$ 15- 18	$ 18-19	$ 17-22	$ 170- 224
Benefits	$ 93-3,353	$ 84-110	$ 28-30	$ 53-58	$ 258-3,551
Net Benefits[a]	-$ 72-3,233	$ 66- 95	$ 9-12	$ 31-41	$ 34-3,381

Source: Tables 1 and 2.
[a] Lower estimate calculated by subtracting high cost from low benefit. Higher estimate calculated by subtracting low cost from high benefit.

Table 4:
Costs and Benefits of Other Regulatory Activities [a]
(Billions of Dollars)

Activities	Costs	Benefits
(1) Economic Regulations: Efficiency Loss	$ 71	Not estimated but expected to be small
(2) Disclosure Requirements	$ 7	Not estimated but expected to be significant
(3) Economic Regulations: Transfers	$ 140	$ 140
(4) Tax Compliance Costs	$ 140	Not estimated
(5) Federal Expenditures for: (a) Social Regulations	$ 13	$ 34 - 3,381 (Net benefits of social regulation)
(b) Economic Regulations	$ 3	Likely to be significant benefits from deregulation and disclosure requirements
(6) Full Welfare Impact of Environmental Regulation	Twice direct compliance costs	Not estimated but likely to be large

[a] Note that these figures should not be added because they do not all represent social costs or social benefits and may also be interdependent.

Table 5:
Major Non-monetized, Adverse Effects Reduced by the Clean Air Act

Pollutant	Non-monetized Adverse Effects
Particulate Matter	Changes in Pulmonary Function; Other Chronic Respiratory Diseases; Inflammation of the Lung; Chronic Asthma and Bronchitis
Ozone	Changes in Pulmonary Function; Increased Airway Responsiveness to Stimuli; Centroacinar Fibrosis; Inflammation of the Lung; Immunological Changes; Chronic Respiratory Diseases; Extrapulmonary Effects (i.e., other organ systems); Forest and Other Ecological Effects; Materials Damage
Carbon Monoxide	Decreased Time to Onset of Angina; Behavioral Effects; Other Cardiovascular Effects; Developmental Effects
Sulfur Dioxide	Respiratory Symptoms in Non-Asthmatics; Hospital Admissions; Agricultural Effects; Materials Damage; Ecological Effects
Nitrogen Oxides	Increased Airway Responsiveness to Stimuli; Decreased Pulmonary Function; Inflammation of the Lung; Immunological Changes; Eye Irritation; Materials Damage; Eutrophication (e.g., Chesapeake Bay); Acid Deposition
Lead	Cardiovascular Diseases; Reproductive Effects in Women; Other Neurobehavioral, Physiological Effects in Children; Developmental Effects from Maternal Exposure, including IQ Loss [a]; Ecological Effects
Air Toxics	All Human Health Effects; Ecological Effects

[a] IQ loss from direct, as opposed to maternal, exposure is quantified. Source: EPA Section 812 Retrospective (1997), page ES-5.

Table 6:
Mean Present Value Total Monetized Benefits by Pollutant and Endpoint Category
(1970 to 1990 in billions of 1990 dollars)

Pollutant	Endpoint	Monetized Benefits
Particulate Matter	Mortality Chronic Bronchitis Soiling Damage	$ 16,632 3,313 74
Lead	Mortality IQ Effects Hypertension	$ 1,339 399 98
Particulate Matter, Ozone, Lead and Carbon Monoxide	Hospital Admissions	$ 57
Particulate Matter, Ozone, Nitrogen Dioxide and Sulfur Dioxide	Respiratory Effects	$ 182
Particulate Matter	Visibility	$ 54
Ozone	Agriculture	$ 23
TOTAL	All	$ 22,171

Source: EPA Section 812 Retrospective (1997), Table ES-4 (p. ES-7).

Table 7:
Estimated Benefits and Costs of Center High-Mounted Stop Lamp Rule:
Prospective vs. Retrospective Analyses

CATEGORY OF BENEFIT OR COST	Prospective Analyses		Retrospective Analyses		
	Preliminary RIA (1980)	Final RIA (1983)	Preliminary Retrospective (1987)	Short-Term Retrospective (1989)	Long-Term Retrospective (1998)
Effectiveness [a]	35%	33%	15%	11.3%	4.3%
Crashes Avoided per Year	1,511,000	902,500	Not estimated	126,000 [b][c]	55,000 - 82,000 [b] 116,000 - 143,000 [d]
Reduction in Property Damage per Year ($1982)	$1.3-2.3 billion	$434 million	Not estimated	$774 million	$255 million
Reduction in Number of Injuries per Year	66,000	40,000	Not estimated	79,000 - 101,000	35,000 - 42,000
Reduction in Number of Fatalities per Year	533	Not estimated [e]	Not estimated	Little or no observed effect	Little or no effect
Aggregate Cost per Year ($1982)	$49 million	$70 million [f] $40 million [g]	Not estimated	$89 million	$89 million

Notes:
[a] Percent of all rear-end crashes avoided.
[b] Police-reported rear-end crashes.
[c] Larger number of low-speed crashes not estimated.
[d] Estimated total number of rear-end crashes.
[e] Probably few.
[f] First 2 years.
[g] Third and subsequent years.

Table 8:
Estimated Costs and Benefits of OSHA Rules:
Prospective vs. Retrospective

Regulation	Year Issued	Estimated Costs	Estimated Benefits
Vinyl Chloride [a]	1974	Overestimated by a factor of four	Not clear
Cotton Dust [a]	1978	Capital costs overestimated by a factor of five	Overestimated by more than a factor of two
Lead (Secondary Smelters)	1978	Capital costs significantly underestimated	Significant overestimate for engineering controls
Ethylene Oxide (Hospitals) [a]	1984	About right	Not clear
Formaldehyde (Metal Foundries)	1987	Over by a factor of two	Not clear
Grain Handling	1987	Not clear	Not clear
PSDI Power Presses	1988	Underestimated costs, overestimated benefits, or both	
Powered Platforms	1989	Underestimated costs, overestimated benefits, or both	

Source: See discussion in text.
[a] Indicates that OTA relied on an existing study.

TABLE 9: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/97 - 3/31/98
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
USDA	Environmental Quality Incentives Program (EQIP)	$2.41 billion (present value) 1997 - 2012	$1.65 billion (present value) 1997 - 2012	"The analysis estimates EQIP will have a beneficial impact on the adoption of conservation practices and, when installed or applied to technical standards, will increase net farm income. In addition, benefits would accrue to society for long-term productivity, maintenance of the resource base, non-point source pollution damage reductions, and wildlife enhancements. As a voluntary program, EQIP will not impose any obligation or burden upon agricultural producers that choose not to participate. The off-farm public benefits associated with on-farm conservation efforts are directly dependent upon the on-farm treatment needs and associated benefits. In the case of non-point source pollution from agricultural sources, for instance, public benefits are not achieved until private land user behavior changes and on-site conservation measures are applied. Some of the off-site benefits are attributable to improvements made to enhance freshwater and marine water quality and fish habitat, improved aquatic recreation opportunities, reduced sedimentation of reservoirs, streams, and drainage channels, and reduced flood damages. Additional benefits are from reduced pollution of surface and groundwater from agrochemical management, improvements in air quality by reducing wind erosion, and enhancements to wildlife habitat. EQIP encourages participants to adopt a comprehensive approach to solving natural resource and environmental concerns. Off-site benefits for pasture and rangeland and total benefits for animal waste management were not estimated due to unavailability of data." [62 FR 28258-9]

TABLE 9: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/97 - 3/31/98
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
USDA	Importation of Pork from Sonora, Mexico	$0	$0	"Low-impact scenario: 67k hogs (0.02%), assuming supply elasticity = 0.15 and demand elasticity = -0.44. *Economic impacts on farrow-to-finish swine operators:* output decline≈10k-17k hogs (≤0.02%); price decline≈ $0.05/hundredweight liveweight equivalent.; producers' receipts decline ≈ $10.7 million/yr (0.02%) and are transferred to consumers (as consumer surplus) and Mexican producers (as producer surplus). *Economic Impacts on live-hog dealers/transporters:* 86 trips. High-impact scenario: 134.1k hogs (0.02%), assuming supply elasticity = 0.075 and demand elasticity = -0.44. *Economic impacts on farrow-to-finish swine operators:* output decline≈20k-34k hogs (≤0.02%); price decline≈ $0.11/hundredweight liveweight equivalent; producers' receipts decline≈ $24.5 million/yr (0.2%) and are transferred to consumers (as consumer surplus) and Mexican producers (as producer surplus). *Economic impacts on live-hog dealers/transporters:* 125 trips." [62 FR 25441-15443]

TABLE 9: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/97 - 3/31/98
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
USDA	Importation of Beef from Argentina	$49 million/yr (net of transfers from producers)	$0	"Average wholesale U.S. beef prices estimated to decline by $8.27/MT (from $4,402.17/MT to $4,393.9/MT), less than 0.02%. *Effects on U.S. livestock sector:* producers' receipts decline ≈ $40.15 million/yr and are transferred to consumers (as consumer surplus) and Argentine producers (as producer surplus)." [62 FR 34889-34391] "If Argentina were able to fill its 20 KT quota to the U.S.'s uncooked beef market with nonfed beef product, consumer welfare gains of around $90 million annually are possible. These consumer gains, as well as the likely producer welfare losses, would depend on the type of beef and total quantities received in the U.S. from Argentina. The 20 KT of imports will likely consist mainly of nonfed beef. Consumers would enjoy both lower prices and greater supplies, while producers realize lower returns from lower prices, but not lower quantities produced. These gains, even after taking into account the likely producer losses ... produce a net social welfare gain to the United States of $48.7 million ... "...In the aggregate, producer welfare losses of $40.45 million are distributed between the dairy and beef sectors, the latter sector being composed of cow-calf, feedlot and slaughter operations." [62 FR 34392]

TABLE 9: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/97 - 3/31/98
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
HHS	Substances Prohibited in Animal Feed	Not estimated	$53 million/yr	"FDA estimated that, if BSE were to occur in this country, the disease would be associated with approximately $3.8 billion in losses due to the destruction of BSE-exposed livestock and the taking of other measures needed to prevent continued BSE proliferation. While FDA could not quantify the expected additional costs to consumers and producers in the United States that would result from the loss of consumer confidence following a BSE outbreak, the agency found that plausible scenarios indicated that the likely drop in the demand for cattle and beef products could cause billions of dollars in lost market values. In addition, FDA noted, but did not attempt to quantify, the value of the human lives that might be lost or the associated medical treatment costs that might follow a domestic outbreak of BSE." [62 FR 30967] "Additional [benefits] that could not be quantified include the lost human lives and medical treatment costs that could result from BSE-related disease, as well as the consumer and producer losses that would result from the expected decrease in the sales and consumption of beef. Sales of medical products and cosmetics containing cattle-derived components could also be affected." [62 FR 30968]

TABLE 9: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/97 - 3/31/98
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
HHS	Organ Procurement and Transplantation Network	297-1,306 additional "life-years"/yr	$0	HHS recognizes in its analysis the difficulty of quantifying the costs and the benefits of the rule. The rule discusses the current costs of transplantation and the analysis concludes that the final rule will not substantially increase the costs. Regarding benefits, HHS discusses difficulties associated with assigning value to a statistical life when quantifying the benefits for this rule. The rule also discusses the benefits that arise from public oversight and accountability of the organ transplant system, which will preserve public trust and confidence. Also, a system of patient-oriented information of transplant performance will allow easier comparison of transplant center performance and the use of performance goals will create equity in the system.
HHS	Quality Mammography Standards	$182-263 million/yr	$38 million/yr (annualized over 10 years)	FDA states that it is difficult to determine the increase in the quality of mammograms which the final rule will cause. However, FDA calculates the following benefits assuming a 5-percent improvement. This degree of improvement would prevent 75 women per year from dying of breast cancer within a 20-year period. At $5 million per life saved, the discounted value of this outcome would be $234 million per year. In addition, fewer false-positive screens and decreased treatment costs add about $29 million in annual benefits. FDA points out that an improvement of quality as low as 2 percent would result in the benefits outweighing the costs of the final rule.
HHS/ DOL/ Treasury	Mental Health Parity	Not estimated	$464 million/yr	None reported.

TABLE 9: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/97 - 3/31/98
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
DOI	Migratory Bird Hunting (Early Season Frameworks)	Not Estimated	Not Estimated	DOI reports that duck hunters spend an estimated $416 million/yr; unquantified economic stimulus benefits derived from spending on duck hunting; unquantified benefit of value to hunters (consumer surplus) from more than 11 million hunting days per year; unquantified benefit to bird population by reducing overcrowding and ensuring continued use of resource in future.
DOI	Migratory Bird Hunting (Late Season Frameworks)	Not Estimated	Not Estimated	DOI reports that duck hunters spend an estimated $416 million/yr; unquantified economic stimulus benefits derived from spending on duck hunting; unquantified benefit of value to hunters (consumer surplus) from more than 11 million hunting days per year; unquantified benefit to bird population by reducing overcrowding and ensuring continued use of resource in future.

