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phone numbers, online resources, finding aids, reminders,
and notice of recently enacted public laws.

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

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1477

RIN: 0560-AF75

1998 Single-Year and Multi-Year Crop Loss Disaster Assistance Program; Correction

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final rule published in the **Federal Register** on Thursday, April 15, 1999, regarding the terms and conditions of the 1998 Single-Year and Multi-Year Crop Loss Disaster Assistance Program. This document corrects the number of the section entitled "Matters of general applicability" in 7 CFR part 1477, which was incorrectly numbered as § 1477.10.

DATES: This correction is effective on July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Diane Sharp, Director, Compliance and Production Adjustment Division, Farm Service Agency, United States Department of Agriculture, STOP 0517, 1400 Independence Ave. SW, Washington, DC 20013-2415.

SUPPLEMENTARY INFORMATION:

Correction of Publication

Accordingly, in the final rule (FR Doc. 99-9350) published April 15, 1999, (64 FR 18553) make the following correction:

On page 18559, in the first column, the section number "§ 1477.10" for the section entitled "Matters of general applicability" is corrected to read "§ 1477.110".

Signed at Washington, DC, on 25 June 1999.

Keith Kelly,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 99-16776 Filed 6-30-99; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99-SW-38-AD; Amendment 39-11217; AD 99-12-01]

RIN 2120-AA64

Airworthiness Directives; Eurocopter Deutschland (Eurocopter) Model EC135 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 99-12-01, which was sent previously to all known U.S. owners and operators of Eurocopter Model EC135 helicopters by individual letters. This AD requires initial and repetitive visual inspections and one dye-penetrant inspection of the main rotor hub shaft (shaft) for cracks. If a crack is found during any of the inspections, this AD requires replacing the shaft with an airworthy shaft before further flight. This amendment is prompted by the discovery of fatigue cracks on the shaft of a helicopter. The actions specified by this AD are intended to detect fatigue cracks in the shaft that could lead to shaft failure and subsequent loss of control of the helicopter.

DATES: Effective July 16, 1999, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 99-12-01, issued on May 27, 1999, which contained the requirements of this amendment.

Comments for inclusion in the Rules Docket must be received on or before August 30, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99-SW-38-

AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT:

Mike Mathias, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222-5123, fax (817) 222-5961.

SUPPLEMENTARY INFORMATION: On May 27, 1999, the FAA issued Priority Letter AD 99-12-01, applicable to Eurocopter Model EC135 helicopters, which requires initial and repetitive visual inspections and one dye-penetrant inspection of the shaft for cracks. If a crack is found during any of the inspections, the AD requires replacing the shaft with an airworthy shaft before further flight. That action was prompted by the discovery of fatigue cracks on the shaft of a helicopter. This condition, if not corrected, could result in failure of the shaft and subsequent loss of control of the helicopter.

Eurocopter has issued Eurocopter EC135 Alert Service Bulletin (ASB) EC 135-62A-004, dated May 5, 1999, which specifies inspecting the shaft for cracks. The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for the Federal Republic of Germany, classified this service bulletin as mandatory and issued AD 1999-185, dated May 6, 1999, to assure the continued airworthiness of these helicopters in the Federal Republic of Germany. Eurocopter later issued ASB EC135-62A-004, Rev. 1, dated May 7, 1999.

Since the unsafe condition described is likely to exist or develop on other Eurocopter Model EC135 helicopters of the same type design, the FAA issued Priority Letter AD 99-12-01 to detect fatigue cracks in the shaft that could lead to shaft failure and subsequent loss of control of the helicopter. The AD requires initial and repetitive visual inspections and one dye-penetrant inspection of the shaft for cracks. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity of the helicopter. Therefore, inspecting the shaft for cracks is required before further flight and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable.

and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on May 27, 1999, to all known U.S. owners and operators of Eurocopter Model EC135 helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

The FAA estimates that 10 helicopters will be affected by this AD; that it will take approximately 0.5 work hour per helicopter to perform the visual inspections, 1 work hour per helicopter to perform the dye-penetrant inspection, 10 work hours to replace the shaft, if necessary; and that the average labor rate is \$60 per work hour. Required parts will cost approximately \$25,000 per shaft. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$55,900 per year, assuming the initial inspection, one dye-penetrant inspection, and 100 visual inspections per year on each helicopter, and one shaft replacement in the fleet.

Comments Invited

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

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 99-SW-38-AD." The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the

Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AD 99-12-01 Eurocopter Deutschland GmbH: Amendment 39-11217. Docket No. 99-SW-38-AD.

Applicability: Model EC135 helicopter with main rotor hub shaft (shaft), part number (P/N) L623M100S 101, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect a fatigue crack in the shaft that could lead to shaft failure and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, and thereafter, at intervals not to exceed 15 hours time-in-service (TIS), visually inspect the shaft, P/N L623M100S 101, for any crack in the area marked in Figure 1. Clean the shaft before using a bright light source to inspect for cracks. If any crack is found, replace the shaft with an airworthy shaft before further flight.

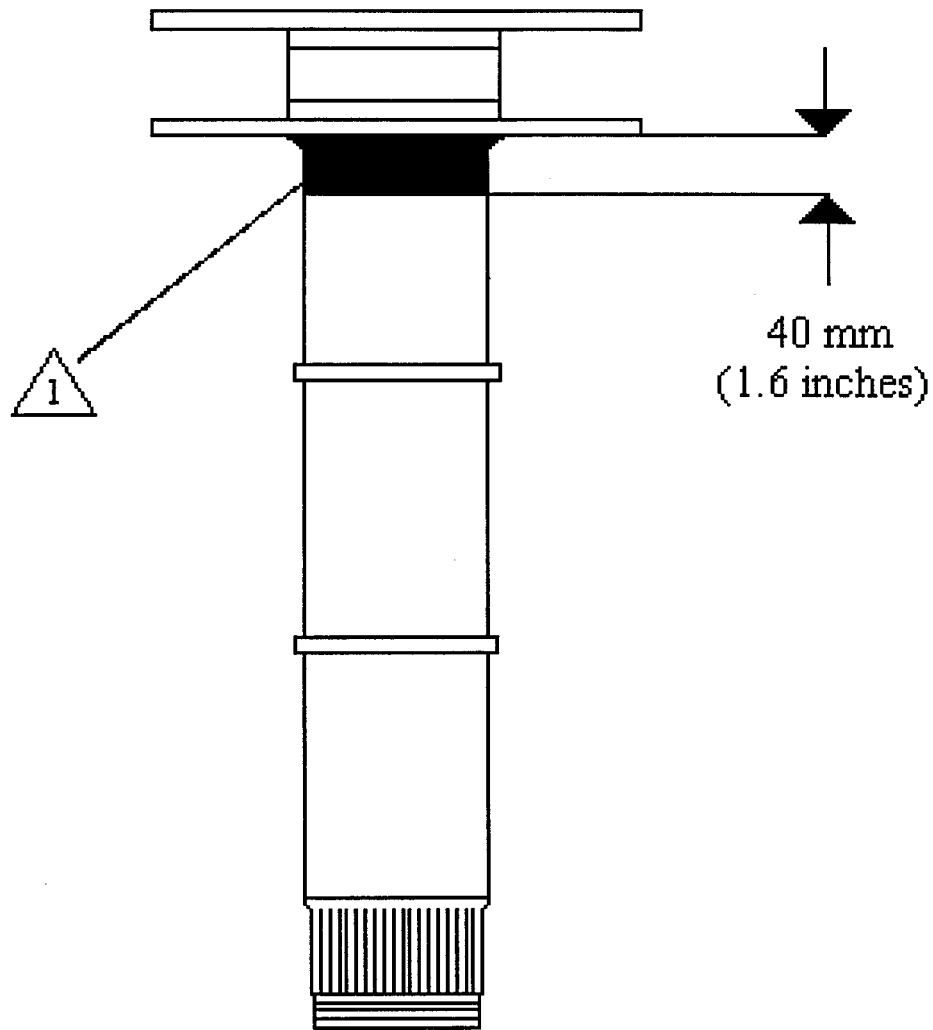
(b) Within 10 hours TIS, conduct a one-time dye-penetrant inspection of the shaft using the MIL-STD-6866 or ASTM-E-1417 procedure in the area shown in Figure 1. If any crack is found, replace the shaft with an airworthy shaft before further flight.

Note 2: Eurocopter EC 135 Alert Service Bulletin EC 135-62A-004, Rev. 1, dated May 7, 1999, pertains to the subject of this AD.

BILLING CODE 4910-13-P



Inspect marked area in accordance with inspection procedure prescribed.



Crack Inspection on Main Rotor Hub Shaft

Figure 1

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, FAA, Rotorcraft Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(d) Special flight permits will not be issued.

(e) This amendment becomes effective on July 16, 1999, to all persons except those persons to whom it was made immediately effective by Priority Letter AD 99-12-01, issued May 27, 1999, which contained the requirements of this amendment.

Note 4: The subject of this AD is addressed in Luftfahrt-Bundesamt (Federal Republic of Germany) AD 1999-185, dated May 6, 1999.

Issued in Fort Worth, Texas, on June 23, 1999.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99-16591 Filed 6-30-99; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29616; Amdt. No. 1937]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

Incorporation by reference-approved by the Director of the Federal Register

on December 31, 1980, and reapproved as of January 1, 1982.

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

For Examination—

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

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

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

For Purchase—

Individual SIAP copies may be obtained from:

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

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

By Subscription—

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

FOR FURTHER INFORMATION CONTACT:

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

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

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further,

airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by references are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types of and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

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

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

Conclusion

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

number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on June 25, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

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

Part 97—Standard Instrument Approach Procedures

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

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

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

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

. . . *Effective July 15, 1999*

Kapolei, HI, Kalaeloa (John Rodgers Field) NDB RWY 4R, Orig
 Kapolei, HI, Kalaeloa (John Rodgers Field) VOR/DME OR TACAN RWY 4R, Orig
 Des Moines, IA, Des Moines Intl, VOR OR GPS RWY 23, Amdt 2
 Des Moines, IA, Des Moines Intl, NDB OR GPS RWY 31R, Amdt 19
 Des Moines, IA, Des Moines Intl, LOC RWY 5, Amdt 1
 Des Moines, IA, Des Moines Intl, ILS RWY 13L, Amdt 8
 Des Moines, IA, Des Moines Intl, ILS RWY 31R, Amdt 21
 Laconia, NH, Laconia Muni, ILS RWY 8, Orig
 Laconia, NH, Laconia Muni, LOC RWY 8, Amdt 9, CANCELLED
 Lexington, NC, Davidson County, GPS RWY 6, Orig
 Lexington, NC, Davidson County, GPS RWY 24, Orig
 Marion, OH, Marion Muni, LOC/DME RWY 24, Orig

Greer, SC, Greenville-Spartanburg Intl, NDB RWY 4, Amdt 15
 Greer, SC, Greenville-Spartanburg Intl, ILS RWY 4, Amdt 21
 Greer, SC, Greenville-Spartanburg Intl, ILS RWY 22, Amdt 3
 Greer, SC, Greenville-Spartanburg Intl, RADAR-1, Amdt 5
 Greer, SC, Greenville-Spartanburg Intl, GPS RWY 4, Amdt 1
 Greer, SC, Greenville-Spartanburg Intl, GPS RWY 22, Amdt 2

. . . *Effective August 12, 1999*

Cresco, IA, Ellen Church Field, NDB RWY 33, Amdt 3
 Cresco, IA, Ellen Church Field, GPS RWY 15, Orig
 Cresco, IA, Ellen Church Field, GPS RWY 33, Orig
 Newton, KS, Newton-City-County, NDB RWY 35, Amdt 3
 Tahlequah, OK, Tahlequah Muni, GPS RWY 17, Orig

. . . *Effective September 9, 1999*

Fort Huachuca/Sierra Vista, AZ, Sierra Vista Muni/Libby AAF, RADAR-2, Orig, CANCELLED
 Taylor, AZ, Taylor Municipal, GPS RWY 21, Orig
 Modesto, CA, Modesto City-County-Harry Sham Field, NDB RWY 28R, Amdt 9
 Redding, CA, Redding Muni, GPS RWY 34, Orig
 Agana, Guam, Guam Intl, ILS RWY 6L, Amdt 2
 Kahului, HI, Kahului, VOR RWY 20, Orig
 Kahului, HI, Kahului, VOR/DME OR TACAN RWY 20, Orig
 Kahului, HI, Kahului, LOC/DME (BC) RWY 20, Amdt 13
 Kahului, HI, Kahului, NDB RWY 20, Amdt 11
 Kahului, HI, Kahului, NDB/DME OR GPS RWY 2, Amdt 2
 Kahului, HI, Kahului, ILS RWY 2, Amdt 23
 Champaign/Urbana, IL, University of Illinois-Willard, VOR OR GPS RWY 4L, Amdt 11
 Lacon, IL, Marshall County, VOR RWY 13, Amdt 2
 Lacon, IL, Marshall County, GPS RWY 13, Orig
 Lacon, IL, Marshall County, GPS RWY 31, Orig
 Mount Vernon, IL, Mount Vernon, VOR RWY 5, Amdt 16
 Mount Vernon, IL, Mount Vernon, VOR RWY 23, Amdt 16
 Mount Vernon, IL, Mount Vernon, ILS RWY 23, Amdt 11
 Mount Vernon, IL, Mount Vernon, GPS RWY 5, Orig
 Mount Vernon, IL, Mount Vernon, GPS RWY 23, Orig

Huntingburg, IN, Huntingburg, VOR RWY 9, Amdt 3
 Huntingburg, IN, Huntingburg, VOR RWY 27, Amdt 3
 Huntingburg, IN, Huntingburg, NDB RWY 27, Amdt 3
 Huntingburg, IN, Huntingburg, GPS RWY 9, Orig
 Huntingburg, IN, Huntingburg, GPS RWY 27, Orig
 Sullivan, IN, Sullivan County, GPS RWY 18, Orig
 Sullivan, IN, Sullivan County, GPS RWY 36, Amdt 1
 Ottawa, KS, Ottawa Muni, NDB OR GPS RWY 35, Amdt 2, CANCELLED
 Ottawa, KS, Ottawa Muni, GPS RWY 17, Orig
 Ottawa, KS, Ottawa Muni, GPS RWY 35, Orig
 Lawrence, MA, Lawrence Muni, VOR OR GPS RWY 23, Amdt 10
 Lawrence, MA, Lawrence Muni, NDB OR GPS RWY 5, Amdt 5
 Lawrence, MA, Lawrence Muni, ILS RWY 5, Amdt 3
 Monticello, MO, Lewis County Regional, VOR/DME-A, Amdt 1
 Monticello, MO, Lewis County Regional, GPS RWY 18, Orig
 Monticello, MO, Lewis County Regional, GPS RWY 36, Orig
 Concord, NH, Concord Muni, GPS RWY 17, Orig
 Charlotte, NC, Charlotte/Douglas Intl, VOR/DME OR GPS RWY 18L, Amdt 6
 Charlotte, NC, Charlotte/Douglas Intl, VOR/DME RWY 23, Amdt 1
 Charlotte, NC, Charlotte/Douglas Intl, VOR RWY 36L, Amdt 5
 Charlotte, NC, Charlotte/Douglas Intl, NDB RWY 5, Amdt 32
 Charlotte, NC, Charlotte/Douglas Intl, NDB RWY 23, Amdt 7
 Charlotte, NC, Charlotte/Douglas Intl, ILS RWY 5, Amdt 36
 Charlotte, NC, Charlotte/Douglas Intl, ILS RWY 18L, Amdt 5
 Charlotte, NC, Charlotte/Douglas Intl, ILS RWY 18R, Amdt 8
 Charlotte, NC, Charlotte/Douglas Intl, ILS RWY 36L, Amdt 14
 Charlotte, NC, Charlotte/Douglas Intl, ILS RWY 36R, Amdt 9
 Charlotte, NC, Charlotte/Douglas Intl, GPS RWY 5, Orig
 Charlotte, NC, Charlotte/Douglas Intl, GPS RWY 23, Orig
 Charlotte, NC, Charlotte/Douglas Intl, GPS RWY 36L, Orig
 Charlotte, NC, Charlotte/Douglas Intl, GPS RWY 36R, Orig
 Jefferson, NC, Ashe County, LOC RWY 28, Amdt 1
 Jefferson, NC, Ashe County, NDB RWY 28, Amdt 1
 Jefferson, NC, Ashe County, GPS RWY 28, Amdt 1

Devils Lake, ND, Devils Lake Muni, NDB RWY 31, Amdt 1

Devils Lake, ND, Devils Lake Muni, ILS RWY 31, Amdt 1

Devils Lake, ND, Devils Lake Muni, GPS RSY 13, Orig

Devils Lake, ND, Devils Lake Muni, GPS RWY 31, Orig

Norman, OK, University of Oklahoma Westheimer, GPS RWY 3, Orig

Norman, OK, University of Oklahoma Westheimer, GPS RWY 17, Amdt 1

Philadelphia, PA, Philadelphia Intl, ILS RWY 27R, Amdt 9

Philadelphia, PA, Philadelphia Intl, ILS RWY 27L, Amdt 9

Westerly, RI, Westerly State, NDB RWY 7, Amdt 3, CANCELLED

Sioux Falls, SD, Joe Foss Field, RADAR-1, Amdt 10

Jackson, TN, McKeller-Sipes Regional, GPS RWY 2, Orig

Jackson, TN, McKeller-Sipes Regional, GPS RWY 20, Orig

Brady, TX, Curtis Field, NDB RWY 17, Amdt 3

Brady, TX, Curtis Field, GPS RWY 17, Orig

Del Rio, TX, Del Rio Intl, VOR OR GPS-A, Amdt 11

Del Rio, TX, Del Rio Intl, VOR/DME OR GPS-B, Amdt 4

Del Rio, TX, Del Rio Intl, LOC RWY 13, Amdt 4

Del Rio, TX, Del Rio Intl, NDB RWY 13, Amdt 3

Del Rio, TX, Del Rio Intl, GPS RWY 13, Amdt 1

Blackstone, VA, Allen C. Perkinson/ BAAF, NDB OR GPS-A, Amdt 11

Blackstone, VA, Allen C. Perkinson/ BAAF, GPS RWY 4, Orig

Blackstone, VA, Allen C. Perkinson/ BAAF, GPS RWY 22, Orig

Orange, VA, Orange County, NDB RWY 7, Amdt 1

Lewisburg, WV, Greenbrier Valley, NDB RWY 4, Amdt 6

Lewisburg, WV, Greenbrier Valley, ILS RWY 4, Amdt 9

Lewisburg, WV, Greenbrier Valley, GPS RWY 4, Amdt 1

Lewisburg, WV, Greenbrier Valley, GPS RWY 22, Amdt 1

[FR Doc. 99-16753 Filed 6-30-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29617; Amdt. No. 1938]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

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

By Subscription—

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

FOR FURTHER INFORMATION CONTACT:

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

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

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

The Rule

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

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S.

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

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

Conclusion

The FAA has determined that this regulation only involves an established

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

List of Subjects in 14 CFR part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on June 25, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR

part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

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

Effective Upon Publication

FDC date	State	City	Airport	FDC No.	SIAP
05/22/99	VA	Warrenton	Warrenton-Fauquier	9/4326	VOR or GPS Rwy 14 Amdt 3
06/09/99	OH	Columbus	Ohio State University	9/3978	VOR/DME RNAW Rwy 27L, Amdt 6A
06/11/99	AK	Barrow	Wiley Post-Will Rogers Mem	9/4012	ILS/DME Rwy 6, Amdt 2A
06/11/99	AL	Muscle Shoals	Northwest Alabama Regional	9/4014	VOR or GPS Rwy 29 Amdt 26B
06/11/99	AL	Muscle Shoals	Northwest Alabama Regional	9/4015	ILS Rwy 29 Amdt 3B
06/11/99	AL	Muscle Shoals	Northwest Alabama Regional	9/4021	VOR/DME or GPS Rwy 11, Amdt 5B
06/11/99	NV	Reno	Reno/Tahoe Intl	9/4016	LOC-2 Rwy 16R Amdt 6
06/11/99	NV	Reno	Reno/Tahoe Intl	9/4017	ILS Rwy 16R Amdt 10
06/14/99	AL	Tuscaloosa	Tuscaloosa Muni	9/4099	GPS Rwy 4, Orig
06/14/99	AL	Tuscaloosa	Tuscaloosa Muni	9/4100	VOR or TACAN Rwy 22, Amdt 14
06/14/99	AL	Tuscaloosa	Tuscaloosa Muni	9/4101	GPS Rwy 22, Orig
06/14/99	AL	Tuscaloosa	Tuscaloosa Muni	9/4105	ILS Rwy 4, Amdt 14A
06/14/99	CA	Colusa	Colusa County	9/4079	VOR or GPS-A Amdt 4A
06/14/99	IA	Burlington	Burlington Regional	9/4069	ILS Rwy 36, Amdt 9C
06/14/99	IA	Forest City	Forest City Muni	9/4113	VOR/DME or GPS-A, Amdt 2B
06/14/99	MO	St. Louis	Lambert-St. Louis Intl	9/4073	ILS Rwy 24, Amdt 45A
06/14/99	MT	Butte	Bert Mooney	9/4088	LOC/DME Rwy 15, Amdt 6B
06/15/99	DE	Georgetown	Sussex County	9/4142	GPS Rwy 4 Orig
06/15/99	DE	Georgetown	Sussex County	9/4143	VOR/DME RNAV or GPS Rwy 22 Amdt 3
06/15/99	DE	Georgetown	Sussex County	9/4144	VOR Rwy 4 Amdt 4
06/15/99	DE	Georgetown	Sussex County	9/4145	VOR Rwy 22 Amdt 5
06/15/99	PA	Lancaster	Lancaster	9/4122	VOR Rwy 8 Amdt 19
06/15/99	PA	Lancaster	Lancaster	9/4123	VOR Rwy 31 Amdt 15
06/15/99	PA	Lancaster	Lancaster	9/4124	VOR/DME or GPS Rwy 31 Amdt 3
06/15/99	PA	Lancaster	Lancaster	9/4125	ILS Rwy 8 Amdt 14
06/16/99	IN	Indianapolis	Indianapolis Intl	9/4165	ILS Rwy 5R, Amdt 2A (Cat II, Cat III)
06/16/99	KS	Pittsburg	Atkinson Muni	9/4157	NDB or GPS Rwy 16, Amdt 3
06/16/99	SD	Spearfish	Black Hills-Clyde Ice Field	9/4171	GPS Rwy 12, Orig-B
06/16/99	SD	Spearfish	Black Hills-Clyde Ice Field	9/4172	NDB or GPS-A, Orig-B
06/17/99	GA	Marietta	Temporary—Cobb County-McCollum Field	9/4188	VOR/DME or GPS Rwy 9, Orig-B
06/17/99	GA	Marietta	Cobb County-McCollum Field	9/4190	ILS Rwy 27, Orig-B
06/17/99	GA	Marietta	Cobb County-McCollum Field	9/4191	GPS Rwy 27, Orig

FDC date	State	City	Airport	FDC No.	SIAP
06/17/99	IN	Columbus	Columbus Muni	9/4209	ILS Rwy 23, Amdt 7
06/18/99	AR	Blytheville	Arkansas International	9/4240	ILS/DME Rwy 18, Orig-A
06/18/99	AR	Harrison	Boone County	9/4241	ILS/DME Rwy 36, Orig
06/18/99	CA	Santa Ana	John Wayne Airport-Orange County ...	9/4234	LDA Rwy 19R Amdt 1B
06/18/99	CT	Meriden	Meriden Markham Muni	9/4220	NDB Rwy 36 Amdt 8
06/22/99	VA	Culpeper	Culpeper County	9/4322	VOR or GPS-A Amdt 4
06/22/99	VA	Culpeper	Culpeper County	9/4323	NDB Rwy 22 Amdt 1
06/22/99	VA	Culpeper	Culpeper County	9/4324	NDB or GPS-B Orig
06/22/99	VA	Culpeper	Culpeper County	9/4325	VOR/DME RNAV or GPS Rwy 22 Amdt 1
06/22/99	VA	Norfolk	Norfolk Intl	9/4301	GPS Rwy 14 Orig
06/23/99	AZ	St. Johns	St. Johns Industrial Airpark	9/4338	VOR/DME or GPS-A Amdt 1 This Replaces FDC 9/3931.

[FR Doc. 99-16754 Filed 6-30-99; 8:45 am]

BILLING CODE 4910-13-M

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 430

Protected Area Permits for New Withdrawals; Amendments to the Delaware River Basin Commission's Ground Water Protected Area Regulations for Southeastern Pennsylvania

AGENCY: Delaware River Basin
Commission.

ACTION: Final rule.

SUMMARY: At its June 23, 1999 business meeting, the Delaware River Basin Commission amended its Ground Water Protected Area Regulations for Southeastern Pennsylvania by the establishment of numerical withdrawal limits for 62 subbasins which are entirely or partially within the Protected Area.

EFFECTIVE DATE: June 23, 1999.

ADDRESSES: Copies of the Commission's Ground Water Protected Area Regulations for Southeastern Pennsylvania are available from the Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey 08628.

FOR FURTHER INFORMATION CONTACT:
Susan M. Weisman, Commission
Secretary, Delaware River Basin
Commission, (609) 883-9500 ext. 203.

SUPPLEMENTARY INFORMATION: On March 9, 1999 the Commission held public hearings on proposed amendments to its Ground Water Protected Area Regulations for Southeastern Pennsylvania as noticed in the **Federal Register**, Vol. 64, No. 7, page 1763, January 12, 1999 and Vol. 64, No. 41, page 10280, March 3, 1999. The Commission has considered the extensive testimony and comments from interested parties and has prepared a "Response Document on Proposed Amendments to the Ground Water Protected Area Regulations for

Southeastern Pennsylvania: May 1999" which is available upon request to Ms. Weisman at the number provided above.

List of Subjects in 18 CFR Part 430

Water supply.

18 CFR part 430 is amended as follows:

PART 430—GROUND WATER PROTECTION AREA: PENNSYLVANIA

1. The authority citation for part 430 continues to read as follows:

Authority: Pub. L. 87-328 (75 Stat. 688).

2. Section 430.13 is amended by revising paragraph (i)(3) to read as follows:

§ 430.13 Protected area permits for new withdrawals.

* * * * *

(i) * * *

(3)(i) The potentially stressed levels and withdrawal limits for all delineated basins and subbasins are set forth below:

Subbasin	Potentially Stressed (mg/y) ¹	Withdrawal Limit (mg/y)
Neshaminy Creek Basin		
West Branch Neshaminy Creek Basin	1054	1405
Pine Run Basin	596	795
North Branch Neshaminy Creek	853	1131
Doylestown Subbasin Neshaminy Creek	710	946
Warwick Subbasin Neshaminy Creek	889	1185
Warrington Subbasin Little Neshaminy Creek	505	673
Park Creek Basin	582	776
Warminster Subbasin Little Neshaminy Creek	1016	1355
Mill Creek Basin	1174	1565
Northampton Subbasin Neshaminy Creek	596	794
Newtown Creek	298	397
Core Creek Basin	494	658
Ironworks Creek Basin	326	434
Lower Section Subbasin Neshaminy Creek	3026	4034
Schuylkill River Basin		
Hay Creek	974	1299
Lower Reach Manatawny-Ironstone Creek	1811	2414
Pigeon Creek	611	815

Subbasin	Potentially Stressed (mg/L) ¹	Withdrawal Limit (mg/L)
Schuylkill-Crow Creek	1157	1543
Schuylkill-Mingo Creek	671	895
Schuylkill-Plymouth-Mill Creeks	4446	5929
Schuylkill-Sixpenny Creek	1490	1987
Schuylkill-Sprogels Run	1091	1455
Schuylkill-Stony Creek	687	916
Schuylkill-Trout Creek	1082	1443
Stony Creek	1242	1655
Valley Creek	1865	2486
French and Pickering Creek Subbasins		
Lower Reach French Creek	634	845
Lower Reach Pickering Creek	1716	2288
Middle Reach French Creek	1608	2145
South Branch French Creek	1044	1393
Upper Reach French Creek	1295	1726
Upper Reach Pickering Creek	1358	1811
Perkiomen and Skippack Creek Subbasins		
East Branch Perkiomen-Indian Creeks	633	844
East Branch Perkiomen-Mill Creeks	720	961
East Branch Perkiomen-Morris Run	1214	1619
Hosensack-Indian Creeks	1257	1676
Lower Reach Skippack Creek	1069	1426
Perkiomen-Deep Creeks	1047	1396
Perkiomen-Lodal Creeks	1200	1600
Perkiomen-Macoby Creek	1252	1669
Swamp-Middle Creeks	1423	1898
Swamp-Minister Creeks	547	730
Swamp-Scioto Creeks	746	994
Towamencin Creek	466	622
Unami-Licking Creeks	992	1322
Unami-Ridge Valley Creeks	1068	1424
Upper Reach Perkiomen Creek	1223	1631
Upper Reach Skippack Creek	813	1084
West Branch Perkiomen Creek	1566	2088
Delaware River Basin		
Jericho Creek	421	562
Mill Creek	1600	2134
Paunnaussing Creek	513	684
Pidcock Creek	563	751
Upper Reach Cobbs Creek	871	1161
Upper Reach Crum Creek	1290	1721
Upper Reach Darby Creek	1625	2167
Upper Reach East Branch Chester Creek	1865	2487
Upper Reach Frankford Creek	1414	1886
Upper Reach Poquessing Creek	1008	1344
Upper Reach Ridley Creek	1707	2275
Tohickon Subbasin		
Tohickon-Beaver-Morgan Creeks	1156	1541
Tohickon-Deep Run	956	1274
Tohickon-Geddes-Cabin Runs	602	803
Tohickon-Lake Nockamixon	556	741
Tohickon-Three Mile Run	726	968
Pennypack and Wissahickon Subbasins		
Lower Reach Wissahickon Creek	2750	3666
Upper Reach Wissahickon Creek	1302	1736
Middle Reach Pennypack Creek	1295	1727
Upper Reach Pennypack Creek	1358	1811
Brandywine Creek Subbasin		
East Branch Brandywine-Taylor Run	1054	1405
Middle Reach Brandywine Creek	823	1098
Upper Reach Brandywine Creek	1614	2153
West Branch Brandywine-Beaver Run	2110	2813

Subbasin	Potentially Stressed (mgly) ¹	Withdrawal Limit (mgly)
West Branch Brandywine-Broad Run	2380	3173
West Valley Creek	1673	2231
Lehigh Subbasin		
Upper Reach Saucon Creek	946	1262

¹mgly means million gallons per year.

(ii) Subject to public notice and hearing, this section may be updated or revised based upon new and evolving information on hydrology and streamflow and ground water monitoring or in accordance with paragraph (i)(2) of this section.

* * * * *

Dated: June 24, 1999.

Susan M. Weisman,
Secretary.

[FR Doc. 99-16786 Filed 6-30-99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Federal Highway Administration

23 CFR Part 1225

[Docket No. NHTSA-99-5873]

RIN 2127-AH39

Operation of Motor Vehicles by Intoxicated Persons

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

ACTION: Final rule.

SUMMARY: This document announces that the regulations that were published in an interim final rule to implement a new program established by the Transportation Equity Act for the 21st Century (TEA 21) will remain in effect. Under the final rule, States can qualify for incentive grant funds if they enact and enforce a law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the State shall be deemed to have committed a *per se* offense of driving while intoxicated or an equivalent *per se* offense. This final rule also modifies the interim requirements with respect to procedural issues, including the date by which certifications are due.

DATES: This final rule becomes effective on July 1, 1999.

FOR FURTHER INFORMATION CONTACT: In NHTSA: Ms. Marlene Markison, Office of State and Community Services, NSC-01, telephone (202) 366-2121; or Ms. Heidi L. Coleman, Office of Chief Counsel, NCC-30, telephone (202) 366-1834.

In FHWA: Byron Dover, Office of Highway Safety Infrastructure, HMHS-1, telephone (202) 366-2161; or Mr. Raymond W. Cuprill, HCC-20, telephone (202) 366-0834.

SUPPLEMENTARY INFORMATION: The Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178, was signed into law on June 9, 1998. Section 1404 of the Act established a new incentive grant program under Section 163 of Title 23, United States Code (Section 163). Under this new program, States may qualify for incentive grant funds by enacting and enforcing laws that provide that "any person with a blood alcohol concentration (BAC) of 0.08 percent or greater while operating a motor vehicle in the State shall be deemed to have committed a *per se* offense of driving while intoxicated (or an equivalent *per se* offense)."

The new program was put into place to address the issue of impaired driving, which continues to be a serious national problem with tragic consequences. The agencies believe that 0.08 BAC laws will have a significant impact on reducing this problem.

Background

The Problem of Impaired Driving

Injuries caused by motor vehicle traffic crashes are a major health care problem in America and are the leading cause of death for people aged 6 to 27. Each year, the injuries caused by traffic crashes in the United States claim approximately 42,000 lives and cost Americans an estimated \$150 billion, including \$19 billion in medical and emergency expenses, \$42 billion in lost productivity, \$52 billion in property damage, and \$37 billion in other crash related costs.

In 1997, alcohol was involved in approximately 39 percent of fatal traffic

crashes. Every 30 minutes, someone in this country dies in an alcohol-related crash. Each year, alcohol-involved crashes result in \$45 billion in economic costs, accounting for 30 percent of all crash costs. Impaired driving is the most frequently committed violent crime in America.

Impaired Driving Laws

States have enacted a number of different types of laws in their efforts to fight the battle against impaired driving. For example, forty-eight States and the District of Columbia have enacted "illegal *per se*" laws. Two States and Puerto Rico have not. An illegal *per se* law makes it illegal, in and of itself, to drive with a blood alcohol concentration (BAC) measured at or above the established legal limit.

In 32 of the States with illegal *per se* laws, the legal limit is 0.10 percent blood alcohol concentration (BAC). Sixteen States and the District of Columbia have enacted (and made effective) laws that establish 0.08 BAC as the legal limit. In addition, on May 28, 1999, the State of Texas enacted a 0.08 BAC law. This law is to become effective on September 1, 1999.

The Effectiveness of 0.08 BAC Laws

A number of studies have been conducted to determine the effectiveness of 0.08 BAC laws.

For example, the effect of California's 0.08 law was analyzed in a 1991 NHTSA study. The agency found that 81 percent of the driving population knew that the BAC limit had become stricter (as the result of a successful public education effort). The State experienced a 12 percent reduction in alcohol-related fatalities, although some of the reduction may have resulted from a new administrative license revocation law that was enacted during the same year that the BAC standard was lowered. The State also experienced an increase in the number of impaired driving arrests.

A multi-state analysis of the effect of lowering BAC levels to 0.08 was conducted by Boston University's School of Public Health. The results of that study were reported in the September 1996 issue of the American

Journal of Public Health, a peer-reviewed journal. The Boston University study compared the first five states to lower their BAC limit to 0.08 (California, Maine, Oregon, Utah, and Vermont) with five nearby states that retained the 0.10 BAC limit. The results of this study suggest that 0.08 BAC laws, particularly in combination with administrative license revocation, reduce the proportion of fatal crashes involving drivers and fatally injured drivers at blood alcohol levels of 0.08 percent and higher by 16 percent and those at a BAC of 0.15 percent and greater by 18 percent.

The immediate significance of these findings is that the 0.08 BAC laws, particularly in combination with administrative license revocation, not only reduced the overall incidence of alcohol fatalities, but also reduced fatalities at the higher BAC levels. The effect on the number of extremely impaired drivers was even greater than the overall effect.

The study concluded that if all States lowered their BAC limits to 0.08, alcohol-related highway deaths would decrease nationwide by 500–600 per year, which would result in an economic cost savings of approximately \$1.5 billion.

In a 1995 NHTSA analysis of the same five States studied by Boston University, the agency examined six different measures of driver alcohol involvement in fatal crashes and compared the time period before the 0.08 law was passed with the time period after passage of the law for each State. A total of thirty comparisons of the level of driver alcohol involvement were made. Ten of the thirty comparisons (in four of the five States) showed statistically significant decreases. An additional 16 comparisons, while not statistically significant, also showed decreases. None of the comparisons for the rest of the nation (States at 0.10 BAC) showed changes that were statistically significant.

Other studies published on the effects of enacting 0.08 BAC laws, which use various different measures, have all shown significant decreases in alcohol-related fatalities. NHTSA surveys all show that most people would not drive after consuming two or three beers in an hour (the amount of alcohol an average 120-pound woman would have to drink on an empty stomach to reach 0.08 BAC; an average 170-pound man would have to consume 4–5 beers in an hour on an empty stomach to reach that BAC level). In addition, three recent scientific telephone polls indicate that two out of every three Americans think the BAC standard should be lowered to 0.08.

NHTSA recently completed three additional studies of the effects of lowering the illegal BAC limit from 0.10 to 0.08 percent. The most comprehensive study (covering all 50 States) analyzed the effects of both 0.08 and 0.10 illegal per se laws, as well as administrative license revocation (ALR) laws over a 16-year time period. That study estimated that 0.08 BAC laws had an 8 percent effect in reducing fatal crashes involving drivers at both high BAC's and lower BAC's, and resulted in 275 fewer fatalities in the 15 States where they were in effect in 1997. The study also concluded that, if all 50 States had 0.08 BAC laws in effect in 1997, an additional 5 percent of the fatalities would have been prevented.

The second study examined the effects of 0.08 BAC and ALR laws in eleven States. It found that 0.08 BAC laws were associated with reductions in alcohol-related fatalities, alone or in conjunction with ALR laws, in seven of the eleven States studied.

The third study analyzed the effects of a 0.08 BAC law implemented in 1993 in North Carolina, a State which had already been experiencing a sharp decline in alcohol-related fatalities since 1987. The North Carolina study recognized that there was a pre-existing downward trend in measures pertaining to alcohol-related crashes in the State prior to the enactment of the 0.08 BAC law. The results of the study suggested that some portion of the decline in alcohol-related fatalities experienced in the State after the enactment of the 0.08 law may have been associated with the law, but the magnitude of these effects was not sufficient to make this conclusion. The study found no statistically significant change in the pre-existing downward trend as a result of the 0.08 law.

Copies of these three new studies will be placed in the docket for this final rule.

Presidential Support for a National Standard at 0.08 BAC

President Clinton strongly supports the enactment of 0.08 BAC laws by the States. In fact, on March 3, 1998, the President addressed the Nation about his interest in promoting a national illegal per se limit of 0.08 BAC across the country, including on Federal property. During his address, the President called on Congress to pass impaired driving legislation that would establish a national 0.08 BAC per se standard.

On March 4, 1998, the United States Senate passed "The Safe and Sober Streets Act of 1997," which had been introduced by Senator Frank Lautenberg

(D-NJ) and Senator Mike DeWine (R-OH). Similar legislation was introduced in the U.S. House of Representatives by Rep. Nita Lowey (D-NY).

The Safe and Sober Streets Act would have required the withholding of certain Federal-aid highway funds from States that do not enact and enforce 0.08 BAC per se laws. To avoid the withholding of funds, States would have been required to enact and enforce 0.08 BAC per se laws by October 1, 2001. This legislation, however, was not enacted into law.

Instead, Congress passed an incentive grant program to encourage State enactment of 0.08 BAC laws. This program was included in TEA-21 (H.R. 2400). On June 9, 1998, President Clinton signed the legislation and remarked, in his signing statement:

Today I am pleased to sign into law H.R. 2400, the "Transportation Equity Act for the 21st Century." This comprehensive infrastructure measure for our surface transportation programs—highway, highway safety, and transit—retains the core programs and builds on the initiatives established in the landmark Intermodal Surface Transportation Efficiency Act of 1991.

* * * * *

I am deeply disappointed, however, that H.R. 2400 fails to include language that would help to establish 0.08 percent [BAC] as the standard for drunk driving in each of the 50 States. The experience of States that have adopted the 0.08 blood alcohol level shows that this stringent measure against drunk driving has the potential, when applied nationwide, to save hundreds of lives each year. Applying 0.08 nationwide is an important cornerstone of our safety efforts. My Administration will continue to fight for it. In the meantime, H.R. 2400 does establish a new \$500 million incentive program encouraging the States to adopt tough 0.08 BAC laws.

TEA-21 Section 163 Program

Section 163 provides that the Secretary of Transportation shall make a grant to any State that has enacted and is enforcing a law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the State shall be deemed to have committed a per se offense of driving while intoxicated or an equivalent per se offense.

Interim Final Rule

On September 3, 1998, NHTSA and the FHWA published a joint interim final rule in the **Federal Register** to implement the Section 163 program. The interim final rule explained that, consistent with other grant programs that are administered by the agencies, to qualify for funding under the Section 163 program, States must have a law

that has both passed and been made effective, and the State must have begun to implement the law. In addition, the law must meet certain basic elements.

Compliance Criteria

The interim final rule defined those basic elements, as described below. To qualify for funds under this program, a State must meet all of the basic elements.

1. Any Person

A State must enact and enforce a law that establishes a BAC limit of 0.08 or greater that applies to all persons. The law can provide for no exceptions.

2. Blood Alcohol Concentration (BAC) of 0.08 Percent

A State must set a level of no more than 0.08 percent as the legal limit for blood alcohol concentration, thereby making it an offense for any person to have a BAC of 0.08 or greater while operating a motor vehicle.

3. Per Se Law

A State must consider persons who have a BAC of 0.08 percent or greater while operating a motor vehicle in the State to have committed a per se offense of driving while intoxicated.

In other words, States must establish a 0.08 "per se" law, that makes driving with a BAC of 0.08 percent or above, in and of itself, an offense.

4. Primary Enforcement

A State must enact and enforce a 0.08 BAC law that provides for primary enforcement.

Under a primary enforcement law, law enforcement officials have the authority to enforce the law without, for example, the need to show that they had probable cause or had cited the offender for a violation of another offense. Any State with a law that provides for secondary enforcement of its 0.08 BAC provision will not qualify for funds under this program.

5. Both Criminal and ALR Laws

A State must establish a 0.08 BAC per se level under its criminal code. In addition, if the State has an administrative license revocation or suspension (ALR) law, the State must establish an illegal 0.08 BAC per se level under its ALR law, as well.

6. Standard Driving While Intoxicated Offense

The State's 0.08 BAC per se law must be deemed to be or be equivalent to the State's standard driving while intoxicated offense.

In States with multiple drinking and driving provisions, the interim final rule

stated that the agencies will consider a number of factors to determine whether the State's 0.08 BAC per se law has been deemed to be or is equivalent to the standard driving while intoxicated offense in the State. These factors will include the treatment of these offenses, their relation to other offenses in the State and the sanctions and other consequences that result when persons violate these offenses.

A more detailed discussion of the six elements described above is contained in the interim final rule (63 FR 46883-84).

Terms Governing the Incentive Grant Funds

The interim final rule indicated that a total of \$500 million has been authorized for the Section 163 program over a period of six years, beginning in FY 1998. Specifically, TEA-21 authorized \$55 million for fiscal year 1998, \$65 million for FY 99, \$80 million for FY 2000, \$90 million for FY 2001, \$100 million for FY 2002 and \$110 million for FY 2003.

Available funds will be apportioned in each fiscal year to the States that qualify for grants, according to the Section 402 formula, which is apportioned 75 percent based on the State's population and 25 percent based on the number of public road miles in the State.

In FY 1998, a total of \$49,005,000 were distributed under this program to fifteen States. The States were Alabama, California, Florida, Hawaii, Idaho, Illinois, Kansas, Maine, New Hampshire, New Mexico, North Carolina, Oregon, Utah, Vermont and Virginia.

As explained in the interim final rule, funds received by States under the Section 163 program may be used for any project eligible for assistance under Title 23 of the United States Code, which includes highway construction as well as highway safety projects or programs. Since States will be receiving Section 163 funds on the basis on their 0.08 BAC per se laws, a highway safety initiative, the agencies strongly encouraged the States in the interim final rule to consider eligible highway safety projects and programs when they are deciding how they will spend these funds. The recipient States in FY 1998 expended approximately 78 percent of the funds received in the area of highway safety.

Since Section 163 provides that the Federal share of the cost of a project funded under this program shall be 100 percent, the interim final rule provided that there is no State matching requirement for these funds. The

interim rule stated also that the funds authorized by Section 163 shall remain available until expended.

Demonstrating Compliance

To demonstrate compliance with the provisions of the statutory and regulatory requirements, the interim final rule provided that each State must submit a certification in each year that it wishes to receive a grant. A more detailed discussion regarding the contents of the certifications is contained in the interim final rule (63 FR 46884).

To be eligible for grant funds in FY 1998, the interim rule provided that States must submit their certifications no later than September 4, 1998. To be eligible for grant funds in a subsequent fiscal year, the interim rule provided that States must submit their certifications no later than July 1 of that fiscal year. Under this requirement, for example, States would be required to submit their certifications no later than July 1, 1999 to be eligible for grant funds in FY 1999. The agencies strongly encouraged States to submit their certifications in advance of the regulatory deadlines.

Request for Comments

The agencies requested comments from interested persons on the interim final rule that was published in September 3, 1998. Comments were due by October 19. The agencies stated in the interim final rule that all comments submitted to the agencies would be considered and that following the close of the comment period, the agencies would publish a document in the **Federal Register** responding to the comments and, if appropriate, would make revisions to the provisions of Part 1225.

Comments Received

The agencies received submissions from four commenters in response to the interim final rule. The commenters included: Earl Havatone, Chairman of the Hualapai Nation; Robert R. McNichols, Superintendent of the Bureau of Indian Affairs (BIA), Truxton Canon Agency, U.S. Department of the Interior; Henry M. Jasny, General Counsel for Advocates for Highway and Auto Safety (Advocates); and Kirk Brown, Secretary of the Illinois Department of Transportation (IDOT).

1. General Comments

In general, the comments in response to the interim final rule were very positive. Secretary Brown of IDOT offered one recommendation regarding the date by which funds should be

distributed, but stated, "IDOT supports the adoption of this interim final rule as proposed." In addition, Mr. Jasny of Advocates stated:

Advocates is in agreement with [NHTSA] and the [FHWA] with respect to nearly all the parameters set forth in the notice. The agencies establish appropriate compliance criteria with respect to the six items specifically referred to in the notice * * * [Advocates recommends one addition to the regulation. With the exception of this one suggestion.] Advocates concurs with the agencies and supports this interim rule.

2. Comments Regarding Indian Tribes

Mr. Havatone of the Hualapai Nation and Mr. McNichols of BIA submitted almost identical comments. They both urge the agencies to set aside a portion of the funds authorized under this program for "Indian tribes for incentive grants which are not controlled by the States." These commenters point out that "fatalities occur at higher rates on Indian lands than anywhere else in the country, [but] this funding will do little to help * * * [because] [m]any tribes will not apply to the States for funding because we believe that doing so reduces the sovereignty of the tribe."

These commenters suggest that establishing such a set aside is supported by a directive that was issued by the President, on April 29, 1994, entitled Government-to-Government Relations with Native American Tribal Governments. A copy of this directive was enclosed with each of these commenters' submissions.

The agencies agree that there is a disproportionate number of fatalities on Indian lands, and actions should be taken to address this serious problem. In addition, the agencies do encourage Tribal governments to enact and enforce 0.08 BAC laws. In fact, when President Clinton directed the Secretary of Transportation to develop a plan to promote the adoption of a .08 BAC legal limit nationwide, he directed that the plan consider "encouraging Tribal governments to adopt, enforce, and publicize a .08 BAC standard on highways in Indian Country that are subject to their jurisdiction."

Pursuant to the plan that was developed by the Secretary in response to the President's direction, NHTSA is working jointly with the Indian Health Service (IHS) on a number of initiatives to reduce the problem of impaired driving on Indian lands. For example, IHS is conducting a survey of Indian tribal laws covering impaired driving and other highway safety areas; educational, enforcement and other efforts, such as the "None for the Road" campaign, are being conducted on

Tribal lands; and Tribal governments are participating in highway safety initiatives, including Buckle Up! America and the Safe Tribal Communities Youth Campaign.

In addition, the Presidential directive on Government-to-Government Relations with Native American Tribal Governments encourages executive departments and agencies to undertake activities affecting Native American tribal rights or trust resources in a knowledgeable, sensitive manner respectful of tribal sovereignty, and to building a more effective day-to-day working relationship reflecting respect for the rights of self-government due the sovereign tribal governments. Specifically, it directs executive departments and agencies, in appropriate circumstances, to consult with tribal governments prior to taking actions that affect them and to design solutions and tailor Federal programs to address specific or unique need of tribal communities.

However, the directive specifically states that it "is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right * * * or benefit or trust responsibility * * *," and the Section 163 program, which was established in TEA-21, does not authorize the agency to set aside any funds for incentive grants for Indian tribes. The statutory language provides, "The Secretary shall make a grant * * * to any State [with a conforming law] * * *." Some of the programs that are administered by NHTSA and the FHWA define the term "State" in a manner that includes Indian Tribes. (See, for example, Section 2001 of TEA-21, which re-authorized the Section 402 program.) However, the Section 163 program defines the term "State" to include only "any of the 50 States, the District of Columbia or Puerto Rico."

Accordingly, while Tribal governments can continue to apply for funds from States that receive Section 163 incentive grants, the agencies are not authorized to set aside any Section 163 funds for incentive grants to be given directly to Indian tribes. Therefore, no changes have been made to the regulations in response to these comments.

3. Comments from Advocates

As stated above, Advocates concurred with the agencies' interim final rule, except in one area. Advocates agreed with all six compliance criteria included in the interim rule. However, Advocates stated that the agencies should have "set criteria for minimum penalties that a state law must impose

in order to be eligible under the program."

Advocates recognized that Congress did not address the issue of penalties in the statute, but stated that "the agencies have the authority to exercise * * * discretion in this area and are not prohibited from doing so by the wording of the statute." Advocates suggested that the agencies could "evaluate the laws in states that previously adopted 0.08 BAC as the threshold for intoxication violations and use the least stringent penalty provision of the laws already enacted as the minimum criteria for eligibility" or, alternatively, the agencies could "establish a series of options, at least one of which would be required for eligibility."

The agencies do not believe it is necessary to establish a minimum penalty criterion under this program. Rather, we believe the criteria already established in the regulations are sufficient to ensure that States establish meaningful penalties, because they require that the State's 0.08 BAC per se law must be deemed to be or be equivalent to the State's standard driving while intoxicated offense.

As the agencies explained in the interim final rule, most States provide for a single driving while intoxicated offense. However, some States have multiple offenses that relate to drinking and driving. In these States, the most serious offense generally will be the State's "standard driving while intoxicated" offense (although it might be called by another name, such as "driving under the influence"). These States may have a "less-serious" offense, which may be a "lesser-included" offense of the standard driving while intoxicated offense in the State.

With regard to States with multiple drinking and driving provisions, it was explained in the interim final rule that the agencies will consider a number of factors to determine whether the State's 0.08 BAC per se law has been deemed to be or is equivalent to the standard driving while intoxicated offense in the State. These factors include the treatment of these offenses, their relation to other offenses in the State and the sanctions and other consequences that result when persons violate these offenses.

When the agencies have reviewed laws and proposed legislation from States to determine whether they comply with Section 163 and the interim regulations, we have considered these factors very carefully.

For example, one State that currently has a 0.10 per se law submitted to us for review proposed legislation that would

have created a *per se* level at 0.08 BAC. However, the proposed legislation would have retained the 0.10 law. It also would have continued to apply to 0.10 offenders the same sanctions that currently apply to such offenders, and an offender of the new 0.08 law would have been subject to a lesser set of sanctions. Based on an examination of these proposed provisions, we concluded that the proposed legislation, if enacted without change, would not have complied with Section 163 and the interim regulations because it would not have established 0.08 BAC as the standard driving while intoxicated offense.

Because the agencies believe the criteria contained in the interim regulations are sufficient to ensure that meaningful penalties will apply to 0.08 offenders, the agencies have decided not to add a new compliance criterion in response to this comment.

4. Timing for Applications and the Distribution of Funds

The interim final rule provided that, to qualify beginning in FY 1999, the agencies must receive from the State a certification no later than July 1 of that fiscal year, and the certification must indicate that the State "has enacted and is enforcing a 0.08 BAC *per se* law that conforms to 23 U.S.C. 163 and [the agencies' implementing regulations]."

Upon further consideration of this requirement, the agencies realize that a State could enact a conforming law prior to July 1 of a fiscal year, and the law could become effective prior to the end of that fiscal year, but after July 1 of that year. Accordingly, the agencies have decided to amend the regulations to enable such States to qualify for funding in the year in which the State's new law goes into effect. To qualify for a first-year grant, they may submit certifications that provide that the State has enacted a 0.08 BAC *per se* law that conforms to 23 U.S.C. 163 and the agencies' implementing regulations and will become effective and be enforced in the current fiscal year.

To provide States with additional time to adjust to this change, and to provide States with additional time to enact conforming legislation each year, the agencies will also extend from July 1 to July 15, the date by which certifications must be received.

The interim final rule did not specify the date by which grant funds would be distributed to the States. In its comments, IDOT recommends an early distribution date (in July), to assist the States in their ability to obligate the funds by September 30. The agencies appreciate IDOT's concerns, and hope to

make a distribution this fiscal year during the month of July. Any State that has qualified on the basis of a law that has been enacted, but is not yet effective, however, will not receive its distribution of funds until the law has gone into effect. Should the law fail to become effective, the agency would redistribute the funds to all eligible States.

The interim final rule also did not set forth procedures to ensure the efficient administration of funds. Due to the need to accommodate both Federal-aid Highway and Highway Safety interests, the agencies have added language to the section on Award Procedures, specifying the joint involvement of State Department of Transportation and Highway Safety officials. The officials will provide written notification of their funding decisions to the agencies, identifying the amounts of apportioned funds to be obligated to highway safety activities and to Federal-aid highway activities. This process will permit account entries to be made.

Finally, the interim final rule contained a separate provision regarding the submission of State certifications in FY 1998. Since this provision is now obsolete, it has been removed from the regulations.

Regulatory Analyses and Notices

Executive Order 12778 (Civil Justice Reform)

This final rule will not have any preemptive or retroactive effect. The enabling legislation does not establish a procedure for judicial review of final rules promulgated under its provisions. There is no requirement that individuals submit a petition for reconsideration or other administrative proceedings before they may file suit in court.

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

The agencies have determined that this action is a significant regulatory action within the meaning of Executive Order 12866 and is significant within the meaning of Department of Transportation Regulatory Policies and Procedures. This determination is based on a finding that the rule is likely to have an annual effect on the economy of \$100 million or more in FY's 2002 and 2003. A sum of \$100 million is authorized for this program in FY 2002 and \$110 million is authorized in FY 2003. It is likely that these sums will be awarded to qualifying States under the section 163 program in those fiscal years. Accordingly, an economic assessment has been prepared.

The economic assessment concludes that the costs to the States of obtaining the funding under the Section 163 program, which include the administrative costs of submitting a certification that the State has enacted and is enforcing the law, are minimal. In addition, it finds that the costs to States to enact and publicize new 0.08 BAC *per se* laws will not be significant, and the costs to enforce these laws need not be different than those incurred by States to enforce their current impaired driving laws.

However, the economic assessment notes that it is expected that at least some States will increase enforcement efforts when their new laws become effective, and arrests and prosecutions are likely to increase for drivers with a BAC at 0.08 and above. Since many States have self-sufficient programs supported by fines for the post-conviction phase of their programs, the economic assessment concludes that any additional activity during this phase of their programs, will not result in additional costs to the States.

While it is difficult to isolate the effects that a national 0.08 BAC *per se* standard would have, the economic assessment indicates that a study conducted by the Boston University School of Public Health, which was published in the September 1996 issue of the American Journal of Public Health estimated that 500–600 alcohol-related highway deaths would be prevented each year if all States lowered their BAC limits to 0.08 BAC. Such a reduction in deaths would represent a 4 percent decrease in alcohol-related deaths nationwide and would result in cost savings of approximately \$1.5 billion each year. Copies of the economic assessment are available to the public in the docket for this rulemaking action.

The agencies received no comments regarding the economic assessment. Accordingly, no changes to this document are required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the agencies have evaluated the effects of this action on small entities. Studies to date have not shown that 0.08 BAC *per se* laws have affected alcohol consumption in any of the five States analyzed. Thus, there should be no noticeable impact on small businesses that sell and serve alcohol. Since this interim final rule will apparently affect only State governments, it will not have any effect on small businesses. Thus, we certify that this action will not have a

significant impact on a substantial number of small entities and find that the preparation of a Regulatory Flexibility Analysis is unnecessary.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35, as implemented by the Office of Management and Budget (OMB) in 5 CFR Part 1320.

National Environmental Policy Act

The agencies have analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and have determined that it will not have any significant impact on the quality of the human environment.

The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Public Law 104-4) requires agencies to prepare a written assessment of the costs, benefits and other effects of final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually. This interim final rule does not meet the definition of a Federal mandate. It is a voluntary program in which States can choose to participate, solely at their option. The costs to States to qualify for participation in this program are minimal, and will result in annual expenditures that will not exceed the \$100 million threshold. Moreover, States that choose to participate in this program will receive Federal incentive grants, which will provide funds for activities that are eligible under Title 23 of the United States Code.

Executive Order 12612 (Federalism Assessment)

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

List of Subjects in 23 CFR Part 1225

Alcohol and alcoholic beverages, Grant programs, Transportation, Highway safety.

In consideration of the foregoing, the interim final rule published in the **Federal Register** of September 3, 1998,

63 FR 46886, adding a new Part 1225 to chapter II of Title 23 of the Code of Federal Regulations, is adopted as final, with the following changes:

PART 1225—OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS

1. The authority citation for Part 1225 continues to read as follows:

Authority: 23 U.S.C. 163; delegation of authority at 49 CFR 1.48 and 1.50.

2. Section 1225.4 is amended by revising paragraph (a)(1), removing paragraph (a)(6), and revising paragraph (a)(5) to read as follows:

§ 1225.4 General requirements.

(a) * * *

(1) To qualify for a first-year grant under 23 U.S.C. 163, a State must submit a certification by an appropriate State official, that the State has enacted a 0.08 BAC per se law that conforms to 23 U.S.C. 163 and § 1225.5 of this part and will become effective and be enforced in the current fiscal year and that the funds will be used for eligible projects and programs.

(i) If the State's 0.08 BAC per se law is currently in effect and is being enforced, the certification shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of _____, do hereby certify that the (State or Commonwealth) of _____ has enacted and is enforcing a 0.08 BAC per se law that conforms to 23 U.S.C. 163 and 23 CFR 1225.5, (citations to State law), and that the funds received by the (State or Commonwealth) of _____ under 23 U.S.C. 163 will be used for projects eligible for assistance under Title 23 of the United States Code, which include highway construction as well as highway safety projects and programs.

(ii) If the State's 0.08 BAC per se law is not currently in effect, but will become effective and be enforced before the end of the current fiscal year, the certification shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of _____, do hereby certify that the (State or Commonwealth) of _____ has enacted a 0.08 BAC per se law that conforms to 23 U.S.C. 163 and 23 CFR 1225.5, (citations to State law), and will become effective and be enforced as of (effective date of the law), and that the funds received by the (State or Commonwealth) of _____ under 23 U.S.C. 163 will be used for projects eligible for assistance under Title 23 of the United States Code, which include highway construction as well as highway safety projects and programs.

* * * * *

(5) To qualify for grant funds in FY 1999 or in a subsequent fiscal year,

certifications must be received by the agencies not later than July 15 of that fiscal year.

* * * * *

3. Section 1225.6 is revised to read as follows:

§ 1225.6 Award procedures.

(a) In each Federal fiscal year, grant funds will be apportioned to eligible States upon submission and approval of the documentation required by § 1225.4(a) and subject to the limitations in § 1225.4(b). The obligation authority associated with these funds is subject to the limitation on obligations pursuant to section 1102 of TEA 21.

(b) As soon as practicable after the apportionment in a fiscal year, but in no event later than September 30 of the fiscal year, the Governor's Representative for Highway Safety and the Secretary of the State's Department of Transportation for each State that receives an apportionment shall jointly identify, in writing to the appropriate NHTSA Regional Administrator and FHWA Division Administrator, the amounts of the State's apportionment that will be obligated to highway safety program areas and to Federal-aid highway projects.

Issued on: June 25, 1999.

Kenneth R. Wykle,

Administrator, Federal Highway Administration.

Ricardo Martinez,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 99-16747 Filed 6-28-99; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8826]

RIN 1545-AX23

Qualified Zone Academy Bonds; Obligations of States and Political Subdivisions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that provide guidance to state and local government issuers of qualified zone academy bonds. These temporary regulations change the method of ascertaining the qualified zone academy bond credit rate and provide reimbursement rules. State and local governments that issue

qualified zone academy bonds will be affected by these temporary regulations. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective July 1, 1999.

Applicability Date: For dates of applicability, see § 1.1397E-1T(j).

FOR FURTHER INFORMATION CONTACT:

Concerning the regulations, Timothy L. Jones (202) 622-3980 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 226(a) of the Taxpayer Relief Act of 1997, Public Law 105-34 (111 Stat. 788), amended the Internal Revenue Code by redesignating section 1397E as 1397F and adding a new section 1397E. Section 1397E authorizes a new type of debt instrument known as a qualified zone academy bond. Temporary regulations interpreting section 1397E were published on January 7, 1998 (63 FR 671).

Explanation of Provisions

In General

A qualified zone academy bond is a taxable bond issued by a state or local government, the proceeds of which are used to improve certain eligible public schools. In lieu of receiving periodic interest payments from the issuer, an eligible holder of a qualified zone academy bond is generally allowed annual federal income tax credits while the bond is outstanding. These credits compensate the holder for lending money to the issuer and function as payments of interest on the bond.

Credit Rate

Under section 1397E(b)(2), the Secretary shall determine a credit rate for qualified zone academy bonds that the Secretary estimates will permit the bonds to be issued without discount and without interest cost to the issuer. Section 1.1397E-1T(b) provides that the credit rate for a qualified zone academy bond is equal to 110 percent of the long-term applicable Federal rate (AFR), compounded annually, for the month in which the bond is issued.

Comments have been received that the credit rate established by § 1.1397E-1T(b) is generally lower than the rate required to permit the issuance of qualified zone academy bonds without discount and without interest cost to the issuer. Comments have also been received that a single credit rate

applicable to obligations issued during a monthly period is too rigid and non-responsive to market interest rate movements.

The revised regulations state that the Secretary will determine monthly (or more often as the Secretary deems necessary) a credit rate that will generally permit the issuance of qualified zone academy bonds without discount and without interest cost to the issuers. The revised regulations also provide that the manner for ascertaining the credit rate determined by the Secretary will be set forth in procedures, notices, forms, and instructions as prescribed by the Commissioner. A notice to be published in the Internal Revenue Bulletin will further provide that, until otherwise provided, the qualified zone academy bond credit rate will be determined daily and will be published on the Internet site for State and Local Government Bonds. The credit rate to be applied to a qualified zone academy bond will be the daily rate for the first day on which there is a binding contract in writing for the sale or exchange of the bond. Treasury and the Internal Revenue Service will monitor the issuance of qualified zone academy bonds to determine if future adjustments in the credit rate may be required.

Coordination with Reimbursement Rules

These temporary regulations provide that the proceeds of a qualified zone academy bond may be used to reimburse a qualified expenditure (including any qualified non-capital expenditure) made prior to the date the bond was issued. The temporary regulations provide that rules similar to the reimbursement rules set forth in § 1.150-2 will apply. Comments are solicited about whether these rules provide adequate guidance regarding reimbursement matters for issuers of qualified zone academy bonds.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply. See also the Special Analysis Section of the notice of proposed rulemaking on qualified zone academy bonds in the Proposed Rules Section of this issue of the **Federal Register**. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the

Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Timothy L. Jones, Office of Assistant Chief Counsel (Financial Institutions & Products). However, other personnel from IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.1397E-1T is amended as follows:

1. Revising paragraphs (b) and (j).
2. Redesignating paragraph (h) as paragraph (i).
3. Adding new paragraph (h).

The revisions and additions read as follows:

§ 1.1397E-1T Qualified zone academy bonds (temporary).

* * * * *

(b) *Credit rate.* The Secretary shall determine monthly (or more often as deemed necessary by the Secretary) the credit rate the Secretary estimates will generally permit the issuance of a qualified zone academy bond without discount and without interest cost to the issuer. The manner for ascertaining the credit rate for a qualified zone academy bond as determined by the Secretary shall be set forth in procedures, notices, forms, or instructions prescribed by the Commissioner.

* * * * *

(h) *Reimbursement.* An expenditure for a qualified purpose may be reimbursed with proceeds of a qualified zone academy bond. For this purpose, rules similar to those in § 1.150-2 shall apply.

* * * * *

(j) *Effective dates.* Except as provided in this paragraph (j), this section applies to a qualified zone academy bond issued on or after January 1, 1998. Paragraph (b) and paragraph (h) of this section shall apply to a qualified zone academy bond sold on or after July 1, 1999. Paragraph (b) of this section as in effect

on January 7, 1998 (See 26 CFR Part 1 as revised April 1, 1999), shall apply to a qualified zone academy bond sold prior to July 1, 1999. This section shall not apply to a qualified zone academy bond sold after January 5, 2001.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: June 22, 1999.

Donald C. Lubick,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 99-16621 Filed 6-30-99; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Chapter V

Blocked Persons, Specially Designated Nationals, Specially Designated Terrorists, Foreign Terrorist Organizations, and Specially Designated Narcotics Traffickers: Additional Sudanese Government Designations and Supplementary Information, and Removal of One Individual

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Amendment of final rule.

SUMMARY: The Treasury Department is amending appendix A to 31 CFR chapter V by adding the names of 60 entities and providing additional identifying information on 3 entities that have been determined to act for or on behalf of, or to be owned or controlled by, the Government of Sudan, and by adding the names of one organization and 3 individuals who are specially designated terrorists. In addition, the name of one specially designated national of the Government of Iraq is being removed because the Office of Foreign Assets Control has determined that this individual no longer meets the criteria for designation as an SDN.

EFFECTIVE DATE: June 28, 1999.

FOR FURTHER INFORMATION CONTACT: Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, tel.: 202/622-2520.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the **Federal Register**. By modem, dial 202/512-1387 and type "/GO FAC," or call 202/512-1530 for disk or paper

copies. This file is available for downloading without charge in ASCII and Adobe Acrobat[®] readable (*.PDF) formats. For Internet access, the address for use with the World Wide Web (Home Page), Telnet, or FTP protocol is: fedbbs.access.gpo.gov. The document is also accessible for downloading in ASCII format without charge from Treasury's Electronic Library ("TEL") in the "Research Mall" of the FedWorld bulletin board. By modem, dial 703/321-3339, and select self-expanding file "T11FR00.EXE" in TEL. For Internet access, use one of the following protocols: Telnet = fedworld.gov (192.239.93.3); World Wide Web (Home Page) = <http://www.fedworld.gov>; FTP = <ftp.fedworld.gov> (192.239.92.205). Additional information concerning the programs of the Office of Foreign Assets Control is available for downloading from the Office's Internet Home Page: <http://www.treas.gov/ofac>, or in fax form through the Office's 24-hour fax-on-demand service: call 202/622-0077 using a fax machine, fax modem, or (within the United States) a touch-tone telephone.

Background

Appendix A to 31 CFR chapter V contains the names of blocked persons, specially designated nationals, specially designated terrorists, foreign terrorist organizations, and specially designated narcotics traffickers designated pursuant to the various economic sanctions programs administered by the Office of Foreign Assets Control ("OFAC"). Pursuant to Executive Order 13067 of November 3, 1997, "Blocking Sudanese Government Property and Prohibiting Transactions With Sudan" (62 FR 59989, 3 CFR, 1997 Comp., p. 230), and § 538.305 of the Sudanese Sanctions Regulations (31 CFR part 538), 60 Sudanese entities are added to appendix A to 31 CFR chapter V as entities which have been determined to act for or on behalf of, or to be owned or controlled by, the Government of Sudan (specially designated nationals or "SDNs"). Any property subject to the jurisdiction of the United States in which an SDN has an interest is blocked, and U.S. persons are prohibited from engaging in any transactions or in dealing in any property in which an SDN has an interest. In addition, appendix A is being amended by modifying the entries for three existing SDNs of the Government of Sudan to provide additional identifying information regarding these entities.

Pursuant to Executive Order 13099 of August 20, 1998, "Prohibiting Transactions with Terrorists Who

Threaten to Disrupt the Middle East Peace Process" (63 FR 45167, 3 CFR, 1998 Comp., p. 208), and the Terrorism Sanctions Regulations (31 CFR part 595), 3 individuals and 1 organization are being added to appendix A to 31 CFR chapter V as persons who have been designated in the Executive order as terrorists who threaten to disrupt the Middle East peace process (specially designated terrorists or "SDTs"). Any property subject to the jurisdiction of the United States in which an SDT has an interest is blocked, and U.S. persons are prohibited from engaging in any transactions or in dealing in any property in which an SDT has an interest.

Pursuant to the Iraqi Sanctions Regulations, 31 CFR part 575, the name of one specially designated national of the Government of Iraq is being removed from appendix A because the Office of Foreign Assets Control has determined that this individual no longer meets the criteria for designation as an SDN of the Government of Iraq. All real and personal property of this individual, including all accounts in which he has any interest, that had been blocked solely due to his designation as an SDN are unblocked; and all lawful transactions involving U.S. persons and this individual are permissible.

Designations of foreign persons blocked pursuant to the Order and Regulations are effective upon the date of determination by the Director of the Office of Foreign Assets Control, acting under authority delegated by the Secretary of the Treasury. Public notice of blocking is effective upon the date of filing with the **Federal Register**, or upon prior actual notice.

Because the Executive orders and regulations under which these actions are taken involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act (5 U.S.C. 553), requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601-612) does not apply.

For the reasons set forth in the preamble, and under the authority of (1) 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601-1651, 1701-1706; E.O. 13067, 62 FR 59989, 3 CFR, 1997 Comp., p. 230, with respect to SDN entries for the Government of Sudan; (2) 3 U.S.C. 301; 18 U.S.C. 2332d; 22 U.S.C. 287c; Pub. L. 101-410, 104 Stat. 890 (28 U.S.C. 2461 note); 31 U.S.C. 321(b); 50 U.S.C. 1601-1651, 1701-1706; Pub. L. 101-513, 104

Stat. 2047–2055 (50 U.S.C. 1701 note); E.O. 12722, 55 FR 31803, 3 CFR, 1990 Comp., p. 294; E.O. 12724, 55 FR 33089, 3 CFR, 1990 Comp., p. 297; E.O. 12817, 57 FR 48433, 3 CFR, 1992 Comp., p. 317, with respect to the removal of the SDN entry for the Government of Iraq; and (3) 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 319; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208, with respect to SDT entries, appendix A to 31 CFR chapter V is amended as set forth below:

Appendix A [Amended]

1. Appendix A to 31 CFR chapter V is amended by adding the following names inserted in alphabetical order in appendix A, section I:

'ABD ALLAH, 'Issam 'Ali Muhammad (see MUSA, Rifa'i Ahmad Taha) [SDT]
'ABD–AL–'IZ (see MUSA, Rifa'i Ahmad Taha) [SDT]
ABD–AL–WAHAB, Abd–al–Hai Ahmad (see MUSA, Rifa'i Ahmad Taha) [SDT]
ABU HAFS (see ATEF, Muhammad) [SDT]
ABU YASIR (see MUSA, Rifa'i Ahmad Taha) [SDT]
ABDULLAH, Sheikh Taysir (see ATEF, Muhammad) [SDT]
ACCOUNTS AND ELECTRONICS EQUIPMENTS, c/o ENGINEERING EQUIPMENT CORPORATION, P.O. Box 97, Khartoum, Sudan [SUDAN]
AFRICAN OIL CORPORATION, P.O. Box 1, Khartoum North, Sudan [SUDAN]
AL–KAMEL, Salah 'Ali (see MUSA, Rifa'i Ahmad Taha) [SDT]
AL–MASRI, Abu Hafs (see ATEF, Muhammad) [SDT]
AL–QAIDA (see ISLAMIC ARMY) [SDT]
ALAKTAN COTTON TRADING COMPANY (see ALAKTAN TRADING COMPANY) [SUDAN]
ALAKTAN TRADING COMPANY (a.k.a. ALAKTAN COTTON TRADING COMPANY), P.O. Box 2067, Khartoum, Sudan [SUDAN]
ARAB CEMENT COMPANY, Durdeib, Sudan; P.O. Box 6180, Khartoum, Sudan [SUDAN]
ATBARA CEMENT COMPANY LIMITED, P.O. Box 36, Atbara, Sudan [SUDAN]
ATEF, Muhammad (a.k.a. ABU HAFS; a.k.a. ABDULLAH, Sheikh Taysir; a.k.a. AL–MASRI, Abu Hafs; a.k.a. EL KHABIR, Abu Hafs el Masry; a.k.a. TAYSIR) DOB 1956; POB Egypt (individual) [SDT]
BABANOUSA MILK PRODUCTS FACTORY, P.O. Box 16, Babanousa, Sudan [SUDAN]
BIN LADIN, Usama bin Muhammad bin Awad (a.k.a. BIN LADIN, Usama), DOB 30 July 1957; POB Jeddah, Saudi Arabia (individual) [SDT]
BLUE NILE BREWERY, P.O. Box 1408, Khartoum, Sudan [SUDAN]
BUILDING MATERIALS AND REFRACTORIES CORPORATION, P.O. Box 2241, Khartoum, Sudan [SUDAN]

CENTRAL ELECTRICITY AND WATER CORPORATION (see PUBLIC ELECTRICITY AND WATER CORPORATION) [SUDAN]
DUTY FREE SHOPS CORPORATION, P.O. Box 1789, Khartoum, Sudan [SUDAN]
EL KHABIR, Abu Hafs el Masry (see ATEF, Muhammad) [SDT]
ENGINEERING EQUIPMENT COMPANY, c/o ENGINEERING EQUIPMENT CORPORATION, P.O. Box 97, Khartoum, Sudan [SUDAN]
ENGINEERING EQUIPMENT CORPORATION, P.O. Box 97, Khartoum, Sudan [SUDAN]
EXPLORATION AND PRODUCTION AUTHORITY (SUDAN), Kuwait Building, Nile Avenue, Khartoum, Sudan; P.O. Box 2986, Khartoum, Sudan [SUDAN]
FOOD INDUSTRIES CORPORATION, P.O. Box 2341, Khartoum, Sudan [SUDAN]
FRIENDSHIP SPINNING FACTORY, Hassaheisa, Sudan [SUDAN]
GEZIRA TANNERY, Gezira, Sudan [SUDAN]
GINEID SUGAR FACTORY, P.O. Box 1, Gineid, Sudan [SUDAN]
GROUP FOR THE PRESERVATION OF THE HOLY SITES, THE (see ISLAMIC ARMY) [SDT]
HAGGAR ASSALAYA SUGAR FACTORY, Hagggar Assalaya, Sudan [SUDAN]
INDUSTRIAL PRODUCTION CORPORATION, P.O. Box 1034, El Gamaa Street, Khartoum, Sudan [SUDAN]
INGESSANA HILLS MINES CORPORATION (see INGASSANA HILLS MINES CORPORATION) [SUDAN]
ISLAMIC ARMY (a.k.a. AL–QAIDA; a.k.a. ISLAMIC SALVATION FOUNDATION; a.k.a. THE ISLAMIC ARMY FOR THE LIBERATION OF THE HOLY PLACES; a.k.a. THE WORLD ISLAMIC FRONT FOR JIHAD AGAINST JEWS AND CRUSADERS; a.k.a. THE GROUP FOR THE PRESERVATION OF THE HOLY SITES) [SDT]
ISLAMIC ARMY FOR THE LIBERATION OF THE HOLY PLACES, THE (see ISLAMIC ARMY) [SDT]
ISLAMIC SALVATION FOUNDATION (see ISLAMIC ARMY) [SDT]
JUBA DUTY FREE SHOP, Juba, Sudan [SUDAN]
KARIMA DATE FACTORY, Karima, Sudan [SUDAN]
KARIMA FRUIT AND VEGETABLE CANNING FACTORY, P.O. Box 54, Karima, Sudan [SUDAN]
KASSALA ONION DEHYDRATION FACTORY, P.O. Box 22, Kassala, Sudan [SUDAN]
KENAF SOCKS FACTORY, Abu Naama, Sudan [SUDAN]
KRIKAH INDUSTRIES GROUP, P.O. Box 755, Khartoum North, Sudan [SUDAN]
LEATHER INDUSTRIES CORPORATION (a.k.a. LEATHER INDUSTRIES TANNERIES), P.O. Box 1639, Khartoum, Sudan [SUDAN]
LEATHER INDUSTRIES TANNERIES (see LEATHER INDUSTRIES CORPORATION) [SUDAN]
MALUT SUGAR FACTORY, Malut, Sudan [SUDAN]

MANGALA SUGAR FACTORY, Mangala, Sudan [SUDAN]
MASPIO CEMENT CORPORATION, P.O. Box 96, Atbara, Sudan [SUDAN]
MAY ENGINEERING COMPANY, c/o ENGINEERING EQUIPMENT CORPORATION, P.O. Box 97, Khartoum, Sudan [SUDAN]
MUSA, Rifa'i Ahmad Taha (a.k.a. 'ABD ALLAH, 'Issam 'Ali Muhammad; a.k.a. 'ABD–AL–'IZ; a.k.a. ABD–AL–WAHAB, Abd–al–Hai Ahmad; a.k.a. ABU YASIR; a.k.a. AL–KAMEL, Salah 'Ali; a.k.a. TAHA, Rifa'i Ahmad; a.k.a. TAHA MUSA, Rifa'i Ahmad; a.k.a. THABIT 'IZ), DOB 24 June 1954; POB Egypt; Passport No. 83860 (Sudan), 30455 (Egypt), 1046403 (Egypt) (individual) [SDT]
NATIONAL COTTON AND TRADE COMPANY, P.O. Box 1552, Khartoum, Sudan [SUDAN]
NEW HAIFA SUGAR FACTORY, Kashm el Girba, Sudan [SUDAN]
NEW KHARTOUM TANNERY, P.O. Box 17, Khartoum, Sudan [SUDAN]
NORTHWEST SENNAR SUGAR FACTORY, Northwest Sennar, Sudan [SUDAN]
OIL CORPORATION, P.O. Box 64, Khartoum, Sudan [SUDAN]
OMDURMAN SHOE FACTORY, Omdurman, Sudan [SUDAN]
PETROLEUM GENERAL ADMINISTRATION, P.O. Box 2649, Khartoum, Sudan [SUDAN]
PLASTIC SACKS FACTORY (see SACKS FACTORY) [SUDAN]
PORT SUDAN COTTON AND TRADE COMPANY (a.k.a. PORT SUDAN COTTON COMPANY), P.O. Box 590, Khartoum, Sudan; P.O. Box 261, Port Sudan, Sudan [SUDAN]
PORT SUDAN COTTON COMPANY (see PORT SUDAN COTTON AND TRADE COMPANY) [SUDAN]
PORT SUDAN DUTY FREE SHOP, Port Sudan, Sudan [SUDAN]
PORT SUDAN EDIBLE OILS STORAGE CORPORATION, P.O. Box 429, Port Sudan, Sudan [SUDAN]
PORT SUDAN SPINNING FACTORY, Port Sudan, Sudan [SUDAN]
PUBLIC CORPORATION FOR OIL PRODUCTS AND PIPELINES, Khartoum, Sudan [SUDAN]
RABAK OIL MILL, P.O. Box 2105, Khartoum, Sudan [SUDAN]
RAINBOW FACTORIES, P.O. Box 1768, Khartoum, Sudan [SUDAN]
REA SWEET FACTORY, P.O. Box 1027, Khartoum, Sudan [SUDAN]
RED SEA HILLS MINERALS COMPANY, c/o SUDANESE MINING CORPORATION, P.O. Box 1034, Khartoum, Sudan [SUDAN]
REFRIGERATION AND ENGINEERING IMPORT COMPANY, P.O. Box 1092, Khartoum, Sudan [SUDAN]
SHEREIK MICA MINES COMPANY (a.k.a. SHEREIK MICA PROJECT), c/o SUDANESE MINING CORPORATION, P.O. Box 1034, Khartoum, Sudan [SUDAN]
SHEREIK MICA PROJECT (see SHEREIK MICA MINES COMPANY) [SUDAN]

SPINNING AND WEAVING CORPORATION,
P.O. Box 795, Khartoum, Sudan
[SUDAN]

SUDAN COTTON COMPANY, Khartoum,
Sudan [SUDAN]

SUDAN COTTON COMPANY LIMITED, P.O.
Box 1672, Khartoum, Sudan [SUDAN]

SUDAN OIL CORPORATION, P.O. Box 2,
Khartoum North, Sudan [SUDAN]

SUDAN SOAP CORPORATION, P.O. Box 23,
Khartoum North, Sudan [SUDAN]

SUDANESE INTERNATIONAL TOURISM
COMPANY, c/o TOURISM AND
HOTELS CORPORATION, P.O. Box
7104, Khartoum, Sudan [SUDAN]

SUDANESE MINING CORPORATION, P.O.
Box 1034, Khartoum, Sudan [SUDAN]

SUGAR AND DISTILLING CORPORATION,
New Mustafa el Amin Building,
Barlaman Avenue, P.O. Box 511,
Khartoum, Sudan [SUDAN]

TAHA, Rifa'i Ahmad (see MUSA, Rifa'i
Ahmad Taha) [SDT]

TAHA MUSA, Rifa'i Ahmad (see MUSA,
Rifa'i Ahmad Taha) [SDT]

TAYSIR (see ATEF, Muhammad) [SDT]

THABIT 'IZ (see MUSA, Rifa'i Ahmad Taha)
[SDT]

TOURISM AND HOTELS CORPORATION,
P.O. Box 7104, Khartoum, Sudan; Ed
Damer, Sudan; El Fasher, Sudan;
Khartoum Airport, Sudan; Port Sudan,
Sudan [SUDAN]

WAD MADANI DUTY FREE SHOP, Wad
Madani, Sudan [SUDAN]

WAU FRUIT AND VEGETABLE CANNING
FACTORY, P.O. Box 110, Wau, Sudan
[SUDAN]

WHITE NILE BREWERY, P.O. Box 1378,
Khartoum, Sudan [SUDAN]

WHITE NILE TANNERY, P.O. Box 4078,
Khartoum, Sudan [SUDAN]

WORLD ISLAMIC FRONT FOR JIHAD
AGAINST JEWS AND CRUSADERS,
THE (see ISLAMIC ARMY) [SDT]

2. Appendix A to 31 CFR chapter V
is amended by revising the following
existing entries to include additional
identifying information in appendix A,
section I to read as revised as follows:

PUBLIC ELECTRICITY AND WATER
CORPORATION (a.k.a. CENTRAL
ELECTRICITY AND WATER
CORPORATION), P.O. Box 1380,
Khartoum, Sudan [SUDAN]

INGASSANA HILLS MINES CORPORATION
(a.k.a. INGESSANA HILLS MINES
CORPORATION), P.O. Box 2241,
Khartoum, Sudan; P.O. Box 1108,
Khartoum, Sudan [SUDAN]

SACKS FACTORY (a.k.a. PLASTIC SACKS
FACTORY), P.O. Box 2328, Khartoum,
Sudan [SUDAN]

3. Appendix A to 31 CFR chapter V
is amended by removing in its entirety
the entry for the name "DE BOCCARD,
Phillipe (a.k.a. DE BOCCARD,
Philippe)" from appendix A, section I.

Dated: June 23, 1999.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: June 24, 1999.

Elisabeth A. Bresee,

*Assistant Secretary (Enforcement),
Department of the Treasury.*

[FR Doc. 99-16726 Filed 6-28-99; 9:45 am]

BILLING CODE 4810-25-F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA079-149; FRL-6363-2]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of revisions to the California State Implementation Plan (SIP) proposed in the **Federal Register** on April 16, 1999. The revisions concern rules from the Monterey Bay Unified Air Pollution Control District (MBUAPCD). This approval action will incorporate these rules into the Federally approved SIP. The intended effect of approving these rules is to regulate permitting of stationary sources in accordance with the requirements of the Act, as amended in 1990. EPA is finalizing the approval of these revisions 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 action is effective on August 2, 1999.

ADDRESSES: Copies of the rule(s) 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 rule(s) are available for inspection at the following locations:

(1) EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

(2) California Air Resources Board, 2020 L Street, Sacramento, CA 95814.

(3) Monterey Bay Unified Air Pollution Control District, 24580 Silver Cloud Court, Monterey CA 93940.

FOR FURTHER INFORMATION CONTACT:

Roger Kohn, Permits Office, [AIR-3], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901;

Telephone: (415) 744-1238; E-mail: kohn.roger@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the California SIP include: MBUAPCD Rules 200 (Permits Required), 204 (Cancellation of Applications), 207 (Review of New or Modified Sources), 213 (Continuous Emissions Monitoring), 215 (Banking of Emissions Reductions), and 436 (Title V: General Prohibitory Rule). These rules were submitted by the California Air Resources Board to EPA on June 9, 1987 (Rule 200), February 10, 1986 (Rule 204), March 3, 1997 (Rule 207), March 29, 1994 (Rule 213), June 3, 1997 (Rule 215), and August 10, 1995 (Rule 436).

II. Background

On April 16, 1999 in 64 FR 18858, EPA proposed to approve the above rules into the California SIP. A detailed discussion of the background for each of the above rules is provided in the proposed rule cited above.

EPA has evaluated the above rules for consistency with the requirements of the CAA and EPA regulations and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the proposed rule cited above. EPA has found that the rules meet the applicable EPA requirements. A detailed discussion of the rule provisions and evaluations has been provided in the proposed rule and in the technical support document (TSD), dated April 1, 1999, which is available at EPA's Region IX office.

III. Response to Public Comments

A 30-day public comment period was provided in 64 FR 18858. No comments were submitted to EPA during the comment period, which ended on May 17, 1999.

IV. EPA Action

EPA is finalizing this action to approve the above rules for inclusion into the California SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of section 110(a) and parts C and D of the CAA. This approval action will incorporate these rules into the Federally approved SIP. The intended effect of approving these rules is to regulate stationary sources in accordance with the requirements of the CAA.

V. 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 [proposed/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 [On signature page-add header and suppress page #] for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 30, 1999. 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, Nitrogen dioxide, 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: June 9, 1999.

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)(168)(i)(F)(2), (c)(173)(i)(C)(2), (c)(196)(i)(E), (c)(224)(i)(D), (c)(224)(i)(A)(3) and (c)(258)(i)(A)(2) to read as follows:

§ 52.220 Identification of plan.

- * * * * *
- (c) * * *
- (168) * * *
- (i) * * *
- (F) * * *
- (2) Rule 204, amended on July 17, 1985.
- * * * * *
- (173) * * *
- (i) * * *
- (C) * * *
- (2) Rule 200, amended on December 17, 1986.
- * * * * *
- (196) * * *
- (i) * * *
- (E) Monterey Bay Unified Air Pollution Control District.
- (1) Rule 213, amended on February 16, 1994.
- * * * * *
- (224) * * *
- (i) * * *
- (D) Monterey Bay Unified Air Pollution Control District.
- (1) Rule 436, adopted on May 17, 1995.
- * * * * *
- (244) * * *
- (i) * * *
- (A) * * *
- (3) Rule 207, amended on December 18, 1996.
- * * * * *
- (258) * * *
- (i) * * *
- (A) * * *
- (2) Rule 215, amended on March 26, 1997.
- * * * * *

[FR Doc. 99–15546 Filed 6–30–99; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register

Vol. 64, No. 126

Thursday, July 1, 1999

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

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-105327-99]

RIN 1545-AX03

Qualified Zone Academy Bonds; Obligations of States and Political Subdivisions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations providing guidance to holders and issuers of qualified zone academy bonds. These proposed regulations would change the method of ascertaining the qualified zone academy bond credit rate and would provide reimbursement rules. State and local governments that issue qualified zone academy bonds would be affected by these proposed regulations. The text of the temporary regulations also serves as the text of these proposed regulations. This document also provides a notice of public hearing on these proposed regulations.

DATES: Written and electronic comments must be received by September 29, 1999. Outlines of topics to be discussed at the public hearing scheduled for November 9, 1999, at 10 a.m. must be received by October 19, 1999.

ADDRESSES: Send Submissions to: CC:DOM:CORP:R (REG-105327-99),

room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-105327-99), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/tax_regs/reglist.html. The public hearing will be held in the room 2615, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Timothy L. Jones at 202-622-3980; concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing, Michael Slaughter at 202-622-7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 226(a) of the Taxpayer Relief Act of 1997, Public Law 105-34 (111 Stat. 788) amended the Internal Revenue Code by redesignating section 1397E as 1397F and adding a new section 1397E. Section 1397E authorizes a new type of debt instrument known as a qualified zone academy bond. Temporary Regulations (TD 8755) interpreting section 1397E were published on January 7, 1998 (63 FR 671), as § 1.1397E-1T.

Temporary regulations amending § 1.1397E-1T are published in the Rules and Regulations portion of this issue of the Federal Register. Section 1.1397E-1T is amended by revising paragraphs (b) and (j), redesignating paragraph (h) as paragraph (i) and adding new paragraph (h). The text of the temporary regulations also serves as the text of these proposed regulations. An explanation of the regulations may be

found in the preamble of the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply. The Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply because these regulations do not impose a collection of information on small entities. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written or electronic comments (a signed original and eight (8) copies, if written) that are submitted timely to the IRS. The IRS and Treasury specifically request comments on the clarity of the proposed regulations and how the regulations may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for November 19, 1999, beginning at 10 a.m. in room 2615 of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to

attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written comments by September 29, 1999 and submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by October 19, 1999. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Timothy L. Jones, Office of Assistant Chief Counsel (Financial Institutions & Products). However, other personnel from IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.1397E-1 as proposed to be added at 63 FR 708 is amended by:

1. Revising paragraphs (b) and (j);
2. Redesignating paragraph (h) as paragraph (i);
3. Adding new paragraph (h).

The revisions and addition read as follows:

§ 1.1397E-1 Qualified zone academy bonds.

[The text of proposed paragraphs (b), (h) and (j) is the same as the text of

§ 1.1397E-1T(b), (h), and (j) published elsewhere in this issue of the **Federal Register**.]

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 99-16622 Filed 6-30-99; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. RSPA-98-4868, Notice 3]

RIN 2137-AB15

Gas Gathering Line Definition

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of extension of public comment period.

SUMMARY: This notice announces an extension to October 8, 1999 for RSPA's public comment period for identifying issues related to gas gathering lines.

DATES: Submit comments to the docket on or before October 8, 1999.

ADDRESSES: Address written comments to the Dockets Management System, U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW, Washington, DC 20590-0001. Comments should identify the Docket No. RSPA-98-4868. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped postcard.

The Dockets Management System is located on the Plaza Level of the Department of Transportation's Nassif Building at 400 Seventh Street, SW, Washington, DC. Public dockets may be reviewed in person between the hours of 10:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. In addition, the public may also review comments by accessing the Docket Management System's home page at <http://dms.dot.gov>. An electronic copy of any document may be downloaded

from the Government Printing Office Electronic Bulletin Board Service at (202) 512-1661.

FOR FURTHER INFORMATION CONTACT: L.E. Herrick, (202) 366-5523, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590-0001.

SUPPLEMENTARY INFORMATION: On 11 March, 1999, we published a notice in the **Federal Register** announcing an Internet public discussion forum on gas gathering for the purposes of pipeline safety regulation (64 FR, 12147-12148, March 11, 1999). This Internet discussion forum was scheduled from April 13, 1999 through May 3, 1999. In addition to the Internet discussion forum, we provided the opportunity for interested persons to submit comment to a rulemaking docket. This rulemaking docket comment period was scheduled to close on April 28, 1999. At the request of several participants in the Internet discussion forum, we extended the forum for an additional three weeks until May 17, 1999. In order to provide sufficient opportunity for review of the discussion forum we extended the rulemaking docket comment period to July 7, 1999 (64 FR 23256, April 30, 1999).

On June 22, 1999, we received a request from the American Petroleum Institute (API) to further extend the comment period an additional 90 days. API stated that an industry coalition had been formed to address our request for comments. The coalition includes representation from the American Petroleum Institute, the Gas Processors Association, the Appalachia Producers Association, the Independent Petroleum Association of America, oil and gas associations from Ohio, Texas, Oklahoma, Kansas, Alaska, Colorado, and others. According to API, the coalition members plan to file written comments after reaching a consensus that addresses industry concerns. However, due to the complexity of the issue, the summer schedule, and to ensure that the comments reflect a broad consensus within the petroleum industry and with state and local interests, a 90-day extension to the comment period was needed.

We commend the API for taking steps to insure that this issue is addressed thoroughly. Therefore we are granting a 90-day extension.

Issued in Washington, DC on June 25, 1999.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 99-16806 Filed 6-30-99; 8:45 am]

BILLING CODE 4910-60-P

Notices

Federal Register

Vol. 64, No. 126

Thursday, July 1, 1999

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

Office of the Secretary

Commission on 21st Century Production Agriculture Meeting

AGENCY: Office of the Secretary, Agriculture.

ACTION: Notice of meeting.

SUMMARY: The U.S. Department of Agriculture (USDA) has established the Commission on 21st Century Production Agriculture. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (FACA), notice is hereby given of the sixth meeting of the Commission on 21st Century Production Agriculture. The purpose of this meeting is to prepare for the Commission's final report on the effects of the Federal Agriculture Improvement and Reform Act of 1996 and any other necessary business. This meeting will be open to the public.

PLACE, DATE, AND TIME OF MEETING: The meeting will be held in Room 221-A, Jamie L. Whitten Federal Building, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Washington, D.C. 20250, from 8:30–5:00 EST on July 8, 1999, and 8:30 am–12 noon EST on July 9, 1999.

FOR FURTHER INFORMATION CONTACT: Tim Peters (202–720–4860), Assistant Director, Commission on 21st Century Production Agriculture, c/o Office of the Chief Economist, or Keith J. Collins (202–720–5955), Chief Economist, Room 3702, South Building, 1400 Independence Avenue., Washington, D.C. 20250–0524.

Dated: June 21, 1999.

Keith J. Collins

Chief Economist

[FR Doc. 99–16775 Filed 6–30–99; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of the National Agricultural Research, Extension, Education, and Economics Advisory Board Northeast Regional Listening Session

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of *Listening Session*.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., the United States Department of Agriculture announces a *Northeast Regional Listening Session* of the National Agricultural Research, Extension, Education, and Economics Advisory Board.

SUPPLEMENTARY INFORMATION: The National Agricultural Research, Extension, Education, and Economics Advisory Board, which represents 30 constituent categories, as specified in section 802 of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. No. 104–127), will send representatives of its membership (6 members, the Executive Director, a Representative from the Research, Education, and Economics Mission area, and a USDA administrative support person) to the Joint Northeast Region Sections Conference to hold a *Northeast Regional Listening Session*, 8:00 a.m. until noon on July 12, 1999.

The *Northeast Regional Listening Session* will engage northeast regional stakeholders (small farmers, producers/ranchers, academia including 1890 and 1994 institutions, the private sector, and other stakeholder groups) in panel sessions to present statements to Advisory Board members on agricultural research and education priorities and other issues of significant concern to the Northeast Region. Findings of this *Listening Session* will be presented to the full Advisory Board for consideration in its ongoing effort to advise USDA on future agricultural research and education priorities. Time will be allowed at the end of *Listening Session* panels for open discussion and audience participation.

Dates: *Northeast Regional Listening Session*, July 12, 1999, 8:00 a.m. until noon.

Place: Sheraton Harborside Hotel, Portsmouth, NH.

Type of Meeting: Open to the public.

Comments: The public may file written comments before or within 2 weeks after the meeting with the contact person. All statements will become a part of the official records of the National Agricultural Research, Extension, Education, and Economics Advisory Board and will be kept on file for public review in the Office of the Advisory Board; Research, Education, and Economics; U.S. Department of Agriculture; Washington, D.C. 20250–2255.

FOR FURTHER INFORMATION CONTACT: Deborah Hanfman, Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board, Research, Education, and Economics Advisory Board Office, Room 3918 South Building, U.S. Department of Agriculture, STOP: 2255, 1400 Independence Avenue, SW, Washington, DC 20250–2255. Telephone: 202–720–3684. Fax: 202–720–6199, or e-mail: lshea@reeusda.gov.

Done at Washington, D.C. this 23rd day of June 1999.

I. Miley Gonzalez,

Under Secretary, Research, Education, and Economics.

[FR Doc. 99–16748 Filed 6–30–99; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Food Distribution Program: Substitution of Donated Poultry With Commercial Poultry

AGENCY: Food and Nutrition Service, USDA

ACTION: Notice.

SUMMARY: This notice announces the Food and Nutrition Service's (FNS) intent to continue a demonstration project to test program changes designed to improve the State processing of donated poultry by allowing the substitution of donated poultry supplied by the Department of Agriculture (the Department) with commercial poultry. The Department is currently operating a demonstration project that allows selected poultry processors to substitute commercial poultry for donated poultry in the State processing of donated poultry. Only bulk pack poultry and poultry parts are eligible for substitution under the current demonstration

project. Notice of the project, which has operated from February 1, 1996 through June 30, 1997, was first published in the **Federal Register** at 61 FR 5373 on February 12, 1996. The project was then expanded and extended through June 30, 1999 (62 FR 25885). Under the demonstration project, FNS invoked its authority under 7 CFR 250.30(t) to waive the current prohibition at 7 CFR 250.30(f)(1)(i) against the substitution of poultry items and to establish the criteria under which substitution will be permitted.

The Department will continue to operate the demonstration project from July 1, 1999 through June 30, 2000. The Department will use the results of the demonstration project to further examine whether allowing the substitution will result in increased processor participation and provide a greater variety of processed end products to recipient agencies in a more timely manner at lower costs. The Department believes that the demonstration is providing additional benefits to the program recipients currently. However, the Food Distribution Division has undertaken a complete review of the current program through Business Process Reengineering (BPR). Recommendations for program change will be forthcoming and the issues regarding substitution of all donated foods will be a priority topic of discussion.

DATES: The proposals described in this Notice may be submitted to FNS through December 30, 1999. Note that the demonstration project runs until June 30, 2000.

ADDRESSES: Proposals should be sent to David Brothers, Program Analyst, Schools and Institutions Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Park Office Center, 3101 Park Center Drive, Alexandria, Virginia 22302-1594.

FOR FURTHER INFORMATION CONTACT: David Brothers, Schools and Institutions Branch, at (703) 305-2644.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This notice has been determined to be not significant and therefore was not reviewed by the Office of Management and Budget under Executive Order 12866.

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance under 10.550 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation

with State and local officials (7 CFR part 3015, subpart V and final rule-related notices published at 48 FR 29114, June 24, 1983 and 49 FR 22675, May 31, 1984).

Regulatory Flexibility Act

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601-612) and is thus exempt from the provisions of that Act.

Background

Section 250.30 of the current Food Distribution Program regulations (7 CFR part 250) sets forth the terms and conditions under which distributing agencies, subdistributing agencies, or recipient agencies may enter into contracts for processing donated foods and prescribes the minimum requirements to be included in such contracts. Section 250.30(t) authorizes FNS to waive any of the requirements contained in 7 CFR part 250 for the purpose of conducting demonstration projects to test program changes designed to improve the State processing of donated foods.

Current Program Requirements

The State processing regulations at § 250.30(f)(1)(i) currently allow for the substitution of certain specified donated food items with commercial foods, with the exception of meat and poultry. Under the current regulations at § 250.30(g), when donated meat or poultry products are processed or when any commercial meat or poultry products are incorporated into an end product containing one or more donated foods, all of the processing is required to be performed in plants under continuous Federal meat or poultry inspection or continuous State meat or poultry inspection in States certified to have programs at least equal to the Federal inspection programs. In addition to Food Safety Inspection Service (FSIS) inspection, all donated meat and poultry processing must be performed under Agricultural Marketing Service (AMS) acceptance service grading.

Traditionally only a few companies have processed donated poultry. Those processors have stated that the policy prohibiting the substitution of donated poultry reduces the quantity of donated poultry they are able to accept and process during a given period. Poultry purchased by USDA for further processing is bulk chill packed. Processors must schedule production around deliveries of the donated poultry because it is a highly perishable product. Some of the processors must schedule production around deliveries

of donated poultry for up to 30 individual States. Vendors do not always deliver donated poultry to the processors as scheduled, causing delays in production of end products. These delays may be alleviated if the processors can substitute their commercial poultry for donated poultry.

Demonstration Project

From July 1, 1999 to June 30, 2000, the Department will continue to operate a demonstration project under which it will permit approved processors to substitute commercial poultry for donated poultry in the State processing of donated poultry. Processors may submit proposals and be approved to participate in the demonstration project during this time. FNS is invoking its authority under 7 CFR 250.30(t) to waive the current prohibition in 7 CFR 250.30(f)(1)(i) against the substitution of poultry for purposes of this demonstration project.

The demonstration project will continue to be limited to bulk pack poultry and poultry parts because the processing of such items can be readily evaluated. The definition of substitution in § 250.3 requires the replacement of commercial product for donated food to be of the same generic identity and equal or better quality.

FNS is inviting interested poultry processors to submit written proposals to participate in the demonstration project. The following basic requirements will apply to the demonstration project:

- As with the processing of donated poultry into end products, AMS graders must monitor the processing of any substituted commercial poultry to ensure program integrity is maintained.

- Only bulk pack poultry and poultry parts delivered by USDA vendors to the processor will be eligible for substitution. No backhauled product will be eligible. (Backhauled product is typically cut-up frozen poultry parts delivered to schools which may be turned over to processors for further processing at a later time.)

- Commercial poultry substituted for donated poultry must be certified by an AMS grader as complying with all product specifications for the donated poultry.

- Substitution of commercial poultry may occur in advance of the actual receipt of the donated poultry by the processor. However, no substitution may occur before the product is purchased by USDA and the contract is awarded. Lead time between the purchase and delivery of donated poultry may be up to five weeks. Any variation between the amount of

commercial poultry substituted and the amount of donated poultry received by the processor will be adjusted according to guidelines furnished by USDA.

- Any donated poultry not used in end products because of substitution must only be used by the processor at one of its facilities in other commercial processed products and cannot be sold as an intact unit. However, in lieu of processing the donated poultry, the processor may use the product to fulfill other contracts with USDA provided all terms of the other contract are met.

- The only regulatory provision or State processing contract term affected by the demonstration project is the prohibition on substitution of poultry (§ 250.30(f)(1)(i) of the regulations). All other regulatory and contract requirements remain unchanged and must still be met by processors participating in the demonstration project.

The demonstration project will enable FNS to evaluate whether to amend program regulations to provide for the substitution of donated poultry with commercial poultry in the State processing program. Particular attention will be paid to whether such an amendment of the regulations would probably increase the number of processors participating, and whether it would probably increase the quantity of donated poultry that each processor accepts for processing. Further, FNS will attempt to determine whether the expected increase in competition and the expected increase in the quantity of donated poultry accepted for processing enables processors to function more efficiently, producing a greater variety of processed poultry end products in a more timely manner at lower costs.

The data gathered to date from recipient agencies, AMS graders, and AMS procurement has been positive. The data suggests that given additional time, more poultry processors will decide to participate.

Interested processors should submit a written proposal to FNS outlining how they plan to carry out the substitution while complying with the above conditions. Processors who are currently participating in the demonstration should apply to continue in the demonstration. The proposal must contain (1) a step-by-step description of how production will be monitored (2) a complete description of the records that will be maintained for (a) the commercial poultry substituted for the donated poultry (b) the disposition of the donated poultry delivered. All proposals will be reviewed by representatives of the Food Distribution Division of FNS and by

representatives of AMS Poultry Division's Grading Branch. Companies approved for participation in the demonstration project will be required to enter into an agreement with FNS and AMS which authorizes the processor to substitute commercial bulk pack poultry and poultry parts in fulfilling any current or future State processing contracts during the demonstration project period. Participation in the demonstration project will not ensure the processor will receive any State processing contracts.

Dated: June 24, 1999.

Samuel Chambers, Jr.,

Administrator, Food and Nutrition Service.

[FR Doc. 99-16761 Filed 6-30-99; 8:45 am]

BILLING CODE 3410-30-P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces that the Foreign Agricultural Service (FAS) intends to request an extension for a currently approved information collection procedure for Sugar Import Licensing Programs described in 7 CFR part 1530.

DATES: Comments on this notice must be received on or before August 30, 1999 to be assured of consideration.

ADDRESSES: Mail or deliver comments to Stephen C. Hammond, Director, Import Policies and Programs Division, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1021, 1400 Independence Ave SW, Washington DC 20250-1021, telephone (202) 720-2916.

FOR FURTHER INFORMATION CONTACT:

David J. Williams, Licensing Authority, Stop 1021, 1400 Independence Ave SW, Washington DC 20250-1021, (202) 720-2916.

SUPPLEMENTARY INFORMATION:

Title: Sugar to be Imported and Re-exported in Refined Form or in Sugar Containing Products or Used for the Production of Polyhydric Alcohol.

OMB Number: 0551-0015.

Expiration Date of Approval: November 30, 1999.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The primary objective of the Sugar Import Licensing Program is to permit entry of raw cane sugar exempt from the sugar tariff-rate quota for re-export in refined form or in a sugar containing product or for the production of certain polyhydric alcohols. These programs are in use by as many as 400 licensees currently eligible to participate. Under 7 CFR part 1530, licensees are required to submit the following: (1) "Application for a license" information required for participation as outlined in sections 1530.104 and 1530.110, (2) "Regular reporting" of import, export, transfer, or use for charges and credits to licenses under section 1530.109, and (3) "miscellaneous submission" of bonds or letters credit under section 1530.107, appeals to determinations by the licensing authority under section 1530.112, or requests to the licensing authority for waivers under section 1530.113. In addition, each participant must maintain records on all program reports as set forth in section 1530.110. The information collected is used by the licensing authority to manage, plan, evaluate and account for program activities. The reports and records are required to ensure the proper operation of these programs.

Estimate of Burden: (1) "application for a license" would require 20 hours per response; (2) "regular reporting" would require between 10 and 15 minutes per transaction. The number of transactions per respondent will vary; (3) "miscellaneous submission" would require between 1 or 2 hours per bond or letter of credit, 2 to 10 hours per waiver request, and 10 to 100 hours per appeal.

Respondents: Sugar refiners, manufacturers of sugar containing products and producers of polyhydric alcohol.

Estimated Number of Respondents: 250.

Estimated Number of Responses per Respondent: New/Renew License: 1; Regular reporting: 75 transactions, average; Miscellaneous: 50/250 bonds/letters of credit; 5/250 waiver requests; and 0/250 appeals.

Estimated Total Burden Hours on Respondents: 8,230 hours.

Copies of this information collection can be obtained from Kimberly Chisley, the Agency Information Collection Coordinator, at (202) 720-2568.

Request for Comments

The public is invited to submit comments and suggestions to the above address regarding the accuracy of the burden estimate, ways to minimize the burden, including the use of automated

collection techniques or other forms of information technology, or any other aspect of this collection of information. Comments on issues covered by the Paperwork Reduction Act are most useful to OMB if received within 30 days of publication of the Notice and Request for Comments, but must be submitted no later than 60 days from the date of publication to be assured consideration. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also be a matter of public record.

Signed at Washington, DC, on June 22, 1999.

Timothy J. Galvin,

Administrator, Foreign Agricultural Service.

[FR Doc. 99-16746 Filed 6-30-99; 8:45 am]

BILLING CODE 3410-10-P

DEPARTMENT OF AGRICULTURE

Forest Service

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT-050-1430-01-24-1A]

Quitcupah Creek Road, UTU-57907, Fishlake National Forest and Bureau of Land Management, Richfield District, Sevier and Emery Counties, Utah

ACTION: Notice of intent to prepare a third-party environmental impact statement.

SUMMARY: The Forest Service and Bureau of Land Management will jointly direct preparation of a Third-Party Environmental Impact Statement (EIS) to document the analysis and disclose the environmental and human effects of proposed actions to upgrade and realign an existing road/trail through Quitcupah Canyon, Sevier and Emery Counties, Utah. The road crosses public land parcels administered by the Forest Service, the Bureau of Land Management, and the State of Utah, as well as land that is privately owned.

The 9.2-mile Quitcupah Creek Road would connect State Road 10 in T 22 S, R 6 E, Section 30 of Emery County, with an existing Sevier County road in T 22 S, R 4 E, Section 11. This Sevier County road in Convulsion Canyon is utilized predominantly for hauling coal from the SUFCO Mine.

Currently, the Quitcupah Creek Road is unpaved, and is only maintained over the lower 3 to 4 miles.

Within the Quitcupah Creek canyon area, steep cut slopes, the incised stream channel, and erodible soils have

recently rendered the road impassable by vehicles. Livestock are trailed through the canyon seasonally; other users are primarily local recreationists and/or hunters.

Agency Decisions

Separate Records of Decision would be issued by the Forest Service and Bureau of Land Management on whether or not to grant right-of-way to Sevier County and under what terms and conditions.

DATES: Written comments concerning the scope of the analysis described in this Notice should be received on or before July 31, 1999.

ADDRESSES: Send written comments to JBR Environmental Consultants, Inc., 8160 South Highland Drive, Suite A-4, Sandy, Utah 84093.

FOR FURTHER INFORMATION CONTACT: Kay Erickson, Bureau of Land Management, Richfield District, (435) 896-1500; or Linda Jackson, Fishlake National Forest, Richfield, (435) 896-9233.

SUPPLEMENTARY INFORMATION: Sevier County has proposed to upgrade the Quitcupah Creek Road as an additional, shorter haul road for trucks entering Emery County from Canyon Fuels' SUFCO Mine. The Mine would be the primary user of the upgraded road. The road would also provide access to the Accord Lakes area, and a shorter route for those in the Emery area traveling west toward Salina and I-15.

The proposed project would generally follow the existing Quitcupah Creek Road alignment. However, where needed to avoid archeological sites or other constraints to widening, short reaches of the road are proposed to be realigned. Given the proximity of the existing road with Quitcupah Creek in the narrow canyon bottom, it is anticipated that stream crossings would be required.

When completed, the road would have a 26-foot wide paved surface. The corridor width to be disturbed during construction would be expected to average about 100 feet. In addition, several construction equipment staging areas would be required, and would be located along the road corridor. Borrow sites to obtain fill material would also be needed and they may be located adjacent to the project area. The disturbed area associated with this project is expected to be less than 200 acres.

Preliminary Issues

Initially identified issues of concern include: archaeological resources, wildlife, livestock, land use, sensitive

species, wetlands and riparian habitat, stream quality, and socioeconomics.

Possible Alternatives

The EIS will analyze the Proposed Action and No Action Alternatives. Other alternatives may include altering portions of the route, or designing parameters to provide mitigation for resources of concern.

Tentative Project Schedule

The tentative project schedule is as follows:

- Begin Public Comment Period—July, 1999.
- Hold Public Scoping Meetings—July, 1999.
- File Draft EIS—March, 2000.
- File Final EIS—June, 2000.
- Record of Decision—July, 2000.

Public Scoping Meetings

Two public scoping meetings will be held in Utah, each an open house type meeting from 7:00 p.m.—9:00 p.m. The open house will include displays explaining the project and a forum for commenting on the project. The meetings will be held as follows:

- July 21, 1999—Museum of the San Rafael, Castle Dale, Utah.
- July 22, 1999—Quality Inn, Richfield, Utah.

Public Input Requested

Comments concerning the Proposed Action and EIS should address issues to be considered, feasible alternatives to examine, possible mitigation, and information relevant to or having bearing on the Proposed Action.

Dated: June 23, 1999.

Ron Sanden,

Acting Forest Supervisor, Fishlake National Forest.

Dave Henderson,

Acting Field Manager, Richfield Bureau of Land Management Field Office.

[FR Doc. 99-16713 Filed 6-30-99; 8:45 am]

BILLING CODE 4310-DQ-P

DEPARTMENT OF AGRICULTURE

Forest Service

Revised Notice of Intent To Prepare an Environmental Impact Statement; Indian River Timber Sale(s), Sitka and Hoonah Ranger Districts, Tongass National Forest, Sitka, AK

AGENCY: Forest Service, USDA.

ACTION: Revised notice of intent.

SUMMARY: The Department of Agriculture, Forest Service will prepare a Final Environmental Impact Statement

for the Indian River Timber Sale(s) Project, located on the Sitka and Hoonah Ranger Districts, Tongass National Forest. This Notice of Intent revises the schedule for decision and designates a responsible official different from the one described in the Notice of Intent published November 1, 1995 (**Federal Register**: Volume 60, Number 211, Pages 55538–55540).

FOR FURTHER INFORMATION CONTACT: Linn Shipley, Team Leader, Assistant Forest Supervisors' Office, 204 Signaka Way, Sitka, AK 99835, phone (907) 747–6671, FAX (907) 747–4331, email: lshipley/r10_chatham@fs.fed.us.

Decisions To Be Made

Fred S. Salinas, Assistant Forest Supervisor of the Tongass National Forest, is now the responsible official and will decide whether or not to authorize timber harvest within the Indian River Project Area. In addition, if timber harvest will occur, he will determine the following: (1) Whether the design of the timber sale(s) is consistent with meeting resource protection standards and guidelines in the modified 1997 Tongass Land and Resource Management Plan and the 1999 Record of Decision; (2) how much timber volume will be made available and what are the effects of the planned activities; (3) the location and design of the timber harvest units, log transfer facilities, and road system; (4) mitigation and monitoring required for sound resource management; (5) whether there is a significant possibility of a significant restriction on subsistence uses; and (6) road management objectives, including closures for resource protection and economics.

The Final Environmental Impact Statement and Record of Decision is expected to be released by August 1999. The Responsible Official will make a decision regarding this project after considering public comments, the environmental consequences displayed in the Final Environmental Impact Statement, and applicable laws, regulations, and policies. The decision and supporting reasons will be documented in the Record of Decision.

Dated: June 21, 1999.

Fred S. Salinas,

Assistant Forest Supervisor.

[FR Doc. 99–16715 Filed 6–30–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Oregon Province Interagency Executive Committee (PIEC) Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Oregon PIEC Advisory Committee will meet on July 14, 1999 at Diamond Lake Resort (east of Roseburg, Oregon).

The meeting will begin at 9:00 a.m. and continue until 4:30 p.m. Agenda items to be covered include: (1) Umpqua River Basin Land Exchange Project; (2) Aquatic Conservation Strategy; (3) Basin watershed restoration technical team development; (4) Diamond Lake rehabilitation; (5) Public comment; and (6) Current issues as perceived by Advisory Committee members.

FOR FURTHER INFORMATION CONTACT:

Direct questions regarding this meeting to Chuck Anderson, Province Advisory Committee Coordinator, USDA, Forest Service, Rogue River National Forest, 333 W. 8th Street, Medford, Oregon 97501, phone (541) 858–2322.

Dated: June 23, 1999.

Charles J. Anderson,

Acting Designated Federal Official.

[FR Doc. 99–16791 Filed 6–30–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the California, Kankakee (IL), Washington, Alabama, and Springfield (IL) Areas and Request for Comments on the California, Kankakee (IL), Washington, Alabama, and Springfield (IL) Agencies

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: The designations of the official agencies listed below will end in January and February 2000. GIPSA is asking persons interested in providing official services in the areas served by these agencies to submit an application for designation. GIPSA is also asking for

comments on the services provided by these currently designated agencies:

California Department of Food and Agriculture (California);

Kankakee Grain Inspection, Inc. (Kankakee);

Washington Department of Agriculture (Washington);

Alabama Department of Agriculture and Industries (Alabama); and

Springfield Grain Inspection, Inc. (Springfield).

DATES: Applications and comments must be postmarked or sent by telecopier (FAX) on or before July 30, 1999.

ADDRESSES: Applications and comments must be submitted to USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, SW, Washington, DC 20250–3604. Applications and comments may be submitted by FAX on 202–690–2755. If an application is submitted by FAX, GIPSA reserves the right to request an original application. All applications and comments will be made available for public inspection at this address located at 1400 Independence Avenue, SW, during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, at 202–720–8525.

SUPPLEMENTARY INFORMATION: This Action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this Action.

Section 7(f)(1) of the United States Grain Standards Act, as amended (Act), authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act.

1. Current Designations Being Announced for Renewal

Official agency	Main office	Designation start	Designation end
California	Sacramento, CA	2/1/1997	1/31/2000
Kankakee	Bourbonnais, IL	2/1/1997	1/31/2000
Washington	Olympia, WA	2/1/1997	1/31/2000
Alabama	Mobile, AL	3/1/1997	2/29/2000
Springfield	Springfield, IL	4/1/1997	2/29/2000

a. Pursuant to Section 7(f)(2) of the Act, the following geographic area is assigned to California. The entire State of California, except those export port locations within the State which are serviced by GIPSA, and the geographic area assigned to the Los Angeles Grain Inspection Service, Inc., which is as follows:

Bounded on the North by the Angeles National Forest southern boundary from State Route 2 east; the San Bernadino National Forest southern boundary east to State Route 79;

Bounded on the East by State Route 79 south to State Route 74;

Bounded on the South by State Route 74 west-southwest to Interstate 5; Interstate 5 northwest to Interstate 405; Interstate 405 northwest to State Route 55; State Route 55 northeast to Interstate 5; Interstate 5 northwest to State Route 91; State Route 91 west to State Route 11; and

Bounded on the West by State Route 11 north to U.S. Route 66; U.S. Route 66 west to Interstate 210; Interstate 210 northwest to State Route 2; State Route 2 north to the Angeles National Forest boundary.

b. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the State of Illinois, is assigned to Kankakee.

Bounded on the North by the northern Bureau County line; the northern LaSalle and Grundy County lines; the northern Will County line east-southeast to Interstate 57;

Bounded on the East by Interstate 57 south to U.S. Route 52; U.S. Route 52 south to the Kankakee County line;

Bounded on the South by the southern Kankakee and Grundy County lines; the southern LaSalle County line west to State Route 17; State Route 17 west to U.S. Route 51; U.S. Route 51 north to State Route 18; State Route 18 west to State Route 26; State Route 26 south to State Route 116; State Route 116 south to Interstate 74; Interstate 74 west to the western Peoria County line; and

Bounded on the West by the western Peoria and Stark County lines; the northern Stark County line east to State Route 88; State Route 88 north to the Bureau County line.

c. Pursuant to Section 7(f)(2) of the Act, the following geographic area, the entire State of Washington, except those export port locations within the State, is assigned to Washington.

d. Pursuant to Section 7(f)(2) of the Act, the following geographic area, the entire State of Alabama, except those export port locations within the State, is assigned to Alabama.

e. Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the State of Illinois, is assigned to Springfield.

Bounded on the North by the northern Schuyler, Cass, and Menard County lines; the western Logan County line north to State Route 10; State Route 10 east to the west side of Beason;

Bounded on the East by a straight line from the west side of Beason southwest to Elkhart on Interstate 55; a straight line from Elkhart southeast to Stonington on State Route 48; a straight line from Stonington southwest to Irving on State Route 16;

Bounded on the South by State Route 16 west to the eastern Macoupin County line; the eastern, southern, and western Macoupin County lines; the southern and western Greene County lines; the southern Pike County line; and

Bounded on the West by the western Pike County line west to U.S. route 54; U.S. Route 54 northeast to State Route 107; State Route 107 northeast to State Route 104; State Route 104 east to the western Morgan County line. The western Morgan, Cass, and Schuyler County lines.

The following grain elevator, located outside of the above contiguous geographic area, is part of this geographic area assignment: East Lincoln Farmers Grain Co., Lincoln, Logan County (located inside Central Illinois Grain Inspection, Inc.'s, area).

2. Opportunity for Designation

Interested persons, including California, Kankakee, Washington, Alabama, and Springfield, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder.

DESIGNATION TERM

California	02/01/2000 to 12/31/2002.
Kankakee	02/01/2000 to 12/31/2002.
Washington	02/01/2000 to 12/31/2002.
Alabama	03/01/2000 to 12/31/2002.
Springfield	03/01/2000 to 12/31/2002.

Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

3. Request for Comments

GIPSA also is publishing this notice to provide interested persons the opportunity to present comments on the California, Kankakee, Washington, Alabama, and Springfield official agencies. Commenters are encouraged to submit pertinent data concerning the California, Kankakee, Washington, Alabama, and Springfield official agencies including information on the timeliness, cost, quality, and scope of services provided. All comments must be submitted to the Compliance Division at the above address.

Applications, comments, and other available information will be considered in determining which applicant will be designated.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: June 22, 1999.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 99-16582 Filed 6-30-99; 8:45 am]

BILLING CODE 3410-EN-P

COMMISSION ON CIVIL RIGHTS**Agenda and Notice of Public Meeting of the Maine Advisory Committee**

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:30 p.m. on July 19, 1999, at the Ramada Inn, 357 Odlin Road, Bangor, Maine 04401. The purpose of the meeting is to review the final draft of the report, "Limited English Proficient

Students in Maine: An Assessment of Equal Educational Opportunities." The Committee will also discuss plans for a new project.

Persons desiring additional information, or planning a presentation to the Committee, should contact or Ki-Taek Chun, Director of the Eastern Regional Office, 202-376-7533 (TDD 202-376-8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 25, 1999.

Carol-Lee Hurley,
Chief, Regional Programs Coordination Unit.
[FR Doc. 99-16716 Filed 6-30-99; 8:45 am]

BILLING CODE 6335-01-P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Montana Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Montana Advisory Committee to the Commission will convene at 1:30 p.m. and adjourn at 4 p.m. on August 24, 1999, at the Sheraton Hotel, 27 North 27th Street, Billings, Montana 59101. The purpose of the meeting is to review the current project on equal educational opportunities for Native American students in Montana public schools and to discuss current civil rights issues in Montana.

Persons desiring additional information, or planning a presentation to the Committee, should contact John Dulles, Director of the Rocky Mountain Regional Office, 303-866-1040 (TDD 303-866-1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 24, 1999.

Carol-Lee Hurley,
Chief, Regional Programs Coordination Unit.
[FR Doc. 99-16717 Filed 6-30-99; 8:45 am]

BILLING CODE 6335-01-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-802]

May 1999 Sunset Review: Final Results and Revocation

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

ACTION: Notice of final results of sunset review and revocation of antidumping duty order: 3.5" micro disks and coated media thereof from Japan (A-588-802).

SUMMARY: On May 3, 1999, the Department of Commerce ("the Department") initiated a sunset review of the antidumping duty order on 3.5" micro disks and coated media thereof from Japan. Because no domestic party responded with a complete substantive response to the sunset review notice of initiation by the applicable deadline, the Department is revoking this order.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482-6397 or (202) 482-1560, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department issued an antidumping duty order on 3.5" micro disks and coated media thereof from Japan on April 3, 1989 (54 FR 13406). Pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department initiated a sunset review of this order by publishing notice of the initiation in the **Federal Register** on May 3, 1999 (64 FR 23596). In addition, as a courtesy to interested parties, the Department sent letters, via certified and registered mail, to each party listed on the Department's most current service list for this proceeding to inform them of the automatic initiation of a sunset review on this order.

In the sunset review of 3.5" micro disks and coated media thereof from Japan we received a notice of intent to participate from Imation Enterprises Corporation ("Imation") by the May 18, 1999, deadline. We did not receive a complete substantive response from Imation by the June 2, 1999, deadline (see section 351.218(d)(1)(i) of *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR

13520 (March 20, 1998) ("*Sunset Regulations*"). Since the Department did not receive a complete substantive response from Imation or any other domestic interested party, the Department has determined that no domestic party intends to participate in this sunset review and has notified the International Trade Commission of our intent to publish a final determination revoking this order.

Determination To Revoke

Pursuant to section 751(c)(3)(A) of the Act and section 351.218(d)(1)(iii)(B)(3) of the *Sunset Regulations*, if no domestic interested party responds to the notice of initiation, the Department shall issue a final determination, within 90 days after the initiation of the review, revoking the finding or order or terminating the suspended investigation. Because we did not receive a complete substantive response from any domestic interested party by the applicable deadline, June 2, 1999, we are revoking this antidumping duty order.

Effective Date of Revocation and Termination

Pursuant to section 751(c)(6)(A)(iv) of the Act, the Department will instruct the United States Customs Service to terminate the suspension of liquidation of the merchandise subject to this order entered, or withdrawn from warehouse, on or after January 1, 2000. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping duty deposit requirements. The Department will complete any pending administrative reviews of this order and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

Dated: June 25, 1999.

Richard W. Moreland,
Acting Assistant Secretary for Import Administration.

[FR Doc. 99-16816 Filed 6-30-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year ("Sunset") Reviews

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

ACTION: Notice of initiation of five-year ("sunset") reviews.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended ("the Act"), the Department of Commerce ("the Department") is automatically initiating five-year ("sunset") reviews of the antidumping and countervailing duty orders or suspended investigations listed below. The International Trade Commission ("the Commission") is publishing

concurrently with this notice its notices of Institution of Five-Year Reviews covering these same orders.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, Scott E. Smith, or Martha V. Douthit, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482-1560, (202) 482-6397 or (202) 482-3207, respectively, or Vera Libeau, Office of Investigations, U.S. International Trade Commission, at (202) 205-3176.

SUPPLEMENTARY INFORMATION:

Initiation of Reviews

In accordance with 19 CFR 351.218 (see *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998)), we are initiating sunset reviews of the following antidumping and countervailing duty orders or suspended investigations:

DOC Case No.	ITC Case No.	Country	Product
A-570-803	A-45	China, PR	Bars, Wedges.
A-570-803	A-45	China, PR	Axes, Adzes.
A-570-803	A-45	China, PR	Picks, Mattocks.
A-570-803	A-45	China, PR	Hammers, Sledges.
A-570-805	A-466	China, PR	Sulfur Chemicals (Sodium Thiosulfate).
A-428-807	A-465	Germany	Sulfur Chemicals (Sodium Thiosulfate).
A-412-805	A-468	United Kingdom	Sulfur Chemicals (Sodium Thiosulfate).
C-469-004	C-178	Spain	Stainless Steel Wire Rods.
A-533-808	A-638	India	Stainless Steel Wire Rods.
A-351-819	A-636	Brazil	Stainless Steel Wire Rods.
A-427-811	A-637	France	Stainless Steel Wire Rods.
A-401-603	A-354	Sweden	Seamless Stainless Steel Hollow Products.
A-580-810	A-540	Korea (South)	Welded Stainless Steel Pipes.
A-583-815	A-541	Taiwan	Welded Stainless Steel Pipes.
A-403-801	A-454	Norway	Fresh & Chilled Atlantic Salmon.
C-403-802	C-302	Norway	Fresh & Chilled Atlantic Salmon.
A-580-807	A-459	Korea (South)	Polyethylene Terephthalate Film.
A-570-804	A-464	China, PR	Sparklers.
A-588-702	A-376	Japan	Stainless Steel Butt-Weld Pipe Fittings.
A-580-813	A-563	Korea (South)	Stainless Steel Butt-Weld Pipe Fittings.
A-583-816	A-564	Taiwan	Stainless Steel Butt-Weld Pipe Fittings.