TABLE 9: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/97 - 3/31/98
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
DOL	Respiratory Protection	4,046 injuries and illnesses/yr avoided; 932 deaths/yr avoided	$111 million/yr	"The Agency estimates that the standard will avert between 843 and 9,282 work-related injuries and illnesses annually, with a best estimate (expected value) of 4,046 averted illnesses and injuries annually. This reduction is estimated to save $18.8 to $218 million per year, with a best estimate of $93.9 million per year. In addition, the standard is estimated to prevent between 351 and 1,626 deaths annually from cancer and many other chronic diseases, including cardiovascular disease, with a best estimate (expected value) of 932 averted deaths from these causes." [63 FR 1173]
DOE	Energy Conservation Standards for Refrigerators and Freezers	$7.62 billion (present value) in energy savings for purchases between years 2000 - 2030	$3.44 billion (present value) for purchases between years 2000 - 2030	"The estimated environmental benefits from today's final rule (based on the 1997 AEO fuel prices) are, over the period from 2000 to 2030, a reduction in emissions of NO_X by 1,362 thousand tons (1,501 thousand short tons), a reduction in emissions of CO_2 by 465 Mt (513 million short tons) and a reduction in the cost of the emission controls roughly equivalent to the cost of reducing SO_2 emissions by 1,545 kt (1,703 thousand short tons)." [62 FR 23110-11]
DOE	Energy Conservation Standards for Room Air Conditioners	$740 million (present value) in energy savings for purchases between years 2000 - 2030	$290 million (present value) for purchases between years 2000 - 2030	"The Department projects the standards to save 0.64 quad of energy through 2030, which is likely to result in a cumulative reduction of emissions of approximately 95,000 tons of nitrogen dioxide and 54 million tons of carbon dioxide." [62 FR 50122]
DOT	Light Truck CAFE Model-Year 2000	Not Estimated	Not Estimated	None reported

TABLE 9: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/97 - 3/31/98
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
EPA	Emission Standards for New Locomotives	385,000 tons of nitrogen oxides; 6,000 tons of hydrocarbons; and 4,000 tons of particulate matter annualized emission reductions (2000 - 2040)	$90 million/yr annualized cost (2000 - 2040)	None reported
EPA	Emission Standards for New Highway Heavy-Duty Engines	593,000 tons of nitrogen oxides annualized emission reductions (2004 - 2023)	$196 million/yr annualized cost (2004 - 2023)	None reported

TABLE 9: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/97 - 3/31/98
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
EPA	Pulp and Paper: National Emission Standard for Hazardous Air Pollutants (NESHAP)	-$1.04 - 1.05 billion/yr	$125 million/yr	Benefit estimate includes benefits ranging from $24 - $1,055 million/yr for reductions in emissions of volatile organic compounds and disbenefits ranging from $1 - $1,065 million/yr for increases in emissions of sulfur dioxide and particulate matter. Other quantified (but not monetized) benefits include annual reductions of 139,000 tons of hazardous air pollutants and 79, 000 tons of Total Reduced Sulfur. Other quantified (but not monetized) disbenefits include annual increases of 5,200 tons of nitrogen oxides and 8,700 tons of carbon monoxide. All estimates are for existing sources only; no benefits or costs were estimated for new sources.
EPA	Pulp and Paper Effluent Guidelines	$12 - 57 million/yr	$263 million/yr	Other quantified (but not monetized) annual benefits include lifting of 19 dioxin/furan-related fish consumption advisories; elimination of 3 exceedences of human health ambient water quality concentration standards (AWQC); and elimination of 19 exceedences of aquatic life AWQCs. Unquantified benefits include non-cancer human health effects and improvements in fish and wildlife habitats. All estimates are for existing sources only; no benefits or costs were estimated for new sources.
EPA	Medical Waste Incinerators	$7 million/yr for particulate matter reductions only	$71 - 146 million/yr	EPA states that it cannot quantify or monetize many of the benefits, such as the reduction in the emission of hazardous air pollutants which include cadmium, hydrogen chloride, lead, mercury, and dioxin/furan. In addition, reductions in emissions of sulfur dioxide, carbon monoxide, and nitrogen oxides are expected.

TABLE 9: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/97 - 3/31/98
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
EPA	National Ambient Air Quality Standards (NAAQS): Ozone	$0.4 - 2.1 billion in 2010 (partial attainment) ---------- $1.8 - 10.0 billion in 2015 (full attainment)	$1.1 billion in 2010 (partial attainment) ---------- $11.3 billion in 2015 (full attainment)	Benefit estimates do not include anticipated reductions in harmful effects in the following human health areas: airway responsiveness, pulmonary inflammation, increases susceptibility to respiratory infection, acute inflammation and respiratory cell damage, and chronic respiratory damage/premature aging of the lungs. Benefits also do not include effects in the following welfare areas: ecosystem effects in "Class I" areas (e.g., national parks), damage to urban ornamentals, reduced forestry yields, damage to ecosystems, materials damage, nitrates in drinking water, and brown clouds.
EPA	National Ambient Air Quality Standards (NAAQS): Particulate Matter	$19 - 104 billion in 2010 (partial attainment) ---------- $20 - 110 billion/yr (full attainment)	$8.6 billion in 2010 (partial attainment) ---------- $37 billion/yr (full attainment)	Benefit estimates do not include anticipated reductions in harmful effects in the following human health areas: pulmonary function, morphological changes, altered host defense mechanisms, cancer, other chronic respiratory diseases, infant mortality, and mercury emissions. Benefits also do not include effects in the following welfare areas: materials damage (other than cleaning costs), damage to ecosystems, nitrates in water, and brown clouds.
EPA	Toxic Release Reporting ("Community Right-to-Know")	Not estimated	$226 million in the first year and $143 million/yr in subsequent years	This rule will make available to the public information on releases and transfers from these additional facilities of chemicals listed under the Toxic Release Inventory Program.
EPA	Disposal of Polychlorinated Biphenyls (PCBs)	Net cost savings of $150 - $740 million/yr	$14 million/yr	None reported.

TABLE 9: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/97 - 3/31/98
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
			TRANSFER RULES	
Dept. of Agriculture (USDA)				
	Improved Targeting of Day Care Home Reimbursements			
	Peanut Poundage Quota Regulations			
Dept. of Health and Human Services (HHS)				
	Coverage of Personal Care Services			
	Inpatient Prospective Payment Systems for 1998			
	Physician Fee Schedule for 1998			
	Limit on the Valuation of a Depreciable Capital Asset			
	Salary Equivalency Guidelines for Physical Therapy			
	Limitations on Home Health Agency Costs			
	State Allotments for Payment of Medicare Part B Premiums for 1998			
Dept. of Justice (DOJ)				
	Affidavits of Support on Behalf of Immigrants			
Dept. of Veterans Affairs (DVA)				
	Schedule for Rating Disabilities, The Cardiovascular System			

Table 10:
Cost and Benefit Information for Major Rules
Issued by Independent Agencies
Between April 1, 1996 and March 31, 1998

Agency	Total Rules	Rules with Some Information on Costs or Benefits	Rules with Monetized Information on	
			Costs	Benefits
Federal Communications Commission (FCC)	25	1	1	0
Securities and Exchange Commission (SEC)	10	10	2	1
Federal Reserve Board (FRB)	2	1	1	0
Nuclear Regulatory Commission (NRC)	2	0	0	0
Federal Energy Regulatory Commission (FERC)	2	0	0	0
Totals	41	12	4	1

Table 11:
Major Rules Issued Between April 1, 1995 and March 31, 1998
Without Estimates of Either Benefits or Costs

USDA	1996 Farm Bill Farm Program Karnal Bunt, 1996-1997
HHS	Substances Prohibited in Animal Feed, 1997-1998
DOI	Migratory Bird Hunting (Early Season), 1995-1996 Migratory Bird Hunting (Fall Season), 1995-1996 Migratory Bird Hunting (Early Season), 1996-1997 Migratory Bird Hunting (Fall Season), 1996-1997 Migratory Bird Hunting (Early Season), 1997-1998 Migratory Bird Hunting (Fall Season), 1997-1998
EPA	Phase III Land Disposal Restrictions
DOT	Light Truck CAFE, 1995-1996 Light Truck CAFE, 1996-1997 Light Truck CAFE, 1997-1998

Table 12:
Small Estimates, Not Evaluated for Aggregate Estimate

USDA	Use of the Term "Fresh" for Poultry Labeling Importation of Sonoran Pork Importation of Argentine Beef
DOC	Encryption Items Transferred from U.S. Munitions List to the Commerce Control List
EPA	Lead-Based Paint Activities in Target Housing Toxic Release Inventory: Facility Expansion

Table 13:
Agency Benefit/Cost Estimates for Final Rules
April 1, 1995 to March 31, 1996
(Millions of $1996, Rounded to Two Significant Digits)

Agency	Rule	Category	2000	2005	2010	2015	Annualized Value	Net Present Value
Dept. of Health and Human Services (HHS)								
	Hazard Analysis and Critical Control Points (HACCP): Seafood	Benefits	$ 110- 190	$ 110- 190	$ 110- 190	$ 110- 190	$ 110- 200	$ 1,600- 2,800
		Costs	$ 50- 110	$ 50- 110	$ 50- 110	$ 50- 110	$ 50- 120	$ 740- 1,600
Dept. of Transportation (DOT)								
	Head Impact Protection	Benefits	$ 480- 540	$1,900-2,200	$1,900-2,200	$1,900-2,200	$1,600-1,800	$22,000-25,000
		Costs	$ 170	$ 690	$ 690	$ 690	$ 580	$ 8,000
	Vessel Response Plans	Benefits	$ 40	$ 40	$ 40	$ 40	$ 40	$ 330
		Costs	$ 260	$ 260	$ 260	$ 260	$ 280	$ 3,900
Environmental Protection Agency (EPA)								
	Marine Tank Vessel Loading and Petroleum Refining NESHAP	Benefits	$ 120- 760	$ 120- 760	$ 120- 760	$ 120- 760	$ 120- 760	$ 2,300-10,000
		Costs	$ 120- 160	$ 120- 160	$ 120- 160	$ 120- 160	$ 120- 160	$ 1,700- 2,200
	Air Emissions from Municipal Solid Waste Landfills	Benefits	$ 50- 200	$ 60- 220	$ 70- 230	$ 70- 230	$ 60- 210	$ 820- 2,900
		Costs	$ 90	$ 105	$ 110	$ 110	$ 100	$ 1,400
	Municipal Waste Combustors	Benefits	$ 220- 570	$ 220- 570	$ 220- 570	$ 220- 570	$ 240- 620	$ 3,300- 8,600
		Costs	$ 300	$ 300	$ 300	$ 300	$ 320	$ 4,400

Table 14:
Agency Benefit/Cost Estimates for Final Rules
April 1, 1996 to March 31, 1997
(Millions of 1996$, Rounded to Two Significant Digits)

Agency	Rule	Category	2000	2005	2010	2015	Annualized Value	Net Present Value
Dept. of Agriculture (USDA)								
	Conservation Reserve Program	Benefits	$ 2,000	$ 2,000	$ 2,000	$ 2,000	$ 2,200	$ 30,000
		Costs	$ 900	$ 900	$ 900	$ 900	$ 970	$ 13,000
	Hazard Analysis and Critical Control Points (HAACP): Meat and Poultry	Benefits	$ 70- 2,600	$ 70- 2,600	$ 70- 2,600	$ 70- 2,600	$ 70- 2,800	$ 1,000- 38,000
		Costs	$ 90- 110	$ 90- 110	$ 90- 110	$ 90- 110	$ 100- 120	$ 1,400- 1,700
Dept. of Health and Human Services (HHS)								
	Food Nutrition Labeling: Small Business Exemption	Benefits	$ 275- 360	$ 275- 360	$ 275- 360	$ 275- 360	$ 300- 390	$ 4,100- 5,400
		Costs	$ 3	$ 2	$ 1	$ 1	$ 2	$ 30
	Restriction on the Sale and Distribution of Tobacco	Benefits	$9,200-10,000	$9,200-10,000	$9,200-10,400	$9,200-10,000	$9,900-11,000	$140,000-150,000
		Costs	$ 180	$ 180	$ 180	$ 180	$ 180	$ 2,500
	Medical Devices: Quality Regulations	Benefits	$ 270- 280	$ 270- 280	$ 270 -280	$ 270- 280	$ 290- 310	$ 4,100- 4,200
		Costs	$ 80	$ 80	$ 80	$ 80	$ 90	$ 1,200
Dept. of Labor (DOL)								
	Exposure to Methylene Chloride	Benefits	$ 40	$ 40	$ 40	$ 40	$ 90	$ 1,200
		Costs	$ 100	$ 100	$ 100	$ 100	$ 110	$ 1,500

Table 14:
Agency Benefit/Cost Estimates for Final Rules
April 1, 1996 to March 31, 1997
(Millions of 1996$, Rounded to Two Significant Digits)

Agency	Rule	Category	2000	2005	2010	2015	Annualized Value	Net Present Value
Dept. of Transportation (DOT)								
	Airbag Depowering	Benefits	$ 540- 860	$ 0	$ 0	$ 0	$ 170- 270	$ 2,400- 3,800
		Costs	$ 340- 1,600	$ 0	$ 0	$ 0	$ 110- 500	$ 1,500- 7,000
	Roadway Worker Protection	Benefits	$ 30	$ 30	$ 30	$ 30	$ 40	$ 490
		Costs	$ 30	$ 30	$ 30	$ 30	$ 40	$ 480
Environmental Protection Agency (EPA)								
	Accidental Release Prevention	Benefits	$ 170	$ 170	$ 170	$ 170	$ 170	$ 2,400
		Costs	$ 100	$ 100	$ 100	$ 100	$ 100	$ 1,500
	Financial Assurance for Municipal Solid Waste Landfills	Benefits	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0
		Costs	-$ 100	-$ 100	-$ 100	-$ 100	-$ 110	-$ 1,500
	Deposit Control Gasoline	Benefits	$ 120- 350	$ 120- 350	$ 120- 350	$ 120- 350	$ 120- 350	$ 1,700- 5,200
		Costs	$ 140	$ 140	$ 140	$ 140	$ 150	$ 2,000
	Acid Rain Phase II NO_x Controls	Benefits	$ 460- 2,100	$ 460- 2,100	$ 460- 2,100	$ 460- 2,100	$ 430- 2,000	$ 6,000- 27,000
		Costs	$ 200	$ 200	$ 200	$ 200	$ 190	$ 2,600
	Federal Test Procedure Revisions	Benefits	$ 140- 820	$ 140- 820	$ 140- 820	$ 140- 820	$ 130- 760	$ 1,700- 11,000
		Costs	$ 200- 250	$ 200- 250	$ 200- 250	$ 200- 250	$ 200- 250	$ 2,600- 3,200
	Voluntary Standards for Light-Duty Vehicles (NLEV)	Benefits	$ 50- 220	$ 130- 590	$ 260- 1,200	$ 380- 1,800	$ 230- 1,000	$ 3,100- 14,000
		Costs	$ 600	$ 600	$ 600	$ 600	$ 640	$ 8,920