Statute and Regulations

Pursuant to sections 751(c) and 752 of the Act, an antidumping ("AD") or countervailing duty ("CVD") order will be revoked, or the suspended investigation will be terminated, unless revocation or termination would be likely to lead to continuation or recurrence of (1) dumping or a countervailable subsidy, and (2) material injury to the domestic industry.

The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("Sunset Regulations"). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*; Policy Bulletin, 63 FR 18871 (April 16, 1998) ("Sunset Policy Bulletin").

Filing Information:

As a courtesy, we are making information related to sunset proceedings, including copies of the *Sunset Regulations* and *Sunset Policy Bulletin*, the Department's schedule of sunset reviews, case history information (e.g., previous margins, duty absorption determinations, scope language, import volumes), and service lists, available to the public on the Department's sunset internet website at the following address:

"http://www.ita.doc.gov/import_admin/records/sunset/".

All submissions in the sunset review must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303 (1998). Also, we suggest that parties check the Department's sunset website for any updates to the service list before filing any submissions. We ask that parties notify the Department in writing of any additions or corrections to the list. We also would appreciate written

notification if you no longer represent a party on the service list.

Because deadlines in a sunset review are, in many instances, very short, we urge interested parties to apply for access to proprietary information under administrative protective order ("APO") immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304-306 (see *Antidumping and Countervailing Duty Proceedings: Administrative Protective Order Procedures; Procedures for Imposing Sanctions for Violation of a Protective Order*, 63 FR 24391 (May 4, 1998)).

Information Required From Interested Parties

Domestic interested parties (defined in 19 CFR 351.102 (1998)) wishing to participate in the sunset review must respond not later than 15 days after the date of publication in the **Federal Register** of the notice of initiation by

filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth in the *Sunset Regulations* at 19 CFR 351.218(d)(1)(ii). We note that the Department considers each of the orders listed above as separate and distinct orders and, therefore, requires order-specific submissions. Because the case number is the same for four antidumping duty orders covering different products from China, we request that all submissions clearly identify the order for which the submission is being made by product name as listed above. In accordance with the *Sunset Regulations*, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.

If we receive a notice of intent to participate from a domestic interested party, the *Sunset Regulations* provide that *all parties* wishing to participate in the sunset review must file substantive responses not later than 30 days after the date of publication in the **Federal Register** of the notice of initiation. The required contents of a substantive response are set forth in the *Sunset Regulations* at 19 CFR 351.218(d)(3). Note that certain information requirements differ for foreign and domestic parties. Also, note that the Department's information requirements are distinct from the International Trade Commission's information requirements. Please consult the *Sunset Regulations* for information regarding the Department's conduct of sunset reviews.¹ Please consult the Department's regulations at 19 CFR Part 351 (1998) for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: June 15, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99-16817 Filed 6-30-99; 8:45 am]

BILLING CODE 3510-DS-P

¹ A number of parties commented that these interim-final regulations provided insufficient time for rebuttals to substantive responses to a notice of initiation (*Sunset Regulations*, 19 CFR 351.218(d)(4)). As provided in 19 CFR 351.302(b) (1998), the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

DEPARTMENT OF COMMERCE

International Trade Administration

[A-427-801, A-428-801, A-475-801, A-588-804, A-485-801, A-559-801, A-412-801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews

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

ACTION: Notice of final results of antidumping duty administrative reviews.

SUMMARY: On February 23, 1999, the Department of Commerce published the preliminary results of administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Romania, Sweden, and the United Kingdom. The classes or kinds of merchandise covered by these orders are ball bearings and parts thereof, cylindrical roller bearings and parts thereof, and spherical plain bearings and parts thereof. The reviews cover 21 manufacturers/exporters. The period of review is May 1, 1997, through April 30, 1998.

Based on our analysis of the comments received, we have made changes, including corrections of certain programming and other clerical errors, in the margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of the Reviews."

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION: Please contact the appropriate case analysts for the various respondent firms as listed below, at Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482-4733.

France

Lyn Johnson (SKF), Larry Tabash or Davina Hashmi (SNFA), J. David Dirstine (SNR), Robin Gray, or Richard Rimlinger.

Germany

Mark Ross (INA and Torrington Nadellager), Farah Naim or Davina

Hashmi (SKF), Thomas Schauer (FAG), Robin Gray, or Richard Rimlinger.

Italy

Anne Copper or J. David Dirstine (SKF), Edythe Artman or Mark Ross (FAG), Minoo Hatten (Somecat), Robin Gray, or Richard Rimlinger.

Japan

J. David Dirstine (Koyo and Nachi), Thomas Schauer (NTN), Davina Hashmi (NPBS), Diane Krawczun (NSK), Robin Gray, or Richard Rimlinger.

Romania

Suzanne Flood (TIE, S.A.) or Robin Gray.

Sweden

Davina Hashmi (SKF) or Richard Rimlinger.

United Kingdom

Stacey King (Barden), Diane Krawczun (NSK/RHP), Hermes Pinilla (FAG), Lyn Johnson (SNFA U.K.), Robin Gray, or Richard Rimlinger.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR Part 351 (1998).

Background

On February 23, 1999, the Department of Commerce (the Department) published the preliminary results of administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof (AFBs) from France, Germany, Italy, Japan, Romania, Sweden, and the United Kingdom (64 FR 8790). The reviews cover 21 manufacturers/exporters. The period of review (POR) is May 1, 1997, through April 30, 1998. We invited parties to comment on the preliminary results of reviews. At the request of certain interested parties, we held hearings for Germany-specific issues on April 1, 1999, and for Japan-specific issues on April 6, 1999. The Department has conducted these administrative reviews in accordance with section 751 of the Act.

Scope of Reviews

The products covered by these reviews are AFBs and constitute the

following classes or kinds of merchandise: ball bearings and parts thereof (BBs), cylindrical roller bearings and parts thereof (CRBs), and spherical plain bearings and parts thereof (SPBs). For a detailed description of the products covered under these classes or kinds of merchandise, including a compilation of all pertinent scope determinations, see the "Scope Appendix," which is appended to this notice of final results.

Duty Absorption

We have determined that duty absorption has occurred with respect to the following firms and with respect to the following percentages of sales which these firms made through their U.S. affiliated parties:

Name of firm	Class or kind	Percentage of U.S. affiliate's sales with dumping margins
France		
SKF	BBs	18.44
SNR	BBs	5.14
	CRBs	10.27

Name of firm	Class or kind	Percentage of U.S. affiliate's sales with dumping margins
Germany		
SKF	BBs	3.17
	CRBs	33.52
	SPBs	20.31
Torrington Nadellager.	CRBs	0.26
FAG	BBs	10.31
	CRBs	24.59
INA	BBs	9.14
	CRBs	9.24
	SPBs	3.53
Italy		
FAG	BBs	10.38
SKF	BBs	20.73
Japan		
Koyo	BBs	29.73
	CRBs	47.46
Nachi	BBs	43.96
	CRBs	8.04
NPBS	BBs	9.75
NSK	BBs	4.89
	CRBs	16.23
NTN	BBs	28.83
	CRBs	32.57
	SPBs	57.17

Name of firm	Class or kind	Percentage of U.S. affiliate's sales with dumping margins
Sweden		
SKF	BBs	4.16
	CRBs	100.00
United Kingdom		
Barden	BBs	19.43
NSK/RHP	BBs	31.46
	CRBs	47.88

For a discussion of our determination with respect to this matter, see the "Duty Absorption" section of the Issues Appendix.

Use of Facts Available

For a discussion of our application of facts available, see the "Facts Available" section of the Issues Appendix.

Sales Below Cost in the Home Market

The Department disregarded home-market sales that failed the cost test for the following firms and classes or kinds of merchandise for these final results of reviews:

Country	Company	Subject merchandise
France	SKF	BBs.
	SNR	BBs.
Germany	SKF	BBs, CRBs, SPBs.
	FAG	BBs, CRBs.
	INA	BBs, CRBs, SPBs.
Italy	FAG	BBs.
	SKF	BBs.
Japan	Koyo	BBs, CRBs.
	Nachi	BBs, CRBs.
	NSK	BBs, CRBs.
	NTN	BBs, CRBs, SPBs.
	NPBS	BBs.
Sweden	SKF	BBs.
United Kingdom	Barden	BBs.
	NSK-RHP	BBs, CRBs.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made revisions that have changed our results. We have corrected programming and clerical errors in our preliminary results, where applicable. Any alleged programming or clerical errors about which we or the parties do not agree are discussed in the relevant sections of the Issues Appendix.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to these concurrent administrative reviews of AFBs are addressed in the "Issues

Appendix," which is appended to this notice of final results.

Final Results of Reviews

We determine that the following percentage weighted-average margins exist for the period May 1, 1997, through April 30, 1998:

Company	BBs	CRBs	SPBs
France			
SKF	7.40	(2)	7.39
SNFA	0.41	0.21	(2)
SNR	0.31	0.37	(1)

Company	BBs	CRBs	SPBs
Germany			
SKF	1.23	5.47	3.06
Torrington			
Nadellager	(2)	0.45	(3)
FAG	2.93	8.92	(1)
INA	7.38	3.88	0.87
Italy			
FAG	0.96	(1)	
SKF	3.42	(3)	
Somecat	0.45	(2)	
Japan			
Koyo Seiko	7.23	11.15	(1)

Company	BBs	CRBs	SPBs
Nachi	4.33	1.02	(1)
NPBS	1.20	(2)	(2)
NSK Ltd.	1.12	4.55	(2)
NTN	6.13	3.48	12.49
Romania			
TIE	0.07		
Sweden			
SKF	2.87	13.69	
United Kingdom			
Barden	2.89	(1)	
FAG (U.K.)	(1)	(1)	
NSK-RHP	21.02	49.13	
SNFA	0.00	(2)	

(1) No shipments or sales subject to this review. The cash-deposit rate is from the last relevant segment of the proceeding in which the firm had shipments/sales.

(2) No shipments or sales subject to this review. The firm has no individual rate from any segment of this proceeding.

(3) No review.

Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated, whenever possible, an exporter/ importer- or customer-specific assessment rate or value for subject merchandise.

a. Export Price Sales

With respect to export price (EP) sales for these final results, we divided the total dumping margins (calculated as the difference between normal value and EP) for each importer/customer by the total number of units sold to that importer/customer. We will direct the Customs Service to assess the resulting per-unit dollar amount against each unit of merchandise on each of that importer's/customer's entries under the relevant order during the review period.

b. Constructed Export Price Sales

For constructed export price (CEP) sales (sampled and non-sampled), we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. When an affiliated party acts as an importer for EP sales we have included the applicable EP sales in this assessment-rate calculation. We will direct the Customs Service to assess the resulting percentage margin against the entered customs values for the subject merchandise on each of that importer's entries under the relevant order during the review period. While the Department is aware that the entered

value of sales during the POR is not necessarily equal to the entered value of entries during the POR, use of entered value of sales as the basis of the assessment rate permits the Department to collect a reasonable approximation of the antidumping duties which would have been determined if the Department had reviewed those sales of merchandise actually entered during the POR.

Cash-Deposit Requirements

To calculate the cash-deposit rate for each respondent (*i.e.*, each exporter and/or manufacturer included in these reviews) we divided the total dumping duties due for each company by the total net value for that company's sales of merchandise during the review period subject to each order.

In order to derive a single deposit rate for each order for each respondent, we weight-averaged the EP and CEP deposit rates (using the EP and CEP, respectively, as the weighting factors). To accomplish this when we sampled CEP sales, we first calculated the total dumping margins for all CEP sales during the review period by multiplying the sample CEP margins by the ratio of total days in the review period to days in the sample weeks. We then calculated a total net value for all CEP sales during the review period by multiplying the sample CEP total net value by the same ratio. We then divided the combined total dumping margins for both EP and CEP sales by the combined total value for both EP and CEP sales to obtain the deposit rate.

We will direct the Customs Service to collect the resulting percentage deposit rate against the entered customs value of each of the exporter's entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Entries of parts incorporated into finished bearings before sales to an unaffiliated customer in the United States will receive the respondent's deposit rate applicable to the order.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of administrative reviews for all shipments of AFBs entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) the cash-deposit rates for the reviewed companies will be the rates shown above except that, for firms whose weighted-average margins are less than 0.5 percent and therefore *de minimis*, the Department shall not require a deposit of estimated

antidumping duties; (2) for previously reviewed or investigated companies not listed above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash-deposit rate for all other manufacturers or exporters will continue to be the "All Others" rate for the relevant order made effective by the final results of review published on July 26, 1993 (see *Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order*, 58 FR 39729 (July 26, 1993), and, for BBs from Italy, see *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al: Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders*, 61 FR 66472 (December 17, 1996)). These rates are the "All Others" rates from the relevant LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative reviews.

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3) or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 23, 1999.

Richard W. Moreland

Acting Assistant Secretary for Import Administration.

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Scope Appendix

A. Description of the Merchandise

The products covered by these orders, antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof (AFBs), constitute the following classes or kinds of merchandise:

1. *Ball Bearings and Parts Thereof:* These products include all AFBs that employ balls as the roller element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof. Imports of these products are classified under the following Harmonized Tariff Schedule (HTS) subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.2580, 8482.99.35, 8482.99.6595, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.50.90,

8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.70.6060, 8708.70.8050, 8708.93.30, 8708.93.5000, 8708.93.6000, 8708.93.75, 8708.99.06, 8708.99.31, 8708.99.4960, 8708.99.50, 8708.99.5800, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

2. *Cylindrical Roller Bearings, Mounted or Unmounted, and Parts Thereof:* These products include all AFBs that employ cylindrical rollers as the rolling element. Imports of these products are classified under the following categories: antifriction rollers, all cylindrical roller bearings (including split cylindrical roller bearings) and parts thereof, housed or mounted cylindrical roller bearing units and parts thereof.

Imports of these products are classified under the following HTS subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.40.00, 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.25, 8482.99.35, 8482.99.6530, 8482.99.6560, 8482.99.70, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.93.5000, 8708.99.4000, 8708.99.4960, 8708.99.50, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

3. *Spherical Plain Bearings, Mounted or Unmounted, and Parts Thereof:* These products include all spherical plain bearings that employ a spherically shaped sliding element and include spherical plain rod ends.

Imports of these products are classified under the following HTS subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.50.10, 8483.30.80, 8483.90.30, 8485.90.00, 8708.93.5000, 8708.99.50, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

The HTS item numbers are provided for convenience and customs purposes. They are not determinative of the products subject to the orders. The written descriptions remain dispositive.

Size or precision grade of a bearing does not influence whether the bearing is covered by the orders. These orders cover all the subject bearings and parts thereof (inner race, outer race, cage, rollers, balls, seals, shields, etc.) outlined above with certain limitations. With regard to finished parts, all such parts are included in the scope of these orders. For unfinished parts, such parts are included if (1) they have been heat-treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are not covered by these orders are those

that will be subject to heat treatment after importation.

The ultimate application of a bearing also does not influence whether the bearing is covered by the orders. Bearings designed for highly specialized applications are not excluded. Any of the subject bearings, regardless of whether they may ultimately be utilized in aircraft, automobiles, or other equipment, are within the scopes of these orders.

B. Scope Determinations

The Department has issued numerous clarifications of the scope of the orders. The status of the following products was decided during the investigation:

Products covered:

- Rod end bearings and parts thereof
- AFBs used in aviation applications
- Aerospace engine bearings
- Split cylindrical roller bearings
- Wheel hub units
- Wave generator bearings
- Bearings (including mounted or housed units and flanged or enhanced bearings) ultimately utilized in textile machinery

Products excluded:

- Plain bearings other than spherical plain bearings
- Airframe components unrelated to the reduction of friction
- Linear motion devices
- Split pillow block housings
- Nuts, bolts, and sleeves that are not integral parts of a bearing or attached to a bearing under review
- Thermoplastic bearings
- Stainless steel hollow balls
- Textile machinery components that are substantially advanced in function(s) or value
- Wheel hub units imported as part of front and rear axle assemblies; wheel hub units that include tapered roller bearings; and clutch release bearings that are already assembled as parts of transmissions
- Slewing rings and slewing bearings

In addition, since the time of the investigation the Department has issued the following rulings:

Scope rulings completed between April 1, 1990, and June 30, 1990 (see *Scope Rulings*, 55 FR 42750 (October 23, 1990)):

Products excluded:

- Antifriction bearings, including integral shaft ball bearings, used in textile machinery and imported with attachments and augmentations sufficient to advance their function beyond load-bearing/friction-reducing capability

Scope rulings completed between July 1, 1990, and September 30, 1990 (see

Scope Rulings, 55 FR 43020 (October 25, 1990)):

Products covered:

- Rod ends
- Clutch release bearings
- Ball bearings used in the manufacture of helicopters
- Ball bearings used in the manufacture of disk drives

Scope rulings published in *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof; Final Results of Antidumping Administrative Review*, 56 FR 31692, 31696 (July 11, 1991):

Products covered:

- Load rollers and thrust rollers, also called mast guide bearings
- Conveyor system trolley wheels and chain wheels

Scope rulings completed between April 1, 1991, and June 30, 1991 (see *Scope Rulings*, 56 FR 36774 (August 1, 1991)):

Products excluded:

- Textile machinery components including false twist spindles, belt guide rollers, separator rollers, damping units, rotor units, and tension pulleys

Scope rulings completed between July 1, 1991, and September 30, 1991 (see *Scope Rulings*, 56 FR 57320 (November 8, 1991)):

Products covered:

- Snap rings and wire races
- Bearings imported as spare parts
- Custom-made specialty bearings

Products excluded:

- Certain rotor assembly textile machinery components
- Linear motion bearings

Scope rulings completed between October 1, 1991, and December 31, 1991 (see *Scope Rulings*, 57 FR 4597 (February 6, 1992)):

Products covered:

- Chain sheaves (forklift truck mast components)
- Loose boss rollers used in textile drafting machinery, also called top rollers
- Certain engine main shaft pilot bearings and engine crank shaft bearings

Scope rulings completed between January 1, 1992, and March 31, 1992 (see *Scope Rulings*, 57 FR 19602 (May 7, 1992)):

Products covered:

- Ceramic bearings
- Roller turn rollers
- Clutch release systems that contain rolling elements

Products excluded:

- Clutch release systems that do not

contain rolling elements

- Chrome steel balls for use as check valves in hydraulic valve systems

Scope rulings completed between April 1, 1992, and June 30, 1992 (see *Scope Rulings*, 57 FR 32973 (July 24, 1992)):

Products excluded:

- Finished, semiground stainless steel balls
- Stainless steel balls for non-bearing use (in an optical polishing process)

Scope rulings completed between July 1, 1992, and September 30, 1992 (see *Scope Rulings*, 57 FR 57420 (December 4, 1992)):

Products covered:

- Certain flexible roller bearings whose component rollers have a length-to-diameter ratio of less than 4:1
- Model 15BM2110 bearings

Products excluded:

- Certain textile machinery components

Scope rulings completed between October 1, 1992, and December 31, 1992 (see *Scope Rulings*, 58 FR 11209 (February 24, 1993)):

Products covered:

- Certain cylindrical bearings with a length-to-diameter ratio of less than 4:1

Products excluded:

- Certain cartridge assemblies comprised of a machine shaft, a machined housing and two standard bearings

Scope rulings completed between January 1, 1993, and March 31, 1993 (see *Scope Rulings*, 58 FR 27542 (May 10, 1993)):

Products covered:

- Certain cylindrical bearings with a length-to-diameter ratio of less than 4:1

Scope rulings completed between April 1, 1993, and June 30, 1993 (see *Scope Rulings*, 58 FR 47124 (September 7, 1993)):

Products covered:

- Certain series of INA bearings

Products excluded:

- SAR series of ball bearings
- Certain eccentric locking collars that are part of housed bearing units

Scope rulings completed between October 1, 1993, and December 31, 1993 (see *Scope Rulings*, 59 FR 8910 (February 24, 1994)):

Products excluded:

- Certain textile machinery components

Scope rulings completed between January 1, 1994, and March 31, 1994:

Products excluded:

- Certain textile machinery components

Scope rulings completed between October 1, 1994 and December 31, 1994 (see *Scope Rulings*, 60 FR 12196 (March 6, 1995)):

Products excluded:

- Rotek and Kaydon—Rotek bearings, models M4 and L6, are slewing rings outside the scope of the order.

Scope rulings completed between April 1, 1995 and June 30, 1995 (see *Scope Rulings*, 60 FR 36782 (July 18, 1995)):

Products covered:

- Consolidated Saw Mill International (CSMI) Inc.—Cambio bearings contained in CSMI's sawmill debarker are within the scope of the order.
- Nakanishi Manufacturing Corp.—Nakanishi's stamped steel washer with a zinc phosphate and adhesive coating used in the manufacture of a ball bearing is within the scope of the order.

Scope rulings completed between January 1, 1996 and March 31, 1996 (see *Scope Rulings*, 61 FR 18381 (April 25, 1996)):

Products excluded:

- Marquardt Switches—Medium carbon steel balls imported by Marquardt are outside the scope of the order.

Scope rulings completed between April 1, 1996 and June 30, 1996 (see *Scope Rulings*, 61 FR 40194 (August 1, 1996)):

Products excluded:

- Dana Corporation—Automotive component, known variously as a center bracket assembly, center bearings assembly, support bracket, or shaft support bearing, is outside the scope of the order.
- Rockwell International Corporation—Automotive component, known variously as a cushion suspension unit, cushion assembly unit, or center bearing assembly, is outside the scope of the order.
- Enkotec Company, Inc.—“Main bearings” imported for incorporation into Enkotec Rotary Nail Machines are slewing rings and, therefore, are outside the scope of the order.

Scope ruling January 19, 1999, memorandum from Laurie Parkhill to Richard W. Moreland:

Products excluded:

- Nissei Sangyo America, Ltd.—Certain vacuum nozzle assembly, designated as part 630-063-2316, is outside the scope of the order.

Scope ruling February 26, 1999, memorandum from Laurie Parkhill to Richard W. Moreland:

Products excluded:

- Holland Hitch—"Turntable bearing" (slewing rings, gearless slewing rings, or slewing bearings) is outside the scope of the order.

Issues Appendix

Company Abbreviations

Barden—Barden Corporation (U.K.) Ltd.; the Barden Corporation
FAG Italy—FAG Italia S.p.A.
FAG Germany—FAG Kugelfischer Georg Shaefer AG
FAG U.K.—FAG (U.K.) Ltd.
INA—INA Walzlager Schaeffler KG
Koyo—Koyo Seiko Co. Ltd.
Nachi—Nachi-Fujikoshi Corp.; Nachi America Inc.; Nachi Technology, Inc.
NPBS—Nippon Pillow Block Manufacturing Co., Ltd.; Nippon Pillow Block Sales Co., Ltd.; FYH Bearing Units USA, Inc.
NSK—Nippon Seiko K.K.; NSK Corporation
NSK/RHP—NSK Bearings Europe, Ltd.; RHP Bearings; RHP Bearings, Inc.
NTN—NTN Corporation; NTN Bearing Corporation of America; American NTN Bearing Manufacturing Corporation
SNR France—SNR Roulements
SKF France—SKF Compagnie d'Applications Mecaniques, S.A. (Clamart); ADR; SARMA
SKF Germany—SKF GmbH; SKF Service GmbH; Steyr Walzlager
SKF Italy—SKF Industrie; RIV-SKF Officina de Villar Perosa; SKF Cuscinetti Speciali; SKF Cuscinetti; RFT
SKF Group—SKF-France; SKF-Germany; SKF-Italy; SKF-Sweden; SKF USA, Inc.
SKF Sweden—SKF Sverige AB
SNFA France—SNFA S.A.
SNFA U.K.—SNFA Bearings, Ltd.
Somecat—Somecat S.p.A.
TIE—Tehnoimportexport
Torrington—The Torrington Company
Torrington Nadellager—Torrington Nadellager, GmbH

Other Abbreviations

CAFC—Court of Appeals for the Federal Circuit
COP—Cost of Production
CV—Constructed Value
CEP—Constructed Export Price
CIT—Court of International Trade
G&A—General and Administrative Expenses
EP—Export Price
NME—Non-market Economy
OEM—Original Equipment Manufacturer

POR—Period of Review
SAA—Statement of Administrative Action
URAA—Uruguay Round Agreements Act

AFB Administrative Determinations

LTFV Investigation—Final Determinations of Sales at Less than Fair Value; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, 54 FR 19006 (May 3, 1989).

AFBs 1—Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany; Final Results of Antidumping Duty Administrative Review, 56 FR 31692 (July 11, 1991).

AFBs 2—Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, 57 FR 28360 (June 24, 1992).

AFBs 3—Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order, 58 FR 39729 (July 26, 1993).

AFBs 4—Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders, 60 FR 10900 (February 28, 1995).

AFBs 5—Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 66472 (December 17, 1996).

AFBs 6—Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 62 FR 2081 (January 15, 1997).

AFBs 7—Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 62 FR 54043 (October 17, 1997).

AFBs 8—Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 63 FR 33320 (June 18, 1998).

Comments and Responses

1. Facts Available

Comment 1: Torrington contends that NTN refused to (1) explain its method for distinguishing subject CRBs from nonsubject needle roller bearings, (2) provide adequate documentation to support its claim that it could not obtain sales information from affiliated home-market resellers, (3) report the total downstream value of merchandise sold by affiliated home-market resellers on a class-or-kind basis for companies in which NTN owns a majority interest, (4) revise its calculation of home-market and U.S. inventory carrying costs in accordance with the Department's instructions, (5) explain an apparent discrepancy between its narrative description and its reported home-market packing expenses, (6) provide supplemental information regarding its U.S. indirect selling expenses for which the Department asked, (7) recalculate its freight and packing expenses on the basis on which they were incurred, and (8) segregate U.S. warehousing expenses as instructed by the Department. Citing *Koyo Seiko Co., Ltd. v. United States*, 92 F.3d 1162, 1166–1167 (CAFC 1996), Torrington argues that the Department should apply total adverse facts available because of NTN's refusal to cooperate.

NTN asserts that it answered all of the Department's requests for information fully and completely. NTN contends that the case Torrington cites is irrelevant because it interpreted the pre-URAA statutory provision for best information available. NTN also contends that the Department has verified and approved NTN's data and methodologies in almost every single past review of this case. Citing *Borden v. United States*, 4 F. Supp. 2d 1221, 1244 (CIT 1998) (*Borden*), NTN argues that the Department must use a respondent's information, regardless of the condition of the information, if the criteria of section 782(e) of the Act have been met. Regarding its own situation, NTN claims that it has met the statutory criteria.

NTN argues that, in contrast to Torrington's argument, it has explained how it segregated subject CRBs from nonsubject needle roller bearings and that the Department has verified its methodology in prior reviews. NTN argues that the Department asked that NTN report downstream-sales information only where possible and that NTN explained that it was not possible to provide such information. With respect to inventory carrying costs, NTN argues that the Department asked that NTN report these costs on a

particular basis only where possible and that NTN explained that it was not possible. With respect to indirect selling expenses, NTN contends that it provided detailed explanations of each of its worksheets and that Torrington did not offer any substantive argument regarding the merit of the worksheets. With respect to freight and packing expenses, NTN contends that it explained why it could not allocate the expenses on the basis on which they were incurred and that the Department has verified NTN's methodology in prior reviews. Finally, NTN argues that the Department segregated warehousing expenses itself in the preliminary results.

Department's Position: For the majority of items which Torrington raised, NTN provided adequate information which we could use to calculate NTN's margin. More specifically, with respect to the segregation of subject CRBs from nonsubject needle roller bearings, we have verified NTN's methodology in past reviews and found it to be acceptable and there is no evidence in these reviews that NTN either reported sales of nonsubject merchandise or did not report sales of subject merchandise. With regard to warehousing expenses, as NTN observes, we were able to segregate these expenses for the preliminary results. With regard to U.S. indirect selling expenses, we find that NTN excluded the adjustments to which Torrington refers from its indirect selling expense calculation properly.

We find, however, that NTN should have addressed an adjustment elsewhere in the response but did not. We are unable to discuss this adjustment further due to the proprietary nature of this data (see NTN final results analysis memorandum dated June 16, 1999, for our analysis, a description of this adjustment, and how we addressed it in our analysis of NTN).

Because NTN's responses to our requests for information allowed us to calculate margins, it would not be appropriate to base NTN's margin on total facts available.

However, we find that NTN's responses to our requests for the total value of sales by home-market affiliates and for revised home-market packing expenses is not adequate for us to use in calculating NTN's margin. Therefore, the use of partial facts available for these items is appropriate. Further, we determine that, because NTN did not act to the best of its ability in responding to our requests for information concerning these items, the use of adverse facts available is warranted for these items.

With regard to sales by home-market affiliates, we requested that NTN report the total value of sales by affiliates on a class-or-kind basis. We also requested that, if NTN could not "obtain this information for all affiliated resellers, please provide it for at least those companies in which NTN owns a majority interest." See supplemental questionnaire dated September 24, 1998, at 1. We asked this question to determine whether sales to affiliates would be a reasonable substitute for sales by affiliates in our calculation of normal value. Because NTN did not provide this information, we are not able to make this determination. Therefore, the use of facts available is warranted.

Contrary to NTN's assertion, we did not indicate in our supplemental questionnaire that NTN should only report this "where possible." Instead, we indicated that, if NTN could not obtain this information from affiliates in which it does not own a majority interest, NTN should at least obtain this information from affiliates in which it does own a majority interest. Furthermore, NTN's explanation for why it could not obtain this information from those companies in which it owns a majority interest is not convincing. We are unable to go into further detail due to the proprietary nature of the explanation. See NTN final results analysis memorandum dated June 16, 1999, for our analysis of NTN's explanation and why we find it unsatisfactory.

As a result of our analysis, we determine that NTN did not act to the best of its ability in responding to our requests for information concerning sales by affiliated resellers. Therefore, the use of the adverse facts available with regard to NTN's sales by affiliated resellers in which NTN owns a majority interest is appropriate. The use of facts available affects the calculation of normal value. Therefore, where we compared U.S. sales to weighted-average normal values which are wholly or partly comprised of sales to affiliated resellers in which NTN owns a majority interest, we applied facts available. Because it is appropriate to use the facts available to the extent we use these sales to calculate normal value, we have adjusted the calculated net prices of these sales by increasing them by the class-or-kind-specific adverse facts-available rate applicable to NTN. In this manner, we ensure that the facts available are being used only when the sales are used to calculate normal value and, in instances where such sales are weight-averaged with sales to

unaffiliated companies, the facts available are "diluted" accordingly.

Finally, with regard to home-market packing expenses, NTN did not revise its packing-expense calculation in the manner we requested nor did it attempt to do so. NTN stated merely that it does not keep records in that manner and made no attempt at a more reasonable segregation pursuant to our request. In addition, NTN's methodology is distortive. However, due to the proprietary nature of NTN's calculation, we are unable to explain the decision. See NTN final results analysis memorandum dated June 16, 1999, for an explanation of why we consider NTN's calculation to be distortive. Therefore, because NTN did not attempt to revise its packing expenses in the manner we requested and did not offer a reasonable alternative and because the methodology it used is manifestly distortive, we have denied NTN's home-market packing adjustment for these final results.

Comment 2: Torrington contends that NTN did not include either retirement benefits for directors and statutory auditors or a certain proprietary expense in its general and administrative (G&A) expenses. Torrington argues that the Department should include amounts for these expenses using, where necessary, non-punitive facts available.

With respect to retirement benefits, NTN argues that it explained that these expenses have no effect on its responses because the expenses in question were extraordinary. With regard to the certain proprietary expense, NTN contends that the Department's questionnaire instructed NTN to report costs for subject merchandise only. Therefore, NTN asserts that its cost response complies fully with the Department's instructions.

Department's Position: NTN did not include an amount for retirement benefits for directors and statutory auditors in its reported costs on the grounds that it does "not have any effect on the questionnaire response because it was an extraordinary expense." See NTN's supplemental response dated October 19, 1998, at A-7. However, it is incumbent upon the respondent to demonstrate that it is entitled to a favorable expense adjustment. NTN did not explain how retirement benefits are an "extraordinary expense" and provided no other justification for exclusion of these expenses. Therefore, we have recalculated NTN's G&A expenses to include these benefits.

With regard to the certain proprietary expense, we determine that, based on the evidence on the record of this review, it is appropriate to exclude this

expense from G&A. Because of the proprietary nature of this expense, please see NTN final results analysis memorandum dated June 16, 1999, for an explanation of our determination.

Comment 3: SKF Sweden disagrees with the Department's characterization of it as a non-cooperative respondent. SKF Sweden contends that the Department's assignment of the highest SKF Sweden-specific CRB margin, 13.69 percent, as total adverse facts available for its CRB sales is unlawful. SKF Sweden asserts that it informed the Department in a timely manner that its production of CRBs sold to the United States during the POR had ceased in 1993. SKF Sweden submits that, in light of this fact, it cooperated fully with the Department by providing aggregated U.S. quantity and value sales data, informing the Department that there were no home-market sales of CRBs made during the review period, and that no detailed cost data existed with respect to this merchandise. Accordingly, SKF Sweden argues, it did not have sufficient information to provide detailed cost or CV data in response to the Department's questionnaire.

SKF Sweden contends that the Department should not resort to facts available because it was unable to comply with the Department's requests for information, citing *Borden*. SKF Sweden argues that, because it no longer produced CRBs, its inability to provide the requested CRB data should not lead to the mischaracterization of SKF Sweden as a non-cooperative respondent and therefore to the use of adverse facts available. To do otherwise, SKF Sweden asserts, would be opposite to the position the Department took recently in *Final Results Administrative Review; Certain Pasta from Italy*, 64 FR 6615 (February 10, 1999) (*Pasta Italy Review*), in which the Department determined that adverse facts available should not be applied to a company which informs the Department in a timely manner of its inability to comply with information requests due to the liquidation of assets. Finally, SKF Sweden argues that the Department determined erroneously that SKF Sweden absorbed 100 percent of the dumping duties on its CRB transactions.

Torrington contends that it was appropriate for the Department to determine SKF Sweden as a non-cooperative respondent and assign an adverse facts-available rate to its CRB sales. Torrington posits that inconsistencies in the record demonstrate that SKF Sweden has not cooperated fully with the Department. Torrington points to several

discrepancies on the record where SKF Sweden states that it sold CRBs during the review period and where it states it did not sell CRBs. Torrington also identifies language in SKF Sweden's case brief that indicates SKF Sweden's acknowledgment that it could have provided some information about the CRB sales. Torrington argues that reporting all sales of CRBs would not have been burdensome given that SKF Sweden had already provided aggregate quantity and value data.

Torrington also contends that it is unlikely that SKF Sweden would not retain cost and CV data of its CRBs for at least a five-year period following ceased production of such merchandise, given the existence of the antidumping duty order. Torrington also asserts that SKF Sweden did not address the issue of why it did not retain such data and that SKF Sweden should not benefit from having destroyed the cost data for CRBs. Torrington points out that the Department requested the CRB data in both the original and second supplemental questionnaires and never informed SKF Sweden that it was not required to report such data. Torrington also argues that SKF Sweden has not established the basis on which the Department would not assess duties on its CRBs, citing *The Torrington Company v. United States*, 82 F.3d 1039, 1047 (CAFC 1996) (*Torrington I*). Accordingly, Torrington argues that SKF Sweden did not act or cooperate to the best of its ability to provide the requested information.

Torrington asserts that, while the Department should, at the least, assign the highest SKF Sweden-specific CRB margin to SKF Sweden's unreported CRBs, a higher more punitive facts-available rate should be assigned to the unreported sales. Torrington suggests that, owing to the fact that SKF Sweden continued to withhold requested data, the LTFV margins of 76.2 percent assigned to SKF Germany or 212.45 percent assigned to SKF Italy would be more appropriate to use as the total facts-available rate for SKF Sweden's CRB sales. Finally, Torrington contends that the Department should continue to determine that SKF Sweden absorbed duties on all of its CRB transactions.

SKF Sweden rebuts Torrington's claim that the record demonstrates inconsistencies in SKF Sweden's responses and argues that Torrington is misconstruing the facts on the record. SKF Sweden contends that it never stated that there were no sales of CRBs in the United States during the review period. Rather, SKF Sweden submits that it stated that there were no home-market sales of CRBs during the review

period. SKF Sweden asserts that there is no justification to use the SKF Germany or SKF Italy facts-available rates. Torrington suggests, arguing that the investigation must pertain to the same class or kind of merchandise in the same country of origin, citing *Peer Bearing Company v. United States*, 12 F. Supp. 2d 445, 451 n.4 (CIT 1998) (*Peer Bearing*). SKF Sweden contends that, given that the SKF Germany and SKF Italy rates Torrington suggests relate to different orders from different countries, the underlying price and cost data of merchandise involved in those orders is in no way indicative of the prices or costs of CRBs from Sweden.

Department's Position: SKF Sweden sold CRBs in the United States during the POR but did not provide CRB sales or cost data, thereby precluding us from conducting an analysis of its CRB sales. Section 776(a) of the Act requires us to make a determination on the basis of the facts available where requested information is missing from the record and, thus, cannot be used because it was not provided. Therefore, in accordance with the Act, we must rely upon facts available for these final results of review.

In order to determine whether we should make an adverse inference in the application of facts available, we considered whether SKF Sweden cooperated to the best of its ability in the instant administrative review with respect to its CRB sales. We requested CRB sales and cost data in both our original and supplemental questionnaires. However, despite our requests for CRB information, SKF Sweden did not provide such information, indicating that, because (a) SKF Sweden ceased production of CRBs in 1993, (b) the imports of the CRBs in question were *de minimis* during the review period, and (c) the cost involved to prepare the data would outweigh the benefits of submitting the requested data for the administrative review, it would not respond to our requests for CRB information. See SKF Sweden's original questionnaire response, dated August 28, 1998, at 1.

Section 776(b) of the Act permits us to draw an adverse inference where a party has not cooperated in a proceeding. This section of the Act deems a respondent uncooperative where it has not acted to the best of its ability to comply with requests for necessary information. See the SAA at 870. Because SKF Sweden chose not to provide the requested CRB information, we find that SKF Sweden was not cooperative. Specifically, we are not convinced that SKF Sweden could not provide the requested cost data.

Accordingly, we find that SKF Sweden did not act to the best of its ability to comply with our requests for this information. Therefore we have made an adverse inference and assigned a total facts-available rate to SKF Sweden's sales of CRBs.

In its original and supplemental questionnaire responses, SKF Sweden submitted only total quantity and value data with respect to its CRB sales. At no time did SKF Sweden indicate that it did not have the sales data underlying its CRB sales transactions. It appears that SKF Sweden could have provided all of the data maintained in its records as it pertains to the sales of CRBs, albeit only the U.S. sales data. We also note that the quantity of CRBs sold during the review period is irrelevant.

SKF Sweden also claimed in its original questionnaire response that because it did not make any sales of CRBs in the comparison market it would have to provide cost information for purposes of CV, but it no longer had such cost information because it ceased production of CRBs in 1993. As discussed below, we find that ceasing production of subject merchandise does not relieve SKF Sweden of its responsibility to provide requested information. On May 15, 1989, we published in the **Federal Register** the orders on AFBs from Sweden for both BBs and CRBs. Thus, while SKF Sweden ceased production of CRBs in 1993, it was aware of the order on the subject merchandise and had already participated in several administrative reviews. SKF Sweden pointed out in its response that it retained in its inventory the CRBs that it sold in this review period. Given that SKF Sweden retained this merchandise in inventory, it anticipated that it might sell such merchandise in the future. Based on SKF Sweden's experience as a participant in these administrative reviews, it was well informed that, upon selling those CRBs during a period in which we are conducting an administrative review and in which it was a participant, we would, in accordance with our statute and regulations, request sales and possibly cost data and other information with regard to that merchandise. Accordingly, SKF Sweden cannot benefit from its failure to maintain relevant records merely because it ceased production of the subject merchandise.

In addition, SKF Sweden's reliance upon *Pasta Italy Review* is misplaced. In *Pasta Italy Review*, the respondent was precluded from using financial and personnel resources in responding to our questionnaires due to legal

proceedings underlying the liquidation of its assets. In *Certain Fresh Cut Flowers from Colombia; Final Results of Antidumping Administrative Review*, 59 FR 15159, 15173 (March 31, 1994) (*Flowers from Colombia*), a case cited in *Pasta Italy Review* which elaborated on the issue of how liquidation affects a respondent's ability to provide information to the Department, the companies that went out of business were required by law to sell or dispose of their assets. Herein lies the difference between the situation that SKF Sweden faces after ceasing production of its CRBs and the situation that the respondents faced in *Pasta Italy Review* and *Flowers from Colombia*. Unlike those respondents, SKF Sweden was not required to relinquish its assets and dispose of its records with regard to its CRBs. SKF Sweden merely chose not to maintain such records, despite its knowledge of and experience in the AFB proceedings. In fact, SKF Sweden decided to retain some of its assets, the physical merchandise in question, in its inventory. In contrast, the respondents which liquidated their assets were legally required to sell or dispose of all of their assets. Therefore, SKF Sweden's decision not to maintain its CRB cost records does not excuse SKF from responding to our requests for cost and sales information with respect to CRBs. See *Koyo Seiko Co. v. United States*, 796 F. Supp. 517, 525-26 (CIT 1992), and *Pulton Chain Co., Inc. v. United States*, 17 CIT 1136 (October 18, 1993).

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." See *Static Random Access Memory Semiconductors from Taiwan; Final Determination of Sales at Less Than Fair Value*, 63 FR 8909, 8932 (February 23, 1998). The Department also considers the extent to which a party may benefit from its own lack of cooperation in selecting a rate. See *Roller Chain Other Than Bicycle, From Japan; Notice of Final Results and Partial Recission of Antidumping Duty Administrative Review*, 62 FR 69472, 60477 (November 10, 1997).

We disagree with Torrington's suggestion that we use the LTFV margins assigned to SKF Germany and SKF Italy because the rate used as facts available normally should pertain to the same class or kind of merchandise from the same country of origin. See *Peer Bearing*. In order to ensure that the rate is sufficiently adverse so as to induce

SKF Sweden's cooperation, we have assigned to SKF Sweden's CRB sales as adverse total facts available a rate of 13.69 percent, which we determined in the LTFV investigation and which is the highest margin ever calculated for CRBs from Sweden. Finally, because we have determined that a dumping margin does exist on the sales in question based on adverse facts available and lacking other information, we find duty absorption on all U.S. sales of CRBs made by SKF Sweden.

Comment 4: Torrington argues that NSK provided inadequate responses to the Department's supplemental questionnaire regarding NSK's downstream sales for certain affiliates. Torrington asserts that NSK's claim that it need not report downstream sales of certain affiliates because it did not have to do so in the LTFV investigation is irrelevant to this review. Torrington also contends that, in spite of the Department's request, NSK did not provide documentation demonstrating that sales to certain affiliates were made at arm's length. Torrington argues that the Department should apply facts available to all U.S. sales matched to models sold to affiliates in the home market for which NSK did not provide resale data.

NSK argues that the Department should not apply facts available regarding its home-market downstream-sales information because it responded fully to the Department's requests. NSK argues that it is for the Department, not Torrington, to decide whether NSK's explanations were adequate. NSK notes that the downstream-sales information with which Torrington takes issue represents a *de minimis* amount of NSK's home-market sales of scope merchandise. NSK argues further that Torrington's argument regarding arm's-length sales is irrelevant because the Department's arm's-length test removes from the home-market database all sales that fail the test.

Department's Position: We normally do not calculate normal value based on the sales by an affiliated party if sales of the foreign like product by an exporter or producer to affiliated parties account for less than five percent of the total value (or quantity) of the foreign like product in the market in question (see 19 CFR 351.403(d)(1998)). Based on information NSK submitted for the record, the sales in question comprise less than five percent of the total quantity of home-market sales. See NSK's section A response dated August 28, 1998, at A-26. Therefore, we consider NSK's response to be adequate with respect to this matter and have not used facts available.

Comment 5: Torrington argues that NSK did not respond to the Department's request that NSK report price adjustments made after NSK submitted its home-market sales listing. Torrington argues that, as facts available, the Department should assume that all home-market sales had unreported upward adjustments in the amount of the highest upward adjustment on any reported home-market sale.

NSK responds that it explained in its response, and the Department verified, the issue of NSK's updated billing-adjustments. NSK contends that the Department's decision not to resort to facts available in the preliminary results was appropriate and should be the same in the final results.

Department's Position: NSK claimed in its response and at verification that it was impractical to report post-submission billing adjustments and that such an exercise would require NSK to recreate its entire database. Based on records we examined at verification, we found evidence that NSK's exclusion of this price-adjustment has no material impact on our margin calculation and, thus, does not warrant the use of facts available. The details of our findings are not susceptible to public summary. See Verification Report of NSK's Sales Response at 8 and Exhibit VI. Accordingly, we have not applied facts available for NSK's unreported billing adjustments.

Comment 6: Torrington argues that NSK did not cooperate with the Department's request that NSK demonstrate the estimated period during which subject merchandise remains in home-market distribution centers. According to Torrington, this precludes the proper calculation of NSK's inventory carrying cost calculation for U.S. sales. Torrington argues that, as facts available, the Department should apply the highest inventory carrying cost rate (expenses to sales value) in the home market for any other Japanese respondent.

NSK responds that Torrington's argument is irrelevant to the margin calculation because the Department does not deduct inventory carrying costs in the home market from CEP or EP. NSK argues that, nonetheless, it responded fully to the Department's supplemental questionnaire.

Department's Position: NSK cooperated with our request for information regarding this issue adequately. In response to our request that NSK explain how it calculated the estimated period during which merchandise destined for the United States remains in distribution centers,

NSK stated that it based the reported time period on its normal shipping schedules and average experience for shipping merchandise. See NSK's Supplemental Response at 27. NSK explained that it did not provide worksheets pursuant to our request because there were none to provide. Thus, we determined that NSK cooperated with our request as best it was able. Accordingly, we did not apply facts available for NSK's inventory carrying costs. However, contrary to NSK's assertion, inventory carrying costs are germane to our margin calculation because these costs comprise part of the expenses used to calculate a commission offset.

Comment 7: Torrington argues that NSK did not respond to the Department's request that NSK justify its reporting of depreciation costs for equipment obtained from affiliated suppliers. Torrington argues that NSK's statement that any adjustment to the purchase price of machinery from affiliates would result in a *de minimis* change to COP is inadequate and unresponsive. Torrington argues, therefore, the Department should restate depreciation based on facts available.

NSK responds that the Department should not restate NSK's depreciation costs based on facts available because NSK responded fully to the Department's question regarding equipment from affiliated suppliers. NSK notes that, according to its standard accounting practices and Japanese Generally Accepted Accounting Practices (GAAP), equipment purchases from affiliated companies were treated no differently than those purchases from unaffiliated companies. NSK argues further that, since any adjustment to the purchase price of equipment from affiliates would result in a *de minimis* adjustment to COP, it would gain nothing by attempting to alter the treatment of these depreciation costs.

Department's Position: NSK's supplemental response dated October 29, 1998, at 36, demonstrates that the amount of depreciation costs on equipment from affiliates is small enough that any adjustment to NSK's purchase price of equipment from affiliates would have an insignificant impact on NSK's reported COP. Also, NSK's methodology was in accordance with GAAP of the country of exportation, which we generally accept unless the methodology is determined to be distortive. That is not the case in this situation. Furthermore, NSK responded adequately to our requests for information. Therefore, we have not used facts available.

Comment 8: Torrington argues that the Department should use facts available for certain major inputs obtained from affiliated parties for which SKF France did not provide market prices. For valuing major inputs, Torrington notes that the Department's questionnaire instructs respondents to report the highest of the following values: (a) The transfer price from the affiliate, (b) the affiliate's COP, or (c) the market price. Torrington asserts that SKF France only reported the higher of the transfer price or the affiliate's COP. Therefore, Torrington argues, since SKF France has not responded fully to the questionnaire, the Department should use facts available for the inputs at issue.

SKF France states that, in response to the Department's supplemental questionnaire, it reported the overlap of components that it purchased from both affiliated and unaffiliated parties. SKF France notes that it explained in its response that the number of overlaps is insignificant compared to the thousands of parts used. SKF France argues that this substantiates its contention that market prices are generally not available for such components and notes that during verification the Department examined the issue of SKF France's valuation of materials purchased from affiliated parties and found no discrepancies. Therefore, SKF France contends, the Department is correct in accepting its reporting of values for these inputs.

Department's Position: SKF France did not respond fully to our questionnaire and the use of partial facts available is appropriate. SKF France admits in its questionnaire response and case brief that it valued major inputs purchased from affiliated suppliers based on the higher of transfer price or COP and that it did not take into consideration the market prices for some components which it purchased from both affiliated and unaffiliated suppliers. Therefore, SKF's reporting is not in accordance with section 351.407 of the Department's regulations which states that, for purposes of section 773(f)(3) of the Act, the value of a major input purchased from an affiliated person will be based on the higher of: (1) The price paid by the exporter or producer to the affiliated person for the major input; (2) the amount usually reflected in sales of the major input in the market under consideration; or (3) the cost to the affiliated person of producing the major input. In an effort to obtain market values for major inputs in usable form, we sent SKF France a supplemental questionnaire requesting that it provide a chart listing, for each

major input, the per-unit transfer price charged by the affiliated party and the per-unit COP incurred by the affiliated party. In addition, we asked that SKF France include in its chart the sales prices charged by unaffiliated parties (where possible) and that SKF France provide documentation to support these prices. See supplemental questionnaire dated October 26, 1998, at 9. In response to our question, SKF provided a chart with the requested information for COP and transfer prices. However, the market-price information it provided for components purchased by unaffiliated parties was not comparable to the manner in which it reported the COP and transfer price information. Therefore, we could not determine whether the market prices were higher than the reported COP or transfer prices. Since SKF France did not provide the market-price data in the form which we requested, it could not be used. In addition, contrary to SKF France's contention, the market value of materials was not examined during verification.

Section 776(a) of the Act provides for the use of facts available where a company fails to provide requested information in the form and manner requested. See also the SAA at 869 (providing that the Department may use facts available to fill gaps in the record due to deficient submissions). As a result of SKF France's failure to provide requested information, we have used partial facts available to ensure that these market prices are taken into consideration. We applied partial facts available by making an adjustment to SKF France's reported total cost of manufacturing on a transaction-specific basis. Because of the proprietary nature of the information, we cannot discuss the details of the facts available we are applying in this public notice. See SKF France's final results analysis memorandum dated June 16, 1999.

2. Duty Absorption

Section 751(a)(4) of the Act provides that, if requested, the Department will determine whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter. Section 751(a)(4) of the Act authorizes this type of inquiry during an administrative review initiated two years or four years after publication of an order.

For transition orders as defined in section 751(c)(6)(C) of the Act (*i.e.*, orders in effect as of January 1, 1995), section 351.213(j)(2) of the Department's

regulations provides that the Department will make a duty-absorption determination, if requested, for any administrative review initiated in 1996 or 1998. On May 29, 1998, and July 29, 1998, Torrington requested the Department to determine, with respect to all respondents except Torrington Nadellager and SNFA UK, whether antidumping duties had been absorbed during the POR. On May 29, 1998, FAG Bearings Corp. requested that the Department determine for Torrington Nadellager whether antidumping duties had been absorbed during the POR. Since these reviews were initiated in 1998 and we received timely requests, we have made a duty-absorption determination as part of these administrative reviews.

In our preliminary results of review, we calculated the percentage of sales by a U.S. affiliate with dumping margins for each exporter. We stated that, with respect to those companies (with affiliated importer(s)) that had dumping margins, we would rebuttably presume that the duties will be absorbed for those sales which were dumped. We received several comments responding to these preliminary findings.

Comment 1: Certain respondents argue that the statute only permits the Department to conduct a duty-absorption inquiry initiated two or four years after the publication of an antidumping duty order. These respondents claim that, although the Department defended its decision to conduct a duty-absorption inquiry in these reviews on the grounds that these cases involve transition orders, there is nothing in section 751(c) of the Act that suggests that the definition of "transition order" for purposes of sunset reviews applies to the definition of "antidumping duty order" in section 751(a)(4) of the Act for purposes of duty-absorption inquiries. Therefore, these respondents argue, the Department is incorrect in justifying the duty-absorption inquiry by calling AFBs orders "transition orders" in accordance with section 751(c)(6)(C) of the Act as this section only applies to "sunset" reviews. These respondents conclude that the lack of explicit Congressional approval for duty-absorption inquiries for transition orders shows that Congress did not intend for duty-absorption inquiries to be initiated more than four years after publication of an antidumping duty order. Finally, these respondents assert that the Department cannot rely on its own regulation to create an exception for transition orders when such an exception is not authorized by the statute.

Torrington argues that, in AFBs 7, the Department rejected respondents' claim that the statute only permits duty-absorption determinations in the second and fourth reviews following the initial publication of the order. Citing the SAA at 885-886, Torrington contends that the respondents' position, if accepted, would "gut" the statute since the existence of duty absorption is a critical factor in the context of both the Department's determination in sunset reviews of whether dumping is likely to continue or recur and the International Trade Commission's determination in sunset reviews of whether injury is likely to continue or recur. Torrington argues that accepting the respondents' restrictive reading of the statute would mean that duty absorption, while remaining as an analytical tool in sunset reviews of new orders, would no longer be available in sunset reviews of any transition orders. Torrington argues further that even new orders would be affected, as the respondents' narrow reading of the statute would allow an absorption inquiry only in the second and fourth year after the issuance of an order. Finally, citing *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR at 27317 (May 19, 1997) (*Final Rule*) (discussing 19 CFR 351.213(j)(1)), Torrington argues that, in the context of drafting its revised regulations in order to implement the new law, the Department considered the statute and the comments of interested parties carefully and determined that the duty-absorption inquiry is equally applicable to transition orders.

Department's Position: With regard to the time frame in which we are conducting these reviews, section 351.213(j)(1) of our regulations, in accordance with section 751(a)(4) of the Act, provides for the conduct, upon request, of absorption inquiries in reviews initiated two and four years after the publication of an antidumping duty order. With respect to transition orders, the preamble to the proposed antidumping regulations explains that reviews initiated in 1996 will be considered initiated in the second year and reviews initiated in 1998 will be considered initiated in the fourth year (61 FR at 7317). Because these orders on AFBs have been in effect since 1989, these are transition orders in accordance with section 751(c)(6)(C) of the Act. This being a review initiated in 1998 and a request having been made, we have made duty-absorption determinations as part of these administrative reviews.

We believe that Congress intended that the International Trade Commission would consider the issue of duty

absorption in all sunset reviews. In this regard, the statutory provision requiring the consideration of duty absorption does not distinguish between antidumping orders issued after January 1, 1995, and transition orders. See section 752(a)(1)(D) of the Act. Moreover, in all of the legislative history, Congress explained the implications of affirmative duty-absorption findings and clearly contemplated that such findings would be considered in all sunset reviews. See S. Rep. 103-412 at 50 (1994). See also H. Rep. 103-826 at 60-61 (1994) ("Commerce will inform the Commission of its findings regarding duty absorption, and the Commission will take such findings into account in determining whether injury is likely to continue or recur if an order were revoked"). Thus, we have made duty-absorption determinations as part of these administrative reviews.

Comment 2: Certain respondents state that gauging absorption on information that they do not know until completion of an administrative review is unfair. More specifically, they claim that the nature of the review process prevents them from determining the U.S. price increase necessary to pass dumping duties on to customers because the ultimate liability is not known until the end of a review. The respondents claim further that, other than dumping deposits paid at the time of entry, they have no means of estimating the price increases necessary to pass dumping duties to the customers.

The respondents also argue that the Department cannot presume that duty absorption on sales to the U.S. affiliate exists if the record does not contain evidence of the U.S. purchaser's assumption of liability for ultimate assessment. They claim that the Department's rebuttable presumption ignores commercial reality in that no U.S. buyer would agree to assume liability for an unascertainable amount of duties. The respondents claim that the Department has not provided any reason for adopting the presumption of duty absorption and that the presumption is not allowable by law.

SKF states that the Department's 15-day deadline for submitting evidence to rebut the assumption that unaffiliated U.S. purchasers will pay the assessed dumping duty is too short, given the amount of evidence that would have to be collected and the number of customers that would have to be contacted.

FAG argues that, notwithstanding the fact that the Department does not have the authority to conduct an absorption review in this review, the methodology

chosen by the Department is arbitrary and capricious. FAG argues that the Department has simply calculated the percentage of FAG's U.S. affiliate's sales with dumping margins versus total sales and concluded that this figure demonstrates duty absorption within the meaning of the statute. FAG contends that, absent some explanation of the relevance of this information, there is no connection between the percentage of sales of a U.S. importer with dumping margins and any alleged duty absorption by the affiliated foreign producer or exporter. Therefore, FAG argues, the Department should demonstrate how its methodology has performed the analysis required by the statute (*i.e.*, determining whether the foreign producer or exporter has absorbed antidumping duties). Finally, FAG contends that, if the Department cannot explain how its methodology has fulfilled the task specified by the statute, then the results of the absorption inquiry should be disregarded.

Torrington contends that the Department's decision was fair. According to Torrington, it was correct to reject SKF's arguments that the Department's methodology does not give respondents enough time and that the use of a presumption renders the duty-absorption provision superfluous. Torrington states further that in *AFBs 7* the Department rejected SKF's argument that the record shows SKF did not absorb duties correctly. Torrington also states that the Department rejected FAG's argument that there is no connection between the percentage of sales dumped and the presence of duty absorption in *AFBs 7*.

Department's Position: An investigation as to whether there is duty absorption does not simply involve publishing the margin in the final results of review. As we noted in the preliminary results of these reviews, the determination that duty absorption exists is also based on the lack of any information on the record that the first unaffiliated customer will be responsible for paying the duty that is ultimately assessed. Absent an irrevocable agreement between the affiliated U.S. importer(s) and the first unaffiliated customer, there is no basis for us to conclude that the duty attributable to the margin is not being absorbed.

Section 751(a)(4) of the Act does not specify the methodology we are to use in an administrative review in determining whether duty absorption occurred. Similarly, the SAA at 885 simply notes that the Department "will examine * * * whether absorption has

taken place." Moreover, the legislative history provides no guidance on what methodology the Department is to employ in making its determination. See also S. Rep. No. 103-412 at 44 (1994).

In considering methodologies that might be used for a duty-absorption inquiry, the Department sought to adopt one that would comply with the statute, as well as one that would be administrable within the time frame of a review period and still provide respondents with a sufficient opportunity to cure any deficiencies. The method the Department adopted accomplishes these goals. As the Department explained in *AFBs 7*, 62 FR at 54076, the "existence of a margin raises an initial presumption that the respondent and its affiliated importer(s) are absorbing the duty." This is a reasonable presumption because the continued existence of dumping duties indicates that the producer and its affiliated U.S. importer have not adjusted their prices to eliminate dumping. If the producer has not set its price to the first unaffiliated U.S. customer high enough to eliminate dumping, it is reasonable to presume that the producer is also absorbing the dumping duties. The reasonableness of this presumption is also reflected in the SAA at 885, which states that "the affiliated importer may choose to pay the antidumping duty *rather than eliminate the dumping*" (emphasis added). In sum, the existence of dumping gives rise to a reasonable presumption that the affiliated importer is absorbing dumping duties.

This is an instance where the existence of a margin raises an initial presumption that the respondent and its affiliated importer(s) are absorbing the duty. As such, the burden of producing evidence to the contrary shifts to the respondent. See *Creswell Trading Co., Inc. v. United States*, 15 F.3d 1054 (CAFC 1994). Here the respondents have not placed evidence on the record, despite being given ample time to do so, in support of their position that they and their affiliated importer(s) are not absorbing the duties. Regarding FAG's argument that there is no connection between the percentage of sales of a U.S. importer with dumping margins and any alleged duty absorption by the affiliated foreign producer or exporter, the percentage of sales with dumping margins is an indication of the volume of imports for which antidumping duties are being absorbed.

Comment 3: SKF argues that, by using data already available on the record, the Department is able to conduct an accurate analysis of whether dumping duties are being absorbed by comparing

the total profit of CEP sales to the total amount of the antidumping liability. SKF, Koyo, and NSK also emphasize that, while dumping must be measured on a transaction-specific basis, there are no reasons why a duty-absorption inquiry can not be done on an aggregate basis. SKF argues that the Department must consider aggregate sales if an accurate duty-absorption determination is to be made. SKF states that, when the Department calculates dumping margins for transactions where the U.S. price exceeds normal value, the margin is set to zero. SKF contends that these "negative" margins need to be taken into account since "negative" margins indicate that, overall, duties are not being absorbed but, rather, that a company is offsetting dumping prices completely by passing on the cost of duties to its customers through universally higher prices. SKF also argues that, at a minimum, the Department's duty-absorption methodology must be modified to exclude from the percentage of dumped sales those transactions with *de minimis* margins. SKF contends that, if this is not done, a nonsensical result could be achieved where a respondent is found not to be dumping yet is found to be absorbing antidumping duties. SKF states that to disregard *de minimis* margins for purposes of the duty-absorption analysis is consistent with the Department's treatment of such margins for other purposes. NSK contends that, by adopting an aggregate approach, the Department would be creating a much more equitable standard consistent with World Trade Organization obligations for measuring duty absorption.

Torrington argues that the Department should reject SKF's proposals, as it did in AFBs 7, that sales with negative margins should be used for purposes of the duty-absorption determination and that no inquiry should proceed where total CEP profit exceeds the dumping duties due. Torrington argues further that the fact that there are sales by an importer at fair value is of no consequence for duty-absorption inquiries just as they are of no consequence for dumping-margin calculations. Torrington states that, as there is no basis in the antidumping law to use negative margins as an offset or credit against positive margins, the same consideration applies in the context of duty absorption.

Department's Position: The Department treats so-called "negative" margins as being equal to zero in calculating a weighted-average margin because otherwise exporters would be able to mask their dumped sales with

non-dumped sales. See *Tapered Roller bearings and Parts Thereof, Finished and Unfinished from Japan; Final Results of Antidumping Duty Administrative Reviews*, 63 FR 2559, 2576 (January 15, 1998), and AFBs 7, 62 FR at 54076. It would be inconsistent on one hand to calculate margins using only positive-margin sales, which is the Department's practice, and then effectively argue for duty absorption purposes that there are no margins for duty-absorption purposes because a deduction from the total duties determined should be made for non-margin sales. See *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom; Final Results of Antidumping Duty Administrative Review*, 62 FR 18744, 18745 (April 17, 1997). In addition, accounting for negative margins would allow respondents to absorb duties selectively (on a customer, regional, or some other basis). With respect to *de minimis* margins, we apply *de minimis* margins on an aggregate, not on a sale-by-sale, basis. We disregard aggregate *de minimis* weighted-average margins for cash-deposit purposes, but we do not disregard individual sales that may have been dumped at less than 0.5 percent from a company's weighted-average margin.

Finally, a company's profit on CEP sales is not relevant to a duty-absorption inquiry. The existence of profit on such sales does not negate the fact that the dumping duties assessed on the entries are absorbed by the affiliate.

3. Discounts, Rebates and Price Adjustments

Comment 1: Torrington argues that the Department should not deduct FAG's reported home-market rebates because FAG used a broad allocation to report its rebates. Torrington contends that the CAFC, in *Torrington I*, ruled that direct expenses must be reported on a transaction-specific basis. Torrington argues that FAG's reported rebates are distortive because they assign a rebate amount to all sales of a particular customer rather than only to the individual sales on which the rebate was incurred. Torrington also asserts that FAG has not shown that it reported these rebates to the best of its ability.

FAG argues that, where a rebate program only applied to a customer's purchase of specific products, the rebate FAG paid was factored only over those product purchases rather than all of the customer's purchases. Thus, FAG contends, the rebate is only reported for those sales on which it incurred the expense. FAG also observes that the Department has examined this issue in

prior reviews and rejected Torrington's argument.

Department's Position: Under section 351.401(g) of the Department's regulations, we accept allocated price adjustments, such as rebates, when transaction-specific reporting is not feasible and the allocation method used does not cause unreasonable inaccuracies or distortions. In judging the feasibility of transaction-specific reporting, we take into account the records maintained by a respondent, as well as such factors as the accounting practices in the country and industry in question and the number of sales made during the POR. See also AFBs 7, 62 FR at 54049.

FAG's home-market rebates were reported in the same manner as in prior reviews (see AFBs 7, 62 FR at 54051) and are limited to the sales on which FAG actually incurred the rebate expense. FAG stated in its supplemental response that rebates that were payable in connection with purchases of certain types of products or for purchases made during certain select periods were reported on the basis on which they were granted. See FAG's supplemental response dated October 27, 1998, at 6. In addition, Exhibit B-6 of FAG's section B response dated August 28, 1998, shows that FAG allocated the rebate only over those sales which received a rebate and it applied the allocation only to the sales for which it paid a rebate. Based on these facts, we determine that FAG's methodology for reporting its home-market rebates is reasonable and not distortive because it assigns rebates only to those sales which incurred rebates on a customer-specific basis.

With regard to Torrington's reliance on *Torrington I*, as we have stated in prior determinations and in the preamble to our regulations, *Torrington I* does not address the propriety of allocation methods but rather holds that we may not treat direct price adjustments as if they were indirect selling expenses. See *Final Rule*, 62 FR at 27347, and AFBs 7, 62 FR at 54050.

Comment 2: Torrington asserts that the Department should reject SKF Germany's claim for home-market billing adjustment two, which applies to multiple transactions involving the same customer. Torrington contends that SKF Germany summed all adjustments applicable to the customer number involved and allocated this amount over all sales to that customer. Torrington asserts that this allocation is contrary to the court's decision in *Torrington I* regarding the reporting of direct selling expenses. Torrington alleges that, by accepting SKF

Germany's allocation, the Department in effect treated these as indirect expenses. Torrington argues that SKF Germany's reporting method is distortive because it does not tie the reported adjustment to specific transactions (or specific groups of transactions) to which they actually applied, but instead it allocates adjustments across product lines. Torrington argues that SKF Germany's reporting method is therefore contrary to the Department's post-URAA practice regarding such adjustments and that, as facts available, only positive billing adjustments should be retained for purposes of calculating the net home-market price. Furthermore, Torrington contends that, to the extent the facts seem to indicate that customers are simply awarded certain lump sums, the adjustment claimed by SKF Germany is not a billing adjustment but a rebate. Torrington argues that the Department does not accept rebates unless they were contemplated at the time of sale or are understood from past dealings of the parties.

SKF Germany responds that its reporting of billing adjustment two is not distortive, is consistent with the way that it incurs this expense, and constitutes a reasonable allocation under U.S. law. SKF Germany asserts further that the Department has accepted this adjustment in the last three reviews, as well as verified it in the last administrative review where it found that transaction-by-transaction reporting is simply not possible because the adjustments related to multiple transactions and, therefore, could not have been reported more specifically. SKF Germany contends that *Torrington I* was decided under the pre-URAA law and that the 1994 amendments emphasized that reasonable allocations of direct expenses are acceptable. SKF Germany contends further that, in *Torrington I*, the CAFC merely held that the Department could not treat direct adjustments as indirect selling expenses and that, therefore, acceptance of an allocation is not incompatible with its holding. SKF Germany insists that there is no factual or legal basis for distinguishing between upward and downward billing adjustments with respect to the amounts reported in its home market billing-adjustments-two field since it has reported this adjustment in a manner consistent with its business records. Moreover, SKF Germany asserts, the Department examined these adjustments in prior reviews and found them to be allocated reasonably.

Department's Position: We accept post-sale billing adjustments as direct adjustments to price if we determine

that a respondent, in reporting these adjustments, acted to the best of its ability to associate the adjustment with the sale on which the adjustment was made, rendering its reporting methodology not unreasonably distortive. See *AFBs 6*, 62 FR at 2090. While we prefer that respondents report these adjustments on a transaction-specific basis (or, where a single adjustment was granted for a group of sales, as a fixed and constant percentage of the value of those sales), we recognize that this is not always feasible, particularly given the extremely large volume of transactions involved in these reviews and the time constraints imposed by the statutory deadlines.

SKF Germany's two billing adjustments were part of credit or debit notes issued to the customer that related to multiple invoices, products, or invoice lines, and which, therefore, could not be tied to a single specific transaction. In these cases, the most feasible reporting methodology that SKF Germany could use was a customer-specific allocation, which is not unreasonably inaccurate or distortive.

It is inappropriate to reject allocations that are not unreasonably distortive where a fully cooperating respondent is unable to report the information in a more specific manner. Because these adjustments are associated with multiple invoices, products, or product lines, they could not be tied to a specific transaction. Verification in the 96/97 review was an opportunity to determine whether billing adjustment two represented a reasonable approximation of SKF Germany's experience in granting this adjustment. Our conclusion in that review was that there was no reason to believe that the actual data would differ significantly. In this review, there is no evidence on the record to indicate that the bearings included in SKF Germany's current allocations vary significantly, either in terms of value, physical characteristics, or the manner in which they were sold. For this reason, we find that this methodology is not unreasonably distortive. With regard to the holding in *Torrington I*, see our response to the previous comment.

Comment 3: Torrington argues that the Department should reject all of Koyo's downward billing adjustments to home-market prices reported as billing adjustment two because the reporting methodology was incorrect and distortive. Torrington contends that billing adjustment two is distortive because it includes adjustments which Koyo granted on a model-specific basis but allocated over all sales to the customer involved, as well as lump-sum

adjustments granted on a customer-specific basis, with the result that adjustments are made to transactions for which no adjustment actually applied. Citing *Torrington I*, the petitioner argues further that expenses which vary from sale to sale are direct expenses and must be reported as such (*i.e.*, varying from sale to sale) or be denied. Torrington contends that, by accepting Koyo's allocation, the Department in effect is treating Koyo's reported billing adjustments as an indirect expense (*i.e.*, not varying from sale to sale) and, thus, reaching a result that is incompatible with *Torrington I*.

In rebuttal, Koyo argues that Torrington has offered no new reason why the Department should not reject Torrington's arguments in these reviews as it has done in the past three AFB reviews. Koyo contends that the petitioner continues to rely on *Torrington I* even though the Department dismissed *Torrington I* as inapplicable to the issue at hand, citing *AFBs 6*, 62 FR at 2091.

Department's Position: Koyo has reported billing adjustment two to the best of its ability. We have based this determination on the fact that this post-sale price adjustment is comprised of two types of adjustments: (1) Lump-sum adjustments negotiated with customers without reference to model-specific prices, and (2) adjustments granted on a model-specific basis but which Koyo records in its computer system on a customer-specific basis only. Given the large number of sales involved, it is not feasible to report this on a more specific basis. See *AFBs 7*, 62 FR at 54050-51, and *AFBs 8*, 63 FR at 33328. Furthermore, we examined this expense closely at verification and found no indication that Koyo's methodology would result in distortive allocations. Therefore, we have allowed Koyo's billing adjustment two as a direct adjustment to normal value.

4. Circumstance-of-Sale Adjustments

4.A. Credit

Comment 1: Torrington notes that a home-market verification exhibit discloses that FAG Italy was uncertain of the dates of payments for some home-market sales. Torrington requests that the Department accept revised, post-verification data from FAG Italy only to the extent that it is satisfied that the payment dates have been reported accurately. Torrington requests that the Department otherwise apply partial facts available to the imputed credit calculation.

FAG Italy responds that, after verification, it revised its home-market

credit expense calculation properly; it notes that it based the dates of payments for transactions of April and May 1998 on the customer-specific averages of the prior six months and that it recalculated imputed credit using these new dates. It asserts that, because the payment dates have now been reported accurately, the Department should accept its revised data.

Department Position: We have no reason to believe that FAG Italy reported payment dates for home-market sales inappropriately. Per our request, on December 18, 1998, FAG Italy submitted its post-verification amendments to account for corrections it presented at the beginning of verification and to correct certain errors that we discovered during verification. The revised payment dates for April and May 1998, based on customer-specific averages, comprised part of FAG Italy's post-verification amendments. In these reviews, as in past reviews, we allowed FAG Italy to calculate its payment dates on the basis of customer-specific averages because it did not maintain its payment records in a manner which provided transaction-specific payment dates. See FAG Italy's August 28, 1998, Section B questionnaire response at 31. We have not found the use of the averages to be unreasonably inaccurate or distortive. Moreover, this methodology is consistent with ones we have accepted in other segments of these proceedings where companies were not able to provide transaction-specific payment dates. See, e.g., *AFBs* 6, 62 FR at 2101, and *AFBs* 7, 62 FR at 54053. For these reasons, we have accepted FAG Italy's methodology and, consequently, its revised data for these final results.

Comment 2: Torrington argues that the Department should either reject or recalculate Koyo's home-market credit adjustment because its reporting method accounts for neither actual payment periods nor special agreements between Koyo and its customers for reducing accounts-receivable balances. Torrington contends that, since Koyo is able to distinguish all home-market transactions by product code, the sale date, the customer code, and the sales branch, reporting of actual payment periods is possible. Torrington concludes that, since Koyo calculates a customer-specific average, based on the ratio between receivables and sales rather than reporting actual payment periods, its methodology is inherently flawed.

Koyo argues that, although Torrington states that Koyo can distinguish home-market transactions by product code, the sale date, the customer code, and the

sales branch, Torrington does not mention that these data are all invoice items, not payment information. Koyo states that it keeps its customer receivables on a customer-specific basis but not on an invoice-specific basis. When Koyo receives payment from a customer, the respondent explains, it applies the payment to that customer's accounts receivable balance and not to a specific invoice. Koyo states that its methodology of calculating the average number of days until receipt of payment by dividing the accumulated month-end receivables for each customer by the average daily sales to that customer is acknowledged widely as a standard measure of accounts receivable turnover. Koyo maintains that the Department has accepted this methodology in previous reviews. Finally, Koyo argues that certain arrangements it has with specific customers regarding payment types, e.g., cash and 30-day notes, do not distort Koyo's home-market credit expenses because it accounted for these payments in its calculation of the average number of days outstanding which it then used for calculation of home-market credit expense.

Department's Position: Based on our review of information on the record, we find no indication that Koyo has changed its computerized payment-record system so that it can link specific shipments to payments. We examined Koyo's credit expense calculations during verification and found, as in *AFBs* 4, 5, 6, and 7, that Koyo's methodology reflects that which it reported in its questionnaire response dated August 28, 1998, at B-11. Therefore, in these reviews, as in *AFBs* 4 through 7, we have accepted Koyo's calculation of its home-market credit expense for each customer on the basis of the average number of days that receivables are outstanding. We are also satisfied by information on the record of this and previous reviews that the arrangements that Koyo has with certain customers regarding payments do not distort Koyo's home-market credit expense calculations.

4.B. Technical Services and Warranties

Comment 1: Torrington argues that SNR's claim that it incurred no direct technical-service expenses on its EP sales is not supported by information on the record. Torrington states that SNR's description of its selling functions regarding EP sales reveals that EP sales benefit from considerable technical-service expenditures by SNR and that such service expenditures are likely to have a significant direct expense portion. Since SNR did not distinguish

direct and indirect technical-service expenses, Torrington asserts that the Department should treat such expenses as direct expenses.

SNR argues that Torrington completely ignores the fact that SNR did distinguish its technical-service expenses in its August 28, 1998, questionnaire response at C-32. SNR concludes that, since Torrington has not rebutted SNR's evidence illustrating why SNR's treatment of technical-services expenses was correct, the Department should accept these expenses as indirect in nature.

Department's Position: We have examined the information on the record and have concluded that the record supports SNR's contention that the technical services rendered were indirect. In particular, SNR's Section C questionnaire response dated August 28, 1998, at C-32 indicates that the expenses reported under this item covered the fixed expenses incurred in providing technical advice to salesmen concerning subject and non-subject merchandise. We have found that SNR's U.S. technical expense (i.e., salary and benefit expense) is a fixed expense that can neither be related to individual sales nor subject or nonsubject merchandise. We examined the information on the record and found no support for Torrington's allegation that SNR's EP sales benefit from "considerable technical service expenditures" by SNR. Since there is no indication on the record that SNR incurred direct technical expenses, we have made no changes to our treatment of SNR's technical services as an indirect expense.

Comment 2: Torrington argues that the Department should review Nachi's direct and indirect technical-services expenses and, if Nachi included any direct technical-service expense in indirect technical-service expense, the Department should restate Nachi's indirect expenses and reduce the CEP-offset "cap." Torrington contends that Nachi replaces faulty bearings as part of its technical-services program and reported the costs of replacements as an indirect technical-service expense.

Nachi argues that the Department's practice has been to accept Nachi's reporting of the costs associated with the activities of Nachi Technical Center (NTC) as an indirect technical-service expense since NTC does not provide services, whether related to sales, repairs, or replacement of bearings, to customers directly. Nachi contends that it did not report the costs of replacements as indirect technical-service expense but as a direct expense in another expense category.

Department's Position: Based on our analysis of the record, we agree that Nachi reported the costs associated with NTC as indirect expenses correctly. Because such expenses, consisting principally of salaries and benefits of NTC personnel, are fixed expenses, it was proper to report them as indirect expenses. In addition, the record supports Nachi's claim that replacement costs are captured as a direct expense in another expense category. Due to the proprietary nature of this argument, see the Department's Analysis Memorandum for Nachi, dated June 15, 1999, for a more detailed discussion of this expense.

Comment 3: Torrington argues that SKF France's claim that it incurs no direct expenses for technical services on its EP sales to the United States for merchandise manufactured by its affiliate, Sarma, is not supported by the record. It argues that, due to the demanding nature of the market to which Sarma sells (i.e., OEMs in the aerospace industry), it is likely that Sarma incurs significant direct selling expenses for technical and engineering services. Torrington contends that this is confirmed by SKF's reporting of a high degree of engineering services performed by Sarma. Torrington adds that the ledger of Sarma's indirect selling expenses includes items traditionally regarded as variable expenses. Citing AFBs 3 and AFBs 4, Torrington argues that, where the Department finds that the respondent has not distinguished between direct and indirect technical-services expenses, it is the Department's policy to treat such expenses as direct in the United States. When such information is lacking, Torrington continues, the Department calculates a direct-expense deduction on the basis of facts available. Torrington concludes that the Department should calculate and apply a direct-expense rate based on facts available in this case.

SKF France states that its reporting of indirect selling expenses for Sarma is correct and that the Department should continue to accept such expenses as reported. SKF France asserts that its response to the Department's questionnaire indicates that Sarma does not provide direct technical services or advice to its customers and that Sarma's technical department only provides general design and quality-control advice for future bearing development. Thus, the respondent contends, the response supports SKF France's claim that expenses are indirect in nature. SKF notes that its selling-function chart, which depicts the levels of activity and functions for indirect selling activities

and which shows a high level of engineering services, is consistent with its narrative response. It argues that the expenses related to the activity the petitioner identifies (in Sarma's indirect selling expense ledger as being traditionally regarded as a variable expense) are not direct since they do not vary with the quantity sold nor are they tied to specific sales.

Department's Position: SKF France stated in response to our questionnaire that its affiliate, Sarma, does not provide direct technical services to its U.S. customers. We found no record evidence that SKF France misclassified these expenses as indirect selling expenses. Moreover, there is no presumption that a company operating in Sarma's market should have direct selling expenses. Thus, the petitioner's allegation alone does not call into question Sarma's responses. In response to the petitioner's reference to AFBs 3 and AFBs 4, it is clear that in these cases the Department found that the respondents did not distinguish direct and indirect expenses. Furthermore, in AFBs 3, in addition to not distinguishing between direct and indirect expenses, the respondent did not indicate that the expenses were all indirect in nature. Because there is no indication from the record of these reviews that certain indirect expenses should be reclassified as direct expenses, we have accepted SKF France's expenses as reported.

Comment 4: Torrington argues that the Department should reallocate FAG Germany's U.S. technical-service expenses because FAG Germany's allocation methodology is distortive. Torrington contends that FAG Germany's selling-functions chart indicates that these expenses are incurred in greater amounts for some types of sales than for others and argues that the Department should reallocate these expenses to take this into account. Torrington argues further that the record shows that FAG Germany likely incurred significant direct technical-service expenses on certain EP sales even though FAG Germany did not report such expenses. Torrington argues that the Department should, consistent with its policy where a respondent has not distinguished direct and indirect technical-service expenses, treat all of FAG Germany's indirect technical-service expenses as direct expenses.

FAG Germany argues that there is no demonstrative correlation on the record between selling functions and selling expenses. In this regard, FAG Germany notes that the description of selling functions in the selling-functions chart includes indirect as well as direct

technical-service expenses and thus cannot be used as a basis for determining the accuracy of its reported direct expenses. FAG Germany contends further that, because it had no reported U.S. sales of the type that Torrington contends should incur more expense, the issue is essentially moot. Thus, FAG Germany concludes that there is no basis for imputing a facts-available direct technical-service expense for FAG Germany's EP sales.

Department's Position: FAG Germany reported no direct technical-service expenses on its EP sales. See FAG Germany's supplemental response dated October 27, 1998, at 12. Because the chart of selling functions FAG Germany provided in its response includes all technical-service expenses, including indirect selling expenses, it is not a reliable guide for demonstrating an inconsistency in FAG Germany's response with regard to technical-service expenses. Moreover, Torrington's suggestion that FAG Germany should have incurred such expenses, without record evidence demonstrating the existence of such expenses, is insufficient to call the record evidence into question. Therefore, we have not made any adjustment to FAG Germany's claimed amount.

Comment 5: Torrington argues that the Department should reject NSK-RHP's claim that RHP Aerospace incurred no direct technical-service expenses for EP sales. Torrington argues that NSK-RHP's questionnaire response contradicts the respondent's claim that this expense is indirect in nature and, therefore, the Department should calculate a direct-expense factor for technical-service expenses as a basis for facts available.

NSK-RHP responds that the Department verified NSK-RHP's reported U.S. indirect technical service expenses and found no discrepancy, thereby confirming that there was no direct link between RHP Aerospace's technical services and sales. NSK-RHP argues that Torrington has attempted to refute NSK-RHP's claim by overlapping different sections of NSK-RHP's response inaccurately.

Department's Position: We verified the accuracy of NSK-RHP's claim that it incurred no direct technical-service expenses for EP sales and found no discrepancies. See *Verification Report of NSK-RHP's Response to Sections A, B and C of the Department's Questionnaire* at 14, dated January 21, 1999. Accordingly, we have not calculated a direct technical-service expense factor for RHP Aerospace based on facts available.

4.C. Commissions

Comment: NTN argues that the Department's methodology for determining that its home-market commissions were not made at arm's length is unreasonable. NTN contends that commission rates vary significantly between selling agents according to the services provided by each agent and that the Department's methodology does not account for these differences. NTN also asserts that the Department's methodology does not account for differences related solely to levels of trade. Finally, NTN asserts that the fact that commissions paid to related parties are often much higher than those paid to unrelated parties demonstrates that the Department's methodology is distortive. By reviewing commission rates on an individual basis rather than a weighted-average basis, NTN asserts, the Department can determine which sales were made on an arm's-length basis accurately.

Torrington argues that the Department's methodology is appropriate. Torrington contends that NTN provides no concrete evidence that the Department's reliance on a commission-rate comparison is not appropriate to determine whether commissions paid to related sales agents were at arm's length. Citing *AFBs* 6, 62 FR at 2099, Torrington observes that the Department's test of NTN's commissions conforms with its prior practice with regard to other respondents.

Department's Position: There is no evidence on the record supporting NTN's claim that commission rates vary significantly between selling agents according to the services provided by each agent. As NTN notes, its response indicates that it negotiates commission rates with each selling agent. However, NTN has not provided any explanation as to how or why commission rates might vary or any information regarding the differences in services rendered by different selling agents. In the absence of such information, it is reasonable to presume that commissions paid to affiliates which are higher than those paid to unaffiliated parties are not at arm's length.

Furthermore, NTN's assertion that "commissions paid to related parties are often much higher than those paid to unrelated parties" does not demonstrate that our methodology is unreasonable. Rather, it indicates that the commissions paid to those related parties are more favorable than those paid to unrelated parties and, therefore, are not at arm's length. In addition, while it is true that NTN performs a number of different selling functions for

different levels of trade, the record does not show or suggest that the selling functions performed by the selling agent vary by level of trade.

The record also does not show or suggest that NTN pays different commissions to selling agents depending on the level of trade of the ultimate customer. Finally, with respect to this issue, it is important to note that the purpose of our commission arm's-length test is to determine whether the commissions paid are at arm's-length amounts, not whether the sales themselves made to affiliated parties were at arm's-length prices. Indeed, we have a separate test for determining whether sales were made at arm's-length prices. Therefore, we have not altered our methodology.

4.D. Other Direct Selling Expenses

Comment 1: Torrington argues that the Department should recalculate Koyo's U.S. direct selling expenses. Torrington asserts that Koyo did not account for the expenses of administering a certain sales program sponsored by Koyo Corporation of the U.S.A. (KCU). Koyo argues that Torrington's argument is a misrepresentation of the record because Koyo accounted for the expenses fully in KCU's U.S. selling expenses reported in Section C of its questionnaire response.

Department's Position: We are satisfied by information on the record that Koyo has accounted for these expenses in its response. We have verified this item in previous reviews and find no information for these reviews that would indicate that the reporting of this expense has changed. Due to the proprietary nature of the comments raised by Torrington, see the Department's Analysis Memorandum for Koyo, dated June 16, 1999, for a more detailed discussion of this expense.

Comment 2: NPBS argues that the statute makes no provision for the deduction of repacking expenses from U.S. price. Accordingly, NPBS asserts that the Department should not make any adjustment to U.S. price for repacking expenses.

Department's Position: As we discussed in the CEP-profit section of this notice (see below) we view repacking expenses as direct selling expenses that the respondent incurs as a result of the sale. Accordingly, we deduct such expenses from U.S. price pursuant to section 772(d)(1)(B) of the Act which directs us to deduct from the CEP " * * * expenses that result from, and bear a direct relationship to, the sale, such as credit expenses, guarantees

and warranties." See also *AFBs* 8, 63 FR at 33339, and *Porcelain-on-Steel Cookware from Mexico; Final Results of Antidumping Duty Administrative Review*, 64 FR 26934, 26942 (May 18, 1999). Therefore, we have deducted repacking expenses from the CEP.

4.E. Indirect Selling Expenses

Comment 1: Torrington argues that the Department should not deduct from normal value Koyo's indirect selling expenses and those reported for two consolidated affiliated resellers (distributors) in the home market. Torrington contends that Koyo has not supported its claim that the former are in addition to the latter expenses.

Koyo contends that it was appropriate to accept its reported indirect selling expenses. Koyo argues that all three companies—Koyo Seiko and its two consolidated distributors—are involved in the selling of the product to the ultimate customer. Koyo argues, therefore, that it is appropriate to deduct the indirect selling expenses of each of the three from the gross home-market price. Koyo states that Torrington bases its argument incorrectly on a situation where the product is sold to a related party. In the instant situation, Koyo argues, it does not sell the bearings to its consolidated distributors but rather simply shifts the responsibilities of some of the selling functions to the consolidated distributors.

In response to Torrington's assertion that Koyo's indirect selling expenses are the same as those reported for its two consolidated distributors, Koyo argues that, at each stage in the chain from Koyo Seiko to the ultimate customer, Koyo Seiko and the two consolidated distributors incur expenses individually in support of those sales to the ultimate customer. Koyo contends further that, because each company incurred discrete expenses in the process of selling the merchandise to the ultimate customer, the Department adjusted home-market price for those expenses correctly. Finally, Koyo concludes that there has been no double-counting of indirect selling expenses and therefore there is no need for the Department to recalculate Koyo's home-market indirect selling expenses.

Department's Position: We examined Koyo's distributors' expenses closely at verification. We found no indication that there had been double-counting of indirect selling expenses. We were able to verify that each company incurred discrete expenses in the process of selling the merchandise to the ultimate customer. Therefore, we have not recalculated Koyo's home-market indirect selling expenses.

Comment 2: Torrington notes that INA reported that its U.S. affiliate reimbursed the parent company for certain indirect selling expenses incurred in Germany to support sales to the United States. The petitioner contends that these reimbursements are associated with U.S. commercial activity and should be deducted from CEP. As facts available, the petitioner suggests that the Department deduct from CEP all of the reported indirect selling expenses incurred in Germany to support sales to the United States.

INA argues that it has included the reimbursed expenses in the total U.S. indirect selling expenses incurred by its U.S. affiliate. INA asserts that, as a result, the Department has already deducted such expenses from the CEP.

Department's Position: The evidence on the record indicates that the reimbursements in question are reflected in INA's ISE totals. Thus, we have already deducted the reimbursements at issue from CEP and the use of facts available is not warranted.

Comment 3: Torrington argues that the Department should review NTN's U.S. ISE calculation to ensure that it is not distortive. Torrington contends that NTN apparently removed a portion of the warehousing expense from its total indirect selling expenses on the ground that these expenses were not allocable to subject merchandise. Torrington argues that, because NTN allocated the remaining indirect selling expenses to both subject and non-subject merchandise, NTN's methodology may be distortive.

NTN indicates that it removed a portion of its warehousing expense from total warehousing expenses because this portion was associated exclusively with warehousing non-subject merchandise. NTN asserts that the remaining expenses have to be allocated between subject and non-subject merchandise because these expenses were incurred on both subject and non-subject merchandise.

Department's Position: It is appropriate to remove the warehousing expenses incurred exclusively on non-subject merchandise to the extent that the sales of the non-subject merchandise in question are not included in the sales total used to allocate the expenses. A comparison of Exhibit C-8 to the financial statements NTN submitted in Exhibit A-18 of its September 5, 1998, response suggests that NTN did not include the sales on which these warehousing expenses were incurred in its calculation of per-unit indirect selling expenses. Therefore, we

determine that NTN's allocation of warehousing expenses is not distortive.

Comment 4: NTN argues that the Department should not have recalculated its home-market and U.S. indirect selling expenses without regard to its customer categories. NTN observes that its selling functions differ between levels of trade and NTN contends that, by reallocating selling expenses without regard to the level of trade, the Department distorted the margin calculation because the expenses are not the same for each level of trade. NTN argues this is particularly true of sales made by NSCL, an affiliated party in the home market, because NSCL sells only to distributors.

Torrington observes that the Department has rejected NTN's argument in prior reviews. Torrington contends further that NTN neither acknowledges the Department's prior decisions nor does it acknowledge any changes in its reporting.

Department's Position: We rejected NTN's allocation methodology because the method that NTN used to allocate its indirect selling expenses does not bear any relationship to the manner in which NTN incurs the expenses in question, thereby leading to distorted allocations. We have addressed this issue in prior reviews. See *AFBs 8*, 63 FR at 33329, first addressed in *AFBs 3*, 58 FR at 39750. NTN has not changed the methodology we rejected in these prior reviews nor has it presented any evidence that its selling expenses are incurred in the manner in which it allocated the expenses. In addition, we note that we allocated expenses incurred by NSCL only to NSCL's sales. The only change we made to NSCL's expenses was to segregate warehousing expenses so we could treat them as a movement expense. Therefore, we have not distorted the selling expenses attributable to NSCL's sales.

Comment 5: Torrington notes that, under a reserve for doubtful accounts, SKF Italy reported negative amounts as revenue for the account and reported positive amounts as bad-debt expenses. Torrington argues that the Department should not accept the positive amount in SKF Italy's reserve for doubtful accounts as indirect selling expenses because SKF Italy has not demonstrated that the bad-debt expense was incurred on sales of subject merchandise and contends that, without supporting evidence, no adjustment should be made. In support of its position, Torrington cites *AFBs 4*, 60 FR at 10916: "(a)lthough [the respondent] claimed as an expense an amount set aside in reserve in the event that its customers fail to pay outstanding charges in the

future, Koyo failed to demonstrate that it actually wrote off any bad debts during the [POR]" (material in brackets added).

SKF Italy contends that Torrington misapprehends the nature of the respondent's reserve for doubtful accounts. SKF Italy explains that the negative amount represents the actual collection of bad debt that was outstanding and written off which offsets the positive amount that represents bad debt that was actually written off. SKF Italy indicates that it considers and records such expenses as indirect and argues that, since indirect selling expenses are allocated over all home-market sales, whether such expenses relate strictly to subject merchandise is not an appropriate issue.

Department's Position: As SKF Italy reported in its response that it incurred actual bad-debt expenses during the instant review from the write-off of actual bearing sales, this situation differs from the one cited by Torrington, and we believe an expense adjustment is appropriate. Further, as we said in *AFBs 4*, 60 FR at 10917, we consider bad-debt expense to be either direct or indirect depending on the relationship between the bad-debt expense and the sale. Based on the information reported in SKF Italy's response, we find that the bad-debt expense does not bear a direct relationship to the sale of merchandise made during the POR because SKF Italy is unable to tie these expenses to particular sales. Accordingly, we have treated its bad-debt expenses as indirect for these final results.

5. Level of Trade

Comment 1: Torrington argues that NTN has not demonstrated that it is entitled to a level-of-trade adjustment or CEP offset because it did not provide information that the Department requested. In addition, Torrington argues that NTN's descriptions of the selling functions it performs for its EP level of trade demonstrates that the EP level of trade is not comparable to any level of trade in the home market and, therefore, NTN is not entitled to a level-of-trade adjustment with respect to any of its home-market sales. Torrington asserts that NTN has an office which serves the EP customer and performs a number of selling functions that are not performed at any other level of trade. Torrington also observes that Exhibit A-7 of NTN's September 5, 1998, questionnaire response indicates that all merchandise is packaged and shipped to the EP customer's specifications and, Torrington argues, NTN does not provide this service to customers at any level of trade in the home market.

Finally, Torrington asserts that the record does not demonstrate that there are patterns of consistent price differences among sales at different levels of trade in the home market. Torrington bases its argument on its assertion that there is significant overlap between the prices at the different levels of trade. Torrington asserts that, because a popular model could skew the relative figures significantly and distort the analysis of consistent price patterns, the Department's analysis of the patterns of price differences by quantity is misleading.

NTN contends that it provided the information which the Department requested. NTN also argues that the Department issues supplemental questionnaires routinely and that the fact that the Department asks a question does not necessarily mean that a response contains a deficiency.

With respect to its EP sales, NTN contends that it provides essentially the same services for its EP sales as it does for one of its home-market levels of trade. NTN argues that the fact that it has an office which acts as a facilitator for EP sales is no more remarkable than the existence of branch sales offices throughout Japan to service customers in particular regions. NTN also argues that the fact that merchandise shipped to the EP customer is shipped to that customer's specifications is not unique because NTN packs all merchandise to its customers' specifications. Finally, NTN argues that the record demonstrates that there is a pattern of consistent price differences, that Torrington's arguments are based on conjecture, and that Torrington's claims are not supported by the record. NTN also contends that the Department's analytical methodology removed the distortions that Torrington suggests could occur.

Department's Position: For the preliminary results, we granted a level-of-trade adjustment for NTN's EP sales and made a CEP offset for NTN's CEP sales based on an analysis of NTN's responses to our requests for information. See Level of Trade Memorandum dated January 26, 1999. We have not changed the analysis for these final results.

We disagree with Torrington's assertion that NTN did not provide information to justify a level-of-trade adjustment. The information NTN provided was adequate for us to make an determination regarding NTN's level-of trade claims; therefore, Torrington's cite to NTN's supplemental response in support of its contention is inappropriate. NTN's supplemental response indicated that there was no

additional information beyond that originally reported and we made our determination that NTN was entitled to a level-of-trade adjustment for EP sales and a CEP offset for CEP sales on the basis of NTN's original submissions.

With regard to EP sales, we find that the record demonstrates that the level of trade of EP sales is the same as that of one of the home-market levels of trade. First, the existence of a separate sales office to service EP sales does not demonstrate, by itself, that the level of trade is necessarily different from one of the home-market levels of trade. Rather, what is important is whether the selling functions performed by NTN (including the functions performed by the selling office) for EP sales are similar to those performed for one of the home-market levels of trade. We find that this is, in fact, the case. We disagree with Torrington's claim that the selling functions performed by NTN's EP sales office are not performed for any of the home-market levels of trade. Rather, we find that most of the expenses incurred by the EP sales office to which Torrington refers are likely to be incurred by any sales office and that the others can reasonably be correlated with the home-market selling functions NTN performed. See NTN final results analysis memorandum dated June 16, 1999.

Second, we do not find remarkable that merchandise shipped to the EP customer is packaged and shipped to that customer's specifications, given the nature of the customer for EP sales. There is no evidence on the record, nor any logical reason to believe, that merchandise shipped to customers which comprise one of the home-market levels of trade are not also packaged and shipped to the customer's specifications.

Furthermore, the SAA at 830 directs that, "[w]hile the pattern of pricing at the two levels of trade under section 773(a)(7)(A) must be different, the prices at the levels need not be mutually exclusive; there may be some overlap between prices at the different levels of trade." We agree with Torrington that the amount of overlap measured in the number of models sold is substantial. However, the record demonstrates that the overlapping models account for a very small percentage of the total quantity of sales. The record also demonstrates that, for the vast majority of sales, measured by quantity, prices are higher at one level of trade than for the other. It is on this basis that we conclude that there is a pattern of consistent price differences between the two levels of trade.

Finally, while it may be theoretically possible that one popular model could skew the relative figures significantly and distort the analysis of consistent price patterns, Torrington does not cite any evidence on the record to suggest that this is happening. In addition, if one accepts Torrington's premise, it is also just as possible that a popular model could skew the relative figures so that we would *not* find a pattern of consistent price differences. More importantly, however, if we do not incorporate the figures from our analysis of the pattern of price differences by quantity into our calculations, it would be possible that a number of models that are sold infrequently and in low quantities could influence our analysis unduly. Therefore, we continue to base our findings on all of the information available to us and, on this basis, we find that there is a pattern of consistent price differences between the home-market levels of trade. Because there is such a pattern and because the level of trade of NTN's EP sales is the same as one of its home-market levels of trade, we made a level-of-trade adjustment whenever we compared NTN's EP sales to home-market sales made at a different level of trade for these final results.

Comment 2: NTN argues that the Department should use the transaction to the first unaffiliated customer in the United States to determine the level of trade of CEP sales. NTN contends that it would then qualify for a price-based level-of-trade adjustment. NTN also asserts that the Department's methodology of examining the level of CEP sales net of the functions whose expenses are deducted from CEP effectively bars all CEP transactions from ever being granted a price-based level-of-trade adjustment because the selling functions which a respondent performs in the home market are performed by its affiliated U.S. importer for CEP sales. NTN argues that this is contrary to the intent of the SAA and the legislative history of the Act.

Torrington observes that the Department has rejected NTN's argument in prior reviews. Torrington contends further that NTN neither acknowledges the Department's prior decisions nor discusses why the Department should reach a different decision in these reviews.

Department's Position: The statutory definition of "constructed export price" contained at section 772(d) of the Act indicates clearly that we are to base CEP on the U.S. resale price adjusted for selling expenses and profit. As such, the CEP reflects a price exclusive of all selling expenses and profit associated with economic activities occurring in

the United States. See SAA at 823. These adjustments are necessary in order to arrive at, as the term CEP makes clear, a "constructed" export price. The adjustments we make to the starting price, specifically those made pursuant to section 772(d) of the Act ("Additional Adjustments for Constructed Export Price"), normally change the level of trade. Accordingly, we must determine the level of trade of CEP sales exclusive of the expenses (and concomitant selling functions) that we deduct pursuant to this sub-section. Therefore, because no home-market levels of trade reported by NTN were equivalent to the level of trade of its CEP sales, we were unable to make a level-of-trade adjustment for such sales.

The CIT has held recently that the Department's level-of-trade practice (basing the level-of-trade comparisons of CEP after making CEP deductions) is an impermissible interpretation of section 772(d) of the Act. See *Borden* at 58; see also *Micron Technology v. United States*, Court No. 96-06-01529, Slip Op. 99-02 (CIT January 28, 1999) (*Micron*). The Department believes, however, that its practice is in full compliance with the statute and that the CIT decision does not contain persuasive statutory analysis. The *Borden* decision became final on June 4, 1999 (Slip. Op. 99-50, Court No. 96-08-01970 (CIT 1999)). Because the time for filing an appeal of *Borden* has not yet run and *Micron* is not yet final, the Department has continued to follow its normal practice of adjusting CEP under section 772(d) of the Act prior to starting a level-of-trade analysis, as articulated in 19 CFR 351.412.

Comment 3: NSK and NSK-RHP argue that the Department should make a level-of-trade adjustment when CEP sales are matched to home-market aftermarket sales. NSK and NSK-RHP contend that the Department can make a level-of-trade adjustment on the basis of the difference between the OEM and aftermarket levels of trade in the home market. NSK asserts that, although the home-market OEM sales and the level of CEP sales are not equivalent, the Department is not required to adjust for the entire amount of the difference between levels of trade when making a level-of-trade adjustment and could make a partial adjustment instead. NSK and NSK-RHP contend that the levels of home-market OEM sales are closer to the levels of CEP sales than the levels of home-market aftermarket sales because the prices for home-market OEM sales are lower than the prices for home-market aftermarket sales. NSK and NSK-RHP assert that it would be appropriate, therefore, to adjust normal

value with a level-of-trade adjustment based on the difference between the home-market levels of trade whenever CEP sales are compared to home-market aftermarket sales.

Torrington notes that the Department rejected this argument in *AFBs 8* when NSK raised it for those reviews. Torrington, citing the Department's position from the prior reviews, argues that the Department should maintain its position.

Department's Position: There is no provision in the statute for making such a partial adjustment. We make a level-of-trade adjustment when there is "any difference between the export price or constructed export price and the normal value that is shown to be wholly or partly due to a difference in level of trade between the export price or constructed export price and the normal value." See section 773(a)(7)(A) of the Act. We interpret the statutory phrase "wholly or partly due to a difference in level of trade" to mean that we may make a level-of-trade adjustment only if part of the differences in prices between levels of trade is attributable to the difference in level of trade. In other words, we need not demonstrate that no factor other than level of trade influenced a pattern of price differences. Thus, we do not read into this language of the statute the authority to make a level-of-trade adjustment between two home-market levels of trade where neither level is equivalent to the level of trade of the U.S. sale. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews*, 63 FR 2558, 2578 (January 15, 1998), and *AFBs 8*, 63 FR at 33330.

Comment 4: Torrington argues that Nachi's sales to affiliated and unaffiliated resellers do not constitute one level of trade. Torrington asserts that selling-expense levels must differ for Nachi's affiliated and unaffiliated customers due to the nature of the affiliated customers' relationships to Nachi and, in certain cases, the Department should not allow a CEP offset to Nachi's home-market prices (the proprietary nature of the information does not permit us to describe this issue with more specificity). Torrington supports its position by citing the SAA at 829, which states that "a sales subsidiary created merely to perform the role of a *de facto* sales department is not an appropriate basis for level-of-trade adjustments."

Nachi argues that Torrington does not cite any information on the record to demonstrate how Nachi's sales to affiliated and unaffiliated parties involve "different selling activities." Nachi argues that, when it provided the Department with an analysis of its selling functions performed in sales to OEMs and sales to distributors, it did not distinguish between affiliated and unaffiliated distributors precisely because there are no differences in selling functions between the two. Nachi maintains that the Department was correct in finding that one level of trade exists in Nachi's home market and that a level-of-trade difference from the CEP level of trade justifies the application of a CEP-offset adjustment to normal value in accordance with section 773(a)(7)(B) of the Act.

Nachi argues that Torrington's reference to the SAA is irrelevant and taken out of context. Nachi maintains that it is clear that its affiliated resellers are not subsidiaries created merely to act as *de facto* Nachi sales offices. Nachi contends that Nachi has its own sales branches and that it reported the selling expenses of these sales branches as indirect selling expenses. Nachi argues further that a close reading of the SAA reveals that it is addressing the potential for manipulation that could result when a company incorporates a sales branch, thereby turning the sales branch into a subsidiary. Nachi states that the parent company may then claim that sales made by the subsidiary are at a different and higher level of trade than that of the parent, even though there has been no change at all in the functions performed, in order to gain the benefits of the CEP offset. Nachi states that Torrington's argument is focused on the selling activities which Nachi performed when selling to the affiliates and not the selling activities of the affiliated distributors. Nachi also argues that, through the application of the arm's-length test, the Department eliminates sales by Nachi to its affiliates that are not made at an arm's-length price. Nachi states that those remaining sales are made at the same or higher price than the prices of sales made to unaffiliated parties. Nachi maintains that the similarity in pricing of the sales that are used in the margin calculation is further assurance that Nachi incurs the same costs and performs the same selling functions in sales to both affiliated and unaffiliated parties.

Department's Position: Based on our review of the information on the record, we find no indication that Nachi's dealings with both affiliated and unaffiliated parties involve different selling functions and services. We

reviewed the selling functions and services Nachi performed in sales to OEMs and sales to distributors and found that the selling functions and services performed were similar in making sales to both. There is no information on the record that indicates that Nachi's actual experience in the home market is contrary to that reported in its submissions. Therefore, we determined that there was one level of trade in Nachi's home market. Based upon our examination of the information on the record, we found that the home-market level is not equivalent to the level of the CEP. Our determination is supported further by the arm's-length test, through which we found that Nachi dealt with its resellers on an arm's-length basis with respect to pricing. Also, there is insufficient evidence on the record to indicate that any of Nachi's resellers performed the role of a *de facto* sales department. Therefore, since we determined that the home-market level of trade was at a more advanced stage than the CEP level of trade, a CEP-offset adjustment to home-market price is appropriate.

6. Cost of Production and Constructed Value

6.A. Profit for Constructed Value

Comment 1: FAG Germany and FAG Italy (collectively, FAG), Barden, INA, NSK, NSK-RHP, SNR, and SKF France, SKF Germany, SKF Italy, SKF Sweden (collectively, SKF) argue that the Department's calculation of profit for CV is unlawful in that it excludes below-cost sales from the calculation. The respondents argue that the profit-calculation methodology, which the Department based on all reported sales at each level of trade within each class or kind of merchandise, is not permitted under section 773(e)(2)(A) of the Act, which requires the Department to calculate profit "in connection with the production and sale of a foreign like product, in the ordinary course of trade, for consumption in the foreign country." The respondents argue that "foreign like product" is indisputably a much smaller group than the "class or kind" of merchandise. Moreover, they argue, the Department's interpretation of "foreign like product" for the purposes of calculating CV profit is contrary to the definition of the term under section 771(16) of the Act. Under this section, the respondents continue, "foreign like product" is defined as merchandise in the first of three enumerated categories which is merchandise sold in the home market that is either identical or sufficiently similar to particular subject merchandise. They contend that

calculating profit by aggregating different foreign like products results in the use of merchandise classified on a class-or-kind basis, which is consistent with the provision under section 773(e)(2)(B)(i) of the Act, requiring the Department to calculate profits "in connection with the production and sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise."

The respondents contend further that, when calculating CV profit pursuant to section 773(e)(2)(B)(i) of the Act, it would be proper to assume that sales outside the ordinary course of trade should be included in the calculation because language limiting the calculation to sales within the ordinary course of trade is included in sections 773(e)(2)(A) and 773(e)(2)(B)(ii) of the Act but not in section 773(e)(2)(B)(i) of the Act. INA argues that, since the Department did not actually apply the methodology set forth in section 773(e)(2)(A) of the Act but, in fact, applied the methodology in section 773(e)(2)(B)(i) of the Act, the Department had no authority to exclude below-cost sales from its calculation of CV profit. SKF comments that the "normal rule of statutory construction [is] that identical words used in different parts of the same act are intended to have the same meaning," citing *Sullivan v. Stroop*, 496 U.S. 478, 484 (1990) (internal quotations and citations omitted). SKF asserts further that, when the relevant act includes an explicit definition of the word or term in the same subchapter, this presumption is strengthened, citing *Sorenson v. Treasury*, 475 U.S. 851, 860 (1986). Thus, SKF concludes, the term "foreign like product" for purposes of the CV-profit calculation should be consistent with the definition of the term as used for matching purposes. FAG and Barden argue that, although the Department has stated in the past that it has adopted a different meaning for "foreign like product" for the purposes of calculating CV profit, this reasoning cannot prevail because Congress was aware of the statutory definition of "foreign like product" at the time it chose to include the term within the language of section 773(e)(2)(A) of the Act. Furthermore, FAG and Barden contend, the SAA states that section 773(e)(2)(B)(i) of the Act is consistent with the existing practice of relying on a producer's sales of products in the "general class or kind of merchandise," which the SAA indicates "encompasses a category of merchandise broader than the 'foreign

like product,'" citing the SAA at 840. INA adds that calculating profit on a foreign-like-product basis, as required by the plain language of the statute, is not any more complicated than other calculations performed routinely by the Department in a review, noting that the Department calculates weighted-average prices for each foreign like product and that CV is already calculated separately for each different bearing model, based on model-specific costs. INA argues further that, since CV serves as a proxy for a sales price, the logical reason for establishing section 773(e)(2)(A) of the Act as the preferred method of profit calculation is that it results in normal value that most closely approximates the normal value that would be determined based on sales of the foreign like product. Therefore, INA explains, under this method, if the profit earned on sales of the foreign product that is like the U.S. product is relatively high, then the profit add-on would be relatively high, resulting in CV for the U.S. product that correlates to price-based normal value. Conversely, INA continues, if the profit earned on sales of the foreign product that is like the U.S. product is relatively low, the profit add-on for CV would be relatively low. INA concludes that this differentiation, and thus the purpose of the section 773(e)(2)(A) method, is lost under the aggregated approach the Department applied in the preliminary results. INA, NSK, and NSK/RHP argue that, if all merchandise sold in the home market constituted a single foreign like product, then an average of all such sales would be used to determine a single normal value applicable to sales of every type of subject merchandise.

INA observes that the Department has made a subtle change in its description of foreign like product comparisons for AFBs. In prior reviews, citing *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Preliminary Results of Antidumping Duty Administrative Reviews, Termination of Administrative Reviews*, 61 FR 35713, 35717 (July 8, 1996), among others, INA contends that the Department stated "[a]s defined in the questionnaire, a bearing family consists of all bearings within a class or kind of merchandise that are the same in the following physical characteristics * * *," However, in these reviews, INA continues, the Department stated that, "[a]s defined in the questionnaire, a bearing family consists of all bearings which are the foreign like product that are the same in the following physical characteristics * * *," referring to

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al; Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Reviews, 64 FR 8790, 8795 (February 23, 1999). INA believes that this is evidence of a shift by the Department in the rationale for its aggregate profit-calculation approach. "Foreign like product" is a product-specific concept and not a collective description of all foreign like products sold in the home market, INA asserts.

Torrington contends that the Department has already addressed the respondents' proposal to make multiple product-specific CV-profit calculations in *AFBs* 7, 62 FR at 54062, and that the Department concluded correctly that the respondents' proposal would be overly complex and make the statutorily preferred method inapplicable in most cases. Torrington concludes that the Department's method results in the application of the statutorily preferred method and is consistent with the similar use of aggregate data for profit and selling and general expenses in pre-URAA practice.

Department's Position: As we stated in *AFBs* 7, 62 FR at 54062, and *AFBs* 8, 63 at 33333, we believe that an aggregate calculation that encompasses all foreign like products under consideration for normal value represents a reasonable interpretation of section 773(e)(2)(A) of the Act. Moreover, we believe that, in applying the preferred method for computing CV profit under section 773(e)(2)(A) of the Act, the use of aggregate data results in a reasonable and practical measure of profit that we can apply consistently where there are sales of the foreign like product in the ordinary course of trade. In the preamble to our regulations, we stated:

The Department recognizes that there are other methods available for computing SG&A and profit for CV under section 773(e)(2)(A) of the Act, including those suggested by the commenters. We continue to believe, however, that an aggregate calculation that encompasses all foreign like products under consideration for normal value represents a reasonable interpretation of the statute. This approach is consistent with the Department's method of computing SG&A and profit under the pre-URAA version of the statute, and, while the URAA revised certain aspects of the SG&A and profit calculation, we do not believe that Congress intended to change this particular aspect of our practice.

Moreover, the Department believes that in applying the preferred method for computing SG&A and profit under section 773(e)(2)(A), the use of aggregate data results in a reasonable and practical measure of profit that the Department can apply consistently in

each case. By contrast, a method based on varied groupings of foreign like products, each defined by a minimum set of matching criteria shared with a particular model of the subject merchandise, would add an additional layer of complexity and uncertainty to [antidumping] proceedings without generating more accurate results.

Final Rule

In addition, we disagree with the respondents' interpretation of the term "foreign like product." In accordance with the definition of foreign like product under section 771(16) of the Act, it is clear that "foreign like product" is not limited to the product which is identical in physical characteristics to the subject merchandise (section 771(16)(A)) or even to the product that is similar to the subject merchandise (section 771(16)(B)). Merchandise of the "same general class or kind" as the subject merchandise (section 771(16)(C)) will qualify as the "foreign like product" in cases where either the identical or the similar merchandise is not available. There is no indication that, by referring to "a foreign like product" in section 773(e)(2)(A) of the Act, Congress intended that profit be calculated upon the basis of merchandise that is identical or similar to the subject merchandise. If Congress had such intentions, then the "preferred" method provided in section 773(e)(2)(A) of the Act would rarely be applicable since CV ordinarily becomes necessary for determining normal value when identical or similar home market merchandise is not available for comparison to the U.S. merchandise. Furthermore, the respondents imply that the term "general category of products" is synonymous with the class or kind of merchandise. However, there is no statutory indication that, for purposes of sections 773(e)(2)(B)(i) or 773(e)(2)(B)(iii) of the Act, the "general category of products" must correspond to the "same class or kind of merchandise." It has been our past practice to interpret the term "general category of products" to "encompass a group of products that is broader than the subject merchandise." See 19 CFR 351.405. For example, if the profit amount for *AFBs* were unavailable and the "general category of products" were available, then the Department could consider a profit amount for the general category of "bearings," which could include all *AFBs* as well as tapered roller bearings (i.e., subject and non-subject merchandise). This general category is broader than the "subject bearings," which, in these cases, would be limited to ball, cylindrical, and

spherical plain bearings, respectively. See *Shop Towels from Bangladesh, Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 55957, 55961 (October 30, 1996), and *Silicomanganese from Brazil; Final Results of Antidumping Duty Administrative Review*, 62 FR 37869, 37878 (July 15, 1997).

We also disagree with INA that calculating profit on a product-by-product basis is not any more complicated than calculating weighted-average prices or CV for each product. In general, the respondents have reported numerous varieties of bearings which fall into hundreds of product or family categories. Calculating CV profit on a product-by-product basis would require a product-by-product analysis and profit-calculation determination. For certain products, if there were sales (i.e., sales in the ordinary course of trade) of identical or family bearings, we would be able to use the preferred method under section 773(e)(2)(A) of the Act to calculate profit. However, for other bearing families, we would need to determine which of the three alternative methods under section 773(e)(2)(B) of the Act would be appropriate based on the factual situation before us. Given the number of bearing families, this would add layers of complexity which the Department does not face in calculating weighted-average prices or in calculating an aggregate profit figure. In the Department's view, Congress did not intend such a result when it enacted section 773(e)(2) of the Act.

Finally, we disagree with INA's comment that we have changed our description of bearing families in an effort to support our rationale for our CV-profit calculation. In describing bearing families for comparison purposes, we replaced the term "class or kind" with "foreign like product" simply because the term "foreign like product" is reflective of the new-law terminology concerning the merchandise subject to an order.

Comment 2: The SKF companies argue that, assuming that the Department continues to rely on section 773(e)(2)(A) of the Act for the CV-profit calculation, it should take the revenue from non-disregarded profitable sales, subtract from that figure the COP for those sales, and then divide by the total COP for all sales, both profitable and unprofitable (total sales revenue on non-disregarded profitable sales minus total COP on non-disregarded profitable sales divided by total COP on all sales). SKF asserts that the URAA requires that CV profit reflect the "actual amounts * * * realized" by foreign producers. It also

asserts that this proposed methodology would arrive at a more realistic assessment of a foreign producer's actual profit.

Torrington argues that the Department has rejected SKF's argument previously that non-profitable sales could be used in calculating profit and cites *AFBs 7*, 62 FR at 54062.

Department's Position: As we concluded in *AFBs 7*, section 773(e)(2)(A) of the Act requires us to use the actual amount for profit in connection with the production and sale of a foreign like product in the ordinary course of trade. Section 771(15) of the Act defines sales outside the ordinary course of trade as those sales disregarded under section 773(b)(1) of the Act because they failed the cost test. Thus, as required by law, the Department has continued to exclude sales that failed the cost test from the CV-profit calculation under section 773(e)(2)(A) of the Act.

6.B. Affiliated-Party Inputs

Comment 1: NTN disagrees with the Department's recalculation of the value of NTN's affiliated-party inputs. It contends that the Department should use NTN's reported actual costs for affiliated-party inputs. NTN observes that, while sections 773(f)(2) and 773(f)(3) of the Act provide for disregarding certain affiliated transactions, these provisions do not apply to NTN's factual situation. With regard to section 773(f)(2) of the Act, NTN contends that there is no evidence that its affiliated-party inputs do not reflect the amount usually reflected in the sales of merchandise under consideration. NTN also claims that the fact that an input may be sold at less than its COP does not necessarily mean that it is not reflective of a fair market price.

With regard to section 773(f)(3) of the Act, NTN contends that the Department must have reasonable grounds to believe that inputs are being sold at less than the COP before it may use COP information to value the inputs. NTN also contends that, while the statute permits the use of the rule only for major inputs, the Department did not distinguish between major and minor inputs in its recalculation of NTN's costs for the preliminary results. NTN also contends that the Department applied this methodology inappropriately to production processes performed by affiliated parties, which are, according to NTN, clearly different from major inputs.

Finally, NTN argues that, assuming the Department was justified in making the adjustment, the Department's

calculation is distortive because it does not take into account NTN's cost accounting system. NTN claims that its reported costs are based on standard costs multiplied by variances. Thus, according to NTN, if the transfer price of a particular component were 100 yen and the variance was 5 percent, NTN reported a cost of 105 yen. Thus, NTN argues, if the affiliated supplier's actual cost was 103 yen, the Department would have made an adjustment based on the difference between the transfer price and the supplier's actual cost rather than NTN's actual cost.

Torrington observes that the Department has rejected this argument made by NTN in *AFBs 8* and should continue to reject it for the reasons the Department enunciated in that decision.

Department's Position: Pursuant to section 773(f)(3) of the Act, in the case of a transaction between affiliated persons involving the production of a major input, the Department may consider whether the amount represented as the value of the major input is less than its COP. In addition, section 351.407 of the Department's regulations states that, for purposes of section 773(f)(3) of the Act, the value of a major input purchased from an affiliated person will be based on the higher of (1) the price paid by the exporter or producer to the affiliated person for the major input, (2) the amount usually reflected in sales of the major input in the market under consideration, or (3) the cost to the affiliated person of producing the major input. We have relied upon this methodology in past AFB reviews as well as in other cases. See, e.g., *AFBs 6*, 62 FR at 2117, *AFBs 7*, 62 FR at 54065, *AFBs 8*, 63 FR at 33337, and *Final Determination of Sales at Less Than Fair Value: Stainless Steel Round Wire from Taiwan*, 64 FR 17336 (April 9, 1999) (*Round Wire from Taiwan*).

In this case, we asked NTN on our COP questionnaire to provide a list of the major inputs it received from affiliated parties which it used to produce the subject merchandise. NTN responded to the question by directing us to several exhibits. These exhibits list inputs which NTN considered to be major inputs and identify the respective transfer prices and supplier's cost information for the inputs. We examined this information and determined that in some instances the company's reported transfer prices were less than its respective costs. As there were no other market prices available in most instances, we restated NTN's COP and CV in the instances where the affiliated supplier's cost of producing the inputs was higher than the transfer

price. Therefore, since we reasonably relied upon the information provided by NTN regarding the cost of major inputs it used in manufacturing the subject merchandise, we applied section 773(f)(3) of the Act correctly for purposes of determining COP and CV for our analysis.

NTN argues that the Department must have reasonable grounds to believe that inputs are being sold at less than COP before it may use COP information. The Department considers the initiation of a cost investigation concerning home-market sales a specific and objective reason to believe or suspect that the transfer price from a related party for any element of value may be below the related suppliers' COP. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 63 FR 20585 (April 27, 1998). This practice was affirmed by the Court of International Trade in *NSK Ltd. v. United States*, 910 F. Supp 663 (CIT 1995). Therefore, based upon prior case precedent, it was appropriate to consider the cost data available on the record in determining how to value major inputs.

Regarding NTN's allegation that we should not apply the major-input rule to production processes performed by affiliates, section 773(f)(3) of the Act directs us to examine the costs incurred for transactions between affiliated persons. These transactions may involve either the purchase of materials, subcontracted labor, or other services. Thus, we applied the major-input rule properly to the production processes performed by affiliates. This decision is consistent with our practice in prior reviews. See *AFBs 8*, 63 FR at 33337.

Finally, we disagree with NTN that our methodology is distortive. NTN's cost-reporting methodology does not account for the fact that the affiliate's cost is higher than the transfer price. NTN calculated its variances by comparing its standard costs to its actual costs, which are, for all inputs it purchased from all suppliers, based on the transfer prices from each supplier. As a result, the affiliate's costs do not enter into the calculation of NTN's variances and NTN's reported "actual" costs are based on transfer prices. Therefore, because the reported costs are based on transfer prices, it was appropriate to adjust the reported costs for the difference between the affiliate's cost and the transfer price when the affiliate's cost is higher than the transfer

price. Therefore, we conclude that there is no reason to alter our methodology.

Comment 2: Torrington asserts that the Department should use facts available to value certain major inputs SKF Germany obtained from affiliated parties for which it did not provide market prices, contrary to the Department's questionnaire instructions.

SKF Germany rebuts that, since its related supplier does not sell these major inputs to unaffiliated parties, it does not have a comparable market value or price for the inputs it purchased from its affiliated suppliers. SKF Germany argues that its reporting is consistent with the questionnaire instructions as it has reported the higher of COP or transfer price for these inputs.

Department's Position: In its August 28, 1998, Section D response at 14, SKF Germany stated that the components it buys from affiliated suppliers are not sold by these affiliates to unaffiliated customers in Germany. In addition, at 17 of its Section D response, SKF Germany asserted that, "[a]bsent an observable market for such purchases, the higher of cost/transfer price necessarily defines the statutory value for those inputs." Pursuant to section 773(f)(3) of the Act and 19 CFR 351.407(b), we have accepted SKF Germany's reporting of its major-input costs. As cited above in response to comment 1, we have relied upon this methodology in past AFB reviews as well as in other cases.

Comment 3: Citing the Department's February 16, 1999, verification report for FAG Italy's COP and CV data, Torrington contends that the Department determined that FAG Italy's unaffiliated supplier's prices were not always lower than prices from affiliates even though FAG Italy claimed otherwise in an earlier submission. According to the petitioner, at the beginning of verification, FAG Italy presented revised COP and CV information that valued affiliated-party inputs on the higher of cost, transfer price, or arm's-length price. Further, the petitioner asserts, the Department's preliminary analysis memorandum regarding FAG Italy indicates that, for the preliminary results, the Department used the revised COP and CV information. The petitioner argues that, for the final results, the Department should only accept FAG Italy's revised COP and CV information to the extent that it is satisfied that FAG Italy reported the values of the affiliated-party inputs accurately based on the higher of COP, transfer prices, or arm's-length prices.

FAG Italy contends that it reported the revised costs for materials purchased from affiliated parties correctly and that the Department should accept them. Citing the Department's verification report, FAG Italy argues that the Department verified these corrections fully.

Department's Position: FAG Italy reported its revised costs of materials accurately and we have used the revised information for the final results of these reviews.

Comment 4: Citing the verification report, Torrington contends that FAG Italy excluded net financing expenses from its calculation of the COP of materials purchased from affiliated parties. The petitioner argues that the Department should only accept FAG Italy's revised data to the extent that it is satisfied that the correct amounts have been reported. Otherwise, Torrington contends, the Department should make all appropriate adjustments to FAG Italy's reported costs, thereby increasing the company's COP by the full net financing expenses for materials purchased from affiliated parties.

FAG Italy argues that it added financial expenses to the revised cost information specifically at the request of the Department. The respondent also contends that the Department verified this issue fully and accepted the information during the cost verification. FAG Italy contends that Torrington's concerns are unwarranted because the percentage of affiliated-party inputs to total inputs (by value and volume) is negligible and these revised material costs have no effect on the ultimate margin calculation.

Department's Position: FAG Italy included the net financial expenses in its revised cost information. We verified and accepted these new costs during our verification. See February 16, 1999, verification report on FAG Italy at 16.

Comment 5: Citing INA's August 28, 1998, section D questionnaire response at 7, Torrington notes that the respondent purchased inputs such as cages, blanks, and subcontracted processing from certain affiliates. The petitioner also notes that the Department requested that INA report the highest of transfer price, the affiliated supplier's cost, or the input's market price for major inputs purchased from an affiliated supplier. The petitioner asserts that INA did not comply with the Department's request since it reported neither transfer prices nor market values for the inputs purchased from a Slovakian affiliate and did not provide market values for the inputs obtained from a Hungarian

affiliate. Furthermore, with respect to the inputs provided by the Slovakian affiliate, Torrington contends that, while INA valued the inputs at the affiliated supplier's costs, such costs are not reliable since INA "grossed up" the reported amounts to account for situations where INA supplied the affiliate with raw materials free of charge. For the inputs provided by the Hungarian affiliate, the petitioner also contends that INA did not support its claim that the transfer prices exceeded the affiliate's costs consistently. In light of the alleged reporting deficiencies, the petitioner requests that the Department not accept INA's reported costs for models incorporating inputs supplied by these affiliates and instead use facts available for the models involved.

INA contends that it followed the Department's instructions in reporting the value of the inputs which it obtained from its affiliates. It states that it reported the value of inputs purchased from the Slovakian affiliate at the affiliate's costs since no market prices were available and compiling transfer prices was extremely burdensome because to do so would have required tracing information manually through thousands of transactions. INA notes, however, that in its original questionnaire response it provided information to support its assertion that the cost figures were higher than the transfer prices. Moreover, for its supplemental questionnaire response, INA states that it conducted a manual search for transfer-price information and provided a comparison of transfer prices with costs to substantiate that the costs were almost always higher than the transfer prices. Furthermore, in situations where INA discovered that the transfer prices were higher than costs, it says it revised the COP and CV submissions to value the inputs from the affiliate based on the transfer prices.

INA rebuts the petitioner's assertion that the reported costs of inputs from the Slovakian supplier are not reliable. It contends that the petitioner has misconstrued the manner in which INA determined the costs and that the allegedly distortive "gross up" to which the petitioner refers was necessary for converting standard costs to actual costs, an adjustment that is consistent with the Department's instructions in its questionnaire. INA clarifies that, for situations in which it provided materials free of charge to its affiliate for the production of bearing inputs, it included standard and actual material consumption to calculate the gross-up factor for converting the standard material cost to an actual material cost.