Table 14:
Agency Benefit/Cost Estimates for Final Rules
April 1, 1996 to March 31, 1997
(Millions of 1996$, Rounded to Two Significant Digits)

Agency	Rule	Category	2000	2005	2010	2015	Annualized Value	Net Present Value
Environmental Protection Agency (EPA), continued								
	Emission Standards for Marine Engines	Benefits	$ 10- 50	$ 90- 390	$ 180- 810	$ 240- 1,100	$ 150- 680	$ 2,100- 9,400
		Costs	$ 50	$ 310	$ 360	$ 320	$ 270	$ 3,760

Table 15:
Agency Benefit/Cost Estimates for Final Rules
April 1, 1997 to March 31, 1998
(Millions of 1996$, Rounded to Two Significant Digits)

Agency	Rule	Category	2000	2005	2010	2015	Annualized Value	Net Present Value
Dept. of Agriculture (USDA)								
	Environmental Quality Incentives Program (EQIP)	Benefits	$ 270	$ 270	$ 270	$ 270	$ 290	$ 4,000
		Costs	$ 180	$ 180	$ 180	$ 180	$ 200	$ 2,700
Dept. of Health and Human Services (HHS)								
	Organ Procurement and Transplantation Network	Benefits	$ 30- 410	$ 30- 410	$ 30- 410	$ 30- 410	$ 40- 440	$ 510- 6,100
		Costs	$ 0	$ 0	$ 0	$ 0	$ 0	$ 0
	Quality Mammography Standards	Benefits	$ 180- 260	$ 180- 260	$ 180- 260	$ 180- 260	$ 200- 280	$ 2,800- 3,900
		Costs	$ 40	$ 40	$ 40	$ 40	$ 40	$ 570
Dept. of Labor (DOL)								
	Respiratory Protection	Benefits	$ 140- 560	$ 140- 560	$ 140- 560	$ 140- 560	$ 590- 2,700	$ 8,200- 37,000
		Costs	$ 110	$ 110	$ 110	$ 110	$ 120	$ 1,700
Dept. of Energy (DOE)								
	Energy Conservation Standards for Refrigerators	Benefits	$ 610	$ 680- 710	$ 790- 860	$ 890- 990	$ 700- 760	$ 9,700- 11,000
		Costs	$ 280	$ 280	$ 280	$ 280	$ 260	$ 3,600
	Energy Conservation Standards for Room Air Conditioners	Benefits	$ 60	$ 70	$ 80	$ 80	$ 80	$ 930- 1,000
		Costs	$ 20	$ 20	$ 20	$ 20	$ 20	$ 300

Table 15:
Agency Benefit/Cost Estimates for Final Rules
April 1, 1997 to March 31, 1998
(Millions of 1996$, Rounded to Two Significant Digits)

Agency	Rule	Category	2000	2005	2010	2015	Annualized Value	Net Present Value
Environmental Protection Agency (EPA)								
	Emission Standards for New Locomotives	Benefits	$ 250- 970	$ 250- 70	$ 250- 970	$ 250- 970	$ 230- 900	$ 3,200- 13,000
		Costs	$ 90	$ 90	$ 90	$ 90	$ 80	$ 1,900
	Emission Standards for New Highway Heavy-Duty Engines	Benefits	$ 0	$ 310-1,400	$ 310- 1,400	$ 310- 1,400	$ 220- 990	$ 3,000- 14,000
		Costs	$ 0	$ 200	$ 200	$ 200	$ 140	$ 1,900
	Pulp and Paper: Effluent Guidelines	Benefits	$ 0- 160	$ 10- 160	$ 10- 160	$ 10- 160	$ 10- 250	$ 150- 3,400
		Costs	$ 160	$ 160	$ 160	$ 160	$ 250	$ 3,400
	Pulp and Paper: National Emission Standards for Hazardous Air Pollutants (NESHAP)	Benefits	-$ 1,000-1,000	-$1,000-1,000	-$ 1,000- 1,000	-$ 1,000- 1,000	-$ 970- 1,100	-$ 13,000- 14,000
		Costs	$ 80	$ 80	$ 80	$ 80	$ 120	$ 1,600
	National Ambient Air Quality Standards (NAAQS): Ozone	Benefits	$ 0	$ 235- 710	$ 470- 2,500	$ 1,800- 10,000	$ 770- 4,300	$ 11,000- 59,000
		Costs	$ 0	$ 470	$ 1,310	$ 11,000	$ 4,500	$ 62,000
	National Ambient Air Quality Standards (NAAQS): Particulate Matter	Benefits	$ 0	$ 0	$22,000-123,000	$24,000-130,000	$11,000-59,000	$148,000-816,000
		Costs	$ 0	$ 0	$ 10,000	$ 44,000	$ 17,000	$ 230,000

Table 15:
Agency Benefit/Cost Estimates for Final Rules
April 1, 1997 to March 31, 1998
(Millions of 1996$, Rounded to Two Significant Digits)

Agency	Rule	Category	2000	2005	2010	2015	Annualized Value	Net Present Value
	Disposal of Plychlorinated Biphenyls (PCBs)	Benefits	$ 150- 740	$ 150- 740	$ 150- 740	$ 150- 740	$ 160- 790	$ 2,200- 11,000
		Costs	$ 14	$ 14	$ 14	$ 14	$ 14	$ 210

Table 16:
Estimates of the Total Annual Costs and Benefits of Social Regulations by Year, 1995 to March 1998
($ millions)

	2000	2005	2010	2015	Annualized	Net Present Value
1995-96						
Benefits	$ 1,100- 2,300	$ 2,500- 3,900	$ 2,500- 3,900	$ 2,500- 3,900	$ 2,200- 3,600	$ 31,000- 50,000
Costs	$ 1,300- 1,400	$ 1,800- 1,900	$ 1,800- 1,900	$ 1,800- 1,900	$ 1,700- 1,800	$ 23,000- 25,000
1996-97						
Benefits	$13,000-20,000	$13,000-20,000	$13,000- 21,000	$13,000- 22,000	$14,000-22,000	$200,000- 310,000
Costs	$ 2,900- 4,200	$ 2,800- 2,900	$ 2,900- 2,900	$ 2,800- 2,900	$ 3,000- 3,500	$ 42,000- 48,000
1997-98						
Benefits	$ 750- 5,100	$ 1,400- 7,300	$24,000-130,190	$27,000-150,000	$13,000-71,000	$180,000- 990,000
Costs	$ 980	$ 1,600	$ 13,000	$ 56,000	$ 23,000	$ 310,000
Total						
Benefits	$15,000-28,000	$17,000-31,000	$40,000-160,000	$43,000-170,000	$30,000-97,000	$410,000-1,300,000
Costs	$ 5,700- 6,700	$ 6,300- 6,600	$17,000- 17,000	$60,000- 61,000	$27,000-28,000	$380,000- 390,000

TABLE 17: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/95 - 3/31/96
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
USDA	Use of the Term "Fresh" on the Labeling of Raw Poultry Products	Not estimated	$7 million/yr	USDA estimated transfers from producers to consumers of $75 - 125 million/yr due to potential price decreases of $.04 - .10/lb. The qualitative benefits of the rule are that consumers would be assured that poultry products are not labeled in a misleading or false manner.
HHS	Hazard Analysis and Critical Control Points (HACCP): Seafood ("Safe and Sanitary Processing and Importation of Seafood")	$1.44 - 2.56 billion (present value)	$677 million - $1,490 million (present value)	FDA believes that there may be ``re-engineering" types of benefits associated with these regulations. For both seafood and other foods for which HACCP has been implemented, FDA has received information that firms have found cost-saving innovations in other areas as they implement HACCP. These innovations are considered trade secrets by firms and thus, their description (actual process innovations) and quantification is impossible as firms have not released this data into the public domain. This phenomenon involves unexpected savings and efficiencies as a result of establishing a new system in a processing operation. The majority of firms that have previously instituted HACCP reported that they believed that the advantages they derived from HACCP were worth the costs to them in terms of better control over their operations, better sanitation, and greater efficiencies, such as reduced waste. Virtually all foresaw long-term benefits from operating under HACCP.
DOI	Migratory Bird Hunting (Early Season Frameworks)	Not Estimated	Not Estimated	DOI reports that duck hunters spend an estimated $416 million/yr; unquantified economic stimulus benefits derived from spending on duck hunting; unquantified benefit of value to hunters (consumer surplus) from more than 11 million hunting days per year; unquantified benefit to bird population by reducing overcrowding and ensuring continued use of resource in future.

TABLE 17: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/95 - 3/31/96
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
DOI	Migratory Bird Hunting (Late Season Frameworks)	Not Estimated	Not Estimated	DOI reports that duck hunters spend an estimated $416 million/yr; unquantified economic stimulus benefits derived from spending on duck hunting; unquantified benefit of value to hunters (consumer surplus) from more than 11 million hunting days per year; unquantified benefit to bird population by reducing overcrowding and ensuring continued use of resource in future.
DOT	Light Truck CAFE Model-Year 1998	Not Estimated	Not Estimated	None reported
DOT	Head Impact Protection	873 - 1,045 fatalities prevented/yr; 675 - 768 serious head injuries prevented/yr	$640 million/yr	None reported
DOT	Vessel Response Plans	22,000 bbls oil prevented from being spilled/yr	$260 million/yr	The U.S. Coast Guard also stated that there are additional benefits which are not quantifiable. Effectiveness of response operations is enhanced both by the training of citizens and hatchery employees so they may assist in nearshore and onshore operations, and by prepositioning containment and cleanup equipment near where it would be utilized. Also, area drills are expected to improve the proficiency of operations.
EPA	Land Disposal Restrictions Phase III	Not Estimated	$60 - 250 million/yr	Qualitative discussion, including possible reduction in cancer risks

TABLE 17: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/95 - 3/31/96
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
EPA	Marine Tank Vessel Loading and Unloading Operations	40,000 t HC/yr	$60 - 100 million/yr	
EPA	Petroleum Refinery NESHAP	280,000 t HC/yr	$60 million/yr	
EPA	Air Emissions from Municipal Solid Waste Landfills	83,000 t HC/yr; 4,250 Kt methane/yr	$100 million/yr	
EPA	Municipal Waste Combustors	20,000 t SO_2/yr; 3,000 t PM/yr; 20,000 t NO_x/yr; 60 t Hg/yr; 40 kg TCDD TEQ /yr	$320 million/yr	

ABBREVIATIONS: bbls = barrels, CO = carbon monoxide, HC = hydrocarbons, Hg = mercury, kg = kilograms, Kt = kilotons, NO_x = nitrogen oxides, PM = particulate matter, SO_2 = sulfur dioxide, t = tons, TCDD TEQ = 2,3,7,8 tetrachlorodibenzo-p-dioxin toxicity equivalent.

TABLE 17: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/95 - 3/31/96
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
			TRANSFER RULES	
Dept. of Agriculture (USDA)				
	1995 Upland Cotton Program			
	1995 Rice Acreage Reduction Program			
	Disaster Payment Program for 1990 and Subsequent Crops - - Tree Assistance Program			
	1995 Wheat, Feed Grain, and Oilseed Programs			
	General Crop Insurance Regulations (Hybrid Sorghum Seed and Rice)			
	Utility Reimbursement Exclusion			
Dept. of Health and Human Services (HHS)				
	Changes to Hospital Inpatient Prospective Payment System FY 1996			
Dept. of Justice (DOJ)				
	Charging of Fees for Services at Land Border Ports-of-Entry			

TABLE 18: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/96 - 3/31/97
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
USDA	1996 Farm Bill Farm Program	Not Estimated	Not Estimated	"Net farm income (including crop and livestock sectors) during the 1996-2002 calendar years is expected to be about $15 billion higher under the 1996 Act than under the FY 1997 President's Budget baseline. This largely reflects higher Government payments to farmers under the 1996 Act as production flexibility contract payments exceed projected deficiency payments. Additionally, changes in the timing of payments to farmers provide an additional boost to farm income in the first year of the program--pushing 1996 net income up about $4 billion. However, net farm income is up by less than the increase in Government payments due to changes in the dairy and peanut programs. Crop sector receipts are down slightly under the 1996 Act due to lower plantings and production of the eight major commodities. Livestock sector receipts are lower due primarily to lower dairy sector receipts. Cash production expenses are up slightly due to increases in net cash rents, which offset lower crop production expenses from lower plantings. "Farmland values are higher under the 1996 Act compared with the FY 1997 President's Budget, reflecting the capitalized value of higher income. Land values average about 3 percent higher under the 1996 Act compared with FY 1997 President's Budget estimates. "Consumer costs are expected to be only slightly lower under the 1996 Act. Because grain prices, on average, are expected to be essentially unaffected, no appreciable change in grain-based food product costs, such as cereal and meat products, is expected." 61 FR 37544-5. "Alternatively, the 1996 Act can be compared to a 'no program" baseline. Under the 1996 Act, contract commodity payments represent a large portion of the benefits received by producers and there are few planting restrictions. The major differences between a no-program scenario (if the CRP and export programs were continued) and the 1996 Act are that producers would no longer receive contract commodity payments of about $35.9 billion and would no longer be subject to farm conservation and wetland protection requirements. The loss in farm income would likely entail substantial short-term adjustments and financial stress. However, over the longer term, a no-program scenario is expected to have little or no impact on supply, demand, and prices compared with the 1996 Act for most commodities except for peanuts, sugar, and, in the initial years of the period, dairy.