INA asserts that this results in costs that reflect the cost of material consumed in producing the parts supplied by the affiliate accurately. INA cites the criteria set forth under section 782(e) of the Act for accepting information: the information is acceptable if it is timely, verifiable, sufficiently complete to serve as a reliable basis for a determination, provided to the best of the respondent's ability, and can be used without undue difficulty. INA contends that its valuation of the inputs meets these criteria.

INA contends that it provided both transfer price and cost data concerning purchases from its Hungarian affiliate as requested by the Department, and it clarifies that it did not provide market prices since it did not purchase the inputs from other sources and the affiliate did not sell the inputs to unaffiliated purchasers. INA contends that its valuation of these inputs on the basis of transfer prices is proper since the transfer prices were in all instances higher than the affiliate's costs. Finally, INA contends that it supported its claim by referring to the exhibit of its questionnaire response that contains a comparison of costs with transfer prices.

Department's Position: We find that the information INA used to value cages, blanks, and subcontracted processing provided by affiliates is proper in light of the information that it had available. Moreover, INA's reporting methodology complies with our regulatory requirements for valuing inputs from affiliates. Section 351.407 of our regulations states that, for purposes of calculating the COP and CV under section 773(f)(3) of the Act, the value of a major input purchased from an affiliated person will be based on the higher of the following: (1) the price paid by the exporter or producer to the affiliated person for the major input; (2) the amount usually reflected in sales of the major input in the market under consideration; or (3) the cost to the affiliated person of producing the major input. INA's reporting methodology fulfills this requirement considering the information that was reasonably available to it. Moreover, we have relied upon this methodology for valuing inputs in past AFB reviews as well as in other cases. See, e.g., *AFBs 8*, 63 FR at 33337, and *Round Wire from Taiwan*, 64 FR 17336 (April 9, 1999). Thus, we find that this situation does not warrant the use of facts available.

6.C. General and Administrative Expenses

Comment 1: Torrington argues that the Department should deny FAG Germany's claimed offset to its G&A for

the gain on the sale and leaseback of certain assets. Torrington contends that, even if the Department agrees with FAG Germany that these assets are related to production, the Department should reject this offset because FAG Germany's sales-and-leaseback arrangement is not a routine disposition of fixed assets. Torrington cites *Certain Welded Stainless Steel Pipe from the Republic of Korea, Final Determination of Sales at Less than Fair Value*, 57 FR 53693, 53704 (November 12, 1992), in support of this contention. Torrington also claims that other evidence on the record suggests that the assets in question are related to real property owned by FAG Germany rather than to production.

FAG Germany argues that the case Torrington cites is inapposite to this case because, in that case, the plant that the respondent sold was not related to the production of the subject merchandise and the transaction was not a routine disposition of fixed assets. In this case, FAG Germany contends, the asset in question is the plant where most of the AFBs shipped to the United States are manufactured. FAG Germany also argues that a sale-and-leaseback transaction is a common commercial financing method and that the annual lease payments, as well as the amortized gain, FAG Germany made relative to the sale-and-leaseback transaction are included routinely in its G&A calculation. FAG Germany cites *Certain Steel Concrete Reinforcing Bars from Turkey*, 62 FR 9737, 9748 (March 4, 1997), and *Oil Country Tubular Goods from Mexico*, 60 FR 33567, 33574 (June 28, 1995), in support of its contention that its offset to G&A is proper. Finally, FAG Germany argues that, while the transaction included the land upon which the facilities are located, it was not simply a real-estate transaction but also included assets involved in the production of subject merchandise.

Department's Position: It is our practice to adjust G&A expenses for miscellaneous revenue and expenses related to the production of subject merchandise. See, e.g., *Certain Steel Concrete Reinforcing Bars from Turkey*, 62 FR 9737, 9748 (March 4, 1997), and *Oil Country Tubular Goods from Mexico*, 60 FR 33567, 33574 (June 28, 1995).

In this case, FAG Germany demonstrated, and the petitioner does not dispute, that the plant in question produced subject merchandise during the POR. See Exhibit D-1 of FAG Germany's section D response dated August 28, 1998. Further, FAG Germany's claimed offset to G&A expenses corresponds to the portion of

the gain on the plant sale attributable to the current period, which FAG Germany amortized over the life of the lease. See FAG Germany's section D response dated August 28, 1998, at 28. In addition, FAG Germany included the expense from this lease in its calculation of the reported G&A expenses. See Exhibit 14 of FAG Germany's section D response dated August 28, 1998 (compare lessor's name to 18 of FAG Germany's supplemental response dated October 27, 1998). Therefore, we conclude that it is appropriate to offset FAG Germany's G&A expenses by the amortized gain on the sale of the plant.

6.D. When To Use Constructed Value

Comment: NTN argues that the Department should base normal value on CV where all contemporaneous sales of identical merchandise were disregarded because they were sold below cost. NTN argues that the Department's interpretation of *CEMEX v. United States*, 133 F.3d 897 (CAFC 1998) (*CEMEX*), the basis of the Department's current practice, is erroneous because it is inconsistent with the current statutory scheme. NTN contends that the statute provides that normal value be based on the foreign like product, which the statute defines as the first of several categories. NTN argues that, if there is identical merchandise, that merchandise is the foreign like product. NTN also contends that the statute directs that, if no sales made in the ordinary course of trade remain, the normal value shall be based on CV.

NTN argues that the *CEMEX* decision was for a pre-URAA case with facts different than those in the instant case. NTN claims that below-cost sales were not an issue in the *CEMEX* case. NTN also contends that the treatment of both sales below cost and sales outside the ordinary course of trade has changed under the revised statutory scheme.

Torrington observes that the Department addressed this issue in the prior review and should not alter its methodology.

Department's Position: The CAFC stated in *CEMEX* that "[t]he language of the statute requires Commerce to base foreign market value on nonidentical but similar merchandise * * * rather than CV when sales of identical merchandise have been found to be outside the ordinary course of trade." See *CEMEX*, 133 F.3d at 904. NTN is correct that there was no cost test in *CEMEX* and *CEMEX* was under the pre-URAA statute; however, under the URAA, below-cost sales which are disregarded pursuant to section

773(b)(1) of the Act are now defined to be outside the ordinary course of trade and, therefore, not included in normal value. Therefore, consistent with CEMEX, when making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market that were comparable to merchandise within the scope of each order and which were sold in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. Only where there were no sales of foreign like product in the ordinary course of trade did we resort to CV.

6.E. Miscellaneous

Comment 1: Torrington argues that the Department should recharacterize certain expenses NSK claimed as non-operating expenses.

NSK responds that the Department characterized certain NSK expenses as non-operating expenses correctly. NSK argues that the Department verified thoroughly that NSK reported each of its claimed non-operating expenses properly. Moreover, NSK argues, any adjustment for non-operating expenses would be *de minimis* and would require the Department to offset the non-operating expenses by comparable non-operating income so as to avoid double-counting.

Department's Position: Based on our findings at verification, NSK recorded the expenses in question properly as non-operating expenses. Torrington provided no argument or explanation as to why these expenses were not non-operating expenses. Thus, we have not recharacterized these expenses as Torrington argued that we should.

Comment 2: Torrington raises four other arguments regarding NSK's section D costs. Because of their proprietary nature, the arguments are not susceptible to public summary.

Department's Position: We have summarized the arguments and addressed them in the *Final Analysis Memorandum of NSK*, dated June 15, 1999. For the reasons explained therein, we have not made any adjustments to NSK's section D costs based on these four arguments.

Comment 3: Torrington states that, based on its concerns about certain aspects of verification, the Department asked FAG Italy to explain instances where the reported cost for a model deviated significantly from the average

cost for models within the product family. Because the Department found that the product code had been entered incorrectly in some of the instances, Torrington asserts that the Department should reject FAG Italy's COP/CV data. According to Torrington, the Department's verification report also shows that FAG Italy had entered incorrect cost into the data for one transaction. According to Torrington, these discoveries indicate that there are other errors in the cost data and that the Department should accept only revised COP/CV data from FAG Italy where it is satisfied that accurate product codes and costs have been reported.

FAG Italy rebuts that Torrington identified code and costs anomalies prior to verification, at which time the Department verified the corrections for any errors. FAG Italy affirms that the identified anomalies were the only inaccuracies the Department or Torrington discovered in the COP/CV data. It dismisses Torrington's conclusion that additional errors exist as untrue and a distortion of the record evidence.

Department's Position: As discussed in our CV and COP verification report, we examined at verification the records Torrington had identified. See *Constructed Value and Cost-of-Production Verification Report for FAG Italia S.p.A.*, dated February 16, 1999, at 20–21. We concluded that product codes had been entered erroneously in some instances due to input errors in source documentation. In reviewing the records, FAG Italy acknowledged that it had made an error in entering the cost for one of the observations. We examined reported costs for other models at verification and confirmed that they were reported accurately. On this basis, we do not have reason to find that the anomalous records are reflective of FAG's entire database.

We continue to be satisfied that the revised COP/CV information which FAG Italy presented is accurate and, accordingly, have used it in our final results.

7. Packing and Movement Expenses

7.A. Repacking Expenses

Comment: Torrington argues that Nachi reported labor costs incurred for repacking in the United States incorrectly as U.S. indirect selling expenses and thereby increased the CEP offset eligible for deduction from home-market prices improperly. Torrington contends that the Department should correct Nachi's error by restating U.S. repacking costs and U.S. indirect selling expenses. Torrington argues that, if this

adjustment cannot be made on the basis of information on the record, the Department should use data of another Japanese respondent as facts available.

Nachi argues that repacking labor costs incurred by Nachi America are characterized correctly as an ISE. Since such costs are not identified in Nachi's books and records separately, Nachi argues that any attempt to state repacking labor costs separately would require it to make an allocation. Nachi states that, before this review, it has not allocated repacking labor costs because it would result in an infinitesimal amount. Nachi states further that the Department should determine that its repacking labor costs meet the definition of an insignificant adjustment under section 351.413 of the Department's regulations. Nachi suggests that, if the Department wishes to segregate repacking labor expense, it should use the U.S. repacking labor costs that Nachi reported in its November 20, 1998, supplemental questionnaire response.

Department's Position: We have recalculated repacking expenses, a direct selling expense, to include repacking labor costs for these final results. We also have recalculated U.S. indirect selling expenses to exclude repacking labor costs which had been included by Nachi incorrectly. We made our recalculations based on information in Nachi's November 20, 1998, supplemental questionnaire response.

7.B. Inland Freight

Comment 1: Torrington argues that questionnaire responses from FAG Italy contradict one another with regard to inland-freight expenses. Torrington asserts that FAG Italy stated in one response that it could only report freight expenses on an allocation basis and that, in another response, FAG Italy stated that freight arrangements were recorded on a transaction-specific manner, thus allowing for home-market price adjustments where the invoice did not reflect the freight arrangements properly. Torrington asserts that FAG Italy should be required either to explain the discrepancies between the two statements or to report freight expenses on a transaction-specific basis. It requests that the Department apply a partial facts-available approach in the event that FAG Italy does not undertake one of these two actions.

FAG Italy responds that Torrington has confused freight charges, which are billed to FAG Italy by freight forwarders at the end of each month for shipments from FAG Italy to its home-market customers, with freight reimbursements, which are charged to certain customers

by FAG Italy on an invoice-specific basis. FAG Italy states that the freight costs it reported in the inland-freight data element are based on an allocation of freight charges invoiced to FAG Italy at the end of each month by freight companies. It states that it cannot link these charges to individual orders because the bills for these charges do not specify the individual shipments underlying the charges. FAG Italy asserts that therefore it cannot tie the monthly freight charges to the individual orders of its customers. It clarifies, however, that it maintains terms of sale with certain home-market customers which dictate that the customer reimburses FAG Italy for freight charges. FAG Italy states that, when this occurs, the reimbursements are billed to the customer on its invoice. FAG Italy asserts that, because these reimbursements are not traceable to the original freight charges, there is no inconsistency in its questionnaire responses.

Department's Position: While we prefer that respondents report freight charges on a transaction-specific basis, we are satisfied with FAG Italy's explanation that it is unable to report its freight expenses on that basis. As we stated in AFBs 8, 63 FR at 33340, the averaging of home-market prices, for the purpose of calculating a weighted-average home-market price, has the effect of averaging the components used to calculate those net prices, including inland freight. Therefore, the use of an allocated freight expense would not necessarily result in a distortion of home-market prices and a partial facts-available approach is not appropriate.

We are satisfied that FAG Italy reported the components of its inland-freight expenses accurately and allocated these expense reasonably for the calculation of normal value. Accordingly, we have used these expenses in our final results.

Comment 2: Torrington argues that FAG Germany and FAG Italy did not report certain freight which apparently was incurred on U.S. sales made by an affiliated party. Torrington argues that, if the reported price includes this freight charge, the Department should calculate this expense and deduct it from the price of these sales.

FAG Germany and FAG Italy contend that the reported prices do not reflect freight charges because the customer pays the freight on these sales. The respondents state further that, for some sales, they grant a freight allowance but that this allowance is reflected as a reduction in the sales price to the customer. Thus, the respondents

conclude, no adjustment to their reported freight or prices is warranted.

Department's Position: FAG Germany's section C response dated August 28, 1998, at 34 makes clear that this affiliated party did not incur freight charges on sales to U.S. customers. Furthermore, FAG Germany's section C response dated August 28, 1998, at 20 makes clear that the prices charged by this affiliated party are net of any freight allowance granted to a customer. Similarly, we have reviewed FAG Italy's Section C response dated August 28, 1998, at 34 which shows that no freight charges were incurred on sales by the affiliate to U.S. customers. FAG Italy's Section B response dated August 28, 1998, at 20 clarifies that prices charged by the affiliate were net of any freight allowance. Thus, no adjustments are necessary.

Comment 3: Torrington argues that Nachi's pre-sale warehousing expense incurred after shipment from the factory should be treated as movement expense, not U.S. indirect selling expenses, citing section 351.401(e)(2) of the Department's regulations.

Nachi argues that the Department's long-standing practice has been to treat Nachi's U.S. pre-sale warehousing as a U.S. ISE.

Department's Position: The practice Nachi cites pre-dates the URAA. The SAA states that warehousing expenses should be treated as movement expenses. SAA at 823. This treatment is reflected in our regulations. For these final results we treated Nachi's warehousing expense incurred after the merchandise left the factory as a movement expense in accordance with 19 CFR 351.401(e)(2).

Comment 4: Torrington argues that the Department should ensure that amounts Barden reported as freight reimbursements in one data element have a corresponding amount billed in another element.

Barden contends that it reported both the freight reimbursements and the amount billed in the two data elements correctly and on a corresponding basis.

Department's Position: We have compared the billing amounts Barden reported and find that the information corresponds correctly.

7.C. Ocean and Air Freight

Comment 1: Torrington asserts that FAG Italy incurred air-freight expenses as the result of specific existing orders and that, as a result, it should not be permitted to aggregate its ocean-freight and air-freight expenses. Torrington states that other respondents in the reviews were able to report the two expenses separately. Asserting that air

freight is generally substantially more expensive than ocean freight, it argues that FAG Italy should be required to identify the sales which were subject to air freight and apply an air-freight rate to these sales.

FAG Italy responds that the Department's past practice and decisions, which permitted the aggregation of ocean and air freight where a respondent was unable to identify freight charges on a transaction-specific basis and the record evidence did not show aggregation to be distortive, is the correct approach. It asserts that Torrington misinterprets a statement by FAG Italy in reaching the conclusion that FAG Italy was, and is, able to relate an air or sea shipment to a specific order. On the contrary, FAG Italy contends, its business practices do not permit traceable linkage between a U.S. customer's order, the air or sea shipment, inventoried bearings, and the ultimate resale. FAG Italy states that whether another respondent can trace its specific transactions to a mode of shipping is not a relevant consideration.

Department's Position: We have found that it is generally not feasible for respondents to report air and ocean freight on a transaction-specific basis in these proceedings. See AFBs 8, 63 FR at 33340, and AFBs 7, 62 FR at 54081. Where respondents were unable to report ocean and air freight separately, we have accepted aggregated international freight data. See AFBs 6, 62 FR at 2121; see also *The Torrington Company v. United States*, 965 F. Supp. 40 (CIT 1997) (*Torrington II*) (affirming the Department's methodology for accepting combined ocean and air freight where a respondent could not report the two expenses separately). Furthermore, section 351.401(g) of our regulations provides that we may consider allocated expenses and price adjustments when transaction-specific reporting is not feasible, provided we are satisfied that the allocation method used does not cause inaccuracies or distortions.

At 29 of its section C response, FAG Italy explained that it could not tie resales of merchandise in the United States to its shipment of that merchandise. FAG Italy stated that it delivered merchandise to the United States by both air and freight and that, once delivered, the merchandise was entered into the inventories of importing companies. From that point, the merchandise was resold to unaffiliated U.S. customers. FAG Italy could not trace its shipment costs to this resale. Because the use of air freight was not limited to particular models or customers, allocated reporting of the air-

freight and ocean-freight expenses is not unreasonably distorted in this case. Therefore, we have accepted FAG Italy's data concerning these expenses.

Comment 2: Torrington argues that the Department should not accept Koyo's continued failure to account for air-freight expenses for shipments to the United States separately when direct links between the sale and the air shipment exist. Torrington argues further that, given the relative cost of air freight versus ocean freight, the Department should apply an appropriate facts-available adjustment to increase the reported freight costs of all U.S. transactions.

Koyo states that Torrington admits that the Department does not require companies to report their air and ocean freight separately when there is an absence of a direct link between the air shipment and the resale to the unaffiliated U.S. customer. Koyo contends that it is because Koyo cannot tie its air-freight shipments to specific customer invoices that the Department does not require Koyo to segregate its air-freight expenses. Finally, Koyo argues that Torrington provides no new evidence that Koyo can now tie those shipments to specific invoices.

Department's Position: We find no new information on the record that would indicate that Koyo has changed the manner in which it records these expenses in its accounting system and is now able to determine a direct link between a sale and an air shipment. We have discussed this issue extensively in previous reviews. See *AFBs 4*, 60 FR at 10942, *AFBs 5*, 61 FR at 66510, *AFBs 6*, 62 FR at 2121, and *AFBs 8*, 63 FR at 33340. We have found that it is generally not feasible for respondents to report air and ocean freight on a transaction-specific basis in these proceedings. Therefore, we have accepted Koyo's reporting of these movement expenses for the final results.

Comment 3: Torrington contends that SKF Germany, SKF Italy, and SKF Sweden should report their air-freight and ocean-freight expenses for EP and CEP sales separately. Torrington posits that it is general knowledge that air freight is substantially more expensive than ocean freight. Torrington asserts that, given that this is the ninth administrative review of these orders, the respondents have had ample time to modify their reporting systems. Torrington also argues that the respondents' alleged inconvenience in segregating these expenses is not a valid excuse, citing *Torrington II*. The petitioner states that other respondents participating in these administrative reviews, including SKF Germany, have

identified separately those sales that were shipped by air freight and calculated separate factors for such sales. Torrington argues further that, if these respondents do not report such expenses separately, the Department should use some form of facts available, suggesting that it rely upon the highest air-freight rate reported by any other respondent participating in the current AFB reviews.

The respondents state that their reporting of combined air-freight and ocean-freight expenses is factually and legally correct, and they contend that it is consistent with the manner in which such expenses have been reported in all prior reviews and with the Department's determinations in those reviews. The respondents state that the reporting capabilities of other respondents is not a measure of their own reporting capabilities. SKF Germany indicates that it did not report its air-freight and ocean-freight factors separately even though it identified those transactions for which the subject merchandise was transported by air.

The respondents submit that it is not an issue of inconvenience to report such expenses separately but, rather, as explained in their responses, they do not incur the international freight expenses on a transaction-specific basis. SKF Sweden points out further that, as stated in its responses, shipments from its European consolidation point to SKF USA are not segregated by country of manufacture and, thus, the expenses at issue relate to products shipped from Italy, Germany, France, and Sweden. Moreover, the respondents contend that they receive cumulated bills which are independent of the invoices they issued to their customers and their pricing is unrelated to the manner in which goods are shipped internationally.

The SKF respondents also assert that they can identify *post-hoc* whether the merchandise sold out of SKF USA's inventory was shipped via air or ocean freight but argue that *post-hoc* linkage does not affect the pricing of merchandise for any given transaction. SKF Sweden contends further that, before the Department can make a determination of whether a respondent is uncooperative and, thus, resort to adverse facts available, the Department is required to request information at issue from a respondent in a supplemental questionnaire, citing *Olympic Adhesives, Inc. v. United States*, 899 F. 2d 1565, 1572-75 (CAFC 1990). SKF Sweden contends that the Department is precluded from resorting to facts available because the issue of reporting air-freight and ocean-freight expenses separately was not raised in

either of the two supplemental questionnaires it received from the Department.

Department's Position: With respect to SKF Italy and SKF Sweden, we were not informed until the submission of the respondents' rebuttal briefs that these firms were capable of segregating air freight for particular U.S. resales in the United States. Since we did not request in our questionnaires and, thus, did not receive this information in questionnaire responses for these reviews, we have used the combined freight charges of those firms for these final results. For other respondents which were unable to report ocean and air freight separately, we have accepted aggregated international freight data. See *AFBs 8*, 63 FR at 33340; see also *Torrington II*. Furthermore, section 351.401(g) of our regulations provides that we may consider allocated expenses and price adjustments when transaction-specific reporting is not feasible, provided we are satisfied that the allocation method does not cause inaccuracies or distortions. In addition, because the use of air freight is not limited to particular models or customers, allocated reporting of freight expenses is not unreasonably distortive in this case. Because we determine that these respondents acted to the best of their ability, it would be improper to make adverse inferences about their reported data by applying facts available simply because their record-keeping system does not record the data on a transaction-specific basis.

Our practice in prior AFB reviews has been to accept aggregated ocean-freight and air-freight expenses in cases where the respondent indicates that it cannot report such expenses separately. SKF Germany demonstrated in response to our supplemental questionnaire, however, that it could identify separately the relevant sales transactions for which it incurred air-freight expenses. While SKF Germany identified the relevant transactions in its supplemental questionnaire response, it did not provide the actual air-freight expenses specific to these transactions. However, it did provide calculations yielding separate air-freight and ocean-freight factors. Because we did not have transaction-specific air-freight expenses, we used these factors and other information reported in its supplemental questionnaire response to determine a separate amount for air and ocean freight for purposes of our margin calculation. See the Final Analysis Memorandum for SKF Germany for a complete discussion of the proprietary data we used in the air-freight and

ocean-freight calculations for these final results.

Comment 4: Torrington argues that the Department should not permit Barden to aggregate air and ocean freight but should require that Barden report air freight separately for those U.S. sales which were shipped by air, particularly those shipped directly to the U.S. customer. Torrington argues that, in such instances, Barden UK should know whether the shipment was by ocean or air. Torrington argues that the Department should require Barden to identify those sales shipped by air and apply the air-freight rate to those sales.

Barden argues that it did not incur ocean-freight expenses on bearing shipments made during this review period and all expenses reported as "air and ocean freight" are indeed air-freight expenses.

Department's Position: Barden reported, at 32 of its November 24, 1998, supplemental questionnaire response, that it shipped all bearings via air freight. As Barden reported in its August 28, 1998, Section C questionnaire response, the ocean-freight data element includes all freight charges from Barden UK to Barden US, i.e., air freight. Since Barden does not incur ocean freight, the air-freight rate was applied to all sales.

7.D. Inventory Carrying Costs

Comment 1: Torrington argues that the Department should deduct inventory carrying costs for the time that merchandise was in transit from the exporting country to the United States from CEP.

With regard to SKF Italy and SKF Sweden, Torrington argues that amended section 772(d) of the Act provides for such a deduction under subsection (d)(1)(B) as a credit expense or, alternatively, under subsection (d)(1)(D) as a selling expense. Torrington asserts that the SAA at 823 provides broad categories under which the deduction can be undertaken, that the SAA is silent as to a prohibition of such a deduction, and that 19 CFR 351.402(b) does not preclude the deduction. It asserts that inventory carrying costs should be deducted pursuant to this regulation, as they are expenses associated with commercial activities in the United States that relate to the sale to an unaffiliated purchaser, regardless of where or when the costs are paid, citing *Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy*, 61 FR 30326, 30352 (June 14, 1996) (*Pasta Italy LTFV*) (where the Department deducted inventory carrying costs for time in transit after finding that the costs were attributable to U.S. economic

activity because virtually all the subject merchandise was sold in the United States), and *Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta from Turkey*, 63 FR 68429 (December 11, 1998) (*Pasta Turkey Review*) (where a deduction for inventory carrying costs was permitted for time that the merchandise was held in U.S. Customs). Torrington argues that the Department should follow the approach taken in the above-referenced *Pasta* notices because, in these AFB reviews, the inventory carrying costs were borne on the books of the U.S. affiliate and because the subject merchandise would not have been placed in transit to the United States if not intended for that market. Torrington asserts that these circumstances establish the inventory carrying costs for time in transit are attributable to U.S. economic activity. Torrington also argues that, in the event the Department retains its current position, SKF Italy and SKF Sweden have not demonstrated that the costs were not associated with commercial activities in the United States and did not relate to the resale to the unaffiliated customer which, according to Torrington, is an affirmative burden on the respondent. Finally, Torrington asserts that, at minimum, the Department should deduct inventory carrying costs for the time that merchandise was held in U.S. Customs or otherwise remained at the port of entry, pursuant to its finding in *Pasta Turkey Review*, 63 FR at 68432.

With regard to SKF Germany, INA, and FAG Germany, Torrington argues that the Department's position in AFBs 8 was based in part on the finding that inventory carrying costs in transit reflected part of the interest expense incurred by the home-market company when it extended credit on the sale to the U.S. affiliate. It requests that the Department reconsider its AFBs 8 rationale in light of *Pasta Italy LTFV*, 61 FR at 30326. Torrington argues that, with respect to the German respondents, SKF France, Barden UK, NSK-RHP, and SNR France, regardless of credit arrangements between the exporting company and the U.S. affiliate, the cost of carrying inventory is borne by the company owning the inventory. It asserts that, because the costs are listed on the books of the U.S. affiliate, the affiliate has assumed responsibility for the merchandise. Torrington argues that, moreover, the business purpose of these companies is to sell bearings in the United States. Thus, it concludes that inventory carrying costs relate to

commercial activity in the United States and should be deducted from CEP.

Torrington argues similarly for a deduction of in-transit inventory carrying costs for NTN. Torrington asserts that, through transference of ownership of the inventory to a U.S. affiliate who will resell the goods in the United States, inventory carrying costs for time in transit have been incurred in connection with commercial activities in the United States.

Torrington contends, with regard to SKF Germany, that the inventory carrying costs should be deducted from CEP because these expenses appear on the books of SKF USA and are associated with U.S. commercial activity.

SKF Italy, SKF Sweden, and SKF Germany rebut that there is no legal or factual support for Torrington's position and that, therefore as in prior reviews, the inventory carrying costs should not be deducted from CEP. They assert that the Department has interpreted the provisions of the law properly. The companies argue that reliance upon *Pasta Italy LTFV* is misplaced since, unlike the pasta manufacturer, they do not sell their products exclusively in the United States. They distinguish *Pasta Turkey Review* because there the exporting company had not calculated any U.S. inventory carrying costs, having alleged that the importer did not inventory the merchandise and thus had not incurred any such costs. According to the respondents, in that review the Department found that U.S. inventory carrying costs had been incurred by the importer because of a 16-day delay of the merchandise at U.S. Customs. The respondents contrast this situation to their own, noting that these are not issues in the instant administrative reviews. The respondents cite several recent determinations by the Department, including *Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Final Results of Antidumping Duty Administrative Review*, 63 FR 67855 (December 9, 1998), which support their position that inventory carrying costs incurred in transit are not associated with commercial activity in the United States and do not relate to resale of the merchandise to the U.S. unaffiliated customer.

INA responds that, as determined in AFBs 8, inventory carrying costs in transit are deductible neither as a movement expense under section 772(c) of the Act, since they are not associated with bringing merchandise to the United States, or as a CEP selling expense under section 772(d) of the Act. INA cites to *Color Picture Tubes from Japan: Final Results of Antidumping*

Administrative Review, 62 FR 34201, 34207 (June 25, 1997), in which the Department declined to apply its decision of *Pasta Italy LTFV* on two grounds. According to INA, the first reason was that in-transit inventory carrying costs were incurred regardless of the final destination of the merchandise; the second reason was that the in-transit costs were not considered to be associated with U.S. commercial activity but rather were associated with the sale by the foreign producer to its U.S. affiliate. INA asserts that these same considerations apply in the current reviews. It rebuts Torrington's argument that the destination of the bearings relates inventory carrying costs to U.S. commercial activity by asserting that costs in transit are not related to such activity and do not relate to the resale of the merchandise to an unaffiliated purchaser. It responds to Torrington's argument regarding ownership of the merchandise by noting that the costs are incurred by the party incurring an imputed interest cost, a cost that is not associated with ownership and which does relate to the sale by the foreign producer to the U.S. affiliate.

FAG Germany asserts that Torrington has presented no new argument in support of its request for a deduction. It notes that AFBs which the U.S. affiliate imports from FAG Germany are shipped on a Delivered-Duty-Unpaid basis, which means that the exporter bears all costs and risks in delivering the merchandise to a named place in the country of importation. It asserts that, therefore, in-transit inventory carrying costs are not associated with U.S. commercial activity.

SKF France agrees with the Department's decision regarding the deduction. SKF France argues that the fact that SKF USA paid the costs is irrelevant; it asserts that the relevant consideration is where the economic activity associated with the expense has occurred. It cites recent determinations of the Department which support the position that inventory carrying costs in transit are not associated with U.S. economic activity and do not relate to resale of the merchandise to the unaffiliated customer.

Barden UK rebuts that the SAA at 823 states that CEP can only be reduced by amounts associated with economic activities occurring in the United States. It also cites to the *Notice of Proposed Rulemaking and Request for Public Comments*, 61 FR 7308, 7331 (February 27, 1996), in which the Department set forth its intent not to deduct a foreign seller's expenses associated with selling to the affiliated reseller in the United

States under section 772(d) of the Act. Barden UK asserts that this is the correct approach and asks that the Department not reconsider its methodology.

NSK-RHP responds that the Department should reject Torrington's argument because the Department already deducts inventory carrying costs incurred in the United States from CEP. NSK-RHP notes that, moreover, the Department has concluded consistently that inventory carrying costs incurred for the time merchandise was in transit should not be deducted from CEP, as decided in *AFBs 8*.

SNR France notes that, in *AFBs 8*, the Department found that deducting inventory carrying costs for time in transit would be contrary to the SAA and its own regulations. It asserts that Torrington offers no new justification for a departure from prior practice and that, accordingly, Torrington's argument should be rejected.

NTN rebuts that section 351.402(b) of the Department's regulation and the SAA at 823 prohibit the deduction; it asserts that the in-transit inventory carrying costs are not associated with commercial activities in the United States that relate to the unaffiliated purchaser, a position that the Department took in *AFBs 8*. NTN argues that, because the facts in the current reviews are consistent with those in the previous reviews and those in other cases in which the Department has declined to make the deduction, it should continue its practice.

Department's Position: In *AFBs 8*, 63 FR at 33344, we concluded that both the SAA at 823 and section 772(d) of the Act permit us to deduct from CEP only those expenses which were associated with commercial activity in the United States and which related to the resale to an unaffiliated purchaser. We concluded that in-transit inventory carrying costs did not meet these criteria but rather reflected the interest expense of the exporting company. As such, we found the costs to be related solely to the sale to the affiliated importer in the United States. Moreover, we noted that section 351.402 of our regulations directs us not to deduct from CEP starting price any expenses related to the sale to the affiliate.

The Department clarified its position further in *Stainless Steel Butt-Weld Pipe Fittings from Taiwan*, 63 FR at 67856. We stated there that, according to the SAA at 823, CEP should be calculated to be, as closely as possible, a price which corresponds to a price between non-affiliated exporters and importers. This approach is codified at section 351.402(b) of the Department's regulations, which provides that the

Department will make adjustments to CEP under section 772(d) of the Act for expenses associated with commercial activity in the United States that relate to the sale to an unaffiliated purchaser, no matter where it was incurred. Therefore, in *Stainless Steel Butt-Weld Pipe Fittings from Taiwan*, we concluded that, consistent with section 772(d) of the Act and the SAA, we could deduct only those expenses representing activities undertaken to make the sale to the unaffiliated customer in the United States and not indirect expenses incurred in selling to the affiliated U.S. importer.

We maintain that in-transit inventory carrying costs are indirect selling expenses relating to the sale to the affiliate and, consequently, are not associated with U.S. economic activity or related to the resale of the merchandise. The issue of whether the exporting company or the affiliate holds title to the merchandise is irrelevant in light of this finding. Likewise, it does not matter whether the expenses are listed on the accounts of the exporting company or the affiliate. Our decision in *Pasta Italy LTFV*, 61 FR at 30352, that the in-transit costs should be deducted was based on the fact that the subject merchandise was produced solely for the U.S. market. Here, there is no evidence that any of the bearings under review were produced solely for the U.S. market. Thus, the finding in *Pasta Italy LTFV* is not applicable here. Torrington's reliance on *Pasta Turkey Review* is misplaced because, contrary to that case, the respondents' inventory carrying costs do not reflect costs for a period of time when the merchandise was being stored or held at U.S. Customs.

For all of these reasons, we have not deducted inventory carrying costs for time in transit from CEP.

Comment 2: Torrington argues that U.S. interest rates should be applied in the calculation of in-transit and U.S. inventory carrying costs for NTN and NSK, since U.S. dollars are the functional currency for the U.S. affiliates. It notes that this approach conforms to the fundamental scheme of the amended antidumping law; it asserts that another approach would undermine the objective, when calculating CEP, of arriving at arm's-length, ex-factory prices that are not influenced by affiliations. It asserts that, in the attempt to construct arm's-length ex-factory prices, the Department should not assume that the costs are being financed by the exporting company at the most favorable rates that it can obtain.

NTN argues that Torrington ignores regulatory and administrative authority

concerning the calculation of inventory carrying costs. It asserts that the use of the yen borrowing rate for calculation of inventory carrying costs in the preliminary results was appropriate and that the facts of the current reviews support the use of the yen. It observes that this issue was settled by the CIT in *Timken Co. v. United States*, 858 F. Supp. 206 (CIT 1994).

NSK responds that Torrington's argument has been rejected for years and that the law is settled on the point of the proper interest rate to be applied.

Department's Position: Normally, the Department calculates U.S. inventory carrying costs using the U.S. interest rate because the affiliate bears the costs of carrying the merchandise. However, where the payment terms that an exporting company extends to its affiliate and the time that the merchandise remains in the affiliate's inventory, indicate that the exporting company bears the cost of carrying the merchandise for a portion of the time that the merchandise is in inventory, then the exporting company's short-term interest rate will be used to calculate that portion of the inventory carrying costs. As noted by NTN, this practice was sustained by the CIT in *Timken*, 858 F. Supp. at 212 (citing *Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Review*, 56 FR 65228, 65236 (Dec. 16, 1991)).

Both NTN and NSK have demonstrated that they extended their financing terms to their affiliates through the time in transit and the time that merchandise remained in inventory in the United States. Therefore, we have applied the yen borrowing rate to the calculation of in-transit and U.S. inventory carrying costs.

Comment 3: Torrington argues that the Department should restate Nachi's U.S. inventory carrying costs. Nachi does not make a rebuttal.

Department's Position: We are satisfied from information on the record that Nachi calculated its U.S. inventory carrying costs correctly. For a more detailed explanation of this expense, see page 4 of the Department's Analysis Memorandum for Nachi, dated June 16, 1999 (which provides, *inter alia*, the Department's position on Torrington's proprietary argument).

8. Sales to Affiliated Parties

Comment: Torrington asserts that the chairman of SKF Germany's parent company, AB SKF, also chairs six other companies, including Investor AB, which is the largest single shareholder

of AB SKF. Torrington states further that Investor AB also holds shares in seven companies and that SKF Germany made home-market sales to one of those seven companies during the POR. Torrington asserts that the Department should apply the affiliated-party test to determine whether sales to this customer are in fact at arm's-length prices.

SKF Germany contends that Investor AB's share of the specified customer is not large enough to be considered a controlling interest. SKF Germany claims that it does not own any shares in the specified company and the company is not a shareholder in SKF Germany. SKF Germany claims further that the entities do not share management teams or have supply, sales, marketing, or financial agreements with each other. SKF Germany believes that all of these elements confirm an absence of common control.

Department's Position: SKF Germany and the specified customer are not affiliated parties and, therefore, have not applied our arm's-length test to transactions between the two entities. Section 771(33)(E) of the Act states that "[a]ny person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization" shall be considered to be "affiliated". Record evidence shows that SKF Germany does not own any shares of the customer concerned and that the customer in turn is not a shareholder of SKF Germany. Section 771(33)(F) of the Act states that "[t]wo or more persons directly or indirectly * * * controlled by * * * any person" shall also be considered to be "affiliated". However, there is no evidence indicating the presence of management control of any kind between SKF Germany and the specified customer. Since there is no evidence of affiliation in the context of the remaining provisions of section 771(33) of the Act, we conclude that SKF Germany and the specified customer are not affiliated parties and have not applied our arm's-length test to transactions between the two entities.

9. Samples, Prototypes and Sales Outside the Ordinary Course of Trade

Comment 1: NTN argues that the Department should exclude its reported sales made outside the ordinary course of trade from the calculation of normal value and CV profit. NTN contends that the purpose of the ordinary-course-of-trade provision of the statute is to prevent dumping margins from being based on sales which are not representative of the home market. NTN

claims that the Department should regard all of its sales which have abnormally high profits as outside the ordinary course of trade. Citing *CEMEX*, NTN contends that the Department has regarded sales as outside the ordinary course of trade in other cases because of significant differences in profit levels.

NTN also argues that the Department should exclude its claimed sample sales from its normal-value calculation because they are outside the ordinary course of trade. Citing *Granular Polytetrafluoroethylene Resin from Japan; Preliminary Results of Antidumping Administrative Review*, 60 FR 5622 (January 30, 1995), and *Notice of Final Determinations of Sales at Less than Fair Value: Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Cut-to-Length Carbon Steel Plate from France*, 58 FR 73125, 73126 (July 9, 1993), NTN claims that the Department has regarded sample sales as outside the ordinary course of trade in other cases.

Torrington argues that NTN has not justified its claim that these sales should be regarded as outside the ordinary course of trade. Torrington contends that NTN did not provide the information the Department requested with regard to its claim and that the only information NTN did provide was the profit amounts for its sales. Torrington observes that the Department has rejected identical claims made by NTN in prior AFB reviews.

Department's Position: Our practice is to exclude home-market sales transactions from the margin calculation as outside the ordinary course of trade based on all the circumstances particular to the sales in question. See *Murata Mfg. Co. v. United States*, 820 F. Supp. 603, 607 (CIT 1993). This practice has been codified in section 351.102 of the Department's regulations, which states:

[t]he Secretary may consider sales or transactions to be outside the ordinary course of trade if the Secretary determines, based on an evaluation of all of the circumstances particular to the sales in question, that such sales or transactions have characteristics that are extraordinary for the market in question. Examples of sales that the Secretary *might* consider as being outside the ordinary course of trade are sales or transactions involving off-quality merchandise or merchandise produced according to unusual product specifications, merchandise sold at aberrational prices or with abnormally high profits, merchandise sold pursuant to unusual terms of sale, or merchandise sold to an affiliated party at a non-arm's-length price.

(Emphasis added.)

In these reviews, NTN provided no evidence, other than the allegedly high profits of some sales, to suggest that any of these sales, whether "high profit" or sample sales, are outside the ordinary course of trade. The simple fact of high profits, standing alone, is not sufficient for us to determine that a sale is outside the ordinary course of trade. See *AFBs* 8, 63 FR at 33344: "the presence of profits higher than those of numerous other sales does not necessarily place the sales outside the ordinary course of trade. In order to determine that a sale is outside the ordinary course of trade due to abnormally high profits, there must be unique and unusual characteristics related to the sale in question which make it unrepresentative of the home market." Thus, it would only be appropriate to exclude these sales from our normal-value calculation if there were circumstances surrounding these sales which would lead us to conclude that they were, in fact, made outside the ordinary course of trade.

NTN's citation to *CEMEX* is inapposite to this situation. In *CEMEX*, the profitability of the sales in question was merely one of the factors we considered in our determination that those sales were made outside the ordinary course of trade. In addition to profits, we found the sales in question were sales of "specialty [products] that were sold to a niche market," that these "sales represent[ed] a minuscule percentage of [the respondent's] total sales of cement," that "the shipping arrangements for home market sales of Types II and V cements were not ordinary," and that the record "indicated that the home market sales of Types II and V cements were of a promotional nature." See *CEMEX*, 133 F.3d at 901. Thus, it was the totality of circumstances, rather than the relative profitability alone, which, in *CEMEX*, led us to conclude that the sales were made outside the ordinary course of trade. In this case, the level of profitability is the only indicator that the sales might have been made outside the ordinary course of trade.

Furthermore, NTN provided no evidence which demonstrated that the profit amounts experienced on its claimed outside-the-ordinary-course-of-trade sales are particularly, much less abnormally, high. NTN has selected an arbitrary profit margin which it defines as "high," but it provides no evidence or analysis which suggests that the profit margin it chose is in any way unusual. To the contrary, there are enough of these claimed "high profit" sales in NTN's home-market database that it is apparent that these sales are

not unusual but, rather, occur typically within NTN's normal course of business.

With regard to NTN's claimed non-zero-priced sample sales (we excluded all zero-priced sales because the record suggests that NTN did not receive consideration for these sales), NTN provided no evidence to support its contention that these sales were made outside the ordinary course of trade. The mere labeling of a sale as a sample, absent any other evidence, is an insufficient basis on which to find the sale outside the ordinary course of trade.

Finally, while we agree with NTN as to the purpose of the ordinary-course-of-trade provision of the statute, the burden is on respondents to demonstrate that the sales in question were made outside the ordinary course of trade. NTN did not demonstrate this with regard to any of its claimed outside-the-ordinary-course-of-trade sales. Accordingly, we have not excluded NTN's "high-profit" sales or sample sales from our analysis.

Comment 2: Torrington argues that, with respect to SKF Sweden and SKF Italy (collectively SKF), the Department should include U.S. sample sales in the margin calculation. Torrington comments that exclusion of sample sales is not automatic, citing *NSK Ltd. v. United States*, 115 F.3d 965 (CAFC 1997), and asserts that SKF did not provide all of the information the Department requested. For instance, Torrington observes, SKF did not provide price and quantity comparisons and described only in vague terms the ultimate disposition of the sample sales.

SKF argues that it provided detailed responses to the Department's questions concerning sample and prototype sales. SKF argues that, with regard to Torrington's assertion that it discussed the ultimate disposition of the sample sales vaguely, SKF provided as complete an answer as it could. SKF contends that, while Torrington desires more detailed information on the record, it responded fully to the Department's questions and, accordingly, the Department should continue to exclude the U.S. sample and prototype sales from the margin calculation.

Department's Position: Contrary to Torrington's assertions, we find that there is sufficient information provided in SKF Italy's and SKF Sweden's responses for us to make a determination as to whether the respondents received consideration for these sales. SKF Italy and SKF Sweden described how orders for sample or prototype sales were communicated,

identified the documents available to demonstrate that the sales in question were sample or prototype sales, explained the ultimate disposition of the bearings, indicated whether such bearings were tested and destroyed during trial application, and, to the extent possible, contrasted sample or prototype sales prices and quantities with the prices and quantities of normal-priced sales. Based on this information, we determined that no consideration was provided for their reported U.S. zero-priced sample and prototype sales. Therefore, we did not calculate a margin on U.S. sales which SKF Italy and SKF Sweden designated as zero-priced samples and prototypes.

10. Constructed Export Price Profit

Comment 1: NTN argues that the Department should calculate CEP profit on a level-of-trade-specific basis. NTN asserts that prices differed significantly between levels of trade and contends that, to account fully for price differences between levels of trade, the Department must consider profit levels. NTN claims that there is a clear statutory preference for the Department to calculate CEP profit on the narrowest basis.

Torrington observes that the Department has rejected NTN's argument in prior reviews and that NTN neither acknowledges the Department's prior decisions nor discusses why the Department should alter its decision.

Department's Position: It is not our practice to calculate CEP profit for different levels of trade. See, e.g., *AFBs* 7, 62 FR at 54072, and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews*, 63 FR 2570, 2583 (January 15, 1998) (TRBs).

We believe that NTN's reliance on the term "narrowest" as used in sections 772(f)(2)(c)(ii) and (iii) of the Act is misplaced. While the statute uses the term "narrowest" in describing the second and third alternative methods, methods in which CEP profit is calculated based on financial reports, for NTN we used the first alternative method since the company provided the necessary data (i.e., U.S. and home-market sales information as well as CV and COP data for the subject merchandise and the foreign like product, respectively). This is consistent with the instructions set forth in section 772(f)(2)(C) of the Act and the SAA at 824-825. Moreover, regardless of the basis for the CEP-profit calculation,

neither the statute nor the SAA requires us to calculate CEP profit on a basis more specific than subject merchandise and foreign like product. See *Toyota Motor Sales, USA v. United States*, Court No. 97-0300415, Slip Op. 98-95 (CIT July 2, 1998) (*Toyota*). Thus, we have not adopted NTN's suggestion.

Comment 2: NTN argues that the Department should exclude EP sales from its CEP-profit calculation. NTN contends that section 772(f)(2)(C)(i) of the Act directs the Department to calculate CEP profit based on "[t]he expenses incurred with respect to the subject merchandise sold in the United States and the foreign like product sold in the exporting country if such expenses were requested by the administering authority for the purposes of establishing normal value and constructed export price." NTN argues that, because this section refers specifically to CEP sales and not EP sales, it precludes the Department from including EP sales in the CEP-profit calculation.

Torrington contends that the Department's approach in these reviews is consistent with Policy Bulletin 97.1 and that the Department rejected NTN's argument in a prior review.

Department's Position: It is our practice to include EP sales in the calculation of CEP profit. See, e.g., *AFBs 8*, 63 FR at 33345, *TRBs*, 63 FR at 2570, and *Certain Fresh Cut Flowers From Colombia; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 62 FR 53295 (October 14, 1997). In addition, our analysis in these reviews is consistent with Policy Bulletin 97.1 of September 4, 1997.

The basis for total actual profit is the same as the basis for total expenses under section 772(f)(2)(C) of the Act. The first alternative under this section states that, for purposes of determining profit, the term "total expenses" refers to all expenses incurred with respect to the subject merchandise sold in the United States (as well as the foreign like product sold in the exporting country). Thus, where the respondent makes both EP and CEP sales to the United States, sales of the subject merchandise would encompass all such transactions. Therefore, because NTN had EP sales, we have included these sales in the calculation of CEP profit.

Comment 3: NPBS, NSK, and NSK-RHP argue that the Department erred in deducting U.S. repacking expenses under section 772(d)(1) of the Act and including such expenses in the pool of selling expenses for which it then calculated CEP profit. NPBS contends that section 772(d)(3) of the Act does

not provide for profit to be attributed to repacking expenses because the statute limits the application of profit to selling expenses and further-manufacturing costs and, according to NPBS, repacking expenses are neither. NSK and NSK-RHP argue that the Department should treat U.S. repacking expenses as movement expenses deductible from U.S. price under section 772(c)(2)(A) of the Act. The respondents contend that section 772(c)(2)(A) of the Act does not preclude the Department from including U.S. repacking just because the expenses may relate directly to particular sales. As support, the respondents point out the direct nature of certain movement expenses which the Department deducts from U.S. price in accordance with section 772(c)(2)(A) of the Act. NSK and NSK-RHP also assert that U.S. repacking does not qualify as a deductible expense under section 772(d)(1)(B) of the Act because the selling expenses included under this part of the statute do not involve bringing the goods from the exporting country to the U.S. unaffiliated customer. The respondents also assert that, unlike the deductible selling expenses under section 772(d)(1)(B) of the Act, repacking expenses do not entice a customer to purchase a product. NSK and NSK-RHP request that, for the final results, the Department reclassify U.S. repacking as a movement expense and exclude it from the selling expenses it uses to calculate CEP profit.

Torrington argues that the Department should not treat U.S. repacking expenses as a movement expense. Citing *AFBs 8* at 33338, Torrington asserts that the Department has rejected the respondents' argument in prior reviews and that the Department's position is valid.

Department's Position: Section 772(c)(2)(A) of the Act covers "transportation and other expenses, including warehousing expenses, incurred in bringing the subject merchandise from the original place of shipment in the exporting country to the place of delivery in the United States." See SAA at 824. As we stated in *AFBs 8*, 63 FR at 33339, we do not view repacking expenses as movement expenses. The repacking of subject merchandise in the United States bears no relationship to moving the merchandise from one point to another. The fact that repacking is not necessary to move merchandise is borne out by the fact that the merchandise was moved from the exporting country to the United States prior to repacking. We regard repacking expense as a direct selling expense because the company incurred the expense on individual

products in order to sell the merchandise to the unaffiliated customer in the United States. We deducted this repacking expense pursuant to section 772(d)(1)(B) of the Act, which directs us to reduce CEP by "expenses that result from, and bear a direct relationship to, the sale, such as credit expenses, guarantees, and warranties." Furthermore, because these expenses are direct selling expenses, we attribute profit to them pursuant to section 772(d)(3) of the Act by including them in the calculation of total CEP selling expenses.

Comment 4: INA argues that the Department erred by calculating the CEP-profit rate on a class-or-kind basis rather than a product-specific basis. To support this argument, INA contends that section 772(d) of the Act requires the Department to calculate and apply all CEP deductions on sales of subject merchandise on a transaction-specific basis. In addition, INA asserts that the use of the term "subject merchandise" in section 772(f)(2)(C)(i) of the Act was intended to mean the specific product in the particular transaction for which the Department is calculating CEP.

Torrington contends that the Department has calculated the CEP-profit rate correctly. Torrington notes that the Department rejected INA's arguments for a product-specific CEP-profit rate calculation in *AFBs 7*. Citing *AFBs 7*, 62 FR at 54071, Torrington argues that the Department stated correctly that INA's proposed methodology for calculating a product-specific CEP-profit rate is not required by the statute, would complicate the margin calculation, would not increase accuracy, and would invite manipulation.

Department's Position: Section 772(d)(3) of the Act requires that we adjust CEP for an amount of profit allocable to U.S. sales, and our practice is to base this calculated profit on revenues and expenses associated with total sales of subject merchandise (both in the home market and the United States). As discussed in *AFBs 6*, 61 FR at 2125, *AFBs 7*, 62 FR at 54072, and our response to Comment 1 of this section, we find that neither the statute nor the SAA requires us to calculate CEP profit on a basis that is more specific than the one applied currently. See also *Toyota* (upholding our decision to calculate total expenses and total actual profit for all subject merchandise sold in the United States and all foreign like products sold in the home market rather than segregating certain products when performing the CEP-profit calculation). Consistent with the rationale in these

cases, we have not altered our CEP-profit calculation methodology.

Comment 5: INA argues that the Department erred by excluding imputed expenses (credit and inventory carrying costs) from the calculation of the ratio that it applied to total U.S. selling expenses (including imputed expenses) to determine CEP profit. INA argues that excluding the imputed interest expenses from the calculation of the ratio and then applying the ratio to a value that includes imputed interest expenses results in an unlawful double deduction of imputed expenses in determining CEP (once as an expense and once as a component of profit). INA cites *Circular Welded Non-Alloy Steel Pipe from the Republic of Korea; Amended Final Results of Antidumping Duty Administrative Review*, 63 FR 39071 (July 21, 1998), as an example of a situation where the Department recognized the necessity for consistency in calculating and applying a profit rate. INA asserts that the Department's exclusion of the imputed expenses from the calculation of the CEP-profit ratio is at odds with the statute since imputed expenses are recognized as an expense under section 772(f) of the Act, which establishes the rules for determining profit.

Torrington contends that the Department calculated CEP profit correctly and refers to the Department's position on this topic in *AFBs 7*, 62 FR at 54072. The petitioner also asserts that by including imputed expenses in the U.S. expenses the Department recognizes that related parties may shift expenses among them, thus affecting the accuracy of the calculation. The petitioner asserts that such shifting is not a concern when calculating the total expenses mentioned under section 772(f)(2)(C) of the Act.

Department's Position: It is our practice to exclude imputed selling expenses in calculating the total actual profit for sales of the subject merchandise and the foreign like product. See, e.g., *Notice of Final Results of Antidumping Duty Administrative Review; Canned Pineapple Fruit From Thailand*, 63 FR 7395 (February 13, 1998). In the preamble to our *Final Rule* we address INA's issue directly. In response to a comment that we should include imputed expenses in the total selling expenses used to derive total profit to avoid double-counting, we stated, "(w)e have not adopted this suggestion, because the Department does not take imputed expenses into account in calculating cost. Moreover, normal accounting principles permit the deduction of only actual booked

expenses, not imputed expenses, in calculating profit." See the preamble to our new regulations at section 351.402 (*Final Rule*, 62 FR at 27354).

In Policy Bulletin 97.1 of September 4, 1997, which describes our methodology for calculating profit for CEP transactions, we explain why it is appropriate to exclude imputed selling expenses in calculating the total actual profit for sales of the subject merchandise and the foreign like product while including these expenses as part of the total U.S. expenses when allocating a portion of the total actual profit to U.S. sales. Specifically, we stated that "there is no need to include imputed interest amounts in the profit calculation since we have already accounted for actual interest in computing "actual profit" under section 772(f)." See Policy Bulletin 97.1 at fn. 5. Furthermore, we stated that, "when allocating a portion of the actual profit to each U.S. CEP sale, we will include imputed credit and inventory carrying costs as part of the total U.S. expenses allocation factor." *Id.* As noted in the Policy Bulletin, the latter statement is consistent with section 772(f)(1) of the Act which defines the term "total U.S. expenses" as those expenses described in sections 772(d)(1) and (2) of the Act. Therefore, we have not altered our CEP-profit calculation methodology for these final results of reviews.

11. Miscellaneous

11.A. *Clerical Errors* FAG Germany, FAG Italy, INA, Koyo, NSK, NSK-RHP, Nachi, NPBS, NTN, SKF France, SKF Germany, SKF Italy, Somecat, SNR, and the petitioner have alleged that we made certain programming and/or clerical errors in the preliminary results calculations. Where we and all parties agree that a programming or clerical error occurred, we have made the necessary correction and addressed the comment only in the final-results analysis memoranda. (See company-specific Final Results Analysis Memoranda of June 1999.) The comments included in this notice address situations where parties alleged that we made a programming or clerical error but either we disagree or a party to the proceedings disagrees with the allegation.

Comment 1: FAG Germany argues that the Department neglected to add to U.S. price amounts for "other revenue" it received from customers on U.S. sales. FAG Germany argues further that in all prior reviews the Department has acknowledged this type of revenue and added it to U.S. price.

Torrington contends that some of the revenue at issue includes amounts FAG

Germany received where the company arranged freight and collected freight charges for transportation between the U.S. warehouse and the unaffiliated customer. Torrington concludes that an addition of such revenue is appropriate only on sales for which FAG Germany reported freight expenses and that the Department should limit the revenue adjustment to the amount reported for freight.

Department's Position: FAG Germany stated in its response that, for "CEP sales, FAG US bills to and collects from its customer the freight charges incurred and prepaid by FAG." See FAG Germany's section C response dated August 29, 1998, at 65. Therefore, we find it is appropriate to add the revenue reported only to the extent that it offsets the reported freight expense and we have done this for the final results. In addition, we have only added the revenue to CEP sales since FAG Germany did not receive this revenue on its EP sales.

Comment 2: NTN argues that the Department made a clerical error in recalculating inventory carrying costs for home-market sales. Torrington agrees with NTN.

Department's Position: NTN calculated its inventory carrying costs for home-market sales erroneously by using 360 days as the period of inventory. For the preliminary results, we adjusted these miscalculated inventory carrying costs by multiplying the reported amounts, which presumably were calculated using the formula NTN indicated in its brief, by a ratio we calculated by dividing the actual number of days in inventory by 360 days. Therefore, no adjustment is necessary.

Comment 3: Torrington argues that the Department made a clerical error in calculating the CEP offset for SNR by suppressing certain programming language. Torrington claims that this error could lead to a potential overstatement or understatement of the CEP offset.

SNR argues that the alleged clerical error is part of a new set of standard programming language the Department uses to calculate the CEP offset properly when there are commissions on only some of the home-market sales. SNR asserts that, since it did not pay commissions on home-market sales, the suppressed programming language was not necessary for the Department's margin calculation.

Department's Position: We did not need to use the programming language concerning home-market commissions in our calculation of SNR's margin. However, to avoid the appearance of a

programming error, we have not suppressed the programming instruction for the final results of these reviews. This change did not affect the weighted-average margin for SNR.

Comment 4: SKF Germany contends that, in its preliminary analysis memorandum, the Department listed inventory carrying costs for ocean transit time between Europe and the United States as subtracted in the calculation of the CEP incorrectly but that the calculations were accurate.

Torrington argues that, consistent with SKF Germany's recording of such expenses, the Department should have deducted these costs as an expense associated with U.S. commercial activity.

Department's Position: Listing these particular inventory carrying costs in the analysis memorandum as a subtraction from the calculation of CEP was a clerical error. With regard to Torrington's argument for subtracting the expenses at issue, we disagree because we find that the expenses are not associated with U.S. economic activity. See our response to Comment 1 in the section on inventory carrying costs above.

Comment 5: Nachi asserts that the Department made a clerical error that exaggerates values for "Other U.S. Direct Selling Expenses" by a factor of one hundred.

Torrington expresses concern over whether Nachi has identified the alleged error adequately and states that it only concurs with the respondent's argument to the extent that a clerical error occurred.

Department's Position: Upon examining Nachi's U.S. sales database, we determined that we made a formatting error that caused the values for "Other U.S. Direct Selling Expenses" to be overstated by a factor of 100 which may have occurred when we processed the U.S. sales database Nachi submitted. We have corrected this error for the final results of review.

Comment 6: NPBS argues that the Department made a clerical error in calculating the ratio it used to determine CEP profit. Specifically, NPBS asserts that, in calculating the total profit for use in determining the CEP-profit ratio, the Department "grossed up" the profit and costs for the U.S. sales made in the sample weeks but neglected to "gross up" the profit and costs for the home-market sales made in the sample months, thereby understating profit on home-market sales. NPBS asserts that this error led to an overstatement of the CEP-profit ratio and, therefore, an inflation of its dumping margin. To correct this error, NPBS proposes a

methodology for "grossing-up" the sampled home-market sales.

Torrington argues that the Department's calculation of the ratio used to determine CEP profit was reasonable and consistent with the section 772(f)(2)(C) of the Act. Torrington therefore contends that the Department should not alter its calculation of the ratio.

Department's Position: We find that we made a clerical error in our calculation of the total actual profit we used to determine the ratio for CEP profit. Since NPBS reported sales on a sampled basis, before calculating total actual profit it is necessary to "gross up" the revenues and expenses for the U.S. and comparison-market sales to ensure that they are on a comparable basis. Due to a clerical error, we did not make this adjustment to NPBS's sampled home-market sales for the preliminary results. We have corrected this error for the final results by applying our customary "grossing-up" ratio to the sampled home-market sales. We did not use NPBS's proposed methodology because it is not consistent with our practice in these proceedings.

Comment 7: NPBS argues that the Department treated its reported U.S. advertising expenses erroneously as direct selling expenses. NPBS states that, in its response, it explained that its U.S. affiliate does not assume expenses for advertising directed at its customers' customers. NPBS states that, despite the fact that it identified its U.S. advertising expenses separately, this does not deem such expenses as direct in nature. NPBS concludes that the Department should treat the reported U.S. advertising expenses as indirect selling expenses. In addition, NPBS requests that the Department add its reported U.S. advertising expenses to the calculation of U.S. indirect selling expenses in the margin calculations.

Torrington disagrees with NPBS, stating that the burden rests upon NPBS to prove that its reported U.S. selling expenses are indirect. Torrington contends that, because NPBS did not satisfy this burden, the Department should continue to treat these expenses as direct selling expenses for the final results.

Department's Position: We treated NPBS's reported advertising expenses inadvertently as a direct expense for the preliminary results of review. Since NPBS stated in its questionnaire response that the advertising expenses were indirect in nature and we did not find it necessary to subject this response to additional verification, we have accepted its description of these expenses as indirect and have treated

them as indirect for these final results. In addition, because NPBS removed its reported U.S. advertising expenses from its per-unit ISE calculation and reported these expenses separately from one another, we added the advertising expenses to its reported indirect selling expenses in our final margin calculations.

Comment 8: SNR argues that the Department's arm's-length test contains a clerical error which distorts the calculation of the customer-specific percentage ratio of affiliated-to-unaffiliated sales prices. SNR contends that the error occurs when there is a sale of a model to an affiliated party but no sale of that same model to an unaffiliated party. SNR states that in these situations the Department assigns a zero to these sales which distorts the overall average because the ratios are weighted by the total quantity of affiliated-party sales. SNR argues that this distortion virtually guarantees that the overall average will drop below 99.5 percent and that, as a result, the Department disregards all sales of models to affiliated parties without corresponding sales to unaffiliated parties in the calculations.

Torrington did not rebut this issue.

Department's Position: We find that the test does contain a clerical error. We have made the appropriate changes to our calculations for these final results. For the same reason, we have also made the appropriate changes to the calculations for SKF Sweden, SKF Italy, SKF France, SKF Germany, NTN, Nachi, Koyo, FAG Germany, FAG Italy, NSK-RHP, NSK, Somecat S.p.A., the Barden Corporation, Torrington Nadellager, and INA.

11.B. Miscellaneous Other

Comment 1: Somecat contends that the Department should clarify that Somecat's dumping margin applies to Italian bearings marked "SNFA" to reduce the likelihood of confusion for the Customs Service at the time of entry and for liquidation purposes. The respondent asserts that the record demonstrates that Somecat bearings are laser-marked with the label "SNFA ITALY" and that Somecat's bearings are packaged in boxes marked with the SNFA trade name. In addition, Somecat contends, the cover page to its product catalog plainly shows a bearing marked "SNFA Italy".

The petitioner takes no position with respect to Somecat's request for clarifying that its dumping margin applies to Italian bearings marked "SNFA Italy".

Department's Position: The record reflects that Somecat's bearings are

marked "SNFA ITALY". To reduce the possibility of confusion at the time of entry and to ensure that the Customs Service assesses dumping duties on Somecat's bearings properly, we will refer to Somecat as "Somecat or SNFA Italy" in our cash-deposit instructions and liquidation instructions.

Comment 2: Torrington asserts that it requested that the Department make a determination at verification as to whether FAG Italy reimbursed its U.S. affiliate for antidumping duties. It now requests that the Department pursue additional inquiries into this issue or make a determination of the issue based on the current record.

FAG Italy rebuts that the Department stated in its report on the home-market sales verification that the verification was not the appropriate forum at which to conduct a reimbursement inquiry. It asserts that the Department was correct in this assessment. FAG Italy argues that, notwithstanding this point, Torrington has actually presented record evidence which supports the position that no reimbursement occurs. It contends that Torrington has cited to the consolidated 1997 FAG Group financial statement, which accounts for FAG US's antidumping duty liabilities. FAG Italy asserts that Torrington must submit either record evidence of financial intermingling between group companies or the existence of a written agreement between these companies regarding reimbursement before the Department is obligated to conduct a further inquiry into reimbursement.

Department's Position: There is no obligation to conduct an inquiry into reimbursement based on the information on the record. Reimbursement, within the meaning of section 351.402(f) of the Department's regulations, takes place between affiliated parties if evidence demonstrates that the exporter pays antidumping duties on behalf of the affiliated importer or reimburses the importer for such duties. In this case, the petitioner has not presented evidence that a reimbursement agreement exists. Mere allegations of reimbursement are not sufficient to sustain a more in-depth reimbursement inquiry. See *AFBs 7*, 62 FR at 54043. See also *Torrington v. United States*, 881 F. Supp. 622, 632 (CIT 1997), *aff'd*, 127 F.3d 1077, 1080 (CAFC 1997). Therefore, we have not conducted any further inquiry into reimbursement.

12. Romania-Specific Issues

Comment 1: Torrington argues that the Department should modify the calculation of normal value in its analysis of TIE by applying the

appropriate inflators, based on changes in the published Consumer Price Index (CPI), to the base data used in the Department's memorandum entitled "Expected Wage Rates of Selected NME Countries—1995 Income Data" (wage memorandum). Torrington argues that the wage values upon which the Department relied in the preliminary results have not been updated to account for changes due to inflation since 1995. Citing section 351.408(c)(3) of the Department's regulations, Torrington claims that the Department's calculation of wage rates should be based on current data. Torrington also asserts that the Department's wage memorandum uses a CPI inflator to adjust pre-1995 wage data and that, in prior reviews, the Department valued wages based on a single surrogate by applying an inflator to values obtained for wages whenever the values pertained to periods preceding the investigation period, citing *Preliminary Results of Antidumping Administrative Review; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From Romania*, 63 FR 11217, 11218 (March 6, 1998).

Department's Position: We have updated the 1995 base data by applying 1997 data in accordance with section 351.408(c)(3) of our regulations and used this information in calculating normal value for our analysis of TIE.

Comment 2: TIE argues that the Department's preliminary margin calculation for one model contains an obvious ministerial error, causing an abnormally high normal value for this model. TIE claims that it provided an overstated weight value for low-density foil in its questionnaire response inadvertently and the Department then used this erroneous value in its margin calculation. TIE points out that the low-density foil weight exceeds the total weight of the bearing. TIE claims further that the Department has the authority to correct errors which are obvious and has done so in previous cases, citing *Technoimportexport, S.A. v. United States*, 766 F. Supp. 1169, 1178 (CIT 1991). Therefore, for purposes of the final results, TIE requests that the Department correct this error and use the low-density foil weight listed in its March 22, 1999, case brief or the low-density foil weight found in TIE's response for similar models.

In rebuttal, Torrington contests TIE's argument that an obvious ministerial error occurred in the reporting of this packaging factor. Torrington asserts that the new information is untimely and unreliable, citing section 351.301 of the Department's regulations. Torrington argues further that the Department

recognizes an exception to the general rule in the case of obvious errors, provided that: (1) the error is of a clerical nature; (2) the fact of the error is obvious from the record at the time the new data are submitted; and (3) the correctness of the new data is obvious, citing *RHP Bearings v. United States*, 19 CIT 1389, 1392 (1995), and *RHP Bearings v. United States*, 875 F. Supp. 854, 857 (CIT 1995). Torrington claims that there is nothing on the record which supports the corrections of the new data offered by TIE. Therefore, Torrington argues, the Department should not accept TIE's amended data.

Department's Position: We will accept corrections of clerical errors made in a party's submission under the following conditions: (1) The error in question must be demonstrated to be a clerical error, not a methodological error, an error in judgment or a substantive error; (2) the Department must be satisfied that the corrective documentation provided in support of the clerical error allegation is reliable; (3) the respondent must have availed itself of the earliest reasonable opportunity to correct the error; (4) the clerical-error allegation, and any corrective documentation, must be submitted to the Department no later than the due date for the respondent's administrative case brief; (5) the clerical error must not entail a substantive revision of the response; and (6) the respondent's corrective documentation must not contradict information previously determined to be accurate at verification. See *Final Results of the Antidumping Duty Administrative Review; Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China*, 63 FR 16758 (April 6, 1998). TIE's alleged clerical error satisfies these six criteria. We agree that the error is obvious and clerical in nature. It is not a substantive error and does not entail a substantive revision of TIE's response. We have reviewed the record and found that similar models had approximately the same weight for low-density foil as reported in TIE's case brief. Therefore, we accept TIE's request that we revise this error and have used the information in TIE's case brief in our final margin calculations.

[FR Doc. 99-16657 Filed 6-30-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-840]

Manganese Metal From the People's Republic of China; Notice of Extension of Time Limit for Second Administrative Review

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

ACTION: Notice of extension of time limit.

SUMMARY: The Department of Commerce is extending the time limit for the final results of the second administrative review of the antidumping duty order on manganese metal from the People's Republic of China. The period of review is February 1, 1997 through January 31, 1998. This extension is made pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Greg Campbell, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482-2239.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete this review within the time limit mandated by section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act") (i.e., November 2, 1998), the Department of Commerce ("the Department") is extending the time limit for completion of the final results to not later than September 4, 1999. See *Memorandum from Deputy Assistant Secretary Richard W. Moreland to Assistant Secretary for Import Administration Robert LaRussa*, (June 1, 1999), a public copy of which is available in the Department's Central Records Unit, room B-099.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675 (a)(1)) and 19 CFR 351.213(h)(2).

Dated: June 21, 1999.

Richard W. Moreland,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 99-16812 Filed 6-30-99; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588-045]

Final Results of Expedited Sunset Review: Steel Wire Rope From Japan

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

ACTION: Notice of final results of expedited sunset review: Steel wire rope from Japan

SUMMARY: On January 4, 1999, the Department of Commerce ("the Department") initiated a sunset review of the antidumping finding on steel wire rope from Japan (64 FR 364) pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of a notice of intent to participate and substantive comments filed on behalf of the domestic industry and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping finding would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Scott Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482-3207 or (202) 482-1560, respectively.

EFFECTIVE DATE: July 1, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) ("*Sunset Regulations*"). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) ("*Sunset Policy Bulletin*").

Scope

The merchandise subject to this antidumping finding is steel wire rope, except brass electroplated steel truck tire cord of cable construction specially packaged for protection against moisture and atmosphere. Such merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 7312.109030, 7312.109060, and 7312.109090. The HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

This review covers imports from all known manufacturers and exporters of steel wire rope from Japan.

Background

On January 4, 1999, the Department initiated a sunset review of the antidumping finding on steel wire rope from Japan (64 FR 364), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers (the "Committee") and M & G Industries, Inc., on January 19, 1999, and January 7, 1999, respectively, both within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. We received a complete substantive response on behalf of the Committee on February 3, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). However, no substantive response was received from M & G Industries. The Committee claimed interested-party status under section 771(9)(C) and (F) as U.S. manufacturers of a domestic like product and an association, a majority of whose members is composed of interested parties described in subparagraph (C). We did not receive a substantive response from any respondent interested party to this proceeding. As a result, pursuant to section 351.218(e)(1)(ii)(C) of the *Sunset Regulations*, the Department determined to conduct an expedited review of this finding.

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping finding would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent

reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping finding, and it shall provide to the International Trade Commission ("the Commission") the magnitude of the margin of dumping likely to prevail if the finding is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, the Committee's comments with respect to continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act ("URAA"), specifically the Statement of Administrative Action ("the SAA"), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H.R. Rep. No. 103-826, pt.1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin*, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping finding is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In addition to considering the guidance on likelihood determinations cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of the order would be likely to lead to continuation or recurrence of dumping when a respondent interested party waives its participation in the sunset review. In this instant review, the Department did not receive a substantive response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations*, this constitutes a waiver of participation.

On October 15, 1973, the Department of Treasury ("Treasury") issued its Final

Affirmative Antidumping Duty Determination, T.D. 73-296 (38 FR 28571). Since that time, the Department has conducted several administrative reviews.¹ The finding remains in effect for all manufacturers and exporters of the subject merchandise.

In its substantive response, the Committee argued that actions taken by producers and exporters of Japanese steel wire rope during the life of the finding, including the dramatic decline in imports from Japan consequent to the antidumping finding and the subsequent administrative reviews, particularly in combination with the fact that a substantial number of Japanese producers/exporters continued to dump after the finding was issued, are a strong indication that dumping is likely to recur should the finding be revoked (see Substantive Response of the Committee, February 3, 1999, at 4). With respect to whether dumping continued at any level above *de minimis* after the issuance of the finding, the Committee argued that, as documented in several final determinations reached by the Department, dumping levels have varied greatly for respective Japanese producers/exporters during the life of the finding (see *id.* at 3).

With respect to whether imports of the subject merchandise ceased after the issuance of the finding, the Committee, citing U.S. Department of Commerce reports and U.S. Census Bureau statistics for U.S. imports (IM146 reports), asserted that the antidumping finding on steel wire rope from Japan has resulted in a steady decline in the volume of imports of subject merchandise from that country (see *id.* at 3).²

In its substantive response, the Committee also argued that the dramatic appreciation of the Japanese yen vis-à-vis the U.S. dollar in the recent months indicates that revocation of the antidumping finding is likely to lead to continuation or recurrence of dumping (see *id.* at 3).

¹ See *Steel Wire Rope from Japan; Final Results of Administrative Review of Antidumping Finding*, 47 FR 3395 (January 25, 1982); *Steel Wire Rope from Japan; Final Results of Administrative Review of Antidumping Finding*, 48 FR 8524 (March 1, 1983); *Steel Wire Rope from Japan; Final Results of Administrative Review of Antidumping Finding*, 49 FR 12294 (March 29, 1984); *Steel Wire Rope from Japan; Final Results of Antidumping Duty Administrative Review*, 52 FR 28585 (July 31, 1987); *Steel Wire Rope from Japan; Final Results of Antidumping Duty Administrative Review*, 54 FR 6737 (February 14, 1989); *Steel Wire Rope from Japan; Final Results of Antidumping Duty Administrative Review*, 54 FR 38541 (September 19, 1989).

² The Committee provided information on U.S. imports of steel wire rope from Japan, on an annual basis, in net tons, from 1985 through November 1998.

In conclusion, the Committee argued that the Department should determine that there is a likelihood that dumping would continue were the finding revoked because (1) dumping margins above *de minimis* continue to exist for several companies, and (2) imports of the subject merchandise decreased significantly after the imposition of the finding, although there were some later fluctuations. The Committee argued moreover that, as a direct result of the antidumping finding, Japan was reduced from being a leading supplier of the subject merchandise to the U.S. market in the early and mid-1980s to a supplier of negligible volume of imports over the past decade (see Substantive Response of the Committee, February 3, 1999, at 3).

As discussed in Section II.A.3 of the *Sunset Policy Bulletin*, the SAA at 890, and the House Report at 63-64, if companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline were removed. The Department, after examining the final results of administrative reviews, can confirm that dumping margins above *de minimis* continue to exist for shipments of the subject merchandise from several Japanese producers/exporters.

Consistent with section 752(c) of the Act, the Department also considered the volume of imports before and after issuance of the finding. The statistics provided by the Committee on imports of the subject merchandise between 1985 and 1998, confirmed through the Department's examination of U.S. Census data (IM146 reports), demonstrate that imports of the subject merchandise have decreased almost every year since the finding. However, it must be noted that, while shipments of steel wire rope from Japan did fall steadily throughout most of the life of the finding, in the 1990s shipments from Japan began to fluctuate and in some cases actually increased. For example, import volumes increased from 1996 to 1997 and almost doubled in the period from 1997 to 1998.³ However, these statistics also establish that imports of steel wire rope from Japan have not surpassed 1000 net tons per year since 1990. This is consistent with the Department's findings of no shipments by several of the reviewed companies in many of the

³ See U.S. Department of Commerce, Bureau of the Census, Report IM146 and Substantive Response of the Committee, February 3, 1999, at 3.

administrative reviews conducted by the Department.⁴

Based on this analysis, the Department finds that the existence of dumping margins after the issuance of the finding along with declining import volumes is highly probative of the likelihood of continuation or recurrence of dumping. A deposit rate above *de minimis* continues in effect for exports of the subject merchandise by at least one known Japanese manufacturer/exporter. Therefore, given that dumping has continued since the issuance of the finding, respondent interested parties waived participation, and absent argument and evidence to the contrary, the Department determines that dumping is likely to continue if the finding were revoked.

Because the Department based this determination on the fact that dumping continued at levels above *de minimis*, it is not necessary to address the Committee's arguments concerning Japanese yen appreciation and its affect on this finding.

Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that it normally will provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the "all others" rate from the investigation. (See section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (See sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

Further, in the *Sunset Policy Bulletin* the Department stated that, in a sunset review of an antidumping finding where the original investigation was conducted by Treasury and no company-specific margin or "all others" rate was included in the Treasury finding, the Department

normally will provide to the Commission the company-specific margin from the first administrative review published in the **Federal Register** by the Department. For any company not covered in the first administrative review, the Department normally will provide to the Commission, as the margin for any new company not reviewed by Treasury, the first "new shipper" rate established by the Department for that order (see section II.B.1). We note, that, to date, the Department has not issued any duty absorption findings in this case.

Treasury, in its original final determination, did not publish any dumping margins. Therefore, the Department normally will select the margin from the first administrative review conducted by the Department as the magnitude of the margin of dumping likely to prevail if the finding is revoked.

The Committee stated that, because Treasury did not publish a specific dumping margin in its original finding, the Department must select a rate calculated during one of the administrative reviews. It recommended that the Department select the highest rate determined by the Department for a Japanese producer/exporter of the subject merchandise for the most recent period reviewed—at least 17.18 percent, the dumping margin established by the Department for Tokyo Rope/Ataka for the period January 1, 1974, through September 30, 1984 (54 FR 6737) (see Substantive Response of the Committee, February 3, 1999, at 6).

As for Japanese companies not reviewed in the original investigation, the Committee did not recommend a specific margin to be applied; however, it seemed to suggest that the Department also assign these companies a rate of at least 17.18 percent.

The Department agrees with the Committee's observation that because Treasury issued no margins in its original final determination the Department must select dumping margins from an administrative review conducted by the Department. However, the Department disagrees with the Committee's assertion that it should report to the Commission the company-specific margins published in one of the later administrative reviews. While the *Sunset Policy Bulletin* does state that the Department may provide to the Commission a more recently calculated margin for a particular company where, for that particular company, dumping margins increased after the issuance of the finding or order, in this case, there has been no consistent pattern of increasing margins.

The Department finds no reason to deviate from the above-stated policy of utilizing the margins from the first administrative review. Therefore, the Department has selected the rates from the April 1, 1978, through September 30, 1980, administrative review of steel wire rope from Japan, published in the **Federal Register** on January 25, 1982 (47 FR 3395). The Department will report to the Commission the company-specific and "all others" rates from the original investigation as contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping finding would likely to lead to continuation or recurrence of dumping at the margins listed in the attached Appendix.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305 of the Department's regulations. Timely notification of return/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 five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: July 25, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

Appendix

Manufacturer/exporter	Margin (percent)
Ace Industrial Co., Ltd	11.88
Ako Rope & Wire Mfg. Co., Ltd	11.88
Asahii Mini Rope Co., Ltd/Dia Enterprises Ltd	11.88
Chrysanthemum Nippon Wire Rope Co., Ltd./Watanabe Trading Co	0.77
Chrysanthemum Nippon Wire Rope Co., Ltd./Kent-Moore Japan Ltd	0.00
Chrysanthemum Nippon Wire Rope Co., Ltd./C. Itoh & Co., Ltd	11.88
Chuo Seisakusho Ltd./Kinyo Co., Ltd	0.00
Chuo Seisakusho Ltd./Koh-shin Co	0.00
Chuo Seisakusho Ltd./Other Trading Companies	11.88
Daido Corp	5.68
Daisen Kogyo	5.68

⁴ See *Steel Wire Rope from Japan; Final Results of Administrative Review of Antidumping Finding*, 47 FR 3395 (January 25, 1982); *Steel Wire Rope from Japan; Final Results of Administrative Review of Antidumping Finding*, 48 FR 8524 (March 1, 1983); *Steel Wire Rope from Japan; Final Results of Administrative Review of Antidumping Finding*, 49 FR 12294 (March 29, 1984); *Steel Wire Rope from Japan; Final Results of Antidumping Duty Administrative Review*, 52 FR 28585 (July 31, 1987); *Steel Wire Rope from Japan; Final Results of Antidumping Duty Administrative Review*, 54 FR 6737 (February 14, 1989); *Steel Wire Rope from Japan; Final Results of Antidumping Duty Administrative Review*, 54 FR 38541 (September 19, 1989).

Manufacturer/exporter	Margin (percent)	Manufacturer/exporter	Margin (percent)	Manufacturer/exporter	Margin (percent)
Daishin Shoji Co., Ltd	11.88	Naniwa Wire Rope Mfg. Co., Ltd./Higashishiba & Co	11.88	Showa Boeki Co., Ltd	11.88
Daishin Shoji Co., Ltd./Van- guard Steel Ltd. (transshipper)	0.00	Naniwa Wire Rope Mfg. Co., Ltd./other than Mitsui or Higashishiba	11.88	Sumiyoshi Kinzoku Kogyo	11.88
Daiwa Steel Co., Ltd	11.88	Nankai Senshu Steel Wire & Rope Co., Ltd./Sumitomo Shoji Kaisha	0.00	Taiho Seiko/Kinyo Co	0.00
Daiwa Kogyo, K.K	11.88	Nanri Trading Co., Ltd	11.88	Taisei International Corp	11.88
Dia Enterprises, Ltd	11.88	Nihon Miniature Rope Mfg. Co., Ltd./S.M. Industries	0.00	Y. Takeuchi and Co	11.88
Godot Tessen Co., Ltd	11.88	Nihon Miniature Rope Mfg. Co., Ltd./Yutoko and Co., Ltd	0.00	Tanaka Metals Corp	11.88
Hakko Sangyo K.K./Mitsui and Co	0.00	Nikko Steel Wire Rope Mfg. Co., Ltd./Union Co	11.88	Teikoku Sangyo Co., Ltd./ Sumitomo-Shoji Kaisha, Ltd	0.00
Hannan Wire Rope Mfg. Co., Ltd./Far East Industrial Co., Ltd	9.68	Nippon Miniature Rope Co., Ltd./Kinyo Co., Ltd	0.00	Teikoku Sangyo Co., Ltd./The Tosho Co., Ltd	0.00
Hannan Wire Rope Mfg. Ltd./ Higashishiba & Co	11.88	Nippon Steel Wire Rope Co., Ltd./Mitsui and Co	0.00	Teikoku Sangyo Co., Ltd./Mitsui and Co	0.00
Igeta Wire Rope Co., Ltd./ Mitsui & Co., Ltd	3.81	Nishimura Wire Rope Mfg. Co., Ltd./Kinyo Co., Ltd	0.35	Teikoku Sangyo Co., Ltd./ Nissho-Iwai	1.09
Igeta Wire Rope Co., Ltd./ Kimura Shorten, Ltd	3.81	Nishimura Wire Rope Mfg. Co., Ltd./K-M International	0.00	Teikoku Sangyo Co., Ltd./ Watanabe Trading Co., Ltd ..	1.00
Ito-Ume and Co., Inc	11.88	Nisshi-Nippon Fujikara Co., Ltd Nishiya Wire Rope Co., Ltd./ Mitsui and Co	0.06	Teikoku Sangyo Co., Ltd./ Mitsubishi Corporation	0.00
Iwata Wire Rope Mfg. Co., Ltd./ Mitsui and Co., Ltd	0.47	Nisshi-Nippon Fujikara Co., Ltd Nishiya Wire Rope Co., Ltd./ Mitsui and Co	0.00	Toyo Sangyo Co., Ltd	11.88
Kasuga Seiko Co., Ltd./ Higashishiba & Co	0.00	Nobuhara Mfg. & Supply Co	5.68	Union Wire Rope Mfg. Co./ Sanyo Bussan Kaisha, Ltd ...	0.04
Kasuga Seiko Co., Ltd./Kohshin Co	0.00	Oriental Corp./F.A. Industries Corp	0.00	Nikko Steel Wire Rope Mfg. Co., Ltd./The Yamasho Co., Ltd	9.68
Kasuga Seiko Co., Ltd./Nissho- Iwai	0.12	Osaka Wire Rope Mfrs. Assn./ Mitsui and Co	0.00	Yamato Industries Co., Ltd	11.88
Kasuga Seiko Co., Ltd./ Sumitomo Shoji Kaisha, Ltd	1.89	Rope Service K.K.	11.88	Yuasa Sangyo K.K	5.68
Kawashima Trading Co., Ltd	11.88	Ryoei Shoji Co., Ltd	11.88	C.T. Takahashi & Co	5.68
Kawatsuru Wire Products Co., Ltd./Mitsui and Co	0.00	Sakai & Co., Ltd	11.88	Daimyo Bussan	9.68
K-M International	11.88	Sanko Wire Rope Mfg. Co., Ltd./Tokyo Trading Co	0.00	IBA Steel Rope Mfg. Co., Ltd./ Hori Trading Co., Ltd	9.68
Kinki Steel Wire Rope Mfg. Co. Ltd./S.M. Industries	0.00	Sanwa Seiko Co., Ltd./J. Ger- ber & Co., Ltd	11.88	Izumi Trading Co., Ltd	9.68
Kinki Steel Wire Rope Mfg. Co., Ltd./Yutoko and Co	11.88	Sanyo Shokai K.K./J. Gerber & Co., Ltd	0.00	Japan Steel Wire Rope/ Kohshin Co., Ltd	9.68
Kobayashi Metals, Ltd	11.88	Sasaki Kogyo Co., Ltd	9.68	Kanto Steel Wire Co., Ltd	5.68
Kokoku Steel Wire Ltd./ Nichimen Co., Ltd	0.28	Seiko Wire Rope Co., Ltd./ Okura Trading Co., Ltd	11.88	Kiku Steel and Wire Rope Co./ Watanabe Trading Co., Ltd ..	0.00
Kokoku Steel Wire Ltd./Nissho- Iwai	0.33	Seiko Wire Rope Co., Ltd./Kinyo Co., Ltd	0.00	Liberty Shokai, Ltd	5.68
Kokoku Steel Wire Ltd./Itotaka International	0.31	Seiko Wire Rope Co., Ltd./ Kohshin Co., Ltd	11.88	Nan Rope Co., Ltd	5.68
Kokoku Steel Wire Ltd./Shinko Shoji Kaisha	1.76	Seiko Wire Rope Co., Ltd./ Syuto Co., Ltd	11.88	Nissei Sangyo Co	5.68
Kokoku Steel Wire Ltd./Mitsui and Co	1.01	Shibamoto & Co., Ltd	5.68	Seo Hardware Corp	9.68
Kokoku Steel Wire Ltd./ Sumitomo Shoji Kaisha Ltd ..	11.88	Shigeyama & Co., Ltd	11.88	Taiyo Seiki Iron Works	5.68
Kokoku Steel Wire Ltd./ Kanematsu-Gosho Ltd	11.88	Shinko Wire Rope Co./Mitsui and Co	0.00	Taiyo Iron Works	9.68
Kokoku Steel Wire Ltd./Yutoko & Co., Ltd	11.88	Shinko Wire Rope Co./Shinko Shoji Kaisha	0.00	Tokyo Special Wire Co., Mfg. Ltd	5.68
Kondo Iron Works Co., Ltd	11.88	Shinko Wire Rope Co./Nissho- Iwai	0.00	Yasada and Co	9.68
Koshihara Iron Works Co., Ltd	11.88	Shinko Wire Rope Co./ Kanematsu-Gosho Ltd	0.00	Taiyo Sunco Inc	5.68
Kyosei Industry Co., Ltd	0.00	Shinko Wire Rope Co., Ltd	0.00	All Others	11.88
Kyowa Bussan, K.K	11.88	Shinko Wire Rope Co./ Shinyo Ropes Mfg. Co., Ltd./ Higashishiba & Co	0.00	[FR Doc. 99-16815 Filed 6-30-99; 8:45 am]	
Kyowa Wire Rope Mfg. Co., Ltd./Mitsui and Co	0.07	Shinyo Ropes Mfg. Co., Ltd./ Mitsui and Co	0.08	BILLING CODE 3510-DS-P	
Maruka Machinery Co., Ltd	11.88	Shinyo Ropes Mfg. Co., Ltd./S. M. Industries, Inc	11.88	DEPARTMENT OF COMMERCE	
Marusen Wire Rope Mfg. Co., Ltd./S.M. Industries	11.88	Shinyo Ropes Mfg. Co., Ltd./ Vanguard Steel Ltd. (transshipper)	0.00	International Trade Administration	
Meiji Rope Mfg. Co., Ltd./Mitsui and Co	0.00	Shinyo Ropes Mfg. Co., Ltd./ Yutoko and Co., Ltd	11.88	Harvard University, et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes	
Mill Wire Industries/F.A. Indus- tries	0.00	Shinyo Ropes Mfg. Co., Ltd./ Other Trading Companies	0.80	This is a decision Consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.	
Misawa Trading Co., Ltd./S.M. ..	11.88				
Naigai Rope Mfg. Co., Ltd./ Mitani Kogyo Co	0.00				
Naniwa Wire Rope Mfg. Co. Ltd./Mitsui and Co	0.00				

Docket Number: 99-006. *Applicant:* Harvard University, Cambridge, MA 02138. *Instrument:* Electron Microscope, Model JEM-2010F. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 64 FR 27515, May 20, 1999. *Order Date:* March 4, 1999.

Docket Number: 99-007. *Applicant:* Baylor College of Medicine, Houston, TX 77030. *Instrument:* Electron Microscope, Model JEM-3000F. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 64 FR 27516, May 20, 1999. *Order Date:* April 3, 1998.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. *Reasons:* Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 99-16813 Filed 6-30-99; 8:45 am]

BILLING CODE 3510-DS-P

80401-3393. *Instrument:* 2 (Two) Anemometer Systems, Model DA-600. *Manufacturer:* Kaijo-Denki Corp. *Intended Use:* The instruments are intended to be used in conjunction with previously purchased systems to study the 3-D structure of small-scale atmospheric turbulence related to the operation, efficiency, and fatigue life of wind turbine generators and their component parts. *Application accepted by Commissioner of Customs:* June 11, 1999.

Docket Number: 99-015. *Applicant:* University of Southern California, Biological Sciences, 835 West 37th Street—ACB 510, Los Angeles, CA 90089-1340. *Instrument:* Automated Microscope Workstation, Series 200. *Manufacturer:* Singer Instrument, United Kingdom. *Intended Use:* The instrument is intended to be used to analyze the segregation of genes in yeast cells which are being used to study the basic molecular events of genetic instability that can cause a number of neurodegenerative diseases such as Huntington's disease and Fragile X mental retardation syndrome in humans. *Application accepted by Commissioner of Customs:* June 14, 1999.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 99-16814 Filed 6-30-99; 8:45 am]

BILLING CODE 3510-DS-P

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to James Hale, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, 907-586-7228.

SUPPLEMENTARY INFORMATION:

I. Abstract

This document requests comments on a number of collections-of information requirements for the Individual Fishing Quota (IFQ) Program for fixed gear Pacific halibut and sablefish fisheries off Alaska. The requirements described below have been in place without having obtained the necessary OMB approval, which will now be requested.

Request for Quota Share Application - Prior to the end of the application period to apply for IFQ Quota Shares(QS), the Application for QS was used to assess eligibility to receive QS. That application period ended on July 15, 1994. Applications for QS submitted after that date are categorically denied. An applicant denied for untimely submission of an application for QS may, however, file an appeal of that administrative decision. Hence, at this point in time, RAM facilitates such appeals by substituting the Request for Application for QS in place of the more extensive Application for QS itself. RAM determined that for purposes of categorically denying claims for QS the lengthy QS application is no longer necessary. The categorical denial then allows the applicant to enter the appeals process.

Vessel Clearance and Departure Reports - A vessel operator who intends to make an IFQ landing at a location other than in an IFQ regulatory area or in the State of Alaska must obtain pre-landing written clearance of the vessel from a clearing officer. If the pre-landing vessel clearance is to be obtained in Washington or another non-Alaska state, a departure report must be provided to NMFS Enforcement prior to departing the waters of the EEZ adjacent to the jurisdictional waters of the State of Alaska, the territorial sea of the State of Alaska, or the internal waters of the State of Alaska. Although these reports are currently cleared under OMB Control Number 0648-0272, some of the data elements in the reports were not

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, US Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5 P.M. in Room 4211, US Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C.

Docket Number: 99-014. *Applicant:* National Renewable Energy Laboratory, 1617 Cole Boulevard, Golden, CO

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062599C]

Collections of Information for Individual Fishing Quotas for Pacific Halibut and Sablefish in the Alaska Fisheries

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

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before August 30, 1999.

described in the related clearance request. Data elements for which authorization is being requested are: vessel home port, vessel ADF&G number, vessel official number, Federal fisheries permit number, International Pacific Halibut Commission number, halibut and sablefish weight, name of each IFQ cardholder onboard, registered buyer name and number, time of landing, location of clearance, registered buyer signature and date signed.

Dockside Sales Receipt - A person holding a valid IFQ permit, IFQ card, and registered buyer permit may conduct a dockside sale of IFQ halibut or IFQ sablefish to a person who has not been issued a registered buyer permit but must issue a dockside sales receipt in lieu of a shipment report.

The purpose of reporting the amount of IFQ fish involved in a dockside sale is to provide NMFS Enforcement with the ability to monitor and inspect the shipment of IFQ fish to determine whether there was proper accounting for all IFQ fish landed.

Request for Transaction Terminal - All IFQ landings must be reported electronically, using IFQ landing cards and transaction terminals activated with custom-designed computer software. Transaction terminals may be purchased directly from the supplier and sent to NMFS for installation of the custom software that makes a transaction terminal functional. Transaction terminals may also be requested from NMFS, but remain the property of the U.S. Government. This request form is used to request that a transaction terminal be supplied by NMFS. Since the number of terminals available from NMFS may not be sufficient to meet all requests, NMFS requests the address or location of expected activity so that a single terminal may be supplied to appropriate public places, such as Harbormaster offices, to meet the needs of numerous applicants in the same location.

Transshipment Authorization - No person may transship processed IFQ halibut or IFQ sablefish between vessels without authorization from a clearing officer and unless operating as a registered buyer. Authorization must be obtained for each instance of transshipment at least 24 hours before the transshipment is intended to commence and the transshipment must occur at a place specified by a NMFS Clearing Officer. The advance notice and restriction to a primary port affords NMFS the opportunity to inspect the fish. Transshipment authorization may be obtained through telephone, FAX, or other voice communications.

Existing data elements without clearance are: date and location of transshipment; vessel names and ADF&G numbers; product destination; registered buyer's name and number; species; regulatory areas fished; product type and code; number of units; unit and product weights; request date and time; and requester's name, phone, and fax.

IFQ/CDQ Shipment Report - Each registered buyer, other than those conducting dockside sales, must complete a written shipment report for each shipment or transfer of IFQ halibut and IFQ sablefish from that registered buyer before the fish leave the landing site and assure that a copy of the shipment report or a bill of lading containing the same information as a shipment report accompanies the shipment of IFQ species from the landing site to the first destination beyond the location of the IFQ landing. Existing data elements without clearance are: whether the report is original or revised; signature of registered buyer's representative; and unit product weight.

IFQ Administrative Waiver - This form is used by NMFS/Enforcement to document the request for and the granting of waivers for either of several requirements: the Six-hour Prior of Notice of Landing, the 12-hour IFQ Landing Window, the Electronic Landing Report requirement, the IFQ cardholder onboard requirement, or the requirement that vessel clearance be obtained at a primary port.

II. Method of Collection

Most information is submitted by telephone or letter. Receipts must be issued for dockside sales receipts. A form is used to submit shipping reports and requesting waivers.

III. Data

OMB Number: 0648-0272

Form Number: None

Type of Review: Regular submission

Affected public: Individuals, businesses and other for-profit

Estimated Number of Respondents: 6,700 (unchanged from currently approved figure)

Estimated Time Per Response: 30 minutes for an Application for Quota Share, 6 additional minutes for the uncleared elements of the Vessel Clearance and Departure Report, 6 minutes for a Dockside Sale Receipt, 30 minutes for a Request for a Transaction Terminal, 6 additional minutes for the uncleared elements of the Transshipment Authorization, 6 additional minutes for the uncleared

elements of the Shipment Report, and 6 minutes for the Administrative Waiver.

Estimated Total Annual Burden

Hours: 3,505 (this represents the hours to be added to the 0648-0272 clearance, whose total would then be 22,275 hours)

Estimated Total Annual Cost to Public: \$175 additional costs for the requirements being submitted, mostly for postage (many requirements involve the use of toll-free phone calls). The total costs for 0648-0272 requirements would then be \$90,996.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; — ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and /or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 24, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Chief Information Officer.

[FR Doc. 99-16810 Filed 6-30-99; 8:45 am]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Deep Seabed Mining; Lapse of Exploration License

AGENCY: National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce.

ACTION: Notice of lapse of Deep Seabed Mining Exploration License USA-2 held by Ocean Management, Inc. and Relinquishment of Deep Seabed Mining Exploration License USA-3 held by Ocean Mining Associates.

SUMMARY: Pursuant to section 115(a) of the Deep Seabed Hard Mineral Resources Act, 30 U.S.C. 1425(a), and 15 CFR 971.803(a) notice is hereby given

that on March 31, 1999, NOAA received formal notification that Ocean Management, Inc. (OMI), holder of Deep Seabed Exploration License USA-2, was dissolved. Dissolution papers were filed with the Delaware Secretary of State on January 14, 1999. NOAA has issued the exploration license for Site USA-2, to OMI in August 1984. Since OMI no longer exists as a legal entity, a condition precedent for the continued validity of the license has been eliminated and the license has, thereby, lapsed. This is deemed a relinquishment of the license under the Act. Also pursuant to those statutory and regulatory authorities, notice is hereby given that by letter to NOAA dated August 29, 1997, Ocean Mining Associates, holder of Deep Seabed Exploration License USA-3 issued by NOAA, formally relinquished its license as of the date of the letter.

FOR FURTHER INFORMATION CONTACT:

Joseph P. Flanagan, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, 1305 East-West Highway, Silver Spring, MD 20910, Tel. 301-713-3121, ext. 201.

Dated: June 25, 1999.

Ted I. Lillestolen,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

[FR Doc. 99-16700 Filed 6-30-99; 8:45 am]

BILLING CODE 3510-12-M

DEPARTMENT OF COMMERCE

Technology Administration

Office of Technology Policy; National Medal of Technology Nomination Evaluation Committee; Notice of Determination for Closure of Meeting

The National Medal of Technology Nomination Evaluation Committee has scheduled a meeting for July 13, 1999.

The Committee was established to assist the Department in executing its responsibilities under 15 U.S.C. 3711. Under this provision, the Secretary is responsible for recommending to the President prospective recipients of the National Medal of Technology. The committee's recommendations are made after reviewing all nominations received in response to a public solicitation. The Committee is chartered to have twelve members.

Time and Place: The meeting will begin at 10 a.m. and end at 4 p.m. on July 13, 1999. The meeting will be held in Room 1410 at the U.S. Department of

Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. For further information contact: Allison Rosenberg, Director, National Medal of Technology, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Herbert C. Hoover Building, Room 4226, Washington, DC 20230, Ph: (202-482-5572).

If a member of the public would like to submit written comments concerning the committee's affairs at any time before and after the meeting, written comments should be addressed to the Director, National Medal of Technology as indicated above.

Supplementary Information: The meeting will be closed to discuss the relative merits of persons and companies nominated for the Medal. Public disclosure of this information would be likely to significantly frustrate implementation of the National Medal of Technology program because premature publicity about candidates under consideration of the Medal, who may or may not ultimately receive the award, would be likely to discourage nominations for the Medal.

Accordingly, I find and determine, pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended, that the July 13, 1999, meeting may be closed to the public in accordance with section 552b(c)(9)(B) of Title 5, United States Code because revealing information about Medal candidates would likely to significantly frustrate implementation of a proposed agency action.

Due to the closure of the meeting, copies of the minutes of the meeting will not be available, however, a copy of the Notice of Determination will be available for public inspection and copying in the office of Allison Rosenberg, Director, National Medal of Technology, 14th and Constitution Avenue, NW, Herbert Hoover Building, Room 4226, Washington, DC 20230, (Ph: 202-482-5572).

Dated: June 25, 1999.

Kelly H. Carnes,

Deputy Assistant Secretary, Office of Technology Policy.

[FR Doc. 99-16826 Filed 6-30-99; 8:45 am]

BILLING CODE 3510-18-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection: Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness).

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed public information collection, and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 30, 1999.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Under Secretary of Defense (Personnel and Readiness) (Force Management Policy/Military Personnel Policy), ATTN: Dr. Jane Arabian, 4000 Defense Pentagon, Washington, DC 20301-4000.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call (703) 697-9271.

Title and Applicable OMB Control Number: Survey of Home School Associations, and OMB Control Number 0704-[to be determined].

Needs and Uses: The Conference Report of the Storm Thurmond National Defense Authorization Act for Fiscal Year 1999, Section 571, created a five-year pilot program that moved home school graduates from Tier II priority status (with General Education Development (GED) certificate holders) to Tier I (high school diploma graduates) for enlistment purposes. The purpose of this survey is to obtain information to support implementation of this program. Individual responses will be kept confidential. Only group statistics will be reported. All information will be used for research only. Participation will be voluntary. *Affected Public:* Not-for-profit institutions.

Annual Burden Hours: 50.

Number of Respondents: 200.

Responses Per Respondent: 1.
Average Burden Per Response: 15 minutes.

Frequency: One time.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The Conference Report (Section 571) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 directs the establishment of a five-year pilot program requiring the Military Services to permit home school graduates and General Education Development (GED) certificate holders from the National Guard Youth Challenge Program to enter the military with the same enlistment priority as high school diploma graduates. The Act also includes a requirement that the Government evaluate the program's effectiveness. The proposed survey supports this requirement. The survey will be administered to representatives of home school associations nationwide. The survey will gather information on how military recruiters can effectively reach out to home schoolers. It will also gather information on how military recruiters can identify genuine home school graduates.

Dated: June 25, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99-16705 Filed 6-30-99; 8:45 am]

BILLING CODE 5000-10-M

DEPARTMENT OF DEFENSE

Office of the Secretary

U.S. Court of Appeals for the Armed Forces Proposed Rule Changes

ACTION: Notice of proposed changes to the Rules of Practice and Procedure of the United States Court of Appeals for the Armed Forces.

SUMMARY: This notice announces the following proposed changes to Rules 9(d), 30(e), 36, and 39, and new Rule 36A of the Rules of Practice and Procedure, United States Court of Appeals for the Armed Forces for public notice and comment.

Proposed Revision to Rule 9(d)

Rule 9. Clerk

[Amend Rule 9(d) to delete the word "citations" in the first sentence of this subsection.]

Proposed Revision to Rule 30(e)

Rule 30. Motions

[Amend Rule 30(e) to delete the words "other than those to file recent

supplemental citations of authority without additional argument."]

Proposed Rule 36. Filing of Pleadings

(a) *In general.* Pleadings or other papers relative to a case shall be filed in the Clerk's office, 450 E Street, Northwest, Washington, D.C. 20442-0001, either in person or by mail. See Rule 37(b)(2).

(b) *Filing in person.* If a pleading or other paper is filed in person, such filing shall consist of delivery to a member of the Clerk's office during normal business hours. See Rule 9(e).

(c) *Filing by mail.* If a pleading or other paper is filed by mail, such filing shall consist of depositing the pleading or other paper with the United States Postal Service, with no less than first-class postage prepaid, properly addressed to the Clerk's office.

(d) *Time of filing.* Pleadings or other papers shall be deemed to have been filed on the date they are delivered to the Clerk's office under subsection (b) or on the date they are mailed under subsection (c). See Rules 37(b)(1) and 39(e).

(e) *Non-compliant pleadings.* If any pleading or other paper is not filed or offered for filing in compliance with these rules or an order of the Court, the Court may issue an order to show cause, dismiss the proceeding, or return the proffered pleading or paper on its own motion or the motion of a party. See Rules 27(a)(4) and 37(b)(1).

* * * * *

Proposed Rule 39. Service of Pleadings

(a) *In general.* At or before the filing of any pleading or other paper relative to a case in the Clerk's office, a copy thereof shall be served in person or by mail on all counsel of record, including *amicus curiae* counsel. See Rule 16(b). When a party is not represented by counsel, service shall be made on such party in person or by mail. When reasonable, considering such factors as the immediacy of the relief sought, distance, and cost, service must be at least as expeditious as the manner used to file the pleading or other paper with the Court. See Rule 36.

(b) *Personal service.* If service is made in person, it shall consist of delivery at the office of the counsel of record, either to counsel or to an employee therein. If the party is not represented, service shall consist of delivery to such party.

(c) *Service by mail.* If service is made by mail, it shall consist of depositing the pleading or other paper with the United States Postal Service, with no less than first-class postage prepaid, addressed to the counsel of record or, if the party is

not represented, to such party, at the proper post office address.

(d) *Certificate for review.* In the case of a certificate for review, service of a copy thereof shall be made on appellate defense counsel and appellate government counsel as prescribed in Rule 22(a).

(e) *Form of certificate of filing and service.* A certificate indicating the specific manner of filing under Rule 36 and the specific manner of service under this rule shall be included in any pleading or other paper substantially in the following form:

Certificate of Filing and Service

I certify that the original and seven copies of the foregoing were [delivered] (or) [mailed-specify class of mail] to the Court on _____ (date) and that a copy of the foregoing was [delivered] (or) [mailed-specify class of mail] to (enter specific name of each counsel of record or party, if not represented) on _____ (date)

(Typed name and signature of certifying person)

(Address and telephone no. of certifying person)

* * * * *

Proposed Rule 36A. Citations to Supplemental Authorities

If pertinent and significant authorities come to a party's attention after such party has filed a pleading allowed under these Rules, or after oral argument but before a final decision, the party may promptly advise the Clerk by letter, with a copy to all parties, setting forth the citations. The letter must state, without argument, the reasons for each supplemental citation, referring either to the page of the earlier filed pleading or to a point argued orally to which the citation is pertinent. Any response by other parties must be made promptly and must be similarly limited.

DATES: Comments on the proposed changes must be received by August 30, 1999.

ADDRESSES: Forward written comments to Thomas F. Granahan, Clerk of the Court, United States Court of Appeals for the Armed Forces, 450 E Street, Northwest, Washington, D.C. 20442-0001.

FOR FURTHER INFORMATION CONTACT: Thomas F. Granahan, Clerk of the Court, telephone (202) 761-1448 (x600).

SUPPLEMENTARY INFORMATION: The Rules Advisory Committee Comments on the proposed changes to Rules 9(d), 30(e), 36, and 39, and on proposed new Rule 36A are included as an attachment to this notice.

Rules Advisory Committee Comment on Proposed Revision to Rule 9(d)

If proposed Rule 36A is promulgated, the reference to "citations" in Rule 9(d) should be deleted as no longer necessary.

Rules Advisory Committee Comment on Proposed Revision to Rule 30(e)

If proposed Rule 36A is promulgated, the phrase referring to motions "to file recent supplemental citations of authority without additional argument" should be deleted as no longer necessary.

Rules Advisory Committee Comment on Proposed Rule 36

The proposed amendments to Rule 36 set forth the particular methods for filing pleadings or other papers relative to a case in person and by mail and provide that, when a filing is accomplished by mail, it must be made with no less than first-class postage prepaid, properly addressed to the Clerk's office. A similar provision is incorporated in the proposed amendments to Rule 39 for service of pleadings and other papers relative to a case.

Rules Advisory Committee Comment on Proposed Rule 39

The proposed amendments to Rule 39 specify that the service of pleadings or other papers relative to a case, when accomplished by mail, must be made with no less than first-class postage prepaid. A similar provision is incorporated in the proposed amendments to Rule 36 for the filing of pleadings and other papers relative to a case. Rule 36(a) also provides that, where practicable, service of a pleading or other paper should be by a means at least as expeditious as the manner in which the filing of such pleading or paper with the Court is accomplished under Rule 36.

Rules Advisory Committee Comment on Proposed Rule 36A

New Rule 36A substantially tracks Rule 28(j) of the Federal Rules of Appellate Procedure. It is designed to provide a party with an expeditious means of submitting important authorities to the Court that were either previously overlooked or unavailable when an earlier pleading was filed. The rule does not allow additional argument to be made and such letters should not be used for this purpose. If a party believes that supplemental briefing would be appropriate, that party should seek leave of Court to do so on motion under Rule 30 and should not rely on this rule for that purpose.

Dated: June 25, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99-16704 Filed 6-30-99; 8:45 am]

BILLING CODE 5000-10-M

DEPARTMENT OF DEFENSE**Department of the Air Force****Air Force Academy Board of Visitors Meeting**

Pursuant to Section 9355, Title 10, United States Code, the Air Force Academy Board of Visitors will meet at the U.S. Air Force Academy, Colorado, August 9-11, 1999. The purpose of the meeting is to consider morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy.

A portion of the meeting will be open to the public while other portions will be closed to the public to discuss matters listed in Subsections (2), (4), and (6) of 552b(c), Title 5, United States Code. These closed sessions will include attendance at cadet training programs and discussions with cadets, military staff, and faculty officers involving personal information and opinion, the disclosure of which would result in a clearly unwarranted invasion of personal privacy. Closed sessions will include executive sessions involving discussions of personnel issues, financial topics, and information relating solely to internal personnel rules and practices of the Board of Visitors and the Academy. Closed sessions may also include proprietary information from sources outside the government. Meeting sessions will be held in various facilities throughout the cadet area.

For further information contact Lt Col Wayne A. Schiefer or Ms Deborah Mercurio, Plans and Current Operations Division, HQ USAFA/XPO, 2304 Cadet Drive, Suite 350, USAF Academy, CO 80840-5002, (719) 333-3933.

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 99-16781 Filed 6-30-99; 8:45 am]

BILLING CODE 5001-05-P

DEPARTMENT OF DEFENSE**Department of the Army; Corps of Engineers****Draft Environmental Impact Statement For Proposed Open-Water Placement of Dredged Material At Site 104 Queen Anne's County, Maryland**

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Extension of comment period (July 31, 1999).

SUMMARY: Reference previous **Federal Register** notice, Volume 64, Number 83, page 23285, dated April 30, 1999, announcing the Baltimore District's extension of comment period to July 1, 1999. The Baltimore District is now extending the public comment period for an additional 30 days (July 31, 1999). The purpose of this extension is to provide additional time for public evaluation and comment.

DATES: Comments must be submitted on or before July 31, 1999 to be evaluated and considered in the final environmental impact statement.

ADDRESSES: Questions, comments, or requests for copies of the Draft Environmental Impact Statement should be directed to Mr. Wesley E. Coleman Jr. at the Corps of Engineers, Baltimore District (ATTN: CENAB-PL-P), P.O. Box 1715, Baltimore, MD 21203-1715. Or e-mail wesley.e.coleman@usace.army.mil

FOR FURTHER INFORMATION CONTACT: Mr. Wesley E. Coleman, Jr. at facsimile (410) 962-4698 or 1-800-295-1610.

SUPPLEMENTARY INFORMATION: A Notice of Availability (NOA) and a summary of the proposed action was published in the **Federal Register** (64 FR 9480) on February 26, 1999. The U.S. Army Corps of Engineers, Baltimore District is evaluating the potential use of Site 104 as an open-water placement area. Site 104 is located in the Chesapeake Bay one-half mile north of the Chesapeake Bay Bridge and one mile west of Kent Island. Open-water placement is proposed for approximately 18 million cubic yards of dredged material from the mainstem Chesapeake Bay channels leading to the port of Baltimore. The Maryland Port Administration has recommended the use of Site 104 for open-water placement of clean sediment. No decision has been made to use the site. The Baltimore District will analyze and incorporate all public comments on this Draft Environmental Impact Statement before making a final decision.

The DEIS and associated technical appendices are available at the

following area libraries: Anne Arundel County Public Library, North County Branch, 1010 Eastway Drive Glen Burnie, MD 21060; Queen Anne's County Free Library, 121 South Commerce Street, Centreville, MD 21617; Kent County Public Library, 408 High Street Chestertown, MD 21620; Frederick Douglas Library, University of MD, Eastern Shore, Backbone Road, Princess Anne, MD 21853-1299; Miller Library, Washington College, 300 Washington Avenue, Chestertown, MD 21620; MD State Law library, Court of Appeals Building 361 Rowe Boulevard, Annapolis, MD 21401; Queen Anne's County Public Library, Kent Island Branch, 200 Library Circle, Stevensville, MD 21666; Annapolis Library, 1410 West Street Annapolis, MD 21401; Broadneck Library, 1275 Green Holly Drive, Annapolis MD 21401; Reference Library, State Department of Legislation, 90 State Circle, Annapolis MD 21401.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99-16811 Filed 6-30-99; 8:45 am]

BILLING CODE 3710-41-P

DEPARTMENT OF ENERGY

[Docket Nos. EA-212 and EA-213]

Applications to Export Electric Energy; Coral Power, L.L.C.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: Coral Power, L.L.C. (Coral) has applied for authority to transmit electric energy from the United States to Mexico and Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before August 2, 1999.

ADDRESS: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE-27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585-0350 (FAX 202-287-5736).

FOR FURTHER INFORMATION CONTACT: Xavier Puslowski (Program Office) 202-586-4708 or Michael Skinker (Program Attorney) 202-586-6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. § 824a(e)).

On June 9, 1999, the Office of Fossil Energy (FE) of the Department of Energy

(DOE) received two separate applications from Coral to transmit electric energy from the United States to Mexico and Canada. Coral is a power marketer and does not own or control any facilities for the generation or transmission of electricity, nor does it have a franchised service area. Coral proposes to transmit to Mexico and Canada electric energy purchased from electric utilities and other suppliers within the U.S.

In FE Docket EA-212, Coral proposes to arrange for the delivery of electric energy to Mexico over the international transmission facilities owned by San Diego Gas and Electric Company, El Paso Electric Company, Central Power and Light Company, and Comision Federal de Electricidad, the national electric utility of Mexico.

In FE Docket EA-213, Coral proposes to arrange for the delivery of electric energy to Canada over the international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Citizens Utilities, Detroit Edison Company, Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power, Inc., Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, and Vermont Electric Transmission Company.

The construction of each of the international transmission facilities to be utilized by Coral, as more fully described in the applications, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the Coral application to export electric energy to Mexico should be clearly marked with Docket EA-212. Comments on the Coral application to export electric energy to Canada should be clearly marked with Docket EA-213. Additional copies are to be filed directly with Jeffrey D. Watkiss, Esq. AND Robin F. Wallace, Esq. Bracewell & Patterson,

L.L.P., 2000 K Street, N.W., Suite 500, Washington, D.C. 20006.

A final decision will be made on these applications after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA) and a determination is made by the DOE that the proposed actions will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of these applications will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at <http://www.fe.doe.gov>. Upon reaching the Fossil Energy Home page, select "Regulatory", then "Electricity", then "Pending Proceedings" from the options menus.

Issued in Washington, D.C., on June 18, 1999.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 99-16804 Filed 6-30-99; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Draft Supplement Analysis: Pit Manufacturing Facilities at Los Alamos National Laboratory, Stockpile Stewardship and Management Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy (DOE) announces the availability of the Draft Supplement Analysis: Pit Manufacturing Facilities at Los Alamos National Laboratory, Stockpile Stewardship and Management Programmatic Environmental Impact Statement (SSM PEIS), DOE/EIS-0236/SA-6, for public review and comment.

DATES: Written comments on the Draft Supplement Analysis are invited from the public during the comment period, which ends August 2, 1999 (see **ADDRESSES** section for more details). Comments must be postmarked by August 2 to ensure consideration; late comments will be considered to the extent practicable. The DOE will use the comments received to help prepare the Final Supplement Analysis.

ADDRESSES: To obtain a copy of the Supplement Analysis or to submit comments in writing or orally to DOE, contact: Corey Cruz, Albuquerque Operations Office Project Manager, U.S. DOE, Albuquerque Operations Office, Nuclear Programs Division (NPD), PO

Box 5400, Albuquerque, NM 87185-5400.

Mr. Cruz may also be contacted by telephone 505-845-4282 or fax (505) 845-4216. Comments may also be sent to the E-mail address ssmpeissa@doeal.gov. Requests for copies of the Draft SA or other matters regarding this environmental review should be addressed to Mr. Cruz at the address above. The Draft Supplement Analysis will be available under the NEPA Analyses Module of the DOE NEPA Web Site at <http://tis.eh.doe.gov/nepa/>.

FOR FURTHER INFORMATION CONTACT: For general information on the DOE NEPA process, please contact: Ms. Carol M. Borgstrom, EH-42, Director, Office of NEPA Policy and Assistance, Department of Energy 1000 Independence Ave., SW, Washington, DC 20585.

Ms. Borgstrom may be contacted by calling (202) 586-4600 or by leaving a message at (800) 472-2756.

SUPPLEMENTARY INFORMATION: The Draft Supplement Analysis was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) [42 U.S.C. 4321 *et seq.*], the Council on Environmental Quality NEPA regulations [40 CFR Parts 1500-1508], and the DOE NEPA regulations [10 CFR Part 1021]. The Department examined issues related to the possibility of seismic activity, fire, and sabotage at facilities at LANL. DOE prepared the Draft Supplement Analysis in compliance with the Memorandum Opinion and Order issued by the United States District Court for the District of Columbia in *Natural Resources Defense Council, et al., v. Federico Peña, et al.*, (CA 97-0936(SS)).

DOE has distributed copies of the Draft Supplement Analysis to the State of New Mexico, American Indian tribal governments, local county governments, other Federal agencies, and other interested parties. The Draft Supplement Analysis is also available for public review and copying at the following four locations:

University of New Mexico, Dan Barkley Reading Room, Government Information Department, Zimmerman Library, Albuquerque, NM, 87131-1466.

Albuquerque Technical Vocational Institute (TVI), Main Campus Library, 525 Buena Vista Dr. SE, Albuquerque, NM.

LANL Community Relations Office, 1619 Central Avenue, Los Alamos, New Mexico.

U.S. Department of Energy, Freedom of Information Reading Room, Room 1E-

190, 1000 Independence Ave, SW, Washington, DC.

After the public comment period, which ends August 2, 1999, the Department will consider and respond to the comments received, revise the Draft Supplement Analysis as appropriate, and issue a Final Supplement Analysis. The Department will consider the analyses in the Final Supplement Analysis in making a determination as to whether the SSM PEIS should be supplemented or a new SSM PEIS should be prepared.

Signed in Washington, DC, 25th this of June 1999, for the United States Department of Energy.

Victor H. Reis,

Assistant Secretary for Defense Programs.

[FR Doc. 99-16803 Filed 6-30-99; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Office of Science; High Energy Physics Advisory Panel

AGENCY: U.S. Department of Energy.

ACTION: Notice of meeting cancellation.

SUMMARY: An open meeting of the High Energy Physics Advisory Panel was scheduled to be held on July 12-13, 1999, at the Holiday Inn, 2 Montgomery Village Avenue, in Gaithersburg, Maryland 20879, has been cancelled due to scheduling difficulties. This meeting was announced in the **Federal Register** on May 17, 1999, 64 FR 26740.

Issued at Washington, D.C. on June 28, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99-16802 Filed 6-30-99; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia)

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Sandia. Federal Advisory Committee Act (Pub. L. No. 92-463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, July 21, 1999: 6:00 p.m.—9:00 p.m. (MST)

ADDRESSES: North Valley Senior Center, 3825 4th, NW, Albuquerque, New Mexico 87110, (505) 761-4025.

FOR FURTHER INFORMATION CONTACT:

Mike Zamorski, Acting Manager, Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185 (505) 845-4094.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: 6:00 p.m.

- Call to Order by DOE
- Welcome by Chair
- Roll Call
- Approval of Agenda
- Approval of Previous Minutes
- Chair Update
- Task Group and Committee Updates 7:30 p.m. Public Comments 7:50 p.m. Break 8:00 p.m. Board Business 9:00 p.m. Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Mike Zamorski's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Mike Zamorski, Manager, Department of Energy Kirtland Area Office, P.O. Box 5400, MS-0184, Albuquerque, NM 87185, or by calling (505) 845-4094.

Issued at Washington, DC on June 28, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99-16801 Filed 6-30-99; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

[Docket Nos. FE C&E 99-12, C&E 99-13 and C&E 99-14; Certification Notice—175]

Office of Fossil Energy; Notice of Filings of Coal Capability of Hays Energy, L.P., Midlothian Energy, L.P. and AES Red Oak, L.L.C. Powerplant and Industrial Fuel Use Act

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of filing.

SUMMARY: Hays Energy, L.P., Midlothian Energy, L.P. and AES Red Oak, L.L.C. submitted coal capability self-certifications pursuant to section 201 of the Powerplant and Industrial Fuel Use Act of 1978, as amended.

ADDRESSES: Copies of self-certification filings are available for public inspection, upon request, in the Office of Coal & Power Im/Ex, Fossil Energy, Room 4G-039, FE-27, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell at (202) 586-9624.

SUPPLEMENTARY INFORMATION: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new baseload electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. In order to meet the requirement of coal capability, the owner or operator of such facilities proposing to use natural gas or petroleum as its primary energy source shall certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date filed with the Department of Energy. The Secretary is required to publish a notice in the **Federal Register** that a certification has been filed. The following owners/operators of the proposed new baseload powerplants have filed a self-certification in accordance with section 201(d).

Owner: Hays Energy, L.P. (C&E 99-12).

Operator: Hays Energy, L.P.
Location: Hays County, TX.
Plant Configuration: Combined cycle.
Capacity: 1,100 megawatts.
Fuel: Natural gas.
Purchasing Entities: Wholesale purchasers.

In-Service Date: 2nd Quarter, 2001.

Owner: Midlothian Energy, L.P. (C&E 99-13).

Operator: Midlothian Energy, L.P.
Location: Midlothian, TX.
Plant Configuration: Combined cycle.
Capacity: 1,100 megawatts.
Fuel: Natural gas.

Purchasing Entities: Texas Utilities Electric Company and other wholesale purchasers.

In-Service Date: 2nd Quarter, 2000.

Owner: AES Red Oak, L.L.C. (C&E 99-14).

Operator: AES Red Oak, L.L.C.
Location: Middlesex County, NJ.
Plant Configuration: Combined cycle.
Capacity: 816 megawatts.

Fuel: Natural gas.
Purchasing Entities: Williams Energy.
In-Service Date: November, 2001.

Issued in Washington, D.C., June 24, 1999

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 99-16805 Filed 6-30-99; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99-43-000]

Algonquin Gas Transmission Company; Notice of Refund Report

June 25, 1999.

Take notice that on June 22, 1999, Algonquin Gas Transmission Company (Algonquin), tendered for filing a refund report pursuant to Ordering Paragraph (C) of the Commission's February 22, 1995 order in Gas Research Institute (GRI), Docket No. RP95-124-000.

Algonquin states that on May 28, 1999, Algonquin received its share of the GRI refund totaling \$975,297.00.

Algonquin states that on June 7, 1999, each eligible firm customer was credited its pro rata share of the GRI refund.

Algonquin states that copies of the filing were served on each of its affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 2, 1999. 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 proceedings. 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. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-16740 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99-345-000]

Arkansas Western Pipeline, L.L.C.; Notice of Tariff Filing

June 25, 1999.

Take notice that on June 22, 1999, Arkansas Western Pipeline L.L.C. (AWP L.L.C.), tendered for filing revised tariff sheets, as part of to its FERC Gas Tariff, Second Revised Volume No. 1.

AWP L.L.C., asserts that the purpose of this filing is to comply with Order Nos. 587, et al., excluding 587-K, with which its tariff is not in compliance. AWP L.L.C., states that it is contemporaneously filing revised tariff sheets necessary to comply with Order No. 587-K.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426, in accordance with Sections 385.214 or 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. Protest will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 99-16735 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. RP97-187-010]****Arkansas Western Pipeline, L.L.C.;
Notice of Petition for Waiver**

June 25, 1999.

Take notice that on June 21, 1999, Arkansas Western Pipeline, L.L.C. (AWP L.L.C.), tendered for filing its Motion for Waiver of Interactive Web Site Requirement pursuant to the Commission's Order No. 587-I.

AWP L.L.C., states that this filing has been served on all its customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 2, 1999. 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 proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 99-16736 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. RP98-206-005]****Atlanta Gas Light Company; Notice of Filing**

June 25, 1999.

Take notice that on June 22, 1999, Atlanta Gas Light Company (Atlanta) tendered for filing a request for extension of the waivers and limited jurisdiction blanket certificate granted by the Commission in its "Order Issuing Limited-Term, Limited-Jurisdiction Blanket Certificate, Amending Certificates for a Limited Term, and Granting Temporary Waivers" issued on July 31, 1998 in the above-captioned proceeding (July 31 Order).

Atlanta requests that the Commission grant an extension of the waivers and other authorizations granted in the July

31 Order in order to enable Atlanta to continue to implement the interstate capacity assignment provisions of Georgia's retail natural gas unbundling program beyond the October 31, 1999 expiration date of the authorizations granted in the July 31 Order. To provide certainty for parties participating in the Georgia program, Atlanta requests that the Commission extend the waivers and other authorizations until March 31, 2003, or the time that the affected interstate services either expire, are made directly assignable, or are converted to Part 284 service, whichever occurs sooner. In addition, Atlanta requests that the Commission expand Atlanta's waiver of Section 284.243(h)(2) of the Commission's regulations to enable Atlanta to pass through to marketers the benefits of discount and negotiated rate arrangements Atlanta may enter into in the future, in addition to the existing Southern discount arrangement. Atlanta further requests that the Commission act on its request by July 28, 1999, to enable Atlanta and its marketers to make the necessary arrangements and adjustments with interstate pipeline suppliers prior to October 1, 1999, when it is anticipated that Atlanta will exit the merchant function.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 285.211 of the Commission's Rules and Regulations. All such protests must be filed on or before July 2, 1999. 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 proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 99-16731 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. RP99-344-000]****Colorado Interstate Gas Company;
Notice of Tariff Filing**

June 25, 1999.

Take notice that on June 21, 1999, Colorado Interstate Gas Company (CIG), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the Tariff sheets listed in Appendix A to the filing, to be effective August 1.

CIG states that the purpose of this filing is to conform its tariff to the requirements of Order No. 587-K (FERC Statutes and Regulations (Preambles) 31,072 (1999)). Order No. 587-K requires interstate pipelines transporting pursuant to Section 284.223 of the Commission's Regulations to conform their tariffs to the most recent version of the Gas Industry Standards Board standards, Version 1.3, promulgated July 31, 1998.

CIG further states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be head or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 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 proceedings. 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. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 99-16733 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. CP99-94-000]****Florida Gas Transmission Company; Notice of Site Visits**

On July 7 and 8 of 1999, the Office of Pipeline Regulation (OPR) staff will inspect Florida Gas Transmission Company's (FGT), proposed compressor unit addition at Compressor Station 13 (CS-13) in Caryville, Florida and its proposed site for Compressor Station 24 (CS-24) in Trenton, Florida. The areas will be inspected by automobile. Representatives of FGT will accompany the OPR staff.

Anyone interested in participating in the site visits must provide their own transportation.