TABLE 18: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/96 - 3/31/97
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
USDA	Conservation Reserve Program	$2 billion/yr, 1997- 2002	$900 million/yr, 1997 - 2002	Other miscellaneous (unquantified) benefits: swimming, boating, wetland conservation, human health impacts, and reduced nutrients in habitats; $5.8 billion/yr in transfers from consumers and taxpayers to farmers.
USDA	Karnal Bunt	Not Estimated	Not Estimated	"This rule is being published on an emergency basis in order to give affected growers the opportunity to make planting decisions for the 1996-97 crop season on a timely basis...This rule may have a significant economic impact on a substantial number of small entities. If we determine this is so, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our Final Regulatory Flexibility Analysis, which we will publish in a future Federal Register." 61 FR 52206.

TABLE 18: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/96 - 3/31/97
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
USDA	Hazard Analysis and Critical Control Points: Meat and Poultry	$0.71-$26.59 billion present value discounted over 20 years	$0.97-1.16 billion present value discounted over 20 years	"The benefits are based on reducing the risk of foodborne illness due to Campylobacter jejuni/coli, Escherichia coli 0157:H7, Listeria monocytogenes and Salmonella. ... these four pathogens are the cause of 1.4 to 4.2 million cases of foodborne illness per year. FSIS has estimated that 90 percent of these cases are caused by contamination occurring at the manufacturing stage that can be addressed by improved process control. This addressable foodborne illness costs society from $0.99 to $3.69 billion, annually. The high and low range occurs because of the current uncertainty in the estimates of the number of cases of foodborne illness and death attributable to the four pathogens. Being without the knowledge to predict the effectiveness of the requirements in the rule to reduce foodborne illness, the Department has calculated projected health benefits for a range of effectiveness levels, where effectiveness refers to the percentage of pathogens eliminated at the manufacturing stage..." 61 FR 38956. "The link between regulatory effectiveness and health benefits is the assumption that a reduction in pathogens leads to a proportional reduction in foodborne illness. FSIS has presented the proportional reduction calculation as a mathematical expression that facilitates the calculation of a quantified benefit estimate for the purposes of this final RIA. FSIS has not viewed proportional reduction as a risk model that would have important underlying assumptions that merit discussion or explanation. For a mathematical expression to be a risk model, it must have some basis or credence in the scientific community. That is not the case here. FSIS has acknowledged that very little is known about the relationship between pathogen levels at the manufacturing stage and dose, i.e., the level of pathogens consumed." 61 FR 38945-6.

TABLE 18: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/96 - 3/31/97
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
DOC	Encryption Items Transferred from the U.S. Munitions List to the Commerce Control List	Not Estimated	$834,000 (govt admin cost FY97), $591,850 (paperwork burden costs)	Unquantified benefits in terms of improved national security, law enforcement and public safety benefits, and economic benefits for industry: "This initiative will support the growth of electronic commerce; increase the security of the global information infrastructure; protect privacy, intellectual property and other valuable information; and sustain the economic competitiveness of U.S. encryption product manufacturers during the transition to a key management infrastructure. 61 FR 68573.
HHS	Food Labeling/ Nutrition Labeling: Small Business Exemption	$275-360 million/yr	$4 million in first year, expected to decline thereafter	None reported.

TABLE 18: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/96 - 3/31/97
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
HHS	Restriction on the Sale and Distribution of Cigarettes and Smokeless Tobacco	$9.2-10.4 billion/yr at 7% discount rate; $28.1-43.2 billion/yr at 3% discount rate	$180 million/yr at 7% discount rate	Unspecified costs of mandatory consumer education program. "These totals do not include the benefits expected from fewer fires (over $160 million annually), reduced passive smoking, or infant death and morbidity associated with mothers' smoking...." "In addition, while FDA could not quantify the benefits that will result from the projected decline in the use of smokeless tobacco, they would be considerable." 61 FR 44396ff.

TABLE 18: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/96 - 3/31/97
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
HHS	Medical Devices: Quality Systems Regulation	$29 million/yr; 44 deaths avoided/yr; 484 to 677 serious injuries avoided/yr;	$82 million/yr	"The medical device industry would gain substantial economic benefits from the proposed changes to the [Comprehensive Good Manufacturing Practices, "CGMP"] regulation in three ways: Cost savings from fewer recalls, productivity gains from improved designs, and efficiency gains for export-oriented manufacturers who would now need to comply with only one set of quality standards. "These estimates of the public health benefits from fewer design-related deaths and serious injuries represent FDA's best projections, given the limitations and uncertainties of the data and assumptions. The above numbers, however, do not capture the quality of life losses to patients who experience less severe injuries than those reported in [medical device recalls, "MDR's"], who experience anxiety as a result of treatment with an unreliable medical device, or who experience inconvenience and additional medical costs because of device failure. "Medical device malfunctions are substantially more numerous than deaths or injuries from device failures and also represent a cost to society. Malfunctions represent a loss of product and an inconvenience to users and/or patients. Additionally, medical device malfunctions burden medical personnel with additional tasks, such as repeating treatments, replacing devices, returning and seeking reimbursement for failed devices, and providing reports on the circumstances of medical device failures. No attempt was made to quantify these additional costs." 61 FR 52602ff.
DOI	Migratory Bird Hunting (Early Season Frameworks)	Not Estimated	Not Estimated	DOI reports that duck hunters spend an estimated $416 million/yr; unquantified economic stimulus benefits derived from spending on duck hunting; unquantified benefit of value to hunters (consumer surplus) from more than 11 million hunting days per year; unquantified benefit to bird population by reducing overcrowding and ensuring continued use of resource in future.

TABLE 18: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/96 - 3/31/97
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
DOI	Migratory Bird Hunting (Late Season Frameworks)	Not Estimated	Not Estimated	DOI reports that duck hunters spend an estimated $416 million/yr; unquantified economic stimulus benefits derived from spending on duck hunting; unquantified benefit of value to hunters (consumer surplus) from more than 11 million hunting days per year; unquantified benefit to bird population by reducing overcrowding and ensuring continued use of resource in future.
DOL	Exposure to Methylene Chloride (MC)	31 cancer cases/yr avoided; 3 deaths/yr avoided from acute central nervous system effects and carboxyhemo-globinemia	$101 million/yr	"MC exposures above the level at which the final rule's STEL is set--125 ppm--are also associated with acute central nervous system effects, such as dizziness, staggered gait, and diminished alertness, all effects that can lead to workplace accidents. OSHA estimates that as many as 30,000 to 54,000 workers will be protected by the final rule's STEL from experiencing CNS effects and episodes of carboxyhemoglobinemia every year. Moreover, exposure to the liquid or vapor forms of MC can lead to eye, skin, and mucous membrane irritation, and these material impairments will also be averted by compliance with the final rule. Finally, contact of the skin with MC can lead to percutaneous absorption and systemic toxicity and thus lead to additional cases of cancer that have not been taken into account in the benefits assessment. " 62 FR 1567-68.
DOT	Airbag Depowering	83-101 fewer fatalities, 5,100 - 8,800 fewer serious injuries over lifetime of one full model-year's vehicles	$0	50 - 431 more fatalities and 171 - 553 more serious/severe chest injuries over lifetime of one full model-year's vehicles; substantial unquantified reduction in minor/moderate injuries.

TABLE 18: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/96 - 3/31/97
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
DOT	Light Truck CAFE Model-Year 1999	Not Estimated	Not Estimated	None reported.
DOT	Roadway Worker Protection	$240 million present value discounted over 10 years	$229 million present value discounted over 10 years	Possible increased capacity of rail lines and improved morale.
EPA	Accidental Release Prevention	$174 million/yr	$97 million/yr	Unspecified value of information made available through disclosure/reporting requirements; efficiency gains, increased technology transfer, indirect cost savings, and increased goodwill; possible damage reductions attributable to offsite consequence analysis and to a reduction in routine emissions.
EPA	Financial Assurance for Municipal Solid Waste Landfills	$105 million/yr	$0	None reported.
EPA	Deposit Control Gasoline	AVG EMISSION REDUCTIONS PER YEAR, 1997-2001: 25,000 t HC, 474,000 t CO, 95,000 t NOx	AVG COST/YR, 1997 - 2000: $138 million/yr	Fuel economy benefits are also expected as a result of the detergent program, amounting to nearly 450 million gallons during the 1995-2001 period. The savings associated with this fuel economy benefit are expected to partially offset the costs of the program. This rule should result in increased sales and business opportunities within the fuel additive industry. EPA anticipates that this program may result in significant vehicle maintenance benefits. However, due to uncertainties in their magnitude, and for other reasons, they were not considered quantitatively in the analysis.

TABLE 18: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/96 - 3/31/97
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
EPA	Acid Rain Phase II Nitrogen Oxides Emission Controls	EMISSION REDUCTIONS PER YEAR: 890,000 t NOx	$204 million/yr	None reported.
EPA	Federal Test Procedure Revisions	EMISSION REDUCTIONS: In 2005: 30,994 t NMHC 1,937,114 t CO 164,112 t NOx In 2010: 54,892 t NMHC 3,430,769 t CO 290,655 t NOx In 2015: 72,025 t NMHC 4,501,555 t CO 381,372 t NO_x In 2020: 81,977 t NMHC 5,123,565 t CO 434,068 t NOx	$199-245 million/yr	Analysis does not include potential fuel savings of $13.45 discounted over the lifetime of the average vehicle, or about $202 million/yr.

TABLE 18: SUMMARY OF AGENCY ESTIMATES FOR FINAL RULES 4/1/96 - 3/31/97
(As of date of completion of OMB review)

AGENCY	RULE	BENEFITS	COSTS	OTHER INFORMATION
EPA	Voluntary Standards for Light-Duty Vehicles	EMISSION REDUCTIONS (tons/ozone season- weekday): In 2005: 279 t NMOG, 3,756 t CO, 400 t NOx In 2007: 399 t NMOG, 5,302 t CO, 600 t NOx In 2015: 778 t NMOG, 9,723 t CO, 1,249 t NOx	$600 million/yr	None reported.
EPA	Lead-Based Paint Activities in Target Housing	Not Estimated	$1.114 billion present value over 50 years discounted at 3%	Will provide consumers with greater assurance that they will be able to purchase abatement services of reliable quality.

ABBREVIATIONS: CO = carbon monoxide, HC = hydrocarbons, Kt = kilotons, NMHC = non-methane hydrocarbons, NMOG= non-methane organic gases, NOx = nitrogen oxides, t = tons.

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Federal Register

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August 17, 1998

Part IV

Department of Housing and Urban Development

Fiscal Year 1999 Multifamily Housing Mortgage and Housing Assistance Restructuring Program Request for Qualifications; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4370–N–01]

Fiscal Year 1999 Multifamily Housing Mortgage and Housing Assistance Restructuring Program Request for Qualifications

AGENCY: Office of Secretary, HUD.

ACTION: Notice of request for qualifications.

SUMMARY: The Department is implementing the Mark-to-Market Program authorized by the Multifamily Assisted Housing Reform Act (MAHRA). The program is intended primarily to: (1) preserve low-income rental housing affordability and availability while reducing the long-term costs of project-based assistance; (2) reform the design and operation of Federal rental housing assistance programs administered by the Secretary, to promote greater multifamily housing project operating and cost efficiencies; (3) encourage owners of eligible multifamily housing projects to restructure their FHA-insured mortgages and project-based assistance contracts in a manner that is consistent with the statute. The statute directs the Secretary to enter into ''portfolio restructuring agreements'' with ''participating administrative entities'' (PAEs) for the implementation of mortgage restructuring and rental assistance sufficiency plans to restructure multifamily housing mortgages insured or held by the Secretary under the National Housing Act.

A PAE is a public agency, a nonprofit organization, or any other entity (including a law firm or an accounting firm), that meets the requirements of MAHRA. For purposes of this RFQ, a public agency means a State, county, municipality or other governmental or public body (or agency or instrumentality thereof) authorized to engage in or assist in the development or operation of low-income housing; namely, a public agency is either a State housing finance agency or a local housing agency. The Department is publishing this Notice as a formal Request for Qualifications (RFQ) from entities that seek to become PAEs.

The statute establishes a priority and directs the Secretary to provide a reasonable period during which the Secretary will consider proposals only from State housing finance agencies (HFAs) and local housing agencies. It further directs the Secretary to select such an agency without considering other applicants if the Secretary determines the agency is qualified. By the end of the period the Secretary shall notify the State HFA or local housing agency regarding the status of the proposal. If the proposal is rejected, the Secretary will provide reasons for the rejection and the public agency will have an opportunity to respond. To comply with these provisions of the statute, the selection of qualified PAEs under this RFQ will be completed in two phases.

DATES: See Supplementary Information for dates concerning pre-submission conference, proposal deadlines, and selection schedule.

FOR FURTHER INFORMATION CONTACT: George C. Dipman or William S. Richbourg, Program Coordinators, Office of Multifamily Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–4000; Room 6272; Telephone (202) 708–2495 Fax (202) 708–5494. (This is not a toll-free number.) Hearing or speech-impaired individuals may call 1–800–877–8399 (Federal Information Relay Service TTY). Internet address: George__C.__Dipman@hud.gov or William__S.__Richbourg@hud.gov.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this Request for Qualifications (RFQ) have been submitted to the Office of Management and Budget (OMB) for emergency review and approval in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor and a person is not required to respond to, a collection of information unless the collection displays a valid control number. The OMB control number, when assigned, will be published in the **Federal Register**, together with any changes in the information collection requirements that may result from the approval process.

Participating Administrative Entities—Request for Qualifications

I. Background: Multifamily Housing Mortgage and Housing Assistance Restructuring Program

The Multifamily Assisted Housing Reform and Affordability Act of 1997 (MAHRA) was enacted in title V of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (FY 1998 Appropriations Act) (Pub. L. No. 105–65; 111 Stat. 1344, 1384; approved October 27, 1997). Subtitle A of MAHRA contains the FHA-Insured Multifamily Housing Mortgage and Housing Assistance Restructuring Program. That program provides authority to deal with Section 8 contract expirations occurring in FY 1999 and later. In accordance with section 522(a) of MAHRA, the new program will be initially implemented by an interim rule to be followed by a final rule.