For further information, contact Paul McKee of the Commission's Office of External Affairs at (202) 208-1088.

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 99-16743 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. RP99-284-002]****Kern River Gas Transmission Company; Notice of Compliance Filing**

June 25, 1999.

Take notice that on June 22, 1999, Kern River Gas Transmission Company (Kern River), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Second Substitute First Revised Sheet No. 92-A, to be effective June 1, 1999.

Kern River states that the purpose of this filing is to correct an error on the tariff sheet filed on June 8, 1999 in this docket. This tariff sheet pertains to a new fuel reimbursement mechanism proposed by Kern River.

Kern River states that a copy of this filing has been served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests

will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-028-2222 for assistance).

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 99-16734 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. RP99-347-000]****Kern River Gas Transmission Company; Notice of Tariff Filing**

June 25, 1999.

Take notice that on June 22, 1999, Kern River Gas Transmission Company (Kern River), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to be effective August 1, 1999.

Sixth Revised Sheet No. 71
Sixth Revised Sheet No. 72
Fifth Revised Sheet No. 72-A
Third Revised Sheet No. 74
First Revised Sheet No. 74-A
Second Revised Sheet No. 82-A
Eighth Revised Sheet No. 93
Second Revised Sheet No. 93-A
Original Sheet No. 93-B
Fourth Revised Sheet No. 94-A
Original Sheet No. 94-D
Fifth Revised Sheet No. 128
Fifth Revised Sheet No. 129
Fourth Revised Sheet No. 130
Fourth Revised Sheet No. 502
Fourth Revised Sheet No. 602
Third Revised Sheet No. 702
Third Revised Sheet No. 803
Seventh Revised Sheet No. 891

Kern River states that the purpose of this filing is to submit tariff sheets in compliance with Order No. 587-K to incorporate the Version 1.3 standards promulgated by the Gas Industry Standards Board (GISB) on July 31, 1998 and adopted by the Commission as Section 284.10(b)(1) of the Commission's Regulations.

Kern River states that a copy of this filing has been served upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC

20426, in accordance with sections 385.214 or 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 proceedings. 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. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-028-2222 for assistance).

Linwood A. Watson, Jr.,*Acting Secretary.*

[FR Doc. 99-16737 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. GT99-42-000]****Kern River Gas Transmission Company; Notice of Refund Report**

June 25, 1999.

Take notice that on June 22, 1999, Kern River Gas Transmission Company (Kern River), tendered for filing a report of Gas Research Institute (GRI) refunds made to its customers.

Kern River states that on May 28, 1999 it received a refund from the GRI in the amount of \$957,563, representing an over collection of the 1998 GRI Tier 1 funding target level set for Kern River by the GRI. On June 11, 1999 Kern River credited the GRI refund, pro rata, to its eligible firm customers who received nondiscounted transportation service during 1998.

Kern River states that a copy of this filing has been served upon its affected customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 2, 1999. 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 proceedings. 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. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call (202-208-2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc 99-16741 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96-331-010]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

June 25, 1999.

Take notice that on June 22, 1999, National Fuel Gas Supply Corporation (National Fuel), tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Original Sheet No. 13, to be effective August 1, 1999.

National Fuel states that the filing is made to implement an Amendment to a firm storage agreement between National Fuel and KN Marketing, L.P. National Fuel further states that the Amendment to its FSS Service Agreement provides for a negotiated rate pursuant to Section 17.2 of the General Terms and Conditions of National Fuel's tariff and to the Commission's policy regarding negotiated rates.

National Fuel also states that the firm storage service would be provided at a formula rate based upon seventy five (75) percent of the difference between the monthly index price of gas withdrawn at the North Point of CNG Transmission Corporation as published by Gas Daily Price Guide, and the Weighted Average Value of Injected Gas, less \$0.84 per Dth. The specific formula is set forth in the Amendment.

Finally, National Fuel states that it is serving copies of the filing upon its firm customers and interested state commissions. Copies are also being served on all interruptible customers as of the date of the filing.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to

be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-16729 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99-44-000]

National Fuel Gas Supply Corporation; Notice of Refund Report

June 25, 1999.

Take notice that on June 23, 1999, National Fuel Gas Supply Corporation (National), tendered for filing a refund report pursuant to the Commission's April 29, 1998, "Order Approving Settlement" issued in Docket No. RP97-391-003 *et al.*

National states that it has refunded the Gas Research Institute demand surcharge based on the non-discounted GRI dollars paid by each firm shipper during the 1998 calendar year as a percentage of the total non-discounted GRI demand dollars paid by all firm shippers. National further states that it made these refunds in the form of credits to invoices issued in June 11, 1999. Total credit amounted to \$1,267,048.

National states that notice of the refund and refund amounts have been posted on National's EBB and copies of National's filing were served on National's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 2, 1999. 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 proceedings. 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. This filing may

be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-16730 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99-561-000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

June 25, 1999.

Take notice that on June 16, 1999, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124-1000, tendered for filing in Docket No. CP99-561-000, a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon five small volume meter stations located in Pottawattamie and Shelby Counties, Iowa, under Northern's blanket certificate issued in Docket No. CP82-401-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Northern proposes to abandon and remove five small volume farm taps, all located on the Avoca Branchline in Pottawattamie and Shelby Counties, Iowa. Northern states that the branchline on which the farm taps reside will be abandoned and removed thereby requiring the removal of the farm taps. Northern further states that a replacement line at an alternate location will be installed to provide service to downstream customers. Northern states that all branchline activity will be performed and reported to FERC under the automatic blanket authority. Northern states that all customers served by the subject facilities have consented to the abandonment.

Any questions regarding the application should be directed to either Don Vignaroli at (402) 398-7139 (dvignaro@enron.com) or Glen Hass at (402) 398-7419 (ghass@enron.com), Northern Natural Gas Company, 1111 South 103rd Street, Omaha, Nebraska 68124-1000.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized 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 99-16739 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP96-348-007 and RP96-348-008]

Panhandle Eastern Pipe Line Corporation; Notice of Technical Conference

June 25, 1999.

The Commission's order issued on June 18, 1999, in the above-captioned proceeding, 87 FERC ¶ 61,331 (1999), established a technical conference to address the operational aspects of certain issues concerning Panhandle Eastern Pipe Line Company's (Panhandle) proposed transportation penalties and proposal to revise scheduling priorities for firm transportation at secondary receipt and delivery points raised (a) in the rehearing requests to the Commission's February 18, 1998, order on rehearing, 82 FERC ¶ 61,163 (1998), and (b) in the protests to Panhandle's March 5, 1998 filing to comply with the requirements of the February 18, 1998 order.

Take notice that the conference to address the issues has been scheduled for Wednesday, July 21, 1999, at 10 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-16725 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99-41-000]

PG&E Gas Transmission, Northwest Corporation; Notice of Refund Report

June 25, 1999.

Take notice that on June 22, 1998, PG&E Gas Transmission, Northwest Corporation (PG&E GT-NW), tendered for filing a report of refunds made for calendar year 1998 in accordance with the Commission's Order of September 27, 1996 (76 FERC ¶ 61,337 (1996)) in Gas Research Institute (GRI) Docket No. RP96-267-000 and the Commission's Orders of February 22, 1995 (70 FERC ¶ 61,205 (1995)) and May 3, 1995 (71 FERC ¶ 61,131 (1995)) in Gas Research Institute Docket Nos. RP95-124-000, et al.

PG&E GT-NW asserts these Orders required it to credit eligible firm customers with refunds received from GRI and to file a report with the Commission within 15 days of making such refunds. The refund is allocated to customers based on each customer's pro-rata contributions to PG&E GT-NW's GRI surcharge collections on non-discounted firm transportation during 1998, and has been reflected as credits on customer invoices issued June 9, 1999.

PG&E GT-NW further states a copy of this filing has been served upon its jurisdictional customers and interested state regulatory agencies, and will be posted to all recipients of a share of the refund.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 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 proceedings. 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. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-16728 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2000-010]

Power Authority of the State of New York; Notice of Meetings To Discuss Settlement for Relicensing of the St. Lawrence-FDR Power Project

June 25, 1999.

The establishment of the Cooperative Consultation Process (CCP) Team and the Scoping Process for relicensing of the St. Lawrence-FDR Power Project was identified in the NOTICE OF MEMORANDUM OF UNDERSTANDING, FORMATION OF COOPERATIVE CONSULTATION PROCESS TEAM, AND INITIATION OF SCOPING PROCESS ASSOCIATED WITH RELICENSING THE ST. LAWRENCE-FDR POWER PROJECT issued May 2, 1996, and found in the **Federal Register** dated May 8, 1996, Volume 61, No. 90, on page 20813.

The following is a list of meetings for the CCP Team to continue settlement negotiations on ecological and local issues. The meetings will be conducted at the New York Power Authority's (NYPA) Robert Moses Powerhouse, at 10:00 a.m., located in Massena, New York.

The CCP Team will meet:

July 28-29, 1999
August 25-26, 1999
September 29-30, 1999
October 27-28, 1999
November 17-18, 1999, and
December 15-16, 1999

If you would like more information about the CCP Team and the relicensing process, please contact any one of the following individuals:

Mr. Thomas R. Tatham, New York Power Authority, (212) 468-6747, (212) 468-6272 (fax), EMAIL: Ytathat@IP3GATE.USA.COM
Mr. Bill Little, Esq., New York State Dept. of Environmental Conservation, (518) 457-0986, (518) 457-3978 (fax), EMAIL: WGLittle@GW.DEC.State.NY.US
Dr. Jennifer Hill, Ms. Patti Leppert-Slack, Federal Energy Regulatory

Commission, (202) 219-2797 (Jennifer), (202) 219-2767 (Patti), (202) 219-0125 (fax), EMAIL: Jennifer.Hill@FERC.FED.US, EMAIL: Patricia.LeppertSlack@FERC.FED.US

Further information about NYPA and the St. Lawrence-FDR Power Project can be obtained through the Internet at <http://www.stl.nypa.gov/index.html>. Information about the Federal Energy Regulatory Commission can be obtained at <http://www.ferc.fed.us>.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-16732 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99-343-000]

Southern Natural Gas Company; Notice of Petition for Waiver

June 25, 1999.

Take notice that on June 18, 1999, Southern Natural Gas Company (Southern), tendered for filing a petition for a limited waiver of Section 14.1(b)(1) and (c)(1) of the General Terms and Conditions of its FERC Gas Tariff, Seventh Revised Volume No. 1.

Southern requests the Commission to grant a limited waiver of Section 14.1 of the General Terms and Conditions of Southern's Tariff for cashout premiums incurred in May 1999.

Southern states that copies of the filing have been mailed to all of the shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 1, 1999. 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 proceedings. 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. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

www.ferc.fed.us/online/rims.htm (call 202-208-2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-16727 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC97-56-000 and ER97-4669-000]

Western Resources, Inc. and Kansas City Power & Light Company; Notice of Settlement Conference

June 25, 1999.

Take notice that a settlement conference will be convened to discuss issues raised in Docket Nos. EC97-56-000 and ER97-4669-000. The conference is scheduled for Tuesday, July 13, 1999, at 1:00 p.m. and Wednesday, July 14, 1999, at 10:00 a.m. The settlement conference will be held at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, for the purpose of exploring settlement of Docket Nos. EC97-56-000 and ER97-4669-000.

Any party as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information contact Linda Lee at (202) 208-0673, Thomas J. Burgess at (202) 208-2058, Theresa J. Burns at (202) 208-2160, or Marcia C. Hooks (202) 208-0993.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-16742 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99-346-000]

Wyoming Interstate Company, Ltd.; Notice of Tariff Filing

June 25, 1999.

Take notice that on June 22, 1999, Wyoming Interstate Company, Ltd. (WIC), tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 2, the Tariff sheets listed in

on Appendix A to the filing, to be effective August 1, 1999.

WIC states that the purpose of this compliance filing is to conform WIC's tariff to requirements of Order No. 587-K (FERC Statutes and Regulations (Preambles) 31,072 (1999)) that interstate pipelines transporting pursuant to Section 284.223 of the Commission's Regulations conform their tariffs to the most recent version of the Standards, Version 1.3 promulgated July 31, 1998 by the Gas Industry Standards Board.

WIC further 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 said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 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 proceedings. 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. This filing may be viewed on the web at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-16738 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99-3127-000, et al.]

Bishop Power Company, Inc. et al.; Electric Rate and Corporate Regulation Filings

June 23, 1999.

Take notice that the following filings have been made with the Commission:

1. Bishop Power Company, Inc.

[Docket No. ER99-3127-000]

Take notice that on June 18, 1999, Bishop Power Company, Inc. (Bishop Power) submitted an amendment to Bishop Power's petition for acceptance

of Bishop Power Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations. The amendment provides additional information about the ownership of Bishop Power.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Entergy Services, Inc.

[Docket No. ER99-3133-000]

Take notice that on June 18, 1999, Entergy Services, Inc., on behalf of Entergy Gulf States, Inc., tendered for filing changes to the Generator Imbalance Agreement with Dow Chemical Co.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Entergy Services, Inc.

[Docket No. ER99-3175-000]

Take notice that on June 18, 1999, Entergy Services, Inc., on behalf of Entergy Gulf States, Inc., tendered for filing changes to the Generator Imbalance Agreement with Crown Paper Co. d/b/a Crown Vantage.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Alliant Energy Services Company, Inc.

[Docket No. ER99-3292-000]

Take notice that on June 17, 1999, Alliant Energy Services Company, Inc. (Alliant) on behalf of Interstate Power Company (IPC) and Wisconsin Power & Light Company (WPL), tendered for filing a Negotiated Capacity Transaction (Agreement) between IPC and WPL for the period June 1, 1999 through August 31, 1999. The Agreement was negotiated to provide service under the IEC System and Coordination and Operating Agreement among IES Utilities Inc., Interstate Power Company, Wisconsin Power & Light Company and Alliant.

Comment date: July 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Alliant Energy Services Company, Inc.

[Docket No. ER99-3293-000]

Take notice that on June 17, 1999, Alliant Energy Services Company, Inc. (Alliant) on behalf of Wisconsin Power & Light Company (WPL) and Interstate Power Company (IPC), tendered for filing a Negotiated Capacity Transaction (Agreement) between WPL and IPC for the period June 1, 1999 through August

31, 1999. The Agreement was negotiated to provide service under the Alliant Energy Corporation System and Coordination and Operating Agreement among IES Utilities Inc., Interstate Power Company, Wisconsin Power & Light Company and Alliant.

Comment date: July 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. PP&L, Inc.

[Docket No. ER99-3294-000]

Take notice that on June 18, 1999, PP&L, Inc. (PP&L), tendered for filing with the Commission an application to amend its Market-Based Rate Tariff, FERC Electric Tariff Revised Volume No. 5, to allow PP&L to sell specified ancillary services at market-based rates.

PP&L requested waiver of Commission regulations to permit the tariff amendment to become effective on June 21, 1999.

PP&L stated that it served a copy of the foregoing on the Pennsylvania Public Utility Commission and on those parties who have executed service agreements under PP&L's Market-Based Rate Tariff.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. TXU Electric Company

[Docket No. ER99-3295-000]

Take notice that on June 18, 1999, TXU Electric Company (TXU Electric), tendered for filing a notice of succession pursuant to Section 35.16 of the Commission's Regulations, 18 CFR 35.16. As a result of a name change, TXU Electric is succeeding to the tariffs and related service agreements of Texas Utilities Electric Company, effective June 14, 1999.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Illinois Power Company

[Docket No. ER99-3296-000]

Take notice that on June 18, 1999, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Ameren Services Company will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of June 1, 1999.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. UtiliCorp United Inc.

[Docket No. ER99-3297-000]

Take notice that on June 18, 1999, UtiliCorp United Inc., on behalf of its Missouri Public Service operating division, tendered for filing an Interconnection Agreement between UtiliCorp United Inc., d/b/a Missouri Public Service and MEP Pleasant Hill LLC dated June 4, 1999.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Commonwealth Edison Company

[Docket No. ER99-3298-000]

Take notice that on June 18, 1999, Commonwealth Edison Company (ComEd), tendered for filing service agreements establishing DukeSolutions, Inc. (Duke), Otter Tail Power Company (OTP), and Duquesne Light Company (Duquesne), as customers under ComEd's FERC Electric Market Based-Rate Schedule for power sales.

ComEd requests an effective date of June 18, 1999, for the Service Agreements, and accordingly, seeks waiver of the Commission's notice requirements.

Copies of the filing were served on Duke, OTP and Duquesne.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Central Maine Power Company

[Docket No. ER99-3299-000]

Take notice that on June 18, 1999, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy entered into with Williams Energy Marketing & Trading. Service will be provided pursuant to CMP's Wholesale Market Tariff, Volume No. 4, as supplemented.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Central Maine Power Company

[Docket No. ER99-3300-000]

Take notice that on June 18, 1999, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy entered into with ENRON Power Marketing, Inc. Service will be provided pursuant to CMP's Wholesale Market Tariff, Volume No. 4, as supplemented.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Entergy Services, Inc.

[Docket No. ER99-3302-000]

Take notice that on June 18, 1999, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Gulf States, Inc. (EGSI), tendered for filing a Generator Imbalance Agreement with Exxon Company, U.S.A.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. West Texas Utilities Company

[Docket No. ER99-3312-000]

Take notice that on June 18, 1999, West Texas Utilities Company (WTU), tendered for filing a letter agreement to supplement the Control Area Services Agreement currently on file between WTU, Rayburn Country Electric Cooperative, Inc. (Rayburn) and LG&E Energy Marketing, Inc., (LEM).

WTU requests an effective date of June 22, 1998, and, accordingly, seeks waiver of the Commission's notice requirements.

Copies of the filing have been served on Rayburn, LEM and the Public Utility Commission of Texas.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before 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. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99-16764 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. ER99-1764-001, et al.]

Erie Boulevard Hydropower, L.P., et al. Electric Rate and Corporate Regulation Filings

June 25, 1999.

Take notice that the following filings have been made with the Commission:

1. Erie Boulevard Hydropower, L.P.

[Docket No. ER99-1764-001]

Take notice that on June 21, 1999, Erie Boulevard Hydropower, L.P. (Applicant), tendered for filing its Compliance Filing in the above-referenced docket.

Comment date: July 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Full Power Corporation

[Docket No. ER99-2540-000]

Take notice that on June 21, 1999, Full Power Corporation tendered for filing, pursuant to Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, Amendment No. 2 to its pending proposed FERC Electric Rate Schedule No. 1, waiver of certain of the Commission's Regulations under the Federal Power Act (FPA), and grant of certain blanket approvals, all as more particularly described in the Amendment to its pending Application for waivers and blanket approvals under various regulations of the Commission, and an order accepting its Rate Schedule No. 1, to be effective June 18, 1999, or the date that the Commission issues an order in this proceeding, whichever is earlier. Full Power Corporation intends to engage in electric energy and capacity transactions as a marketer.

Comment date: July 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Northern Indiana Public Service Company

[Docket No. ER99-3317-000]

Take notice that on June 21, 1999, Northern Indiana Public Service Company tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Illinova Energy Partners, Inc., (IEPI).

Under the Transmission Service Agreement, Northern Indiana Public

Service Company will provide Point-to-Point Transmission Service to IEPI pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96-47-000 and allowed to become effective by the Commission. Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of June 30, 1999.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: July 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Mid-Continent Area Power Pool

[Docket No. ER99-3318-000]

Take notice that on June 21, 1999, the Mid-Continent Area Power Pool (MAPP), on behalf of its public utility members, tendered for filing the MAPP open-access transmission tariff (Regional Tariff). The Regional Tariff provides regional, firm point-to-point transmission service on a zonal basis.

Comment date: July 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Louisville Gas and Electric Company, Kentucky Utilities Company

[Docket No. ER99-3319-000]

Take notice that on June 21, 1999, Louisville Gas and Electric Company (LG&E) and Kentucky Utilities Company (KU), tendered for filing, pursuant to Section 205 of the Federal Power Act, and Part 35 of the Commission's Regulations, an Interconnection Agreement with LG&E Capital Corporation (LCC), for the interconnection with the LG&E and KU transmission system of two 164 megawatt combustion turbine units being installed on the premises of KU's E. W. Brown generating station, located in Mercer County, Kentucky. LCC will own and operate the plants during a start-up and testing period and potentially for some period thereafter.

LG&E and KU have requested waiver of the Commission's prior notice and filing requirements, and an effective date of June 21, 1999.

Copies of the filing were served upon the Kentucky Public Service Commission and the Virginia State Corporation Commission.

Comment date: July 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Rathdrum Power, LLC

[Docket No. ER99-3320-000]

Take notice that on June 21, 1999, Rathdrum Power, LLC, an electric

power developer organized under the laws of Delaware, petitioned the Commission for acceptance of its market-based rate schedule, waiver of certain requirements under Subparts B and C of Part 35 of the Commission's Regulations, and preapproval of transactions under Part 34 of the regulations.

Comment date: July 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Entergy Services, Inc.

[Docket No. ER99-3321-000]

Take notice that on June 21, 1999, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, Entergy Operating Companies), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement and a Short-Term Firm Point-to-Point Transportation Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Omaha Public Power District.

Comment date: July 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Northern States Power Company (Minnesota); Northern States Power Company (Wisconsin)

[Docket No. ER99-3323-000]

Take notice that on June 21, 1999, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (jointly NSP), tendered for filing a Non-Firm and a Short-Term Firm Point-to-Point Transmission Service Agreement between NSP and Basin Electric Power Cooperative.

NSP requests that the Commission accept both the agreements effective May 18, 1999, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment date: July 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Niagara Mohawk Power Corporation

[Docket No. ER99-3324-000]

Take notice that on June 21, 1999, Niagara Mohawk (Niagara Mohawk), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between Niagara Mohawk and Enron Power Marketing, Inc. (Enron). This Transmission Service Agreement specifies that Enron has

signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96-194-000. This Tariff, filed with FERC on July 9, 1996, will allow Niagara Mohawk and Enron to enter into separately scheduled transactions under which Niagara Mohawk will provide firm transmission service for Enron as the parties may mutually agree.

Niagara Mohawk requests an effective date of June 11, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon the New York State Public Service Commission and Enron.

Comment date: July 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Southwestern Electric Power Company

[Docket No. ER99-3325-000]

Take notice that on June 21, 1999, Southwestern Electric Power Company (SWEPCO), tendered for filing proposed tariff changes in its Rate Schedule FERC No. 72, applicable to transmission service rendered to Arkansas Electric Cooperative Corporation (AECC) under the Flint Creek Power Plant Power Coordination, Interchange and Transmission Service Agreement (Flint Creek Agreement). SWEPCO has proposed decreased rates (calculated in accordance with the formula contained in the Flint Creek Agreement).

SWEPCO requests an effective date of July 1, 1999, and, accordingly, seeks waiver of the Commission's notice requirements.

Copies of the filing have been served on AECC and the Arkansas Public Service Commission.

Comment date: July 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Niagara Mohawk Power Corporation

[Docket No. ER99-3330-000]

Take notice that on June 21, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing with the Federal Energy Regulatory Commission an executed, amended Transmission Service Agreement between Niagara Mohawk and the Power Authority of the State of New York (NYPA) to permit NYPA to deliver power and energy from NYPA's FitzPatrick Plant to a point where Niagara Mohawk's transmission system connects to its retail distribution system West of Niagara Mohawk's constrained Central-East Interface. This

Transmission Service Agreement specifies that NYPA has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96-194-000.

Niagara Mohawk requests an effective date of June 1, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon New York Public Service Commission and NYPA.

Comment date: July 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Niagara Mohawk Power Corporation

[Docket No. ER99-3331-000]

Take notice that on June 21, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing with the Federal Energy Regulatory Commission an executed amended Transmission Service Agreement between Niagara Mohawk and the Power Authority of the State of New York (NYPA), to permit NYPA to deliver power and energy from NYPA's FitzPatrick Plant, Bid Process Suppliers and Substitute Suppliers to the points where Niagara Mohawk's transmission system connects to its retail distribution system East of Niagara Mohawk's constrained Central-East Interface. This Transmission Service Agreement specifies that NYPA has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96-194-000.

Niagara Mohawk requests an effective date of June 1, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon New York Public Service Commission and NYPA.

Comment date: July 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Niagara Mohawk Power Corporation

[Docket No. ER99-3332-000]

Take notice that on June 21, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between Niagara Mohawk and the Power Authority of the State of New York (NYPA) to permit NYPA to deliver power and energy from NYPA's Bid Process Supplier to a point where Niagara Mohawk's transmission system connects to its retail distribution

system West of Niagara Mohawk's constrained Central-East Interface. This Transmission Service Agreement specifies that NYPA has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96-194-000.

Niagara Mohawk requests an effective date of June 1, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon New York Public Service Commission and NYPA.

Comment date: July 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. IMC-Agrico Company

[Docket No. QF99-61-000]

Take notice that on June 18, 1999 as supplemented on June 24, 1999, IMC-Agrico Company (IMCA), whose address is Pierce Offices, 5000 Old Highway 37, P.O. Box 2000, Mulberry, Florida 33860, tendered for filing with the Federal Energy Regulatory Commission an amended application for certification of a facility as a cogeneration facility pursuant to Section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

IMCA's proposed facility is a topping cycle cogeneration facility fueled by natural gas that will produce electricity and provide steam to an adjacent facility, which will in turn produce distilled water for IMCA's internal system. Electricity will be generated using combustion turbine generators and a steam turbine generator for a combined maximum gross output of approximately 400 MW.

IMCA's proposed facility will interconnect with the transmission system of one or more of IMCA's incumbent utilities (Tampa Electric Company, Florida Power Corporation, and Peace River Electric Cooperative), which may provide supplementary and backup power to the proposed facility and purchase useful electric power output of the facility to the extent not consumed internally by IMCA.

Comment date: July 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before 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. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99-16766 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99-3038-000, et al.]

Indianapolis Power & Light Company, et al.; Electric Rate and Corporate Regulation Filings

June 24, 1999.

Take notice that the following filings have been made with the Commission:

1. Indianapolis Power & Light Company

[Docket No. ER99-3038-000]

Take notice that on June 18, 1999, Indianapolis Power & Light Company, tendered for filing a conformed copy of the Certificate of Concurrence signed by a representative of the Dayton Power & Light Company (Dayton P&L).

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. New England Power Company

[Docket Nos. EC99-87-000, ER99-3306-000]

Take notice that on June 18, 1999, New England Power Company (NEP), tendered for filing an application and rate schedule associated with the sale of NEP's 115 kV facilities at the South Danvers substation to the Town of Danvers, Massachusetts for use by its municipal light department.

Comment date: July 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. New Energy Ventures, Inc., The AES Corporation

[Docket No. EC99-88-000]

Take notice that on June 18, 1999, New Energy Ventures, Inc. (NEV) and The AES Corporation (AES), tendered for filing with the Federal Energy Regulatory Commission (Commission) an Application for Approval of the Disposition of Jurisdictional Facilities Under Section 203 of the Federal Power Act and Request for Expedition in the above-referenced docket. In the proposed transactions, NEV will dispose of its jurisdictional assets through the sale of 100 percent of its issued and outstanding common stock to AES; and AES will acquire control of, and the entire equity interest in, NEV, through the acquisition of the common stock of NEV.

Comment date: July 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Arizona Public Service Company

[Docket No. ER99-3288-000]

Take notice that on June 17, 1999, Arizona Public Service Company (APS), tendered for filing Quarterly Refund payments to eligible wholesale customers under the Company's Fuel Cost Adjustment Clause (FAC) per Terms of the Agreement in the Matter of Surface Transportation Board Docket 41185 Reparations and 1999-2002 Coal Transportation to the Cholla Generating Station.

A copy of this filing has been served upon the affected parties, the California Public Utilities Commission, and the Arizona Corporation Commission.

Customer name	APS-FPC/ FERC rate schedule 1
Electrical District No. 3 (ED-3)	12
Tohono O'odham Utility Authority (TOUA) ¹	52
Arizona Electric Power Cooperative (AEP)	57
Wellton-Mohawk Irrigation and Drainage District (Wellton-Mohawk)	58
Arizona Power Authority (APA)	59
Colorado River Indian Irrigation Project (CRIIP) ²	65

Customer name	APS-FPC/ FERC rate schedule 1
Electrical District No. 1 (ED-1)	68
Arizona Power Pooling Association (APPA)	70
Town of Wickenburg (Wickenburg)	74
Southern California Edison Company (SCE)	120
Electrical District No. 6 (ED-6)	126
Electrical District No. 7 (ED-7)	128
City of Page	134
Electrical District No. 8 (ED-8)	140
Aguila Irrigation District (AID)	141
McMullen Valley Water Conservation and Drainage District (MVD)	142
Tonopah Irrigation District (TID)	143
Citizens Utilities Company (Citizens) ²	207
Harquahala Valley Power District (HVPD)	153
Buckeye Water Conservation and Drainage District (BID)	155
Roosevelt Irrigation District (RID)	158
Maricopa County Municipal Water Conservation District (MCMWCD)	168
City of Williams (Williams)	192
San Carlos Indian Irrigation Project (SCIIP)	201
Maricopa County Municipal Water Conservation District at Lake Pleasant (MCMWCD-Lk.Pl.)	209

¹ Formerly Papago Utility Tribal Authority.

² APS-FPC/FERC Rate Schedule in effect during the refund period.

Comment date: July 7, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Archer Daniels Midland

[Docket No. ER99-2792-000]

Take notice that on June 18, 1999, Archer Daniels Midland (ADM), tendered for filing in response to staff request an amendment to its executed Power Purchase Agreement with Central Illinois Light Company, filed on May 4, 1999, in the above-referenced docket.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Entergy Services, Inc.

[Docket No. ER99-3305-000]

Take notice that on June 18, 1999, Entergy Services, Inc., on behalf of Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy Gulf States, Inc., tendered for filing changes to Generator Imbalance Agreements with Georgia Gulf Corporation; Huntsman Petrochemical Corporation; Tenaska Frontier Partners, Ltd.; LSP Energy Limited Partnership; Union Carbide Corporation; PPG Industries, Inc.; CII Carbon, L.L.C.; PanEnergy Lake Charles Generation.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. United Power, Inc.

[Docket No. ER99-3307-000]

Take notice that on June 18, 1999, United Power, Inc. (UPI), tendered for filing its Initial Rate Filing consisting of (i) a Borderline Agreement between Public Service Company of Colorado

and UPI; and (ii) a Partial Requirements Agreement between the Town of Frederick and UPI. UPI also seeks waivers of certain Commission filing requirements and other regulations.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Equitable Energy, L.L.C.

[Docket No. ER99-3308-000]

Take notice that on June 18, 1999, Equitable Energy, L.L.C. (Equitable), tendered for filing pursuant to Section 35.15 of the Commission's Regulations, 18 CFR 35.15, a notice canceling Equitable's Rate Schedule FERC No. 1, and Supplement No. 1 to Rate Schedule No. 1, effective May 20, 1999. In its notice, Equitable states that it has no customers.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. New York State Electric & Gas Corporation

[Docket No. ER99-3309-000]

Take notice that on June 18, 1999, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to Section 35 of the Federal Energy Regulatory Commission's Regulations, 18 CFR 35, a service agreement (the Service Agreement) under which NYSEG may provide capacity and/or energy to Edison Mission Marketing & Trading, Inc. (EMMT) in accordance with NYSEG's FERC Electric Tariff, Original Volume No. 3.

NYSEG has requested waiver of the notice requirements so that the Service

Agreement with EMMT becomes effective as of May 3, 1999.

NYSEG has served copies of the filing upon the New York State Public Service Commission and EMMT.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Central Illinois Light Company

[Docket No. ER99-3310-000]

Take notice that on June 18, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission a substitute Index of Customers under its Coordination Sales Tariff and one service agreement with one new customer, The Dayton Power & Light Company.

CILCO requests an effective date of June 15, 1999.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Central Illinois Light Company

[Docket No. ER99-3311-000]

Take notice that on June 18, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61202, tendered for filing with the Commission an Index of Customers under its Market Rate Power Sales Tariff and one service agreement with one new customer, The Dayton Power & Light Company.

CILCO requests an effective date of June 15, 1999.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Portland General Electric Company

[Docket No. ER99-3313-000]

Take notice that on June 18, 1999, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff First Revised Volume No. 8, Docket No. OA96-137-000), executed Service Agreements for Short-Term Firm and Non-Firm Point-to-Point Transmission Service with Sacramento Municipal Utility District.

Pursuant to 18 CFR Section 35.11, and the Commission's Order in Docket No. PL93-2-002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR Section 35.3 to allow the Service Agreement to become effective May 24, 1999.

A copy of this filing was caused to be served upon Sacramento Municipal Utility District, as noted in the filing letter.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Portland General Electric Company

[Docket No. ER99-3314-000]

Take notice that on June 18, 1999, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff First Revised Volume No. 8, Docket No. OA96-137-000), an executed Service Agreement for Non-Firm Point-to-Point Transmission Service with PacifiCorp Power Marketing, Inc.

Pursuant to 18 CFR Section 35.11, and the Commission's Order in Docket No. PL93-2-002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR Section 35.3 to allow the Service Agreement to become effective June 1, 1999.

A copy of this filing was caused to be served upon PacifiCorp Power Marketing, Inc., as noted in the filing letter.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Entergy Services, Inc.

[Docket No. ER99-3315-000]

Take notice that on June 18, 1999, Entergy Services, Inc., on behalf of Entergy Gulf States, Inc., tendered for

filing changes to the Interconnection Agreement between Entergy Gulf States, Inc., and Exxon Company, U.S.A.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Niagara Mohawk Power Corporation

[Docket No. ER99-3316-000]

Take notice that on June 18, 1999, Niagara Mohawk Power Corporation (Niagara Mohawk), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between Niagara Mohawk and Enron Power Marketing, Inc., (Enron). This Transmission Service Agreement specifies that Enron has signed on to and has agreed to the terms and conditions of Niagara Mohawk's Open Access Transmission Tariff as filed in Docket No. OA96-194-000. This Tariff, filed with FERC on July 9, 1996, will allow Niagara Mohawk and Enron to enter into separately scheduled transactions under which Niagara Mohawk will provide non-firm transmission service for Enron as the parties may mutually agree.

Niagara Mohawk requests an effective date of June 11, 1999. Niagara Mohawk has requested waiver of the notice requirements for good cause shown.

Niagara Mohawk has served copies of the filing upon the New York State Public Service Commission and Enron.

Comment date: July 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. David M. Carlisle

[Docket No. ID-3383-000]

Take notice that on June 18, 1999, David M. Carlisle, tendered for filing an application for authorization under Section 305(b) of the Federal Power Act to hold the following interlocking positions and request for waiver of 18 CFR 45.3(b).

Director of Bangor Hydro-Electric Company
Director of Bangor Savings Bank
Director of Livada Securities, Inc.

Comment date: July 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 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. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99-16765 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2620-005 South Carolina]

Lockhart Power Company; Notice of Availability of Draft Environmental Assessment

June 25, 1999.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) Regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a new license for the Lockhart Hydroelectric Project, and has prepared a Draft Environmental Assessment (DEA). The project is located on the Broad River, near the town of Lockhart, in Union, Chester, York, and Cherokee counties, South Carolina. No federal lands or facilities are occupied or used by the project. The DEA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Room, Room 2A, of the Commission's offices at 888 First Street, NE, Washington, DC 20426.

Any comments should be filed within 30 days from the date of this notice and should be addressed to David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. For further information, contact Charles

Hall, Environmental Coordinator, at (202) 219-2853.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-16724 Filed 6-20-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

June 25, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of Exhibit S.

b. *Project No.:* 2426-144.

c. *Date Filed:* March 25, 1999.

d. *Applicant:* California Department of Water Resources.

e. *Name of Project:* California Aqueduct Project.

f. *Location:* The project is located in San Bernardino and Los Angeles Counties, California. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* 18 CFR 4.200.

h. *Applicant Contact:* Dale Martfeld, Department of Water Resources, 1418 Ninth St., P.O. Box 942838, Sacramento, CA 94236-001, (916) 653-5951.

i. *FERC Contact:* Robert Fletcher, robert.fletcher@ferc.fed.us, (202) 219-1206.

j. *Deadline for filing comments, motions to intervene and protests:* 30 days from the issuance date of this notice. Please include the project number (2426-144) on any comments or motions filed. All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St. NE, Washington, DC 20426.

k. *Description of Application:* The original Exhibit S annual trout stocking requirements for Silverwood, Pyramid, and Castaic Lakes were 300,000; 200,000; and 250,000 trout, respectively. In cooperation with the California Department of Fish and Game, it was determined that these stocking rates were unattainable. As a result, the licensee proposes to amend the above annual stocking rates to 20,000 pounds of catchable trout at Silverwood Lake, 20,000 pounds of catchable trout at Pyramid Lake, and 4,000 pounds of catchable trout at Piru Creek.

l. *Location of the application:* A copy of the application is available for

inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426 or by calling (202) 208-1371. This filing may be viewed on <http://www.ferc.fed.us/online/rims.htm> (call (202) 208-2222 for assistance). A copy is also available for inspection and reproduction at the address listed in item h above.

m. Individual desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-16722 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of PP&L, Inc. Request To Use Alternative Procedures in Preparing a License Application

June 25, 1999.

Take notice that the following request to use alternative procedures to prepare a license application has been filed with the Commission:

a. *Type of Application:* Request to use alternative procedures to prepare a license application.

b. *Project No.:* 487.

c. *Date filed:* May 4, 1999.

d. *Applicant:* PP&L, Inc.

e. *Name of Project:* Wallenpaupack.

f. *Location:* On the Wallenpaupack Creek and Lackawaxen River, near the Borough of Hawley and the City of Seranton, in Wayne and Pike Counties, Pennsylvania. The project would not utilize federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)-825(r).

h. *Applicant Contact:* Gary Petrewski, PP&L, Inc., Two North Ninth Street (GENN5), Allentown, PA 18101-1179, 610-774-4759.

i. *FERC Contact:* Any questions on this notice should be addressed to Patrick Murphy, E-mail address, patrick.murphy@ferc.fed.us, or telephone 202-219-2659.

j. *Deadline for comments:* 30 days from the date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of the Project:* The project consists of an 870-foot-long, 67-foot-high concrete dam with a center spillway equipped with two 67.5-foot-long by 14-foot-high steel roller gates; a 13-mile-long, 5,700-acre reservoir at a full pool elevation of 1,190 feet msl; an 18,000-foot-long 14-foot-diameter pipeline connecting the dam with the powerhouse; a powerhouse containing two generating units with a total

installed capacity of 40,000 kW; and other appurtenances.

m. PP&L has demonstrated that it has made an effort to contact all resource agencies, nongovernmental organizations (NGOs), and others affected by the proposal, and that a consensus exists that the use of alternative procedures is appropriate in this case. PP&L has submitted a communications protocol that is supported by the interested entities.

The purpose of this notice is to invite any additional comments on PP&L's request to use the alternative procedures, pursuant to Section 4.34(i) of the Commission's regulations. Additional notices seeking comments on the specific project proposal, interventions and protests, and recommended terms and conditions will be issued at a later date. PP&L will complete and file a preliminary Environmental Assessment (EA) in lieu of Exhibit E of the license application. This differs from the traditional process in which an applicant consults with agencies, Indian tribes, and NGOs during preparation of the application for the license and before filing it, but the Commission staff performs the environmental review after the application is filed. The alternative procedures are intended to simplify and expedite the licensing process by combining the pre-filing consultation and environmental review processes into a single process, to facilitate greater participation, and to improve communication and cooperation among the participants.

PP&L has met with state and federal resource agencies, and NGOs regarding the Wallenpaupack Project. PP&L intends to file 6-month progress reports during the alternative procedures process that leads to the filing of a license application by September 30, 2002.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99-16723 Filed 6-30-99; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6370-4]

Sustainable Development Challenge Grant Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Solicitation of proposals for FY 1999/2000.

SUMMARY: The Environmental Protection Agency (EPA) is soliciting proposals for

the combined FY 1999/2000 Sustainable Development Challenge Grant (SDCG) program, one of President Clinton's "high priority" actions described in the March 16, 1995 report, "Reinventing Environmental Regulation." EPA also is soliciting comments on the SDCG program's overall design. The EPA anticipates that approximately \$9.4 million will be available for the SDCG program in FY 1999/2000. This includes \$4.7 million already authorized by Congress for FY 1999 and an additional \$4.7 million requested for the program in the President's FY 2000 Budget Request and subject to Congressional authorization.

The SDCG program challenges communities to invest in a sustainable future that links environmental protection, economic prosperity and community well-being. It provides an opportunity to develop place-based approaches to problem solving that can be replicated in other communities. The SDCG program strongly encourages community members, business and government entities to work cooperatively to develop flexible, locally-oriented approaches that link place-based environmental management and quality of life activities with sustainable development and revitalization. These grants are intended to catalyze community-based projects to promote environmentally and economically sustainable development; build partnerships which increase a community's capacity to take steps that will ensure the long-term health of ecosystems and humans, economic vitality, and community well-being; and leverage public and private investments to enhance environmental quality by enabling community efforts to continue beyond the period of EPA funding.

EPA will select projects on a competitive basis using the criteria outlined in the section titled "SDCG Program Criteria." Applicants may compete for funding from EPA in two ranges for FY 1999/2000: (1) Requesting \$30,000 to \$100,000 with a total project budget of \$125,000 or less and (2) requesting between \$100,001 and \$250,000 with no limit on the total project budget amount. Proposals will compete with other proposals in the same range (i.e., a proposal for \$30,000-\$100,000 will not compete with a proposal requesting \$100,001-\$250,000). Applicants in each category are required to provide a minimum 20% match from non-federal funding sources.

This document includes the following: Background information on the Sustainable Development Challenge Grant program; the process for preparing

and submitting proposals; a description of the FY 1999/2000 program; the program's relationship to other related EPA activities; the SDCG Program Criteria; and the selection and award process.

DATES: The period for submission of proposals for FY 1999/2000 will begin upon publication of this **Federal Register** document. Project proposals must be postmarked by September 29, 1999 to be considered for funding.

Submission of Proposals

Please provide an original and four copies of your entire proposal to the regional representative listed below for the state in which your project will take place. Applicants applying for \$100,000 or less are only required to submit an original and one copy of the proposal. Proposals must be postmarked no later than September 29, 1999 to be considered for funding. Telefaxed or electronic submissions will not be accepted. An acknowledgment of receipt for your proposal will be sent by your respective EPA Regional Office. This should take a minimum of two weeks from the postmark date. We expect to announce final selections in April 2000 and to complete the full grant award process, including grant workplan negotiations with the appropriate EPA Region, by June 2000.

Preparing the SDCG Proposal: Proposals should not exceed eight (8) page sides (four double-sided pages, single or double-spaced). Where proposals exceed the eight pages in length, the additional pages will not be considered.

- Items 2 through 5 in the list below count towards the (8) page maximum. The only items not included in the eight (8) page maximum are the Summary Information Page (item 1) and the Mandatory Attachments described in item 6 (these are your Proof of Non-profit Status, and your Letters of Commitment from match partners).

- The new EPA Small Grants Policy states that any grant proposal requesting \$100,000 or less is not required to submit a proposal which exceeds five (5) page sides. These applicants may, however, submit up to the eight page limit if they so desire.

- Please do not use covers, binders or folders.

- Proposals should be submitted on 8½ x 11" recycled paper and be double-sided.

- Use no smaller than 10-point type and have one inch page margins all around.

The project proposal should contain the following in the given order:

(1) Summary Information Page (recommended length: 1 page) that provides:

A. Applicant Information

- Project title and location;
- Applicant name, address, telephone and fax numbers, and e-mail address;
- Type of applicant organization, e.g., non-profit, state, local government, Native American (American Indians and Alaskan Native Villages), or educational;
- Name of project contact, address, telephone and fax numbers, and e-mail address;
- Indicate if the project is being done in cooperation with or funded by another federal or EPA program; if so, please identify the program.
- Project category (see the section titled "List of Potential Project Categories" and choose those that apply; feel free to use a different category from those listed if it better describes your project).

B. Summary Budget Information

- Dollar Amount Requested from EPA
- Dollar Amount of Matching Funds
- Dollar Amount of Total Project Budget

C. Match Partner Information

- List of Organizations (including addresses) providing match
- Match Amount

The Summary Information page does not count against the eight page limit.

(2) Project Overview (Recommended page length: (1) Briefly address the following questions. Your responses provide an overview of the proposed project and help reviewers understand the context of your proposal. You have the opportunity to expand on these questions when addressing the SDCG Program Criteria.

- What is the role of your organization in the community?
- Where will the activity occur and what is the geographic scale of the proposed activity (community, city, watershed, region, state-wide)?
- What are the goals and objectives of the project?
- What are the project's expected results and what vision do you have for the ultimate impact of activity (what do you expect to see change over time among the people involved, the physical environment, and the environmental, economic or social conditions)?

(3) SDCG Program Criteria (Recommended page length: 3–4) Address the program criteria question-by-question. Include criteria subheadings (Sustainability, Community Commitment and Contribution, and Measurable Results and Evaluation) and use the question numbers to organize your responses. The specific criteria are found in the "SDCG Program Criteria" section. Definitions of some of the key terms included in the criteria are provided at the end of this notice.

(4) Project Schedule and Time-Frame (Recommended page length: ½ page) Show when you expect to complete significant steps and milestones in your project. Clearly depict the project's duration, and include months and dates. Use July 1, 2000 as the project start date (the exact date will be negotiated with EPA if your project is selected). One to three year project duration is permitted under the SDCG program. See the sample schedule below:

Convene project team—Jul 1, 2000
 Complete Task 1 (include brief description of task)—Oct 30, 2000
 Complete Task 2 (include brief description of task)—Mar 15, 2001
 Complete Task 3 (include brief description of task)—Jun 1, 2001
 Complete final report—Jun 30, 2001

(5) Budget Detail (Recommended page length: ½ page) Be sure to review the section titled "Funding Ranges and Match" before preparing your budget. Prepare a proposed budget showing expected costs by major categories (personnel, travel, supplies, rent, subcontracts, etc.). This should include how the matching funds (i.e., funds provided from non-federal sources) will be spent, what the sources of those funds are, and whether the funds are cash, in-kind, or both. Proposals that do not document a minimum 20% match via commitment letters will not be considered. See the sample budget format provided below:

	EPA share	Matching funds	Total
Staff Salaries and Benefits	\$33,000	\$8,000	\$41,000
Travel	7,000	0	7,000
Supplies	3,000	1,000	4,000
Service Contract	5,000	3,000	8,000
Totals	48,000	12,000	60,000
Break-Down of Matching Funds:			
Your Organization—\$5,000 (in-kind)			
Cityville, USA—\$3,000 (cash)			
Cityville, USA—\$3,000 (in-kind)			
LocalBusiness, Inc.—\$1,000 (cash)			
Total—\$12,000			

(6) Mandatory Attachments (These items do not count toward the page limit.)

A. Proof of Non-profit Status. All non-governmental applicants must attach articles of incorporation or other documentation demonstrating non-profit status. For more information, see the section titled "Eligible Applicants." Applications without this documentation will not be considered.

B. Match Commitment Letters. Letters of commitment from ALL partners

contributing matching funds (cash and/or in-kind) to the project must be submitted with your proposal, not sent separately or at a later date. Commitment letters from project partners must specify the nature of the match (cash or in-kind services), the dollar value of the match, and the role the contributor will play in the project. Project partners providing matching funds must certify that the funds will be available during the project period. Letters must be submitted on letterhead

(if applicable), signed by an individual with authority to commit funds, and include the organization's telephone number and address. Letters can be addressed to the appropriate EPA contact for your proposal or to the organization submitting the proposal. Applications submitted without commitment letters confirming available match funds will not be considered. Please do not send letters of general support from non-match partners or

others; they will not be used in the evaluation and review process.

Submission of Comments

EPA also is requesting comments on the overall content and design of the FY 1999/2000 Program. Please send comments to Dr. Lynn Desautels at EPA Headquarters in Washington, DC via letter, fax, or e-mail (see **FOR FURTHER INFORMATION** for specifics). Your comments will be used to help the agency make further improvements in the program in subsequent funding years. Please submit your comments by December 1, 1999.

FOR FURTHER INFORMATION: Contact the regional representative for your state or Dr. Lynn Desautels, Director, Sustainable Development Challenge Grant Program, Office of the Administrator, U.S. EPA (MC 1306), 401 M Street SW, Washington, DC 20460, telephone (202) 260-6812, fax (202) 260-2555, e-mail desautels.lynn@epa.gov.

Regional Offices

Rosemary Monahan, US EPA Region I, 1 Congress Street, Suite 1100, RSP, Boston, MA 02114-2023, (617) 918-1087, monahan.rosemary@epa.gov. States: ME, NH, VT, MA, CT, RI

Marcia Seidner, US EPA Region 2, 290 Broadway, 26th Floor, New York, NY 10007-1866, (212) 637-3590, seidner.marcia@epa.gov. States & Territories: NY, NJ, PR, VI

Theresa Martella, US EPA Region 3, 1650 Arch Street (3CB00), Philadelphia, PA 19103, (215) 814-5423, martella.theresa@epa.gov. States: DE, DC, MD, PA, VA, WV

Annette N. Hill, US EPA Region 4, OPM, 61 Forsyth Street, SW, Atlant, GA 30303, (404) 562-8287, hill.annetten@epa.gov. States: AL, FL, GA, KY, MS, NC, SC, TN

Janette Marsh, US EPA Region 5, 77 West Jackson Blvd., Chicago, IL 60604-3507, (312) 886-4856, marsh.janette@epa.gov. States: MN, WI, MI, IL, IN, OH

Diana Hinds, US EPA Region 6, Fountain Place, Suite 1200, 1445 Ross Avenue, Dallas, TX 75202-2733, (214) 665-7561, hinds.diana@epa.gov. States: AR, LA, NM, OK, TX

Dick Sumpter, US EPA Region 7, 901 N. 5th Street, Kansas City, KS 66101, (913) 551-7661, sumpter.richard@epa.gov. States: KS, MO, NE, IA

David Schaller, US EPA Region 8, 999 18th Street, Suite 500, Denver, CO 80202-2466, (303) 312-6146, schaller.david@epa.gov. States: CO, MT, ND, SD, UT, WY

Nova Blazej, US EPA Region 9, 75 Hawthorne Street (CMD-7), San Francisco, CA 94105, (415) 744-2089, blazej.nova@epa.gov. States & Territories: CA, NV, AZ, HI, AS, GU

Anne Dalrymple, US EPA Region 10, 1200 Sixth Avenue (01-085), Seattle, WA 98101, (206) 553-0199, dalrymple.anne@epa.gov. States: AK, ID, OR, WA

Headquarters Office

Dr. Lynn Desautels, Director, Sustainable Development Challenge Grant Program, Office of the Administrator, US EPA, MC 1306, 401 M Street SW MC 1306, Washington, D.C. 20460, (202) 260-6812 (SDCG Line) desautels.lynn@epa.gov

SUPPLEMENTARY INFORMATION:

Overview of the Sustainable Development Challenge Grant Approach

The Sustainable Development Challenge Grant (SDCG) program is an important opportunity for EPA to award competitive grants that leverage private and other public sector investment in communities (ranging in size from neighborhoods to cities to larger geographic areas such as watersheds or metropolitan areas). These grants will build partnerships that will increase the capacity of communities to ensure long-term environmental protection through the application of sustainable development strategies. EPA intends these competitive grants to be catalysts that challenge communities to invest in a more sustainable future.

The program encourages communities to recognize and build upon the fundamental connection between environmental protection, economic prosperity and community well-being. Accomplishing this linkage requires integrating environmental protection in policy and decision-making at all levels of government and throughout the economy. Achieving sustainability is a responsibility shared by environmental, community and economic interests.

The SDCG program recognizes the significant role that communities have and should play in environmental protection. The program acknowledges that sustainable development is often best designed and implemented at a community level and encourages projects that can be replicated in other communities. This emphasis on strong community involvement requires a commitment to ensuring that all residents of a community, of varying economic and social groups, have opportunities to participate in decision-making and benefit from successful sustainable development activities. Only through the combined efforts and collaboration of government, private organizations and individuals can our communities, regions, states, and nation achieve the benefits of sustainable development. In keeping with this philosophy, the EPA will implement this program consistent with the principles of Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income

Populations" (February 11, 1994). We encourage submissions from Empowerment Zones and Enterprise Communities.

The EPA initiated the SDCG program as a pilot effort in 1996 and has funded 96 of the 2,218 proposals received in the first three years of the program (FY96, 97, 98) for a total of approximately \$10,500,000. Project descriptions for all of the projects funded to date are available via the Internet at <http://www.epa.gov/ecocommunity> (see "List of Potential Project Categories" for further information).

Linkages to Other Initiatives

EPA and its state and local partners continue to refine how environmental protection is accomplished in the United States. The Agency recognizes that environmental progress will not be achieved solely by regulation. Innovative attitudes of regulatory agencies combined with individual, institutional, and corporate responsibility, commitment and stewardship will be needed to assure adequate protection of the earth's resources. The Sustainable Development Challenge Grant program is consistent with other community-based efforts EPA has introduced, such as the Brownfields Initiative, Environmental Justice Small Grants Program, Project XL, the President's American Heritage Rivers Initiative, the Watershed Protection Approach, the Clean Water Action Plan, Transportation Partners, the Smart Growth Network, and the Community-Based Environmental Protection Approach. The Sustainable Development Challenge Grant program is also a step in implementing "Agenda 21, the Global Plan of Action on Sustainable Development," signed by the United States at the Earth Summit in Rio de Janeiro in 1992. All of these programs require broad community participation to identify and address environmental issues.

Through the Sustainable Development Challenge Grant program, EPA also intends to further the vision and goals of the President's Council on Sustainable Development (PCSD), created in 1993 by President Clinton. EPA is coordinating existing urban environmental programs within the Agency and with other federal, state and local agencies. The President charged the Council, composed of corporate, government, and non-profit representatives, to find ways to "bring people together to meet the needs of the present without jeopardizing the future." The Council has declared this vision:

"Our vision is of a life-sustaining Earth. We are committed to the achievement of a dignified, peaceful and equitable existence. We believe a sustainable United States will have a growing economy that equitably provides opportunities for satisfying livelihoods and a safe, healthy, high quality of life for current and future generations. Our nation will protect its environment, its natural resource base, and the functions and viability of natural systems on which all life depends." (February 1996)

The Sustainable Development Challenge Grant program furthers this vision by encouraging community-based sustainable development initiatives.

Eligible Applicants

Eligible applicants include: (1) Incorporated non-profit (or not-for-profit) private agencies, institutions and organizations, and (2) public (state, county, regional or local) agencies, institutions and organizations, including those of Native Americans (American Indians and Alaskan Native Villages), the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the U.S. Applicants must be located in, and project activities must be conducted within, the U.S., the Commonwealth of Puerto Rico, or a territory or possession of the U.S. While state agencies are eligible they are encouraged to work in partnership with community groups and other non-profit organizations. Federal agencies are not eligible for funding, however, they are also encouraged to work in partnership with state and local agencies and non-governmental organizations on these projects. Profit-making organizations and individuals are not eligible for funding; however, they are encouraged to participate in sustainability efforts in their community by becoming partners with eligible organizations.

Non-profit Status: Applicants are not required to have a formal Internal Revenue Service (IRS) non-profit designation, such as 501(c)(3) or 501(c)(4), however they must present their letter of incorporation documenting their non-profit or not-for-profit status. This requirement does not apply to public agencies. Failure to enclose the letter of incorporation documenting an applicant's non-profit or not-for-profit status will result in an incomplete submission and the proposal will not be reviewed. Applicants who do have an IRS 501(c)(4) designation are not eligible for grants if they engage in lobbying, no matter what the source of funding for the lobbying activity. No recipient may use grant funds for lobbying. Further, profit-makers are not eligible to receive sub-grants from eligible recipients, although they may

receive contracts, subject to EPA's regulations on procurement under assistance agreements, 40 Code of Federal Regulations (CFR) 30.40 (for non-governmental recipients) and 40 CFR 31.36 (for governments).

SDCG Program Criteria

The proposed project must meet the two statutory threshold determinations described below in the Statutory Authority section. Then, proposals will be ranked according to how well they address and integrate the SDCG Program Criteria. Definitions of some of the key terms used in the criteria are included at the end of this notice. A higher ranking will be given to those proposals which clearly and comprehensively meet and integrate the greatest number of criteria, address serious environmental problems, and are likely to produce successful results. Applicants should address each of the three criteria sections question-by-question. If a proposal does not address one or more criteria, the applicant must clearly state why these criteria were not addressed.

(A) Sustainability: 50 Points

A1. How do the proposed project solutions integrate and sustain environmental protection, economic prosperity and community well-being at the community level and at the regional level?

A2. How does the proposal address the ways in which future generations are affected by the proposed project?

A3. What are the specific environmental, economic, and community problem(s) the proposal addresses and what are their significance?

A4. What type of sustainable behavior is desired, and what type of non-sustainable behavior needs to be changed?

A5. How do the environmental solutions proposed illustrate an ecosystem approach to environmental protection? An ecosystem approach is one that looks at a specific area and addresses the air, land, water, plants, animals, and people as an integrated and interconnected system.

A6. How do the proposal's environmental and economic impacts promote community well-being for all people in the community?

A7. How does the proposal assure that the project's activities do not exhaust or degrade the environment in your community or shift the problem to another community or another part of the environment?

A8. How do the environmental solutions proposed by the project lead

to long-term economic vitality? For example, will the project lead to more sustainable use of natural resources, reduce consumption of non-renewable resources, create a more skilled and flexible labor force, and maximize local financial resources?

A9. How does the proposal represent new solutions for the community, given their previous history and current circumstances?

A10. How does the project build upon lessons learned from similar sustainable development projects conducted in your community or elsewhere?

(B) Community Commitment and Contribution: 25 Points

B1. How do your partners fully represent those in the community who have an interest in or will be affected by the project?

B2. What methods will be used for community involvement to assure that all affected by the project are provided an opportunity to participate?

B3. Does the community have in place the legal and regulatory authority they need to implement the project?

B4. What evidence is there of long-term commitment to the proposal? Describe how you plan to continue the work after the grant ends or how this project will evolve into other efforts.

(C) Measurable Results and Evaluation: 25 Points

C1. What are the achievable short-term (within three years) and long-term objectives that will be used to measure the proposal's contribution to sustainability? These objectives should be both quantitative and qualitative.

C2. For planning or visioning proposals: Once the plan or vision is developed, what next steps will be taken to ensure the plan or vision is implemented? How will the plan or vision's contribution be measured?

C3. How will you measure and evaluate how well the project meets its goals and objectives? Goal and objective measures should be both qualitative and quantitative, and should assess the project's contribution to sustainability.

C4. In what ways will the project be transferable to other communities and how will you transfer that information?

List of Potential Project Categories

EPA welcomes proposals for many types of demonstration projects under the SDCG program. Those most likely to be chosen for funding will innovatively link solutions for significant environmental, economic and community issues and problems. Short descriptions of all previously funded SDCG projects can be found on the

Internet at our web site: "www.epa.gov/ecocommunity." If you do not have Internet access, copies of these descriptions can be obtained from your regional representative or from our headquarters office (see section titled "For Further Information"). The list below illustrates some of the categories that best describe projects previously funded under this program. Projects often fall under more than one category. The list is not intended to be exhaustive, and proposed projects may fit into several categories or into new categories.

- Comprehensive planning for sustainable growth.
- Comprehensive resource management and restoration (e.g. watershed restoration, habitat protection, wildlife corridors, greenways, wetlands, local environmental features, etc.).
- Educational ecology or environment-based tourism supporting local communities.
- Green business incentives.
- Sustainability indicators.
- Sustainable agriculture.
- Sustainable forestry.
- Green building design.
- Community revitalization and redevelopment.
- Sustainability education.
- Community/local government tools for sustainability.
- Sustainable energy systems.
- Aquaculture.
- Materials reuse.

Since the program seeks to fund innovative ideas, proposals that are repetitious of earlier funded projects must state how the proposal addresses new aspects of the problem or issue. Proposals focused on planning or visioning should clearly state goals and objectives and indicate the next steps for implementation. Projects do not have to fall into a single project type, but can incorporate aspects of several project types.

Funding Ranges and Match

Applicants may compete for funding from EPA in two ranges for FY 1999/2000: (1) Requesting \$30,000 to \$100,000 with a total project budget of \$125,000 or less, and (2) requesting between \$100,001 and \$250,000 with no limit on total project budget. Proposals will compete with other proposals in the same range. Applicants in each category are required to demonstrate how they will meet the minimum 20% non-federal match. Applicants may submit multiple proposals, however, each proposal must be for a separate and distinct project. No organization may receive funding for more than one grant

each year under the SDCG program, and projects awarded in any given year will be ineligible for future funding from this program. Applicants who have received funding under this program in the past are eligible to receive funds for new projects which are unrelated to the previously funded projects.

This program is intended to provide seed money to leverage a broader public and private investment in sustainability activities. As a result, the program requires a minimum non-federal match of at least 20% of the total project budget. The total budget includes (1) EPA's share, (2) funds identified as match, and (3) any other funds directly supporting the project. EPA strongly encourages applicants to leverage as much investment in community sustainability as possible. EPA views this leverage as a measure of community support and an indication of the possible longevity of the project. The match can come from a variety of public and private sources and can include in-kind goods and services. No Federal funds, however, can be used as matching funds without specific statutory authority. The match must be calculated in accordance with the following example calculation:

(1) If you want to request \$100,000 from EPA, your match amount is not \$20,000. You calculate the amount of match you must provide by dividing the amount you are requesting by 80%. For example:

$\$100,000 \text{ divided by } .8 = \$125,000 \text{ (total project costs)}$

(2) Amount Requested From US EPA—\$100,000

Your Match—+25,000

Total Project Budget—\$125,000

These equations calculate the minimum match required. Your match must be at least 20% to be eligible for funding; fractions (e.g. 19.5%) will not be rounded up.

Note: Consistent with the provisions of the Omnibus Territories Act, as amended, 48 U.S.C. 1469a(d), the match requirement is waived for applications submitted by the governments of American Samoa, Guam, the Virgin Islands, or the Northern Mariana Islands.

In-Kind Contributions to Meet Your Match Requirement: In-kind contributions are non-cash contributions to a project. Volunteered services and donated supplies (use of equipment, office/meeting space, printing, etc.) used toward your match are called "in-kind contributions," which you are allowed to count toward the required match. Volunteered services may include a bookkeeper's maintenance of your group's financial

records and preparation of required financial reports; an auditor's review of your group's financial records; a lawyer's aid in drafting a contract for your technical advisor(s), etc. You must place a reasonable monetary value on your in-kind contributions and include them in your budget. You must be prepared to document in-kind contributions in your records. Rates for volunteer services must be consistent with rates in your community for similar services and may not include fringe benefits, overhead or profit. EPA can only provide funds for project costs that are allowable under EPA statutory authority. The funds that match partners contribute to a successful challenge grant can only be counted toward match if they are for costs which EPA can fund. If selected to receive an SDCG grant, applicants and their match partners are subject to audit to ensure that all costs are appropriate. If costs are ineligible or the grantee cannot properly document match dollars, the grantee would be liable for the disallowed costs.

FOIA, CBI, and Enforcement

Screening: Applicants should be aware that proposals submitted under this or any other EPA grant program are subject to the Freedom of Information Act (FOIA). This means that anyone can request and receive copies of all the information submitted in your grant proposal. If your application contains any Confidential Business Information (CBI), be sure to highlight it so the confidentiality can be protected in the event of a FOIA request.

Finalists for challenge grant awards may be screened to ensure that the applicants and their match partners are in compliance with applicable EPA statutes.