HUD seeks to select Participating Administrative Entities with which it will enter into portfolio restructuring agreements for a term of one year with optional annual renewals. Compensation is expected to include a base fee, a performance-based incentive fee and a provision for reimbursable expenses. Responsibilities will include developing and implementing mortgage restructuring and rental assistance sufficiency plans (Restructuring Plan) to restructure multifamily housing mortgages insured or held by the Secretary under the National Housing Act in order to:

(a) Reduce the costs of expiring contracts for assistance under section 8 of the US Housing Act of 1937;

(b) Address financially and physically troubled projects; and

(c) Correct management and ownership deficiencies.

This Request for Qualifications is being issued in order to select entities that possess sufficient experience, capacity and financial strength, either on their own or in conjunction with other experienced entities to become PAEs and to efficiently and effectively execute the restructuring program.

Attachment A to this RFQ provides a list of insured, subsidized projects with Section 8 rents greater than 90% of the 1997 Fair Market Rent. The report shows the number of contracts initially expiring by year, by State, for a four year period beginning in Fiscal Year 1999. This list is for illustrative purposes only. *It is not a definitive list of eligible projects.* Projects that have already reached their initial contract expirations and are on one year renewals are not included. There may also be some projects with formerly insured, HUD held mortgages that may be eligible. Finally, eligibility will be based on a comparison with rents for comparable projects in the same market area.

Selection criteria for PAEs include, among others, experience working with tenants and tenant organizations, underwriting FHA-insured and conventional mortgages, and negotiating with mortgagees to restructure mortgage debt. If an applicant public agency does not possess this experience in-house it is encouraged to contract for qualified resources that will enhance its response to the RFQ.

The selection of PAEs will be conducted in two phases:

Phase I: Public Agency Selection: In Phase I, HUD will consider only State HFAs and local housing agencies (collectively referred to as ''public agencies'') and will determine which are qualified to be PAEs.

Phase II: Public Agency Appeal and Non-Public Entity Selection: After HUD has determined which public agencies are qualified in Phase I, HUD will consider the proposals from nonprofit organizations and for profit entities (collectively referred to as ''non-public entities'') and will determine which are qualified to be PAEs. At this time, appeals from public agencies that were rejected in Phase I will also be considered. At a later date, these qualified non-public entities will be provided with specific portfolios of assets and a ''bidding package'' and will be required to prepare a competitive bid for the right to restructure the assets in one or more of the portfolios.

II. Purpose and Objectives

The objective of this Request for Qualifications is to select those PAEs with which the Secretary will enter into portfolio restructuring agreements (PRAs) to implement Restructuring Plans and carry out the other purposes of the Mark-to-Market Program.

A portfolio restructuring agreement:

- Is an agreement between the Secretary and the PAE that establishes the obligations and requirements of each party;
- Identifies the eligible multifamily housing projects or groups of projects for which the PAE is responsible for developing and implementing a HUD-approved Restructuring Plan;
- Requires the PAE to review and certify to the accuracy and completeness of the evaluation of rehabilitation needs;
- Identifies the responsibilities of both the PAE and the Secretary in implementing Restructuring Plans;
- Requires each Restructuring Plan to be prepared in accordance with the requirements of the statute;
- Includes other requirements established by the Secretary including a right of the Secretary to terminate the contract;
- Provides for indemnifying the PAE if it is a State HFA or local housing agency;
- Includes compensation for reasonable expenses;
- Includes, where appropriate, incentive agreements with the PAE to reward superior performance in meeting the purposes of MAHRA.

In general, the functions that will be performed by the PAE in carrying out its responsibilities under the portfolio restructuring agreement include, but are not limited to, the following:

1. *Owner eligibility:* Reviewing owner data submitted in connection with expiring contracts in order to determine eligibility for restructuring under the Statute.

2. *Determining initial restructured rent and operating expense levels:* Based on an analysis of market rent comparables and operating expenses from an appraisal from data provided by the owner and servicer, other parties as appropriate, and the PAE's independent due diligence, the PAE will determine comparable market rents or exception rents as well as reasonable operating expenses for projects undergoing a Restructuring Plan.

3. *Preservation of affordable housing:* Either confirming that the project meets the criteria for mandatory project-basing or developing, for qualified projects, a rental assistance assessment plan to determine whether the renewal of Section 8 assistance should be project-based or tenant-based, pursuant to guidance provided by HUD. Meeting with tenants and local community groups to obtain their views and gain other perspectives that may impact the restructuring process.

4. *Rehabilitation needs.* Determining the immediate and long term rehabilitation needs of the project based on a review and certification of the owner's evaluation of rehabilitation needs and a physical condition analysis obtained by the PAE, including sizing contributions to the Reserve for Replacement.

5. *Underwriting:* Determining the Net Operating Income of the project from estimated revenues based on the restructured rent determination, and from estimated operating expenses; determining the size and structure of sustainable new or modified first mortgages based on these estimates, and the size and conditions of the HUD second mortgage; ensuring adequate sources of funds are available from project accounts, the owner's contribution to rehabilitation, the HUD second mortgage, grants, loans, or capital advances to meet approved uses and perform an analysis of tax implications for use in analyzing restructuring options. The analysis of tax implications will not be for the benefit of the owner or constitute legal advice to the owner. The owner will be solely responsible for its own analysis of tax implications.

6. *Negotiations:* Negotiating with owner to reach agreement on restructured rental subsidies, restructured debt, and rehabilitation.

7. *Loan/funding approval:* Obtaining HUD approval of the HUD funding amount (including the amount of the partial or full payment of claim and any HUD funding for rehabilitation) and of the HUD held second mortgage loan. Assist the owner either to obtain approval of the mortgagee to modify the existing mortgage or to obtain new financing.

8. *Closing:* Coordinating the time and place of closing, the drafting, circulation, execution, and recording of documents, establishment of required escrows, and any transfers of funds.

9. *Post-closing document distribution:* Ensuring that copies of properly executed closing documents are circulated to appropriate parties including HUD field offices and/or HUBs, as well as copies for the Washington Docket.

10. *Facilitating the voluntary sale or transfer of projects:* Facilitate the sale or transfer to a qualified purchaser, either of properties disqualified from restructuring (before or during the restructuring) because of the actions of an owner, or at the request of an owner where the PAE determines that sale or transfer may be the best means of achieving the purposes of MAHRA.

Servicing second mortgages and rehabilitation escrow accounts: Servicing is a responsibility that will *not* be initially covered in the PRA, as HUD is still considering this matter. This RFQ is not intended to obtain information to determine an applicant's qualifications to perform ongoing servicing including administering the Section 8 contracts, monitoring compliance with the terms of the Use Agreements, servicing rehabilitation escrows, and servicing the second mortgage. HUD will follow an appropriate public procedure in the future to obtain necessary information to determine how these responsibilities will be handled. (Please indicate your interest in performing these services in Section 2 of Attachment B to this document.)

The following types of entities are invited to apply under this RFQ: State housing finance agencies, local housing agencies, nonprofit organizations and for-profit entities including law firms and accounting firms.

HUD is seeking responses from all entities that are interested and that are potential candidates under the provisions of the statute.

HUD will not process a response from an entity that (1) has been charged with a violation of the Fair Housing Act by the Secretary; (2) is the defendant in a Fair Housing Act lawsuit filed by the Department of justice; or (3) has

received a letter of noncompliance findings under title VI of the Civil Rights Act, section 504 of the Rehabilitation Act, or section 109 of the Housing and Urban Community Development Act unless the charge, lawsuit, or letter of findings have been resolved to the satisfaction of the Secretary.

III. Process for Selecting Qualified PAES

A. Selection Schedule

Subject to publication of the interim rule for effect, HUD intends to conclude its selection process according to the following schedule:

- By September 16, 1998, proposals are due from State HFAs and local housing agencies and non-public entities. Proposals from the latter will be held by the Office of General Counsel (OGC) until the conclusion of Phase I.

Phase I—Public Agency Selection

- After reviewing the public agency proposals, the Secretary shall announce the preliminary selections of the State HFAs and local housing agencies that are qualified as PAEs with a determination of both technical qualifications and estimated workload capacity. If a public agency proposal is rejected at this time, the Secretary shall provide the reasons and an opportunity for the applicant to respond. HUD intends to make these announcements on or about October 1, 1998.

Phase II—Public Agency Appeal and Non-Public Entity Selection

- After the announcement of preliminary selections of the State HFAs and local housing agencies is made, proposals from non-public entities, that meet the requirements of MAHRA shall be released by OGC for review and evaluation.
- Within three weeks after the rejection is sent, a public agency applicant that was rejected in Phase I and chooses to appeal must submit its revised application.
- On or after October 29, 1998, the Secretary intends to issue final determinations concerning selection and estimated workload capacity of State HFAs and local housing agencies as well as all other entities qualified to be PAEs. HUD intends to allocate assets to a qualified public agency PAE, up to its numerical capacity, before allocating assets in the same jurisdiction to a qualified non-public entity PAE. The Secretary shall also notify all entities that were rejected and provide the reasons for the rejection. There is no appeal process for these rejections.

B. Evaluation Procedures

For all applicants HUD will review each application against the selection criteria in section III.D. of this RFQ. HUD will review each applicant's qualifications and will assign points for each selection criterion up to the maximum indicated in section III.D. for the respective selection criterion. If HUD determines an applicant fails to meet a selection criterion it will assign zero points for that criterion which will result in the rejection of the application. HUD will rank all applicants that have received points on each selection criterion. Qualified applicants must have at least 70 points. HUD will select applicants that HUD determines clearly meet each of the five selection criteria based on the scoring. From the information submitted, in accordance with selection criterion E, HUD will determine the number of assets the applicant will be assigned at any given time. HUD will negotiate and execute Portfolio Restructuring Agreements (PRA) with only those applicants determined to be qualified.

HUD may select fewer than all non-public entity applicants that receive the minimum qualifying score. Selection may be based upon the projected size of the portfolio in States where there is no public agency PAE.

At a later date, the selected non-public entity applicants will be provided with specific portfolios of assets and a bidding package and will be required to prepare a competitive bid for the right to restructure the assets in one or more portfolios. These portfolios will include projects that are located in jurisdictions where there are no qualified public agency PAEs or projects that are not included in a PRA of any public agency PAE.

HUD will form a limited partnership with each non-public entity that is a successful bidder.

C. Conflicts of Interest

1. PAE Applicants

All PAE applicants shall identify the procedures they use, or will use, to identify conflicts of interest.

- *Definitions. Conflict of interest.* A conflict of interest is a situation in which a PAE or other restricted person has: a financial interest in a matter relating to the PRA; one or more personal, business, or financial interests or relationships which would cause a reasonable person with knowledge of the relevant facts to question the integrity or impartiality of those who are or will be acting under the PRA; or is taking an adverse position to HUD or to an owner whose project is covered by a PRA in a lawsuit, administrative proceeding or other contested matter.

Control means the power to vote, directly or indirectly, 25 percent or more of any class of the voting stock of a company; the ability to direct in any manner the election of a majority of a company (or other entity's) directors or trustees; or the ability to exercise a controlling influence over the company or entity's management and policies. For purposes of this definition, a general partner of a limited partnership is presumed to be in control of that partnership.

Restricted person means a PAE; any management official of the PAE; any legal entities that are under the control of the PAE, are in control of the PAE or are under common control with the PAE; or any employee, agent or contractor of the PAE, or employee of such agent or contractor, who will perform or have performed services under a PRA with HUD.

- *General prohibitions.* The PAE may not permit conflicts of interest to exist without obtaining a waiver from HUD.

The PAE must establish procedures to identify conflicts of interest and ensure that conflicts of interest do not arise or continue, subject to waiver.

HUD will not enter into PRAs with potential PAEs who have conflicts of interest associated with a particular PRA or identified asset, or permit PAEs to continue performance under existing PRAs when such PAEs have conflicts of interest, unless such conflicts have been eliminated to HUD's satisfaction by the PAE or potential PAE or are waived by HUD.

The PAE has a continuing obligation to take all action necessary to establish whether it or any other restricted person has a conflict of interest.

- *Waivers.* HUD will waive conflicts of interest only when, in light of all relevant circumstances, the interests of HUD in the PAE's participation outweigh the concern that a reasonable person may question the integrity of HUD's operations.
- *Conflicts of interest arising prior to PAE selection. Request for review of conflicts of interest.* A potential PAE may, with its request to HUD for consideration for selection as a PAE, must identify existing conflicts of interest and may make a written request for a determination as to the existence of a conflict of interest, may request that the conflict of interest, if any, be waived, or may propose how it could eliminate the conflict.

If, after submitting request but prior to selection, a potential PAE discovers that it has a conflict, it must notify HUD in writing within 10 days of submitting the

request or prior to selection, whichever is earlier. The potential PAE may, with its notices, request that the conflict be waived or may propose how it may eliminate the conflict. The potential PAE may also request a determination as to the existence of the conflict.

Review by HUD. Subject to the restrictions set forth in this section, HUD in its sole discretion may determine whether a conflict of interest exists, may waive the conflict of interest, or may approve in writing a PAE's proposal to eliminate a conflict of interest.

- *Reconsideration of decisions.* Decisions concerning conflicts of interest may be reconsidered by HUD upon application by the PAE. Such requests must be in writing and must contain the bases for the request. HUD may, at its discretion and after determining that it is in its best interests, stay any corrective or other actions previously ordered by pending reconsideration of a decision.
- PAEs will be subject to such additional conflicts of interest requirements and requirements concerning standards of conduct and confidentiality as HUD may prescribe by regulation.

2. Reviewers and Technical Advisors

Consultants or experts assisting HUD in rating and ranking applicants under this RFQ are subject to 18 U.S.C. 208, the Federal criminal conflict of interest statute, and to the Standards of Ethical Conduct for Employees of the Executive Branch regulation published at 5 CFR part 2635. As a result, individuals who have assisted or plan to assist applicants with preparing applications for this RFQ may not serve on a selection panel or as a technical advisor to HUD for this RFQ. All individuals involved in rating and ranking this RFQ, including experts and consultants, must avoid conflicts of interest or the appearance of conflicts. If the selection or non-selection of any applicant under this RFQ affects the individual's financial interests set forth in 18 U.S.C. 208 or involves any party with whom the individual has a covered relationship under 5 CFR 2635.502, that individual must, prior to participating in any matter regarding this RFQ, disclose this fact to the General Counsel or OGC's Ethics Law Division.

D. Selection Criteria

In both Phase I and Phase II, all applications will be considered based on the following selection criteria established under section 513(b) of MAHRA. Please note that the applicant must demonstrate prior experience and/or a relevant plan that satisfies all five selection criteria. Failure to satisfy one or more of the selection criteria will result in the rejection of the application.

1. Selection Criterion A: Demonstrated experience in, and an adequate plan for, working directly with residents of low-income housing projects and with tenants and other community-based organizations. (15 Points)

In rating this criterion HUD will consider demonstrated experience with residents, tenant organizations, and community-based groups that have worked with the applicant as well as the plan to work with these groups in the restructuring process.

2. Selection Criterion B: Demonstrated experience with, and capacity for successful multifamily restructuring and multifamily financing (which may include risk-sharing arrangements and restructuring eligible multifamily housing properties under the fiscal years 1997 and 1998 Federal Housing Administration multifamily housing demonstration programs) (25 points).

a. Multifamily Restructurings (15 of the 25 points): HUD will consider the extent of the applicant's experience within the last five years in restructuring mortgages secured by multifamily properties. Restructuring includes loan modifications, workouts, or other forms of restructuring for both portfolios and single assets. Indicate specific experience in restructuring affordable multifamily projects involving Section 8 subsidies and projects with low income housing tax credits or other affordable housing financing mechanisms. Experience with the analysis of the tax consequences of restructuring will also be considered.

b. Multifamily Financing: (10 of the 25 points): HUD will consider the applicant's demonstrated experience in underwriting multifamily loans and providing financing for multifamily properties particularly with regard to affordable multifamily housing utilizing Section 8 subsidies or other public subsidies, including low income housing tax credits and tax exempt bonds.

3. Selection Criterion C: A history of stable, financially sound, and responsible administrative performance (which may include the management of affordable low-income rental housing) (15 points).

HUD will evaluate the administrative and management performance of the applicants and its partners through the review of its organizational history, mission, and administrative performance with specific emphasis on its management of multifamily projects or loans.

4. Selection Criterion D: Demonstrated financial strength in terms of asset quality, capital adequacy, and liquidity (15 points).

HUD will consider:

Applicant's audited financial statements for most recent two years;

- Auditor's key findings;
- Applicant's most recent annual report; and
- Findings of Bond Rating Agencies.

5. Selection Criterion E: Demonstrated ability and capacity to carry out the specific transactions and other responsibilities under subtitle A of the statute in a timely, efficient, and cost effective manner (30 points).

HUD will review and evaluate applicant and applicant's partners, subcontractors, and other team members' organization and staffing, including individual roles and responsibilities, and the experience of key personnel. The applicant's capacity to manage the anticipated workload will be determined based on information provided.

HUD will consider applicant's workplan and its administrative and management systems, policies, and procedures to ensure timely and effective implementation of the plan.

E. Submission Requirements

Three (3) copies of the response to the Request for Qualifications should be submitted in the format set out in Attachment B to this RFQ.

F. Questions and Further Information

Respondents' questions to this RFQ must be submitted in writing, either by fax or e-mail, and received by HUD by August 24, 1998. The questions will be answered at the pre-submission conference. Questions should be submitted to George C. Dipman or William S. Richbourg, Program Coordinators, Office of Multifamily Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–4000; Room 6272; Telephone (202) 708–2495 Fax (202) 708–5494. (This is not a toll-free number.) Hearing or speech-impaired individuals may call 1–800–877–8399 (Federal Information Relay Service TTY). Internet address: George__C.__Dipman@hud.gov or William__S.__Richbourg@hud.gov.

G. Pre-submission Conference

HUD will hold a pre-submission conference in Washington, DC, on or about September 27, 1998. The precise time and place will be posted on the FHA/Housing Multifamily Business Homepage at http://www.hud.gov/fha/mfh/pre/premenu.html. Further

questions raised as a result of the pre-submission conference should be submitted either by fax (202) 708–5494 or e-mail to George__C.__Dipman@hud.gov or William__S.__Richbourg@hud.gov within 24 hours after the pre-submission conference. Within 3 business days after the pre-submission conference, HUD will post responses to questions raised at the pre-submission conference on the FHA/Housing Multifamily Business Homepage at http://www.hud.gov/fha/mfh/pre/premenu.html.

H. Proposal Deadline

The required copies of the response to the Request For Qualifications must be delivered on or before 5:15 P.M. EDT on September 16, 1998.

I. Submission Addresses

Proposals must be submitted to the appropriate address as follows:

State HFAs and Local Housing Agencies: M2M Program-Public Agencies, Office of the Deputy Assistant Secretary for Multifamily Housing, George Dipman, HFA Coordinator, Room 6272, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410

Non-Public Entities: Office of the General Counsel, John J. Daly, Associate General Counsel for Insured Housing, Attn: M2M Program—Non-Public Entities, Room 9226, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

IV. Response Contents

The response should address each of the items described in the template provided in Attachment B to this RFQ and should follow precisely the format of the template.

Dated: August 11, 1998.

Andrew Cuomo,

Secretary.

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ATTACHMENT A

List of FHA-Insured, Subsidized Projects with Section 8 Rents Greater than 90% of the 1997 Fair Market Rents by Year of Initial Contract Expiration

Ranking	State	FY 1999	FY 2000	FY 2001	FY 2002	Totals
1	OH	85	59	66	64	274
2	CA	85	88	44	51	268
3	NY	42	45	61	84	232
4	PA	81	21	23	18	143
5	KY	34	35	43	26	138
6	IN	48	30	35	9	122
8	IL	27	32	33	26	118
7	MO	27	32	39	14	112
8	NC	24	20	39	26	109
9	TX	46	15	28	15	104
10	AL	19	27	26	13	85
11	SC	22	24	28	10	84
12	MS	27	11	21	22	81
12	WI	29	33	13	4	79
13	MI	19	27	20	12	78
14	IA	27	26	18	6	77
15	MA	24	21	8	19	72
16	MD	9	17	27	19	72
17	WA	21	17	23	7	68
18	FL	28	14	13	10	65
19	GA	17	13	15	13	58
20	WV	11	10	20	17	58
21	TN	16	16	13	12	57
22	KS	15	18	18	2	53
23	NJ	14	9	14	10	47
24	CO	9	14	14	9	46
25	VA	13	9	16	7	45
26	PR	1	16	12	13	42
27	LA	7	7	20	4	38
28	MN	12	13	10	3	38
29	OK	12	9	10	5	36
30	RI	13	13	3	2	31
31	NE	10	7	9	4	30
32	AR	18	1	3	3	25
33	UT	3	8	5	5	21
34	NV	6	2	9	3	20
35	MT	7	6	5	1	19
36	CT	5	1	6	6	18
37	DC	4	4	6	4	18
38	OR	5	11	0	0	16
39	WY	4	4	3	2	13
40	ND	7	2	2	1	12
41	SD	8	4	0	0	12
42	AZ	3	0	3	4	10
43	NH	1	7	1	1	10
44	ID	2	3	3	0	8
45	ME	1	1	2	3	7
46	NM	4	1	0	0	5
47	AK	2	2	0	0	4
48	HI	1	2	1	0	4
49	VI	0	1	0	1	2
50	VT	0	0	1	0	1
51	DE	0		0	0	0

This is not a definitive list of projects that will go through mortgage restructuring. Some of these projects may have rents below comparable market rents. Some owners may renew their Section 8 contracts at market rents without mortgage restructuring. Other owners may choose not to renew their Section 8 contracts.

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ATTACHMENT B.—FISCAL YEAR 1999 MULTIFAMILY HOUSING MORTGAGE AND HOUSING ASSISTANCE RESTRUCTURING PROGRAM REQUEST FOR QUALIFICATIONS—RESPONSE FORMAT

Section 1, Selection Criteria Information

Selection Criterion A: TENANT AND COMMUNITY GROUPS (15 points)
Selection Criterion B1: MULTIFAMILY RESTRUCTURING, COMPREHENSIVE EXPERIENCE (25 points criteria B1–B5)
Selection Criterion B2: MULTIFAMILY RESTRUCTURING, PROJECT-SPECIFIC EXPERIENCE
Selection Criterion B3: MULTIFAMILY FINANCING
Selection Criterion B4: MULTIFAMILY FINANCING, PROJECT-SPECIFIC EXPERIENCE
Selection Criterion B5: MULTIFAMILY RENT & EXPENSE ANALYSIS
Selection Criterion C: HISTORY OF ADMINISTRATIVE PERFORMANCE (15 points)
Selection Criterion D: FINANCIAL STRENGTH (15 points)
Selection Criterion E: DEMONSTRATED CAPACITY TO CARRY OUT TRANSACTIONS AND ORGANIZATION STRUCTURE & RESPONSIBILITIES (30 points)

Section 2, Additional Response Information

Selection Criterion A: TENANT AND COMMUNITY GROUPS: Provide a summary of your experience working with residents of low-income housing projects and the tenant groups and other resident-based organizations. Identify the concerns and the actions taken regarding the tenant issues.

Criteria	PAE Experience (Note the tenant issue(s) and how resolved. Provide dates, duration, and current status.)
Experience working directly with individual residents of low-income housing projects.	
Experience working with tenant organizations and other community-based organizations.	
Describe how you plan to work with tenants, tenant organizations and communities in the restructuring process.	

Selection Criterion B, Part 1: MULTIFAMILY RESTRUCTURING: Demonstrated experience with, and capacity for successful multifamily restructuring which may include loan workouts, loan modifications and bond refundings. You may also include risk-sharing arrangements and restructuring of eligible multifamily housing properties under years 1997 and 1998 FHA multifamily housing demonstration programs. HUD will consider the applicant's experience within the last five (5) years for restructuring mortgages secured by multifamily assets. In particular, specific experience in affordable multifamily restructuring including projects involving FHA insured mortgages and Section 8 subsidies. Restructuring explanation should include determining the eligibility of a mortgage requiring loan modifications, workouts or other forms of debt and/or subsidy restructuring for multifamily assets.

Criteria	PAE	Teaming partner	Total
Multifamily Debt Restructurings in last 5 years: Total number of units Total number of projects Total dollar amount			
Multifamily Subsidy (for example, Section 8) Restructurings in last 5 years: Total number of units Total number of projects Total dollar amount			
Defaulted Loans Foreclosed: Total number of units Total number of projects Total dollar amount			
Bond Refundings: Total number of units Total number of projects Total dollar amount			

Selection Criterion B, Part 2: MULTIFAMILY RESTRUCTURING: Provide information for at least 5 projects that have been restructured by the PAE or teaming partner in the last 5 years. Please note the request to identify key personnel who did the restructuring; the firm if different than the PAE and the time required to complete the restructuring.

Project name	Description and nature of restructuring (e.g., workout, loan modifications, foreclosure, ongoing litigation, and associated tax analysis)	Status of Restructuring (complete, ongoing, etc.)	Key Personnel	Time to complete (months)	Date completed
1.					
2.					
3.					
4.					
5.					

Selection Criterion B, Part 3: MULTIFAMILY FINANCING: Demonstrated experience with financing multifamily properties to include underwriting multifamily loans, providing financing for affordable multifamily housing utilizing Section 8 subsidies or other public subsidies, including low income tax credits and tax exempt bonds (may include risk sharing).

Criteria for multifamily financing	PAE	Teaming partner	Total
Total Number of multifamily loans financed 1992–1998:			
Total Dollar Amount			
Total Number of Units			
Total Number of Affordable Housing Units			
Percentage (%) of Loans Defaulted			

Selection Criterion B, Part 4: MULTIFAMILY FINANCING: Provide information for at least 5 projects that have been financed by the PAE or teaming partner. Please identify key personnel, their firm if different than the PAE, and the time required to complete the financing.

Project name	Financing type; project description; and role of PAE or teaming partner in the financing	Key personnel	Time required to complete (months)
1.			
2.			
3.			
4.			
5.			

Selection Criterion B, Part 5: MULTIFAMILY RENT AND EXPENSE ANALYSIS:

(a) In determining Market rents and expenses, an owner might not agree with your position based on the appraisal, market study and your inspection. Provide an example of how you would determine and support your rents and expenses in resolving rent and expense disputes with the owner.
(b) Explain what database or other resources you have in completing a rent and expense comparability analysis.

Selection Criterion C (Part 1): HISTORY OF ADMINISTRATIVE PERFORMANCE: A history of stable, financially sound, and responsible administrative performance (which may include the management of low-income rental housing).

Criteria	PAE	Teaming partner
General History and Mission of Applicant		
Property Acquisition and Operations (include description of current operations)		
Management of Multifamily Portfolios (include description of current portfolio)		

Selection Criterion C (Part 2): List at least 5 properties that have been acquired, developed or managed or loans that have been originated or serviced by the proposed PAE and/or Teaming Partner. Please illustrate how you have effectively administered or managed these assets. Note if the properties are for low-income, elderly, or handicapped.

Property	Description (noting if properties are for low-income or handicapped)
1.	
2.	
3.	
4.	
5.	

Selection Criterion D: FINANCIAL STRENGTH: Demonstrate financial strength in terms of asset quality, capital adequacy & liquidity.

The following is a checklist of items to be provided by the PAE and Teaming Partner, if applicable.

_____1. Applicant's Audited Financial Statements for last two (2) years

_____2. Annual Report

_____3. Most recent credit rating report published in either Moody's Weekly Credit Perspective or Week in Review; and/or Standard and Poor's Credit Perspective or Week in Review; and/or Standard and Poor's Credit Week or other comparable rating agency report.

Selection Criterion E: DEMONSTRATED CAPACITY TO CARRY OUT TRANSACTIONS AND ORGANIZATION STRUCTURE & RESPONSIBILITIES: Provide information to demonstrate that the PAE and Teaming Partner will carry out the specific transactions and other responsibilities under this subtitle in a timely, efficient, and cost-effective manner. Provide information regarding the organization including staff responsibilities and the following:

The following is a checklist of items to be provided by the PAE and Teaming Partner:

_____1. Provide organization and staffing chart for proposed PAE and other team members

_____2. Provide resumes for each team member

_____3. Describe method by which organization will provide project management and oversight

_____4. Provide matrix of relevant experience of key personnel in the following format:

	Community involvement	Data collection and underwriting	Deal negotiations	Loan review and approval	Closing and post-closing	Knowledge of HUD programs	Knowledge of alternative financing Source (FNMA, FHLMC, tax credits, tax exempt bonds, etc.	Multifamily construction and rehabilitation expertise
Individual 1								
Individual 2								
Individual 3								

NOTE: Check appropriate boxes to indicate relevant experience of each of the key personnel listed.

5. Restructuring Capacity: Based on a projected timeline of 180 days to complete the restructuring process, from assignment of the asset to closing, indicate in the following table your quarterly capacity to accept projects and the estimated number of restructurings you can complete annually.

Criteria	1st quarter FY 99	2nd quarter FY 99	3rd quarter FY 99	4th quarter FY 99	Total
(a) Multifamily Restructuring Capacity: Based upon the proposed team, indicate the number of properties you can accept during the next twelve (12) months, by quarter, for restructuring before you have reached your multifamily restructuring capacity					
(b) Closing Capacity: Based on the projected 180 day timeline, the proposed staffing capacity as presented, estimate the number of multifamily restructurings you can close in the first twelve (12) months, by quarter					
(c) Increasing Capacity: What is your plan for increasing capacity, beyond the proposed team, if there is an increase in the volume of assets eligible for assignment?					

6. Preliminary Determination of Cost-Effectiveness: To both comply with Section 513(b)(1)(e) of MAHRA, and to help in establishing appropriate PAE compensation, HUD is requesting an estimate of your fee to perform the restructuring

of properties. This will include only your fee to perform the restructuring and should not include reimbursables. The request is for information purposes only and does not bind the respondent or HUD to any commitment with respect to the fee estimates provided. This information will be confidential.

The steps involved in the restructure process for which you are asked to estimate your costs, are summarized as follows:

Owner Eligibility, Determining Rent Levels:

- perform due diligence and collect financial information for each property including: market rents, appraisal, operating expenses;

Preservation of Affordable Housing:

- meet with the tenants and local community groups to gain perspectives that may impact the restructuring process;

Rehabilitation Needs:

- obtain a Physical Condition Analysis (PCA) report (reimbursable);

Underwriting:

- obtain an environmental review (to be provided by HUD)
- perform analysis of potential restructuring options;
- perform analysis of tax implications for use in developing restructuring options;
- perform financial modeling to underwrite the property at market rents; while ensuring that any current and long term repairs, replacement, maintenance, and rehabilitation are provided for in the restructuring;

Negotiations with Owner:

- conduct negotiations with the owner;
- reach agreement on restructured rental subsidy, restructured debt, and rehabilitation;

Loan/Funding Approval:

- coordinate final deal terms and closing documentation with HUD and obtain HUD's final approval;

Closing

- coordinate closing and distribution of closing documents.

Number of loans	Estimated restructuring fees		
	Unpaid principal balance	In basis points **	In dollars
1	$1,600,000		
5	$8,000,000		
25	$40,000,000		
50	$80,000,000		
75	$120,000,000		

** Stated as a percentage of the Unpaid Principal Balance.

In completing these costs estimates, please use the following assumptions:

1. Negotiations could result in several different restructuring scenarios. Sample scenarios include: (a) projects which are viable once restructured and result in partial payment of claim on the mortgage insurance, (b) projects with negative NOI after marking the rents to market levels—where tax implications for the ownership entity will be a driving factor in negotiations, and (c) projects with negative NOI after marking the rents to market levels—where project costs and other factors (such as rehabilitation needs) will require rent levels which are above market levels.

2. The majority of the loans are currently performing and thus this process would not involve taking control of the property, hiring property managers, or initiating and managing a foreclosure process.

3. Certain asset related subcontractor costs including the cost of the appraisal and the PCA are reimbursable costs by HUD.

4. Responsibilities for this phase will end after closing documents have been distributed.

5. Projects are distributed around the country, except for Public Agency assets that will be restricted geographically.

6. Loans can vary in size from $200,000 to over $10,000,000 and average approximately $1,600,000.

7. Once an asset is assigned to a PAE, it must go through the restructuring process through closing.

8. Information that will be provided by HUD will include: the asset management file, project file, loan documentation, payment history, and project financial statements.

9. Level of reporting requirements to HUD will be moderate. HUD will be providing reporting systems and financial models for the use of the PAEs.

10. [The HFA participants in the fiscal years 1997 and 1998 demonstration programs received a minimum base fee of $25,000 for each mortgage restructured.]

Section 2 Additional Response Information: Please provide the following information.

The following is a checklist of items to be provided by the PAE and Teaming Partner, if applicable.

_____1. PAE conflicts of interest: Disclose any conflict of interest as defined in Section C.(1) of this RFQ.

_____2. Describe the geographic area in which you will assume the restructuring responsibility.

_____3. If you are a State Housing Finance Agency and plan to work with local housing agencies, please indicate the name of the local agency and how you would work with them if they are selected as a qualified PAE.

_____4. Provide evidence of your ability (either with your existing organization or through team partner) to evaluate the tax implications of the restructuring.

_____5. Indicate if you would like to be considered for future solicitations to provide the following services:

_____(a) Servicing of second mortgages.

_____(b) Servicing of Rehabilitation Escrow Accounts.

_____(c) Monitoring Use Agreement.

[FR Doc. 98–22029 Filed 8–14–98; 8:45 am]

BILLING CODE 4210–32–P

Federal Register

Monday
August 17, 1998

Part V

Department of Transportation

Coast Guard

33 CFR Part 160

Advance Notice of Arrival: Vessels Bound for Ports and Places in the United States; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 160

[CGD 97–067]

RIN 2115–AF54

Advance Notice of Arrival: Vessels Bound for Ports and Places in the United States.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: In an Interim Rule (IR) published on December 11, 1997, the Coast Guard amended the notice of arrival requirements for certain vessels which must comply with the International Safety Management (ISM) Code, prior to their entering U.S. waters. This final rule completes the rulemaking action that allows the Coast Guard to monitor the ISM Code certification status of vessels prior to operating in U.S. waters and ensure that safety management system requirements are being met.

DATES: This final rule is effective September 16, 1998.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593–0001, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–1477.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Gauvin, Project Manager, Vessel and Facility Operating Standards Division (G–MSO–2), at (202) 267–1053, or fax (202) 267–4570.

SUPPLEMENTARY INFORMATION:

Regulatory History

On December 11, 1997, the Coast Guard published an interim rule entitled ''Advance Notice of Arrival: Vessels Bound for Ports and Places in the United States,'' in the **Federal Register** (62 FR 65203). The Coast Guard received eight letters during the comment period which closed on January 12, 1998, commenting on the proposed rulemaking. No public hearing was requested, and none was held.

Background and Purpose

The Ports and Waterways Safety Act of 1972 [86 Stat. 424], as amended by the Port and Tanker Safety Act of 1978 [92 Stat. 1271], authorizes the Secretary of the Department in which the Coast Guard is operating to require the receipt of notice from any vessel destined for or departing from a port or place under the jurisdiction of the U.S. This does not include a vessel declaring force majeure or a vessel on innocent passage through U.S. waters. This notice may include any information necessary for the control of the vessel and for the safety of the port or marine environment. See 33 U.S.C. 1223; 33 CFR part 160, subpart C.

In October 1996, the Coast Guard Authorization Act of 1996 [110 Stat. 3901] amended title 46 of the U.S. Code by adding Chapter 32, ''Management of Vessels.'' Under this new law, the Secretary of Transportation was directed to prescribe regulations and enforce compliance with the ISM Code for safety management systems on vessels engaged on a foreign voyage. This authority was delegated to the Commandant of the Coast Guard on April 24, 1997 (62 FR 19935), in 49 CFR 1.46 (fff) and (ggg).

On December 24, 1997, a final rule entitled ''Rules for the Safe Operation of Vessels and Safety Management Systems'' was published in the **Federal Register** (62 FR 67492). This rule establishes the requirements for safety management systems in 33 CFR part 96. This rule became effective on January 23, 1998.

The notice of arrival requirements state that vessels which must meet Chapter IX (ISM Code regulations) of the International Convention for the Safety of Life at Sea (SOLAS), 1974 provide their ISM certification status by message to the U.S. Coast Guard, at least 24 hours prior to entering a U.S. port or place. It should be noted that passenger vessels that are below 500 gross tons, carrying more than 12 passengers, and engaged on a foreign voyage are not covered by this rule, even through these passenger vessels under 500 gross tons will be required to be certificated to the ISM Code requirements of SOLAS and 33 CFR part 96.

The purpose of this rule is to permit the Coast Guard to enforce the requirements of 33 CFR 96.390 (46 U.S.C. 3204(c)), which prohibits a vessel from operating in U.S. waters without having on board a valid copy of a company's Document of Compliance certificate or a valid original of the vessel's Safety Management Certificate. Collecting a vessel's certification status before arrival in port is vital to determining appropriate enforcement actions by Coast Guard officials at U.S. ports. An affected vessel that does not have the ISM Code certificates on board will be denied entry into a U.S. port or place after the effective date of the ISM Code. A vessel that has the proper ISM Code certificates will be boarded annually under the existing standards of the U.S. Port State Control program. During these boardings, if the vessel is found to have valid certificates but has not properly implemented or maintained its safety management system, the vessel may be detained in port until corrections are made to the system. The vessel's flag state or organization acting on behalf of its flag state, will be requested by the Coast Guard to attend to the vessel to ensure corrections, or take actions to manage the corrections of non-conformities to the vessel's safety management system prior to the vessel departing the port. U.S. enforcement policy regarding the Port State Control Program and safety management system requirements for foreign vessels operating in the U.S. are provided in the Coast Guard's Navigation and Vessel Inspection Circular (NVIC) 4–98, which was published on March 17, 1998. This NVIC can be received by sending a written request to the Coast Guard's National Maritime Center, 4200 Wilson Boulevard, Suite 510, Arlington, Virginia 22203–1804, or by telephone at (703) 235–1604. The document can be downloaded through the internet from the Coast Guard's home page on the World Wide Web located at http://www.uscg.mil/hq/g-m/nvic/index.htm. Go to the NVIC link, select all NVICS published in the 1990's, select the year 1998, and then select and download NVIC 4–98.

Discussion of Comments and Changes

The Coast Guard received a total of 8 documents containing 14 comments to the public docket. No written comment requested a public hearing and none was held.

All changes to each section of the rule are discussed within the following paragraphs:

1. Three comments received supported the interim rule as written and its intent to monitor compliance with the certification of vessels' safety management systems. A fourth comment went further to discuss that the Coast Guard's use of the notice of arrival requirements to stop a vessel from entering or operating in U.S. waters could endanger a vessel if it is unsafe and could hamper efforts to ensure international compliance with these new international regulations. That comment also stated that a certificate did not ensure that a vessel was safe or had safe operating practices. The Coast Guard agrees that a certificate is not absolute proof of safety, but vessels are required under 46 U.S.C.

3204(c) to have safety management system certificates documenting their compliance on board the vessel to operate in U.S. waters. The notice of arrival system is the most effective way of ensuring compliance with these mandatory statutory requirements for certification.

The Coast Guard was delegated the responsibility to enforce 46 USC 3204(c) and is not provided with the ability to allow variance from the requirement. If a vessel is unsafe or unseaworthy, the master can claim a force majeure entrance to a U.S. port, even without the required certificates. The Coast Guard will verify claims of force majeure. Also, the Coast Guard will continue to board vessels under the current port state control management program which includes verification that the vessel's safety management system is being used by the vessel's crew. In such cases where safe operation of the vessel is in question, the Coast Guard will be in contact with the vessel's Flag State or recognized organization acting on the Flag State's behalf, to notify them of the vessel's situation as required by SOLAS. In response to the comment suggesting an ability of the notice of arrival to hamper compliance with safety management system requirements internationally, the Coast Guard expects this action to have the opposite effect. Approximately 7,500 to 8,000 individual foreign flag vessels per year make U.S. port calls. This notification process will ensure that each vessel complies with the new SOLAS safety management system and U.S. requirements on the proper effective date, or it will not be allowed to trade with the U.S. No changes were made to this rule due to these comments.

2. One comment requested that a company and vessel additionally provide their compliance information on ISO quality standard certification as part of this notification requirement. The ISO quality standards are not mandated for use on vessels or by their company under U.S. law or international regulations. These ISO quality standards are voluntary industry standards not mandated, except possibly by commercial contract. Thus, only those companies that wish to be certificated to these quality standards do so. ISO standards are developed along the same basic performance elements as safety management systems. The collection of quality system certification information would not provide the Coast Guard with any information or indicators of safe operation of a vessel, not included by providing the safety management system certification under the ISM Code. Therefore, the Coast Guard does not see a need for collection of this information, and has not changed these rules due to this comment.

3. One comment requested that the notification process include notification of oil (bunker and cargo) transfers, and ballast water exchange information, as well as the ISM Code certification status. As this comment requests collection of new information not discussed in the interim rule and outside the scope of this rulemaking, the Coast Guard could not include such a request without an additional opportunity for public comment. However, there is an ongoing rulemaking on ballast water discharge controls. A Notice of Proposed Rulemaking (NPRM) entitled ''Implementation of the National Invasive Species Act of 1996 (USCG–1998–3423)'' was published on April 10, 1998, in the **Federal Register** (63 FR 17782). This written comment was forwarded to the NPRM docket for that rulemaking to ensure it is reviewed during the comment period for that NPRM which was reopened on June 16, 1998, and closes on August 8, 1998. There is no change to this rule in response to this comment.

4. Four comments stated that the second effective date of the notification in 33 CFR 160.207(d)(2), January 1, 2000, was too far in advance of the second effective date of the ISM Code compliance requirements for freight vessels and self-propelled mobile offshore drilling units of 500 gross tons or more engaged on foreign voyages (July 1, 2002). One comment recommended that the second effective date of notification be amended to January 1, 2002. The comments also recommended that the collection of the ISM Code certification information be a one-time notification requirement, as opposed to a continuous requirement. The Coast Guard agrees that the second effective date should be moved to a date closer to the second effective date of the ISM Code. Therefore, the second effective date of 33 CFR 160.207(d)(2) is amended to January 1, 2002, in the final rule.

The Coast Guard disagrees that the notification of ISM Code certification compliance be completed only once. The Coast Guard is required to enforce 46 CFR 3204(c) constantly, not just on the effective date of the ISM Code. To ensure compliance before operation in U.S. waters, the Coast Guard must verify ISM Code certification on any new vessel, vessel whose owner or management company changes, vessel with name changes, or other changes which would effect their original ISM Code certification and safety management systems. Also, vessels can have their certificates invalidated and terminated by Flag States if found in non-compliance at re-issuance of the certificate or during interim audits and endorsement of certificates. As these requirements will be in constant dynamic alteration, the Coast Guard must keep appraised of a vessel's compliance status on a visit by visit notification for U.S. port entry. No change was made to the final rule due to these comments.

5. One comment requested that this rule be terminated after the initial collection of information, while a second comment requested that the rule be terminated on July 1, 2004. The Coast Guard disagrees with these requests. There are no other actions that are currently available, without the Coast Guard boarding every vessel which enters a U.S. port, to ensure compliance of these ISM Code certification programs for safety management systems. In the future, some other action may allow oversight of the ISM Code certification compliance information without this collection of information requirement. If this does occur, the Coat Guard will consider removing these notification requirements from the regulations in 33 CFR 160.207. No change was made to the final rule due to this comment.

6. One comment recommended that the ISM Code certification information be filed in the Marine Safety Information System (MSIS) database for vessels, but not in that section of the database that indicates non-compliance status. Also, this comment supported Flag States sharing vessel boarding information, but cautioned that this could lead to incorrect data being passed between Flag States. For all vessels, the ISM Code certification information will be filed with other listed documents in the Vessel File of Listed Documents (VFLD) in MSIS. This is an information collection file used as a reference by the Coast Guard to determine vessel historical background. It is updated when new information is collected during vessel boardings, inspections, and examinations. This information is not normally updated by information received from a notification of arrival message. This information is updated after the Coast Guard visually checks the actual documents on board the vessel during an annual boarding or inspection. Thus, this information is not normally placed in a non-compliance data file. However, if the vessel does not provide the proper certification notification prior to entry into a U.S. port or is found in non-compliance after boarding in a U.S. port, a report of

detention or intervention may be filed with IMO, the vessel Flag State, and a violation processed by the Coast Guard, which would be recorded in the vessel's boarding history files on MSIS. No change was made to the final rule due to this comment.

7. One comment stated that the applicability for passenger vessels was incorrectly stated in the interim rule, 33 CFR 160.207(d)(1). The interim rule states the applicability of a passenger vessel as: ''a passenger vessel carrying 12 or more passengers'' when it should state, ''a passenger vessel carrying more than 12 passengers.'' The Coast Guard agrees with this comment and corrected this typographical error, in a **Federal Register** notice of correction (63 FR 5458) published on February 3, 1998. The corrected wording is found in this final rule.

8. One comment stated that there may be situations where agents representing a vessel's owner may not be aware of the vessel's compliance with the ISM Code certification and may not be able to provide the notification information prior to vessel arrival. In such situations, it was requested that the Coast Guard not lodge a violation report against the vessel or the vessels' agent. In a situation where the certification status is not known before a vessel arrives in a port or place within the U.S., the vessel will not be allowed into port under 46 CFR 3204(c). If the vessel's ISM Code certification status is already known and appears valid from previous U.S. boardings and MSIS data, the Coast Guard COTP may allow the vessel to enter port. However, the COTP will determine on a case-by-case basis whether a civil violation action should be taken due to the circumstances of the situation. No change to the final rule or other Coast Guard policy is made in response to this comment.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This rule will amend established reporting regimes, which are now customary procedures. The information to be reported is readily available aboard the vessel by international convention. Modern electronic communication systems make it easier to report this information, and will only add seconds to the delivery of currently required reports.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, the Coast Guard has reviewed it for potential economic impact on small entities.

This rulemaking will affect U.S. oceangoing shipping companies and their vessels of specific categories of more than 500 gross tons, or passenger vessels of 500 gross tons or more carrying more than 12 passengers engaged on a foreign voyage. These companies and their vessels are not considered small businesses or small entities. Small passenger vessels are the only small entities required to comply with the ISM Code. A small passenger vessel is generally one carrying more than 6 passengers and is 100 gross tons or less (See 46 U.S.C. 2101 (35)). Since the new reporting requirements only affect passenger vessels of 500 gross tons or more, there is no impact or reporting requirement for a small passenger vessel engaged on a foreign voyage.

Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Assistant for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. No written or verbal comments were received to this rulemaking docket which requested or stated a need for assistance for small entities to comply with these reporting requirement. Thus, no actions are specifically required.

Collection of Information

This final rule provides for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). As stated in the interim rule, the Coast Guard solicited comments on the collection of information to: (1) Evaluate whether the information is necessary for the proper performance of the functions of the Coast Guard, including whether the information will have practical utility; (2) evaluate the accuracy of the Coast Guard's estimate of the burden of the collection, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection on those who are to respond by allowing the submittal of responses by electronic means or the use of other forms of information technology. The Coast Guard received no comments directed specifically at these questions and has responded to any information request comments in the ''Discussion of Comments and Changes'' section of this rulemaking.

As required by 5 U.S.C. 3507(d), the Coast Guard submitted a copy of this rule to the Office of Management and Budget (OMB) for its review of the collection of information. OMB has approved the collection. The amendment to 33 CFR 160.207 and the corresponding approval number from OMB is OMB Control Number 2115–0557, which expires on April 30, 2001.

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Federalism

The Coast Guard analyzed this final rule under the principles and criteria contained in Executive Order 12612 and have determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that, under Figure 2–1, paragraph (34)(d) of Commandant Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous materials transportation, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 160 as follows:

1. The authority citation for part 160 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 49 CFR 1.46.

2. Revise § 160.207 paragraphs (d) and (e) to read as follows:

§ 160.207 Notice of arrival: Vessels bound for ports or places in the United States.

* * * * *

(d) *International Safety Management (ISM) Code (Chapter IX of SOLAS) Notice.* If you are the owner, agent, master, operator, or person in charge of a vessel that is 500 gross tons or more and engaged on a foreign voyage to the United States, you must provide the ISM Code notice described in paragraph (e) as follows:

(1) *ISM Code notice beginning January 26, 1998, if your vessel is*—a passenger vessel carrying more than 12 passengers, a tank vessel, a bulk freight vessel, or a high-speed freight vessel.

(2) *ISM Code notice beginning January 1, 2002, if your vessel is*—a freight vessel not listed in paragraph (d)(1) or a self-propelled mobile offshore drilling unit (MODU).

(e) *Content and Manner of ISM Code Notice.*

(1) ISM Code notice includes the following:

(i) The date of issuance for the company's Document of Compliance certificate that covers the vessel.

(ii) The date of issuance for the vessel's Safety Management Certificate, and,

(iii) The name of the Flag Administration, or the recognized organization(s) representing the vessel flag administration, that issued those certificates.

(2) If you meet the criteria in paragraph (d) of this section, you must give the ISM Code notice to the Coast Guard Captain of the Port of the port or place of your destination in the U.S. at least 24 hours before you enter the port or place of destination. The ISM Code notice may be combined and provided with the report required by paragraph (a) of this section.

Dated: August 6, 1998.

Joseph J. Angelo,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 98–22005 Filed 8–14–98; 8:45 am]

BILLING CODE 4910–15–M

Federal Register

Monday
August 17, 1998

Part VI

The President

Notice of August 13, 1998—Continuation of Emergency Regarding Export Control Regulations

Federal Register
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Monday, August 17, 1998

Presidential Documents

Title 3—

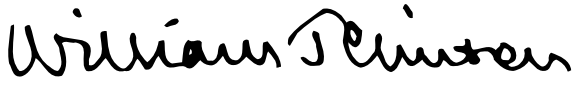
The President

Notice of August 13, 1998

Continuation of Emergency Regarding Export Control Regulations

On August 19, 1994, consistent with the authority provided me under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), I issued Executive Order 12924. In that order, I declared a national emergency with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States in light of the expiration of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*). Because the Export Administration Act has not been renewed by the Congress, the national emergency declared on August 19, 1994, must continue in effect beyond August 19, 1998. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency declared in Executive Order 12924.

This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
August 13, 1998.

[FR Doc. 98–22278
Filed 8–14–98; 11:05 am]
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H.R. 765/P.L. 105–229

To ensure maintenance of a herd of wild horses in Cape Lookout National Seashore. (Aug. 13, 1998; 112 Stat. 1517)

H.R. 872/P.L. 105–230

Biomaterials Access Assurance Act of 1998 (Aug. 13, 1998; 112 Stat. 1519)

S. 1759/P.L. 105–231

To grant a Federal charter to the American GI Forum of the United States. (Aug. 13, 1998; 112 Stat. 1530)

S. 1800/P.L. 105–232

To designate the Federal building and United States

courthouse located at 85 Marconi Boulevard in Columbus, Ohio, as the ''Joseph P. Kinneary United States Courthouse''. (Aug. 13, 1998; 112 Stat. 1534)

S. 2143/P.L. 105–233

To amend chapter 45 of title 28, United States Code, to authorize the Administrative Assistant to the Chief Justice to accept voluntary services, and for other purposes. (Aug. 13, 1998; 112 Stat. 1535)

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*1–399	(869–034–00056–8)	29.00	Apr. 1, 1998
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500–End	(869–034–00058–4)	44.00	Apr. 1, 1998
21 Parts:			
1–99	(869–034–00059–2)	21.00	Apr. 1, 1998
100–169	(869–034–00060–6)	27.00	Apr. 1, 1998
170–199	(869–034–00061–4)	28.00	Apr. 1, 1998
200–299	(869–034–00062–2)	9.00	Apr. 1, 1998
300–499	(869–034–00063–1)	50.00	Apr. 1, 1998
500–599	(869–034–00064–9)	28.00	Apr. 1, 1998
600–799	(869–034–00065–7)	9.00	Apr. 1, 1998
800–1299	(869–034–00066–5)	32.00	Apr. 1, 1998
1300–End	(869–034–00067–3)	12.00	Apr. 1, 1998
22 Parts:			
1–299	(869–034–00068–1)	41.00	Apr. 1, 1998
300–End	(869–034–00069–0)	31.00	Apr. 1, 1998
23	(869–034–00070–3)	25.00	Apr. 1, 1998
24 Parts:			
0–199	(869–034–00071–1)	32.00	Apr. 1, 1998
200–499	(869–034–00072–0)	28.00	Apr. 1, 1998
500–699	(869–034–00073–8)	17.00	Apr. 1, 1998
700–1699	(869–034–00074–6)	45.00	Apr. 1, 1998
1700–End	(869–034–00075–4)	17.00	Apr. 1, 1998
25	(869–034–00076–2)	42.00	Apr. 1, 1998
26 Parts:			
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§§ 1.441-1.500	(869-034-00082-7)	29.00	Apr. 1, 1998
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§§ 1.1001–1.1400	(869–034–00087–8)	38.00	Apr. 1, 1998
*§§ 1.1401–End	(869–034–00088–6)	51.00	Apr. 1, 1998
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50–299	(869–034–00092–4)	19.00	Apr. 1, 1998
300–499	(869–034–00093–2)	34.00	Apr. 1, 1998
500–599	(869–034–00094–1)	10.00	Apr. 1, 1998
600–End	(869–034–00095–9)	9.00	Apr. 1, 1998
27 Parts:			
*1–199	(869–034–00096–7)	49.00	Apr. 1, 1998

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43-end	(869-032-00099-9)	30.00	July 1, 1997
29 Parts:			
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1927–End	(869–032–00108–1)	40.00	July 1, 1997
30 Parts:			
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200–699	(869–032–00110–3)	28.00	July 1, 1997
700–End	(869–032–00111–1)	32.00	July 1, 1997
31 Parts:			
0–199	(869–032–00112–0)	20.00	July 1, 1997
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32 Parts:			
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1–190	(869–032–00114–6)	42.00	July 1, 1997
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33 Parts:			
1–124	(869–032–00120–1)	27.00	July 1, 1997
125–199	(869–032–00121–9)	36.00	July 1, 1997
200–End	(869–032–00122–7)	31.00	July 1, 1997
34 Parts:			
1–299	(869–032–00123–5)	28.00	July 1, 1997
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36 Parts			
1–199	(869–032–00127–8)	20.00	July 1, 1997
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38 Parts:			
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40 Parts:			
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42 Parts:			
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43 Parts:			
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45 Parts:			
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46 Parts:			
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47 Parts:			
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 1997 through December 31, 1997. The CFR volume issued as of January 1, 1997 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 1997, through April 1, 1998. The CFR volume issued as of April 1, 1997, should be retained.