Duration: Funded projects are expected to be structured for a period of one to three years.

What Costs Can Be Paid?

Even though a proposal may involve an eligible applicant, eligible activity, and eligible purpose, grant funds cannot necessarily pay for all of the costs which the recipient might incur in the course of carrying out the project. Allowable costs, including those paid for by matching funds, are determined by reference to EPA regulations cited below and to OMB Circulars A-122, "Cost Principles for Non-profit Organizations," A-21 "Cost Principles for Education Institutions," and A-87, "Cost Principles for State, Local, and Indian Tribal Governments." Generally, costs which are allowable include salaries, equipment, supplies, training, rental of office space, etc., as long as these are "necessary and reasonable."

Entertainment costs are an example of unallowable costs.

Statutory Authority

EPA expects to award Sustainable Development Challenge Grants program under the following eight grant authorities: Clean Air Act section 103(b)(3); Clean Water Act section 104(b)(3); Resource Conservation and Recovery Act section 8001; Toxics Substances Control Act section 10; Federal Insecticide, Fungicide, and Rodenticide Act section 20; Safe Drinking Water Act sections 1442(a) and (c); National Environmental Education Act, section 6; and Pollution Prevention Act, section 6605.

In addition to the program criteria listed in the SDCG Program Criteria section above, a proposal must meet the following two important threshold criteria to be considered for funding:

Threshold Criterion #1. A project must consist of activities authorized under one or more of the eight EPA grant authorities cited above. Most of the statutes authorize grants for the following activities: "research, investigations, experiments, training, demonstrations, surveys and studies." These activities relate generally to the gathering or transferring of information or advancing the state of knowledge. Grant proposals should emphasize this "learning" concept, as opposed to "fixing" an environmental problem via a well-established method. For example, a proposal to plant some trees in an economically depressed area in order to prevent erosion would probably not in itself fall within the statutory terms "research, studies, demonstrations," etc., nor would a proposal to start a routine recycling program. The project's activities must advance the state of knowledge or transfer information. The statutory term "demonstration" can encompass the first instance of the application of pollution control and prevention techniques, or an innovative application of a previously used method. The term "research" may include the application of established practices when they contribute to "learning" about an environmental concept or problem.

Threshold Criterion #2. In order to be funded, a project's focus generally must be one that is specified in the statutes listed above. For most of the statutes, a project must address the causes, effects, extent, prevention, reduction, and elimination of air, water, or solid/hazardous waste pollution, or, in the case of grants under the Toxic Substances Control Act or the Federal Insecticide, Fungicide and Rodenticide Act, to "carrying out the purposes of the

Act." While the purpose of the SDCG program will include the other two aspects of sustainable development (economic prosperity and community well-being), the overarching concern or principal focus must be on the statutory purpose of the applicable grant authority, in most cases "to prevent or control pollution." In light of this, proposals relating to other topics which are sometimes included within the term "environment" such as recreation, conservation, restoration, protection of wildlife habitats, etc., should describe the relationship of these topics to the statutorily required purpose of pollution prevention and/or control. For assistance in understanding statutory authorities under which EPA is providing these grants, please contact your EPA representative listed earlier in this notice.

Selection and Award Process

EPA will select Sustainable Development Challenge Grant recipients for FY 1999/2000 through a national competition. EPA Regional Offices will assess how well the proposals meet the program criteria and forward their top proposals to EPA Headquarters for review by a national panel consisting of EPA Headquarters and Regional representatives. Proposals will be evaluated and final selections will be recommended by the national panel. The panel's recommendations will be presented to EPA Senior Management for final selection. In making these final selections such factors as geographic diversity, project diversity, costs, matching funds, and project transferability or replicability may be considered. We expect to announce final selections in April 2000 and to complete the full grant award process, including workplan negotiations with the appropriate EPA Region, by June 2000.

Although the selections will be made nationally, SDCG grants will be awarded and managed by the appropriate EPA Regional Offices. Applicants selected to receive SDCG grants will be contacted by the appropriate EPA Regional Office, and will be requested to submit a full grant application (i.e. Application for Domestic Federal Assistance). Your EPA Regional Contact will provide you with the information you need, and will be available to answer any questions.

Definitions

Sustainable Development: Sustainable development means integrating environmental protection and community and economic goals. Sustainable development meets the needs of the present generation without

compromising the ability of future generations to meet their own needs. The sustainable development approach seeks to encourage broad-based community participation and public and private investment in decisions and activities that define a community's environmental and economic future and community well-being.

Community Well-being: In the sustainable development context, community well-being means understanding and considering the impacts of activity on the diversity of cultures, values, and traditions in a community and on the overall quality of life. It acknowledges both current and future generations. Community well-being means ensuring that all members of the community, regardless of ethnic or cultural group, age or income, have access to services provided through the sustainable development project, and that the benefits/burdens of the project are fairly distributed.

Community: The scale used to define "community" under this challenge grant program will vary with the issues, problems, or opportunities that an applicant intends to address. The SDCG program recognizes the significant role that communities have and should play in environmental protection.

"Community" means a geographic area within which different groups and individuals share common interests related to their homes and businesses, their personal and professional lives, the surrounding natural landscape and environment, and the local or regional economy. A community can be one or more local governments, a neighborhood within a small or large city, a large metropolitan area, a small or large watershed, an airshed, tribal lands, ecosystems of various scales, or some other specific geographic area with which people identify.

Non-sustainable Behavior: Development, or land and water activities, management or uses, which limit the ability of humans and ecosystems to live sustainably by destroying or degrading ecological values and functions, diminishing the material quality of life, diverting economic benefits away from long-term community prosperity, and decreasing the long-term capacity for sustainability.

Pollution Prevention: Any practice that (1) reduces the amount of any hazardous substance, pollutant or contaminant entering any waste stream or released into the environment (including fugitive emissions) prior to recycling, treatment or disposal, and (2) reduces the hazards associated with such substances, pollutants or contaminants; and (3) other practices

that reduce or eliminate the creation of pollutants through increased efficiency in the use of raw materials, energy, water or other resources; or (4) protection of natural resources by conservation.

Applicable Grant Regulations

40 CFR part 30 for other than state/local governments, for example, non-profit organizations (see 61 FR 6065 (Feb. 15, 1996)), and part 31 for state and local governments and Indian tribes.

Paperwork Reduction Act

The information collection provisions in this document for solicitation of proposals are approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* in a generic Information Collection Request titled Generic Administrative Requirements for Assistance Programs (ICR No. 938.06 and OMB Approval No. 2030-0020). A copy of the Information Collection Request (ICR No. 938.06) may be obtained from Sandy Farmer in the Regulatory Information Division, EPA, 401 M Street, SW (Mail Code 2137), Washington, DC 20460 or by calling (202) 260-2740.

Dated: June 25, 1999.

Peter D. Robertson,

Acting Deputy Administrator.

[FR Doc. 99-16773 Filed 6-30-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6370-2]

The National Advisory Council for Environmental Policy and Technology, (NACEPT) Standing Committee on Sectors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of Public Advisory NACEPT Standing Committee on Sectors meeting; open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the Standing Committee on Sectors will meet on the date and time described below. The meeting is open to the public. Seating at the meeting will be a first-come basis and limited time will be provided for public comment. For further information concerning this meeting, please contact the individual listed with the announcement below.

NACEPT Standing Committee on Sectors;—July 29, 1999

Notice is hereby given that the Environmental Protection Agency will hold an open meeting of the NACEPT Standing Committee on Sectors on Thursday, July 29, 1999 from 9:00 a.m. EST to 5:00 p.m. EST. The agenda for the meeting will be focused primarily on the development of the fiscal year 2000 Sector Based Environmental Protection Action Plan. A formal Agenda will be available at the meeting.

The meeting will be held on Thursday, July 29th, 9 a.m.–5 p.m., in Washington, D.C. at the offices of RESOLVE, 1255 23rd St., NW, Suite 275. The telephone number is 202/844-2300.

SUPPLEMENTARY INFORMATION: NACEPT is a federal advisory committee under the Federal Advisory Committee Act, Pub. L. 92-463. NACEPT provides advice and recommendations to the Administrator and other EPA officials on a broad range of domestic and international environmental policy issues. NACEPT consists of a representative cross-section of EPA's partners and principle constituents who provide advice and recommendations on policy issues and serve as a sounding board for new strategies that the Agency is developing.

In follow-up to completion of work by EPA's Common Sense Initiative (CSI) Council, the Administrator asked NACEPT to create a new Standing Committee on Sectors. This will provide a continuing Federal Advisory Committee forum from which the Agency can continue to receive valuable multi-stakeholder advice and recommendations on sector approaches.

For further information concerning the NACEPT Standing Committee on Sectors meeting, contact Kathleen Bailey, Designated Federal Officer (DFO), on (202) 260-7417, or E-mail: bailey.kathleen@epa.gov.

Inspection of Subcommittee Documents

Documents relating to the above topics will be publicly available at the meeting. Thereafter, key documents and the minutes of the meeting will be available electronically on our web site at <http://www.epa.gov/sectors>, or by calling the DFO.

Dated: June 23, 1999.

Gregory Ondich,

Acting Designated Federal Officer.

[FR Doc. 99-16771 Filed 6-30-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6370-7]

Koppers Charleston Superfund Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(g) of the comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency (EPA), proposes to enter into an Administrative Order on Consent (AOC) with 17 de minimis parties at the Koppers Charleston Superfund Site (Site), located in Charleston County, South Carolina to settle claims for past and future response costs at the Site. The parties to the proposed settlement are: Amerada Hess Corporation, Amoco Chemical Company, Chevron U.S.A. Inc.; Detyens Shipyards, Inc.; Exxon Corporation; Fina Oil and Chemical Company; Marathon Oil Company; Matlack Inc.; Metal Trades, Inc.; Mile, Inc.; formally known as Mobay Chemical Company, now known as Bayer Corporation; Mobile Chemical Company, Inc.; Swygert Shipyards, Inc.; Texaco Refining and Marketing, Inc.; United States Defense Logistics Agency, Defense Fuel Supply Center; United States Department of Transportation, Maritime Administration; United States Coast Guard; United States Navy. EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, Waste Management Division, U.S. EPA Region 4, 61 Forsyth St., Atlanta, Georgia 30303, 404-562-8887.

Written comments may be submitted to Ms. Batchelor within 30 calendar days of the date of publication.

Dated: June 22, 1999.

Franklin Hill,

Chief, Program Services Branch, Waste Management Division.

[FR Doc. 99-16770 Filed 6-30-99; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6370-6]

Old ATC Refinery Superfund Site; Notice of Withdrawal of Proposed Settlement**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of withdrawal of proposed settlement.

SUMMARY: Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622(i), requires EPA to publish in the **Federal Register** notice of proposed administrative settlements entered under section 122(h) of CERCLA, 42 U.S.C. 9622(h), and, for a 30-day period beginning on the date of publication, to provide an opportunity for persons who are not parties to the proposed settlement to file written comments relating to the proposed settlement. Section 122(i) further requires EPA to consider any comments filed during the 30-day period and permits EPA to withdraw or withhold consent to the proposed settlement if such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate.

In accordance with section 122(i) of CERCLA, EPA published notice of a proposed administrative settlement with Linda Carroll and Carroll Carolina Corporation (Carroll), concerning the Old ATC Refinery Site located in Wilmington, New Hanover County, North Carolina, in the **Federal Register** on November 10, 1998 (63 FR 63,052 (1998)).

Comments to the proposed settlement were received from Skadden, Arps, Slate Meagher & Flom, on behalf of their client, Axel Johnson, Inc., (Axel). EPA has considered these comments, and hereby withdraws the proposed settlement.

Dated: June 10, 1999.

Franklin E. Hill,

Chief, Programs Services Branch, Waste Management Branch.

[FR Doc. 99-16769 Filed 6-30-99; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6370-5]

Proposed Settlement Under Section 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act for the Woodward Metal Processing Superfund Site**AGENCY:** Environmental Protection Agency.**ACTION:** Notice of proposed de minimis administrative settlement and opportunity for public comment.

SUMMARY: The United States Environmental Protection Agency (EPA) is proposing to enter into a de minimis administrative settlement to resolve certain claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA). Notice is being published to inform the public of the proposed settlement and of the opportunity to comment. This settlement is intended to resolve four de minimis parties' liability for certain response costs incurred by EPA at the Woodward Metal Processing Superfund Site in Jersey City, New Jersey.

DATES: Comments must be provided on or before August 2, 1999.

ADDRESSES: Comments should be addressed to the United States Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, NY 10007, and should refer to: In the Matter of the Woodward Metal Processing Superfund Site: De Minimis Settlement, U.S. EPA Region II Docket No. CERCLA-02-99-0211.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, NY 10007; Attention: Virginia A. Curry, Esq. (212) 637-3134, or curry.virginia@epa.mail.epa.gov

SUPPLEMENTARY INFORMATION: In accordance with section 122(i)(1) of CERCLA, notice is hereby given of a proposed administrative de minimis settlement concerning the Woodward Metal Processing Superfund Site located in Jersey City, New Jersey. Section 122(g) of CERCLA provides EPA with authority to settle certain claims for costs incurred by the United States when, as in this case, the settlement involves only a minor portion of the response costs at the Site, the amount of hazardous substances contributed by each settling party is minimal compared with the other hazardous substances at

the Site and the contributed hazardous substances are not more toxic than the other substances at the Site.

De minimis parties will pay a total of \$9,981.55 under the terms of the settlement to reimburse EPA for response costs incurred at the Woodward Metal Processing Superfund Site.

A copy of the proposed administrative settlement agreement may be obtained from the Office of Regional Counsel, U.S. EPA Region II, 290 Broadway—17th Floor, New York, NY 10007.

Dated: April 6, 1999.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 99-16772 Filed 6-30-99; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION**Public Information Collection(s) Being Submitted to OMB for Review and Approval**

June 23, 1999.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before August 2, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should

advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1-A804, 445 12th Street, S.W., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418-0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0096.

Title: Application for Ship Radio Station License (and Temporary Operating Authority).

Form Numbers: FCC 506/FCC 506A.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; businesses or other for-profit entities; not-for-profit institutions; and State, Local or Tribal Government.

Number of Respondents: 8,200.

Estimated Time Per Response: 22 mins. (0.36 hrs.).

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 2,952 hours.

Total Annual Costs: \$623,676 (filing fees).

Needs and Uses: FCC rules require that applicants file the FCC 506 to apply for a new or modified ship radio station license. The form can also be used to renew a ship radio station license when the applicant does not receive the renewal application FCC Form 405B automatically generated by the Commission. The FCC 506A is used by the applicant to self certify to a temporary operating authority while the ship application is being processed by the FCC. This form is being revised to delete the fee payment and Taxpayer Identification Number blocks. Any payment to the FCC requires an FCC Form 159 (Fee Remittance Advice), and this information is duplicated on that form. The instructions have been revised and renumbered to accommodate these changes.

OMB Control Number: 3060-0795.

Title: ULS TIN Registration and FCC Form 606.

Form Number: FCC 606.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; business or other for-profit entities; not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 429,000.

Estimated Time Per Response: 1 hour.

Total Annual Burden: 429,000 hours.

Total Annual Cost: None.

Needs and Uses: FCC Form 606 is used (1) to register a licensee's Taxpayer

Identification Number (TIN) and its associated Wireless

Telecommunications call signs with the FCC; (2) to register the Taxpayer Identification Number (TIN) of a first time application for a Wireless Telecommunications license with the FCC; or (3) to register the Taxpayer Identification Number (TIN) of the owner of an antenna structure and its associated antenna structure registration numbers with the FCC. This form is also used by an antenna structure tenant licensee who is required to register the antenna structure because the owner is subject to the Anti-Drug Abuse Act of 1988. It must be submitted before filing any subsequent applications associated with the existing license or antenna structure registration and prior to applying for a Wireless Telecommunications license or antenna structure registration for the first time.

The form and its instructions are being revised to add information about the antenna structure owner TIN registration requirements due to the implementation of Antenna Structure Registration in the Universal Licensing System (ULS).

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99-16694 Filed 6-30-99; 8:45 am]

BILLING CODE 6712-01-U

FEDERAL LABOR RELATIONS AUTHORITY

[FLRA Docket No. WA-RP-80061]

Notice of Opportunity To Submit Amici Curiae Briefs in a Representation Proceeding Pending Before the Federal Labor Relations Authority

AGENCY: Federal Labor Relations Authority.

ACTION: Notice of the opportunity to file briefs as amici curiae in a proceeding before the Federal Labor Relations Authority in which the Authority is determining the representational status of employees who have been subject to reorganizations that modified chains of command at managerial levels, but did not otherwise affect the employees' day-to-day working conditions.

SUMMARY: The Federal Labor Relations Authority provides an opportunity for all interested persons to file briefs as amici curiae on significant issues arising in a case pending before the Authority. The Authority is considering the case pursuant to its responsibilities under the Federal Service Labor-Management Relations Statute and its regulations.

The issue concerns how the Authority should resolve a representation case arising from an agency reorganization where employees in an installation-wide unit were separated along functional lines, and where their chains of command changed, but where their day-to-day working conditions did not otherwise change.

DATES: Briefs submitted in response to this notice will be considered if received by mail or personal delivery in the Authority's Office of Case Control by 5 p.m. on Monday, July 26, 1999.

Placing submissions in the mail by this deadline will not be sufficient.

Extensions of time to submit briefs will not be granted.

Format: All briefs shall be captioned "U.S. Department of the Navy, Commander, Naval Base, Norfolk, Virginia, Case No. WA-RP-80061."

Briefs must contain separate, numbered topic-headings. Parties must submit an original and four copies of each amicus brief, on 8½ by 11 inch paper. Briefs must include a signed and dated statement of service that complies with the Authority's regulations showing service of one copy of the brief on all counsel of record or other designated representatives. 5 CFR 2429.27 (a) and (c). The designated representatives are: George L. Reaves, Jr., Union Representative, National Association of Government Employees, 36 Wine Street, Hampton, VA 23669; Joseph R. Barco, Agency Representative, U.S. Department of the Navy, Human Resources Service Center East, Norfolk Naval Shipyard, Building 17, Portsmouth, VA 23709-5000; and Gerald M. Cole, Regional Director, Federal Labor Relations Authority, 901 Market Street, Suite 220, San Francisco, CA 94103-1791.

ADDRESSES: Mail or deliver briefs to Peter Constantine, Director, Case Control Office, Federal Labor Relations Authority, 607 14th Street, NW, Room 415, Washington, DC 20424-0001.

FOR FURTHER INFORMATION CONTACT: Peter Constantine, Director, Case Control Office, Federal Labor Relations Authority, (202) 482-6540.

SUPPLEMENTARY INFORMATION: On June 25, 1999, the Authority granted an application for review of the Regional Director's Decision and Order in *U.S. Department of the Navy, Commander, Naval Base, Norfolk, Virginia*, Case No. WA-RP-80061 (55 FLRA No. 89 (1999)). The Authority is considering the case pursuant to its responsibilities under the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7101-7135 (1994 & Supp. III 1997) (the Statute) and its regulations, set forth at 5 CFR part 2422. A summary of that case follows.

A copy of the Authority's complete decision may be obtained by telephoning Peter Constantine at the number listed above.

A. Background

The National Association of Government Employees (NAGE) was certified in 1985 as the exclusive representative of a consolidated unit of 325 professional and nonprofessional employees of the original Weapons Station Yorktown (WSY). Working conditions for the employees were set by the commanding officer of WSY, and their competitive area for RIF was limited to WSY employees. In 1997 and 1998, the Agency underwent reorganizations.

As a result of the reorganizations, the original WSY's functions were split among three separate entities: (1) WSY; (2) the Atlantic Ordnance Command (AOC); and (3) the Housing Department and Regional Resource Services Office of the U.S. Department of the Navy, Commander, Naval Base, Norfolk (COMNAVBASE). Of the bargaining unit employees who worked for WSY prior to the reorganizations, 84 employees continue to work for WSY, and they have experienced no change in their working conditions. The commanding officer of WSY now reports to the commanding officer of COMNAVBASE.

Of the bargaining unit employees who worked for WSY prior to the reorganizations, 239 employees have been transferred to AOC. They have experienced no change in their working conditions, although they now report to the commanding officer of AOC, who reports, in turn, to the commanding officer of COMNAVBASE. Their competitive area for RIF is now limited to AOC employees.

Three bargaining unit employees from the original WSY now work for the Housing Department of COMNAVBASE, and three other bargaining unit employees from the original WSY now work for the Regional Resource Services Office of COMNAVBASE. Their working conditions have not changed, except that one of the employees now splits his time between Yorktown and COMNAVBASE's Norfolk headquarters. The six employees report to the commanding officer of COMNAVBASE. Their competitive area for RIF includes all COMNAVBASE employees.

The Agency has conducted simultaneous negotiations with NAGE for employees of both WSY and AOC, and has submitted similar, but not identical, proposals to the Union to cover employees of both entities.

B. The Regional Director's Decision

The Regional Director dismissed the Union's petition seeking certification of a unit consisting of all of the employees of the original WSY. The Regional Director found that WSY, AOC, and COMNAVBASE constitute three distinct activities, and as such, the employees are now employed by three different entities. Specifically, he found that the employees' working conditions are set by three different commanding officers, they are in three different competitive areas for RIF, and they support three different missions. The Regional Director concluded that the employees do not continue to share a community of interest, and that, consequently, the unit is not appropriate, within the meaning of section 7122(a) of the Statute. The Regional Director also found that recognition of the proposed unit would not promote effective dealings with the Agency, because the working conditions of the employees are established by three separate commanding officers, and because two different human resources offices provide personnel services to the employees. The Regional Director dismissed the petition.

C. The Application for Review

NAGE filed the application for review, contending that review of the Regional Director's decision is warranted, under 5 CFR 2422.31, because: There is an absence of relevant Authority precedent; the Regional Director failed to apply established precedent; the Regional Director committed several clear and prejudicial errors concerning substantial factual matters; and established law and policy warrants reconsideration.

D. Question on Which Briefs Are Solicited

The Authority granted the application for review under 5 CFR 2422.31(c). The Authority found that Authority precedent warrants reconsideration because that precedent does not provide sufficient guidance in cases where units have been certified on an installation-wide basis, and where organizational changes affect the chains of command but do not otherwise affect day-to-day working conditions of bargaining unit employees. In granting the application on these grounds, the Authority found that some precedent supports a conclusion that changes in chains of command are sufficient to destroy a unit's community of interest, while other precedent supports continued recognition of the existing unit despite such changes in chains of command.

The Authority directed the parties in the case to file briefs addressing the following question: How should the Authority assess the effect on bargaining units of reorganizations that modify portions of the chains of command at managerial levels, but do not affect the day-to-day working conditions of bargaining unit employees? As this matter is likely to be of concern to agencies, labor organizations, and other interested persons, the Authority finds it appropriate to provide for the filing of amicus briefs addressing this issue.

For the Authority.

Dated: June 28, 1999.

Peter Constantine,

Director of Case Control.

[FR Doc. 99-16760 Filed 6-30-99; 8:45 am]

BILLING CODE 6727-01-P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 202-007690-027

Title: India, Pakistan, Bangladesh, Ceylon and Burma Outward Freight Conference

Parties:

The Shipping Corporation of India, Ltd.

Waterman Steamship Corporation
Synopsis: The proposed Amendment revises Articles 13 and 14 of the Agreement to comply with the Ocean Shipping Reform Act of 1998 for independent action and service contract authorities.

Agreement No.: 202-011454-001

Title: U.S.A./Oceania Agreement

Parties:

Safbank Line, Ltd.

Mediterranean Shipping Co., S.A.

Synopsis: The proposed Amendment revises Articles 13 and 14 of the Agreement to comply with the Ocean Shipping Reform Act of 1998 for independent action and service contract authorities.

Dated: June 25, 1999.

By Order of the Federal Maritime Commission.

Ronald D. Murphy,
Assistant Secretary.

[FR Doc. 99-16693 Filed 6-30-99; 8:45 am]

BILLING CODE 6730-01-M

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 (12 U.S.C. 1843). 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 July 26, 1999.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. *HSBC Holdings plc*, London, United Kingdom (HSBC Holdings), HSBC Finance, Netherlands, London, England, HSBC Holdings BV, Amsterdam, Netherlands, and a newly established intermediate holding company (USHoldco, New York, New York), to acquire all of the voting shares of Republic New York Corporation, New York, New York (RNYC), and thereby acquire the following bank subsidiaries of RNYC: Republic National Bank of New York, New York, New York (Republic Bank), and Republic Bank California, National Association,

Beverly Hills, California. Following these transactions, HSBC would merge RNYC with and into HSBC Americas, Inc., Buffalo, New York, a bank holding company that is the current parent of HSBC Bank USA, Buffalo, New York. RNYC would survive this merger and be renamed HSBC USA. HSBC Holdings and its subsidiaries (collectively HSBC) may form one or more intermediate bank holding companies to facilitate these transactions.

In connection with the proposed transaction, HSBC has provided notice to acquire all of the nonbank subsidiaries of RNYC and to engage, directly or indirectly through such nonbank subsidiaries, in a variety of nonbanking activities that previously have been determined to be permissible for bank holding companies. HSBC also would continue to control all its existing bank and nonbank subsidiaries. The nonbanking companies that HSBC proposes to acquire are listed in the notice filed with the Board and include Republic Bank Delaware, National Association, Wilmington, Delaware; Republic New York Securities Corporation, New York, New York (RNYSC); Republic Business Credit Corporation, New York, New York. The nonbanking activities of the companies to be acquired also are listed in the notice and include extending credit and servicing loans, pursuant to 12 CFR 225.28(b)(1); performing functions or activities that may be performed by a trust company, pursuant to 12 CFR 225.28(b)(5); providing securities brokerage, riskless principal, private placement, futures commission merchant, and other agency transactional services, pursuant to 12 CFR 225.28(b)(7); and underwriting and dealing in government obligations and money market instruments, engaging in certain investing and trading activities as principal, and buying and selling bullion and related activities, pursuant to 12 CFR 225.28(b)(8).

In connection with the proposed transaction, HSBC also has applied to acquire an option to purchase up to 19.9 percent of the outstanding shares of RNYC common stock. This option would expire upon consummation of the merger.

2. *Security Bancorp, M.H.C.*, Monmouth, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Security Savings Bank, Monmouth, Illinois.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *Griffith Family Financial Holdings, L.L.C.*, Lindsay, Oklahoma; to become a

bank holding company by acquiring 79 percent of the voting shares of First Fletcher Bankshares, Fletcher, Oklahoma, and thereby indirectly acquire First National Bank of Fletcher, Fletcher, Oklahoma; and 68 percent of the voting shares of American Holding Company, Lindsay, Oklahoma, and thereby indirectly acquire American Exchange Bank, Lindsay, Oklahoma.

Board of Governors of the Federal Reserve System, June 25, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99-16703 Filed 6-30-99; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities; Correction

This notice corrects a notice (FR Doc. 99-16170) published on page 34257 of the issue for Friday, June 25, 1999.

Under the Federal Reserve Bank of San Francisco heading, the entry for Dai-ichi Kangyo Bank, Limited, Tokyo, Japan, is revised to read as follows:

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. *Dai-ichi Kangyo Bank, Limited*, Tokyo, Japan; to acquire Yasuda Bank and Trust Company (U.S.A.), New York, New York, and thereby engage in performing functions or activities that may be performed by a trust company, pursuant to § 225.28(b)(5) of Regulation Y.

Comments on this application must be received by July 9, 1999.

Board of Governors of the Federal Reserve System, June 25, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99-16701 Filed 6-30-99; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to

acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 15, 1999.

A. 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 acquire Thomaston Federal Savings Bank, Thomaston, Georgia, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y. Comments regarding this application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 26, 1999.

B. Federal Reserve Bank of St. Louis
(Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. *Commonwealth Bancshares, Inc.*, Shelbyville, Kentucky; to acquire F.A.S.T. Software, L.L.C., Louisville, Kentucky, and thereby engage in providing data processing and data transmission products and services, pursuant to § 225.28(b)(14) of Regulation Y.

Board of Governors of the Federal Reserve System, June 25, 1999.

Jennifer J. Johnson,
Secretary of the Board.

[FR Doc. 99-16702 Filed 6-30-99; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m. (EDT) July 12, 1999.

PLACE: 4th Floor, Conference Room 4506, 1250 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the June 14, 1999, Board member meeting.
2. Thrift Savings Plan activity report by the Executive Director.

CONTACT PERSON FOR MORE INFORMATION:

Thomas J. Trabucco, Director, Office of External Affairs, (202) 942-1640.

Thomas L. Gray,

Assistant General Counsel.

[FR Doc. 99-16848 Filed 6-29-99; 10:57 am]

BILLING CODE 6760-01-M

FEDERAL TRADE COMMISSION

[File No. 9823177]

Body Systems Technology, Inc. et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before August 30, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

Donald D'Amato, New York Regional Office, Federal Trade Commission, 150 William Street, Suite 1300, New York, NY 10038, (212) 264-1223.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the

consent agreement package can be obtained from the FTC Home Page (June 24, 1999), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326-3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from Body Systems Technology, Inc. ("BST"), a corporation, and William E. Chace and James D. Davis, individually and as officers of the corporation ("proposed respondents").

The proposed consent order has been placed on the public record for sixty (60) days for the receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and comments received and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

This matter involves proposed respondents' making of health-related advertising claims on the Internet and elsewhere for their shark cartilage capsules, uña de gato capsules, and uña de gato liquid. The proposed complaint alleges that BST and its two principal officers violated Section 5 of the Federal Trade Commission Act ("FTC Act") by making the following unsubstantiated claims: BST's uña de gato products are or are likely to be an effective treatment of cancer, HIV/AIDS, and arthritis; and BST's shark cartilage capsules are effective in the prevention and treatment of cancer. The proposed complaint also alleges that the proposed respondents violated Section 5 of the FTC Act by falsely representing that research studies show that BST's uña de gato products are or are likely to be an effective treatment of cancer, HIV/AIDS,

and arthritis; and by falsely representing that published laboratory studies prove that BST's shark cartilage capsules are effective in the prevention and treatment of cancer.

Paragraph I of the proposed consent order prohibits proposed respondents from representing that BST's shark cartilage capsules or any other product or program is effective in the prevention of cancer or is effective in the treatment of cancer unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Paragraph II of the proposed consent order prohibits proposed respondents from representing that BST's *uña de gato* capsules, BST's *uña de gato* liquid, or any other product or program is or is likely to be an effective treatment of cancer, is or is likely to be an effective treatment of HIV/AIDS, or is or is likely to be an effective treatment of arthritis unless, at the time the representation is made, proposed respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Paragraph III of the proposed consent order prohibits for any food, dietary supplement, drug, or any program, representations about the health benefits, performance, efficacy, or safety of such product or program, unless, at the time the presentation is made, proposed respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Paragraph IV of the proposed consent order prohibits for any product or program, misrepresentations about the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

Paragraph V of the proposed consent order allows proposed respondents to make any representation that is specifically permitted in the labeling for any product by regulations promulgated by FDA pursuant to the Nutrition Labeling and Education Act of 1990.

Paragraph VI of the proposed consent order allows proposed respondents to make any representation for any drug that is permitted by the FDA in the drug's labeling.

Paragraph VII of the proposed consent order governs proposed respondents' notification, termination, and monitoring requirements with respect to BST distributors. Proposed respondents are required to send a letter to distributors that informs them that it is against the law to make false claims about any BST product or program or to make health-related claims about any

product or program of BST that are not substantiated by competent and reliable scientific evidence. The letter further states that distributors must agree not to use, rely on, or distribute any advertising or make oral representations containing false or unsubstantiated claims. Further, distributors must agree to submit all advertising to BST for approval prior to dissemination. The letter informs distributors that failure to comply with these terms will result in immediate termination, and if BST believes that the distributor has made false or unsubstantiated claims it will report the violation to the Federal Trade Commission. The proposed respondents are required to have their distributors sign, date, and return the letter as a condition of remaining a distributor.

Paragraph VIII is a record-keeping provision that requires proposed respondents to maintain records of all notification letters sent to distributors, communications between respondents and distributors referring or relating to the requirements of Paragraph VII, and any other materials created pursuant to Paragraph VII of the proposed order.

Paragraph IX of the proposed consent order requires the proposed respondents to provide full refunds for a specified period of time to all purchasers of their shark cartilage capsules, *uña de gato* capsules, and *uña de gato* liquid identifiable prior to the time the respondents stopped making, and took aggressive steps to stop its distributors from making, the alleged deceptive claims.

Paragraph X of the proposed order requires the proposed respondents to provide the FTC with a monitoring report detailing the steps respondents have taken to comply with the redress requirements.

Paragraph XI of the proposed order contains record keeping requirements for materials that substantiate, qualify, or contradict claims covered by the proposed order. Paragraph XII of the proposed order requires distribution of a copy of the order to current and future officers and agents. Paragraph XIII provides for Commission notification upon a change in the corporate respondent and Paragraph XIV requires Commission notification when the individual respondent changes his business or employment. Paragraph XV requires the proposed respondents to keep and maintain all records demonstrating compliance with the terms and provisions of the order. Paragraph XVI provides for the termination of the order after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the

proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By director of the Commission.

Benjamin I. Berman,
Acting Secretary.

[FR Doc 99-16709 Filed 6-30-99; 8:45 am]

BILLING CODE 6750-01-M

FEDERAL TRADE COMMISSION

[D09287]

Continental Gown Cleaning Service, Inc., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before August 30, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Constance Vecellio, FTC/S-3231, 601 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326-2966.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 3.25(f) of the Commission's Rules of Practice, 16 CFR 3.25(f), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 23, 1999), on the World Wide Web, at "<http://www.ftc.gov/os/actions97.htm>." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, 600 Pennsylvania

Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326-3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from Continental Gown Cleaning Service, Inc., Nationwide Gown Cleaning Service, Inc., Prestige Gown Cleaning Service, Inc., Gown Cleaning Service, Inc., and Jonathan Ashley, Ltd., and Lewis Weissman and Gary Marcus, the principals who control these corporations (referred to collectively as "Continental Gown"). The agreement would settle a proposed complaint by the Federal Trade Commission that Continental Gown engaged in unfair or deceptive acts or practices in violation of Section 5(a) of the Federal Trade Commission Act.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns care labeling of wedding gowns and other formal wear and advertising practices related to the sale of the "Zurcion Method" of drycleaning and preservation of these gowns. The administrative complaint alleged that Continental Gown violated the FTC Act by distributing care labels that read "Dryclean Only by Zurcion Method" (hereinafter "Zurcion labels") to clothing companies who used the labels. The complaint alleged that these labels do not comply with the Commission's Care Labeling Rule because they fail to provide information to consumers that is required by the Rule. The complaint alleged that by distributing the Zurcion labels, Continental Gown provided apparel

companies with the means and instrumentalities with which to violate the Care Labeling Rule. The complaint also alleged that Continental Gown had falsely represented in advertising that: (1) The Zurcion labels complied with the Care Labeling Rule, (2) that the Zurcion Method of drycleaning is patented, (3) the Zurcion Method is the only safe and effective cleaning method for wedding gowns and other formal wear, and (4) Continental Gown and the other named cleaning companies were the only cleaners who can clean wedding gowns and other formal wear safely and effectively. The complaint alleged that Respondents falsely represented that they had a reasonable basis for these representations. The complaint also alleged that Respondents advertised their guarantee as unconditional, whereas in fact undisclosed conditions were placed on the guarantee.

The proposed consent order contains provisions designed to prevent Continental Gown from engaging in similar acts and practices in the future. Part I of the proposed consent order contains a general prohibition against providing apparel manufacturers and importers and retail and wholesale stores with the means and instrumentalities with which to violate the FTC Act and the Care Labeling Rule. It specifies that Continental Gown may not provide care labels or other tags, such as hang-tags that are pinned to garments, that fail to provide the specific information required by the Rule or that represent that the Zurcion Method is the only cleaning method that can be used safely and effectively to clean the garment or that Continental Gown is the only cleaner who can clean the garments. Part I also requires Continental Gown to possess a written statement from an apparel manufacturer or importer stating the apparel company's reasonable basis for any care instructions that appear on labels or tags disseminated by Continental Gown.

Parts II, III, and IV of the proposed consent order address Continental Gown's advertising representations. Part II prohibits Continental Gown from making misrepresentations regarding the Care Labeling Rule or compliance with the Rule. Part III prohibits Continental Gown from misrepresenting that the Zurcion Method or any other cleaning or preservation method is patented. Part IV prohibits misrepresentations regarding the comparative or absolute safety or efficacy of any cleaning or preservation method, service, company, or product. Part IV requires competent and reliable evidence as substantiation for safety or

efficacy claims and specifies that competent and reliable scientific evidence may be required when appropriate.

Part V addresses the guarantee allegation of the complaint. It prohibits representations that a garment cleaning or preservation service is guaranteed unless Continental Gown discloses any material limitations or conditions on the guarantee.

Parts VI and VII concern contacts with apparel companies, consumers and others regarding Zurcion labels and promotional materials. Part VI requires Continental Gown to notify certain garment manufacturers or importers with whom Continental Gown did business that they should stop using the Zurcion labels and promotional materials, and to provide a copy of the Consent Order with the notice. Part VII requires Continental Gown to disclose to persons (other than apparel companies) who contact them regarding the cleaning or preservation of garments bearing Zurcion labels that other cleaning methods may be used safely and effectively to clean the garments. Part VII also requires Continental Gown to refer these persons to the manufacturer or importer of their garment to obtain cleaning instructions, and requires Continental Gown to provide information about how consumers can contact those companies.

The proposed order also contains provisions regarding distribution of the order, recordkeeping, notification of changes in corporate status, termination of the order, and the filing of a compliance report.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and the proposed order or to modify their terms in any way.

By Direction of the Commission.

Benjamin I. Berman,
Acting Secretary.

[FR Doc. 99-16708 Filed 6-30-99; 8:45 am]

BILLING CODE 6750-01-M

FEDERAL TRADE COMMISSION

[File No. 9823150]

Magnetic Therapeutic Technologies, Inc., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or

deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before August 30, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Christa V.A. Vecchi, FTC/H-263, 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326-3166.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 24, 1999), on the World Wide Web, at "<http://www.ftc.gov/os/actions97.htm>." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326-3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed Consent Order ("proposed order") from Magnetic

Therapeutic Technologies, Inc. ("MTT") and Jim B. Richardson, the President of the corporation.

The proposed consent order has been placed on the public record for sixty (60) days for the reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns Internet, print, and catalogue advertisements disseminated directly to consumers, and print advertisements provided to distributors and retail stores, including health food stores and pharmacies, for dissemination directly to consumers, for proposed respondents' magnetic therapy products. These products contain magnets that purportedly treat and alleviate a variety of medical problems, including cancer, high blood pressure, HIV, diabetic neuropathy, and Multiple Sclerosis. Proposed respondents' magnetic products include an assortment of devices, such as Magnetic Knee Supports and Magnetic Sleep Pads.

The Commission's complaint charges that the proposed respondents engaged in deceptive advertising in violation of section 5 and 12 of the FTC Act by making unsubstantiated claims that its magnetic therapy products: (1) Are effective in treating cancer, including lung and breast cancers, diabetic ulcers, arthritis, and degenerative joint conditions; (2) lower high blood pressure; (3) stabilize or increase the T-cell count of HIV patients; (4) reduce muscle spasms in persons with Multiple Sclerosis; (5) reduce nerve spasms associated with diabetic neuropathy; (6) increase bone density, immunity, and circulation; and (7) are as effective as prescription pain medicine in alleviating severe pain caused by conditions such as arthritis, carpal tunnel syndrome, and back pain.

The complaint further alleges that proposed respondents represented that testimonials from consumers appearing in the advertisements or promotional materials for proposed respondents' products reflect the typical or ordinary experience of members of the public who use the products. The proposed complaint alleges that respondents lack substantiation for this claim.

This proposed order contains provisions designed to remedy the violations charged and to prevent proposed respondents from engaging in similar acts in the future.

Paragraph I of the proposed order prohibits proposed respondents from representing that their magnetic therapy products (defined as any product that contains a magnet of any kind purporting to relieve the symptoms of, treat, mitigate, cure, relieve, heal or alleviate any disease or health condition): (1) Are effective in treating cancer, including lung and breast cancers, diabetic, ulcers, arthritis, or degenerative joint conditions; (2) lower high blood pressure; (3) stabilize or increase the T-cell count of HIV patients; (4) reduce muscle spasm in persons with Multiple Sclerosis; (5) reduce nerve spasms associated with diabetic neuropathy; (6) increase bone density, immunity, or circulation; or (7) are comparable or superior to prescription pain medicine, unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Paragraph II of the proposed order prohibits proposed respondents from representing that the experience represented by any user testimonial or endorsement of any product or program represents the typical or ordinary experience of members of the public who use the product or program, unless the representation is true, and competent and reliable scientific evidence substantiates that claim, or respondents clearly and prominently disclose either: (1) What the generally expected results would be for product or program participants; or (2) the limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to achieve similar results.

Paragraph III of the proposed order prohibits proposed respondents from making any representation about the health benefits, performance, or efficacy of any product or program, unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Paragraph IV of the proposed order prohibits proposed respondents from: (1) Disseminating to any distributor any material containing any claims prohibited by the order; and (2) authorizing any distributor to make any representations prohibited by the order. In addition, Paragraph IV requires proposed respondents to (1) send a short notice to distributors with whom they have done business since January 1, 1994, announcing their settlement with the FTC and the state of Texas, and

requiring distributors to submit all proposed promotional and marketing materials to proposed respondents for approval prior to their dissemination; (2) send, for a period of three years, the same notice to future distributors with whom proposed respondents to business; (3) monitor distributors' promotional activities; (4) terminate, as appropriate, the right of any distributor to market MTT products or programs who continues to use promotional materials or make oral representations that violate the order; (5) provide the FTC all relevant information about the distributors who continue to engage in activities that violate the order; and (6) approve all marketing materials before distributors disseminate them to the public.

Paragraph V contains record keeping requirements for the notification letters sent to distributors, communications between respondents and distributors referring or relating to the requirements of Paragraph IV of the order, and any other materials created pursuant to Paragraph IV.

Paragraph VI of the proposed order contains record keeping requirements for materials that substantiate, qualify, or contradict covered claims and requires the proposed respondents to keep and maintain all advertisements and promotional materials containing any representation covered by the proposed order. In addition, Paragraph VII requires distribution of a copy of the consent decree to current and future officers and agents. Further, Paragraph VIII provides for Commission notification upon a change in the corporate respondents. Paragraph IX requires proposed respondent Jim B. Richardson to notify the Commission when he discontinues his current business or employment and of his affiliation with any new business or employment. The proposed order, in Paragraph X, also requires the filing of a compliance report.

Finally, Paragraph XI of the proposed order provides for the termination of the order after twenty years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify in any way their terms.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 99-16707 Filed 6-30-99; 8:45 am]

BILLING CODE 6750-01-M

FEDERAL TRADE COMMISSION

[File No. 9823175]

Pain Stops Here!, Inc., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before August 30, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Christa V.A. Vecchi, FTC/H-263, 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326-3166.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 24, 1999), on the World Wide Web, at "<http://www.ftc.gov/os/actions97.htm>." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, either in person or by calling (202) 326-3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission

and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed Consent Order ("proposed order") from Pain Stops Here! Inc. and Sande R. Caplin, the President and majority shareholder of the corporation.

The proposed consent order has been placed on the public record for sixty (60) days for the reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns Internet and print advertisements disseminated directly to consumers as well as through distributors and retail stores, including drug store, health food stores, sporting goods stores, health care products stores, and private individuals working out of their homes. These products contain magnets that purportedly treat or alleviate a variety of medical problems, including cancer, liver disease, heart disease, and arthritis. Proposed respondents' magnetic products include an assortment of devices, such as sleep pad, pillow insert, and magnetized water ceramic magnetic ring.

The Commission's complaint charges that the proposed respondents engaged in deceptive advertising in violation of Sections 5 and 12 of the FTC Act by making unsubstantiated claims that its magnetic therapy products: (1) Are effective in treating cancer; (2) cure liver disease and other diseased internal organs; (3) are effective in reducing cholesterol deposits in the arteries and veins and normalizing the circulatory system; (4) are effective in breaking up kidney and gallbladder stones and in the prevention of further formation of stones; (5) are effective in treating infectious disease, urinary infection, gastric ulcers, dysentery, diarrhea, skin ulcers, and bed sores; (6) prevent and reverse heart disease, circulatory disease, arthritis, auto-immune illness, neuro-degenerative disease, and allergies; (7) are effective in treating arthritis, bursitis, tendinitis, sprains, strains, sciatica, lameness, navicular, and foot growth problems in animals; (8) stimulate the body's production of

the hormone Melatonin; (9) are effective in treating pain caused by conditions such as arthritis, bursitis, and sciatica; and (10) are effective in stimulating growth in plants causing them to grow 20 to 40 percent faster.

The complaint further alleges that proposed respondents represented that studies prove that proposed respondents' magnetic products are effective in the mitigation and treatment of pain caused by conditions such as arthritis, bursitis, and sciatica. The proposed complaint alleges that respondents lack substantiation for this claim.

The proposed order contains provisions designed to remedy the violations charged and to prevent proposed respondents from engaging in similar acts in the future.

Paragraph I of the proposed order prohibits proposed respondents from representing that their magnetic therapy products (defined as any product that contains a magnet of any kind purporting to relieve the symptoms of, treat, mitigate, cure, relieve, heal or alleviate any disease or health condition): (1) Are effective in the treatment of cancer; (2) cure liver disease or other diseased internal organs; (3) are effective in the reduction of cholesterol deposits in the arteries and veins or normalizing the circulatory system; (4) are effective in breaking up kidney or gallbladder stones or in the prevention of further formation of stones; (5) are effective in the mitigation or treatment of infectious diseases, urinary infection, gastric ulcers, dysentery, diarrhea, skin ulcers, or bed sores; (6) prevent or reverse heart disease, circulatory disease, arthritis, auto-immune illness, neuro-degenerative disease, or allergies; (7) are effective in the mitigation or treatment of arthritis, bursitis, tendinitis, sprains, strains, sciatica, lameness, navicular, and foot growth problems in animals; (8) stimulate the body's production of the hormone Melatonin; (9) are effective in the mitigation or treatment of pain caused by conditions such as arthritis, bursitis, and sciatica; or (10) are effective in stimulating significant growth in plants, unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Paragraph II of the proposed order prohibits proposed respondents from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

Paragraph III of the proposed order prohibits proposed respondents from

making any representation about the health benefits, performance, or efficacy of any product or program, unless, at the time the representation is made, respondents possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Paragraph IV of the proposed order prohibits proposed respondents from: (1) Disseminating to any distributor any material containing any claims prohibited by the order; and (2) authorizing any distributor to make any representations prohibited by the order. In addition, Paragraph IV requires proposed respondents to (1) send a notice to distributors with whom they have done business since January 1, 1998, announcing their settlement with the FTC, and requiring distributors to submit all proposed promotional and marketing materials to proposed respondents for review prior to their dissemination; (2) send, for a period of three years, the same notice to future distributors with whom proposed respondents do business; (3) monitor distributors' promotional activities; (4) terminate, as appropriate, the right of any distributor to market PSH products or programs who continues to use promotional materials or make oral representations that violate the order, (5) provide the FTC all relevant information about the distributors who continue to engage in activities that violate the order, and (6) review all marketing materials before distributors disseminate them to the public.

Paragraph V contains record keeping requirements for the notification letters sent to distributors, communications between respondents and distributors referring or relating to the requirements of Paragraph IV of the order, and any other materials created pursuant to Paragraph IV.

Paragraph VI of the proposed order contains record keeping requirements for materials that substantiate, qualify, or contradict covered claims and requires the proposed respondents to keep and maintain all advertisements and promotional materials containing any representation covered by the proposed order. In addition, Paragraph VII requires distribution of a copy of the consent decree to current and future officers and agents. Further, Paragraph VIII provides for Commission notification upon a change in the corporate respondents. Paragraph IX requires proposed respondent Sande R. Caplin to notify the Commission when he discontinues his current business or employment and of his affiliation with any new business or employment. The proposed order, in Paragraph X, also

requires the filing of a compliance report.

Finally, Paragraph XI of the proposed order provides for the termination of the order after twenty years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify in any way their terms.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 99-16710 Filed 6-30-99; 8:45 am]

BILLING CODE 6750-01-M

FEDERAL TRADE COMMISSION

[File No. 9823182]

Melinda R. Sneed et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before August 30, 1999.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Judith A. Shepherd, Dallas Regional Office, Federal Trade Commission, 1999 Bryan Street, Suite 2150, Dallas, TX 75201, (214) 979-9383.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An

electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 24, 1999), on the World Wide Web, at "<http://www.ftc.gov/os/actions97.htm>." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, 600 Pennsylvania Avenue, NW, Washington, DC. 20580, either in person or by calling (202) 326-3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Avenue, NW, Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed Consent Order ("proposed order") from Melinda Sneed and John Sneed, doing business as Arthritis Pain Care Center.

The proposed consent order has been placed on the public record for sixty (60) days for the reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns advertisements on the Internet, audio cassettes, and print advertisements provided to consumers and prospective distributors, for a product called "CMO," described as a form of cetylmyristoleate, purportedly useful in the treatment of cure of arthritis and other diseases. CMO is said to be a fatty acid ester, extracted from beef tallow, which regulates the immune system. Purportedly, the substance, in one or two courses of treatment, each lasting less than three weeks, permanently relieves the symptoms of osteoarthritis and rheumatoid arthritis and reverses the effects of the disease. CMO is also claimed to be useful for the treatment, mitigation, prevention, and cure of most forms of arthritis and a number of other diseases.

The Commission's complaint charges that the proposed respondents engaged

in deceptive advertising in violation of Sections 5 and 12 of the FTC Act by making unsubstantiated claims that their CMO products: (1) Are effective in the mitigation, treatment, prevention, and cure of most forms of arthritis, including rheumatoid arthritis and osteoarthritis; (2) provide permanent relief from symptoms of arthritis, including pain, impaired mobility, swelling, and joint deformities; (3) are as effective as or superior to prescription medications in the treatment of arthritis and the relief of arthritis symptoms; (4) are completely safe and without adverse side effects; and (5) are effective in the treatment of multiple sclerosis, lupus, emphysema, chronic bronchitis, silicone breast disease, cancer, benign prostate hyperplasia, hypertension, hypotension, and cardiac arrhythmia.

The complaint further alleges that the proposed respondents made false claims that (1) clinical studies prove that their CMO products are a safe and effective treatment for arthritis; and that (2) studies were conducted at the national Institutes of Health that prove that CMO reverses the effects of arthritis.

The complaint further alleges that proposed respondents engaged in a deceptive practice by representing that John Sneed is an endorser of their CMO products, without adequately disclosing that Mr. Sneed, at the time of his endorsement, had a material connection with respondents' CMO products in that he had a financial interest in Arthritis Pain Care Center and received a financial benefit from respondents' sales of the product.

The proposed order contains provisions designed to remedy the violations charged and to prevent proposed respondents from engaging in similar acts in the future.

Paragraph 1 of the proposed order prohibits proposed respondents from making any representation that CMO or any similar product: (1) Is effective in the mitigation, treatment, prevention, or cure of arthritis, including rheumatoid arthritis and osteoarthritis; (2) provides permanent relief from symptoms of arthritis, including pain, impaired mobility, swelling, or joint deformities; (3) is as effective or as superior to prescription medications in the treatment of arthritis or the relief of arthritis symptoms; (4) is completely safe or has no adverse side effects; or (5) is effective in the treatment of multiple sclerosis, lupus, emphysema, chronic bronchitis, silicone breast disease, cancer, benign prostate hyperplasia, hypertension, hypotension, or cardiac arrhythmia, unless, at the time the representation is made, respondents

possess and rely upon competent and reliable scientific evidence that substantiates the representation.

Paragraph II of the proposed order prohibits proposed respondents from making any representations about the performance, safety, efficacy, or health benefits of CMO or any other food, drug, dietary supplement, or program, unless the claims are substantiated by competent and reliable scientific evidence.

Paragraph III of the proposed order provides that proposed respondents are not prohibited from making representations which are specifically permitted by regulations of the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990. Paragraph IV of the proposed order provides that proposed respondents are not prohibited from making representations for a drug that are permitted under tentative final or final standards issued by the Food and Drug Administration or under any new drug application approved by that agency.

Paragraph V of the proposed order prohibits proposed respondents from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

Paragraph VI of the proposed order prohibits proposed respondents from representing that the experience represented by any user testimonial or endorsement of any product or program represents the typical or ordinary experience of members of the public who use the product or program, unless the representation is true, and competent and reliable scientific evidence substantiates that claim, or respondents clearly and prominently disclose either: (1) What the generally expected results would be for users or the product or program; or (2) the limited applicability of the endorser's experience to what consumers may generally expect to achieve, that is, that consumers should not expect to experience similar results.

Paragraph VII of the proposed order requires proposed respondents to disclose clearly and prominently, and in close proximity to the endorsement, any material connection between a person providing an endorsement of any product or program and any respondent or other individual or entity manufacturing, labeling, advertising, promoting, offering for sale, selling, or distributing such product or program. A "material connection" is a relationship that might materially affect the weight or credibility of the endorsement and

would not reasonably be expected by consumers.

Paragraph VIII of the proposed order requires that proposed respondents: (1) Not disseminate to any distributor any material containing any representations prohibited by the order; (2) not authorize any distributor to make any representations prohibited by the order; (3) send a required notice to each distributor with whom proposed respondents have done business since January 1, 1996, requesting that the distributor cease using any advertising or promotional materials containing unsubstantiated claims for CMO, requesting distributors not to make unsubstantiated oral representations, informing the distributor of this settlement, attaching a copy of this proposed complaint and order, and not including any other documents in the mailing; (4) for a period of three (3) years following service of the order, send the required notice to each distributor who has not previously received the notice; the notices shall be sent within one week of the first shipment of respondents' products to the distributor; (5) require distributors to submit to proposed respondents all advertising and promotional materials and claims for any products or programs covered by the order for review prior to their dissemination and publication, and not authorize distributors to disseminate materials and claims unless they comply with the order, or furnishing to distributors marketing materials that do not contain representations prohibited by the order and requiring the distributors to submit for review all advertising and promotional materials for a particular product covered by the order that contain representations that are not substantially similar to the materials most recently provided by proposed respondents; and (6) monitor distributors' advertising and promotional activities, immediately terminate the right of any distributor who disseminates advertisements or marketing material or makes oral representations prohibited by the order, and immediately provide information to the Federal Trade Commission about any such distributor and the materials used. "Distributor" is defined in the proposed order to mean any purchaser or transferee of a product covered by the order who acquires product from proposed respondents, with or without consideration, and who sells, or who has sold, such product to other sellers or to consumers, including individuals, retail stores, or catalogs. Paragraph IX of the proposed order requires proposed

respondents to retain for five (5) years after the last correspondence to which they pertain to and make available to the Federal Trade Commission on request, copies of all notification letters and other communications with distributors relating to the requirements of Paragraph VIII.

Paragraph X of the proposed order contains record keeping requirements for materials that substantiate, qualify, or contradict covered claims and requires proposed respondents to keep and maintain all advertisements and promotional materials containing any representation covered by the proposed order. In addition, Paragraph XI requires distribution of a copy of the consent decree to current and future officers and agents. Further, Paragraph XII requires the filing of a compliance report.

Finally, Paragraph XIII of the proposed order provides for the termination of the order after twenty years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify in any way their terms.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 99-16706 Filed 6-30-99; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Clearance

AGENCY: Administration on Aging, HHS.

The Administration on Aging (AoA), Department of Health and Human Services, is submitting to the Office of Management and Budget (OMB) the following proposal for the collection of information in compliance with the Paperwork Reduction Act of 1995 (Pub. L. 96-511):

Title of Information Collection: State Program Report (SPR): Reporting Requirements for Titles III and VII of the Older Americans Act.

Type of Request: Extension of currently approved collections.

Use: To extend the expiration date of the currently approved information collection format without any change in substance or the method of collection. This format conforms to the

requirements of the Older Americans Act, as amended.

Frequency: Annual.

Respondents: State and Territorial Units on Aging.

Estimated Number of Respondents: 50 States, the District of Columbia, the U.S. Virgin Islands, Puerto Rico, and the U.S. territories.

Total Estimated Burden Hours: 141,132.

Additional Information or Comments: The Administration on Aging is submitting to the Office of Management and Budget for approval an extension of the existing information collection format for state programs administered under the Older Americans Act. The AoA last announced reporting specifications for the current format in the **Federal Register** on February 11, 1999. There was one written response to that announcement. AoA responded to the concern raised in the comment about flexibility by continuing to be responsive to specific state requests for extensions and waivers.

The Office of Management and Budget approved use of the current collection instrument subject to the following conditions:

"For the FY 1996 SPR, AoA is responsive to state-specific problems in meeting the November 30, 1996 deadline (as discussed in the State of New York's public comments to OMB dated July 16, 1996 and August 16, 1996). Particularly for large complex states, this deadline may be challenging, and a month extension may make a considerable difference in the quality of data submitted by local units. In addition, the next submission for OMB review should include an analysis of state compliance with the November deadline. If a significant number of states persist in missing this deadline and request extensions, the AoA should consider alternatives to this deadline, e.g. a month extension or a statutory amendment extending its January deadline;

In response to numerous comments (e.g. the State of California, the State of Wisconsin, and the State of New Mexico), AoA allows states additional flexibility by providing limited state-specific extensions of the compliance deadline for the FY 1997 SPR, based upon criteria outlined in a future state policy transmittal. Criteria for granting such an extension should include submission of a state plan for meeting the SPR requirements in the future and evidence that the state has made reasonable progress in fulfilling the SPR objectives to date. In drafting this transmittal, the AoA must consult with state aging agency associations such as

NASUA [National Association of State Units on Aging] and the NAAAA [National Association of Area Agencies on Aging]. The transmittal must be approved by OMB prior to final issuance. If the AoA's authorizing legislation is amended or GPRA [Government Performance and Review Act] performance measures are formalized, AoA will meet with OMB immediately to discuss appropriate amendments to the SPR. As a result of these discussions, OMB may request that an amended SPR be resubmitted for OMB review pursuant to the Paperwork Reduction Act. In addition, in the next submission for OMB review, the AoA will continue to evaluate the appropriateness of performance measurement and accountability reporting for each of its services, as well as the statistical validity and reliability of these data; and, to enhance cross cutting research within HHS, AoA ensures that its uniform ADL/IADL [activities of daily living/instrumental activities of daily living] definitions for FY 1997 can be cross walked with the definitions in the Public Health Service's National Health Interview Survey."

The Administration on Aging has complied with the request that it be flexible in granting extensions of the deadline when requested and continues to do so. This submission includes an analysis of state compliance with the November 30, 1996 deadline but is actually based upon the FY 1997 requirements because that was the first fiscal year that compliance with the full set of items in the current collection instrument was requested by the AoA. The AoA's authorizing legislation has not been amended. The information collected through this effort is needed to meet the baseline performance measures identified in the AoA GPRA Performance Plan. Also, AoA is developing in conjunction with state and area agencies on aging a core set of outcome measures which may be voluntarily adopted by the network.

For copies of the reporting requirements and/or a copy of the analysis of states' compliance with the November 30, 1996 deadline call the Administration on Aging, Office of State and Community Programs at (202) 619-0011. Written comments and

recommendations for the proposed information collection requirements should be sent, within thirty days of the publication of this notice, to the following address: Office of Information and Regulatory Affairs, Attention: Allison Eydt, OMB Desk Officer, Office of Management and Budget, Washington, DC 20503.

Dated: June 23, 1999.

Jeanette C. Takamura,

Assistant Secretary for Aging.

[FR Doc. 99-16790 Filed 6-30-99; 8:45 am]

BILLING CODE 4150-04-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control And Prevention

[INFO-99-23]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) is providing opportunity for public comment on proposed data collection projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639-7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques for other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received with 60 days of this notice.

Proposed Project

1. National Hospital Discharge Survey—(0920-0212)—Extension—National Center for Health Statistics (NCHS)

The National Hospital Discharge Survey (NHDS), which has been conducted continuously by the National Center for Health Statistics, CDC, since 1965, is the principal source of data on inpatient utilization of short-stay, non-Federal hospitals and is the only annual source of nationally representative estimates on the characteristics of discharges, the lengths of stay, diagnoses, surgical and non-surgical procedures, and the patterns of use of care in hospitals in various regions of the country. It is the benchmark against which special programmatic data sources are compared. Data collected through the NHDS are essential for evaluating health status of the population, for the planning of programs and policy to elevate the health status of the Nation, for studying morbidity trends, and for research activities in the health field. NHDS data have been used extensively in the production of goals for the Year 2000 Health Objectives and the subsequent monitoring of these goals. In addition, NHDS data provide annual updates for numerous tables in the Congressionally-mandated NCHS report, Health, United States. Data for the NHDS are collected annually on approximately 300,000 discharges from a nationally representative sample of noninstitutional hospitals, exclusive of Federal, military and Veterans' Administration hospitals. The data items collected are the basic core of variables contained in the Uniform Hospital Discharge Data Set (UHDDS). Data for approximately fifty-five percent of the responding hospitals are abstracted from medical records while the remainder of the hospitals supply data through commercial abstract service organizations, state data systems, in-house tapes or printouts. There is no actual cost to respondents since hospital staff who actively participate in the data collection effort are compensated by the government for their time.

Respondents (hospitals)	Number of respondents	Number of responses/respondent	Avg. burden/response (in hrs)	Total burden (in hrs)
Medical Record Abstracts:				
Primary Procedure Hospitals	73	250	.08333	1,521
Alternate Procedure Hospitals	189	250	.01667	788
In-House Tape or Printout Hospitals	37	12	.18333	81

Respondents (hospitals)	Number of respondents	Number of responses/respondent	Avg. burden/response (in hrs)	Total burden (in hrs)
Update Form (Abstract Service Hospitals)	175	2	.03333	12
Quality Control Forms	50	40	.01667	33
Induction Forms	15	1	2	30
Total				2,465

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99-16751 Filed 6-30-99; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99149]

Changing Antimicrobial Prescribing To Reduce Antimicrobial Resistance in Hospitalized Patients; Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement program for Changing Antimicrobial Prescribing to Reduce Antimicrobial Resistance in Hospitalized Patients. This program addresses the "Healthy People 2000" priority area(s) of Immunization and Infectious Diseases.

The impact of antimicrobial resistant infections on patients is considered to be substantial, and the societal cost to the United States (U.S.) has been estimated to be as high as \$4 Billion each year. Hospitalized patients are at greatest risk of acquiring these resistant infections. An increasing number of hospitals and other healthcare facilities are reporting the presence of antimicrobial resistant bacteria each year. The knowledge that a defined program to change antimicrobial prescribing activity will reduce the incidence of these infections will benefit all U.S. hospitals in their battle against antimicrobial resistant infections. The proposed study in this program announcement will impart such knowledge to the infection control and hospital community.

The purpose of the program is to assist U.S. healthcare institutions and public health agencies in evaluating the impact of changes in antimicrobial prescribing on the incidence of antimicrobial resistance and other

health outcomes among hospitalized patients. Recipients of this award will form a collaborative network of researchers, using similar methodology to allow aggregation of surveillance data from all sites into a multi-site study. The change in antimicrobial prescribing would be considered a part of routine medical practice for the selected patient population groups. Evaluating the impact of routine cycling of available select antimicrobial agents for empiric therapy is the top priority for this collaborative network. Results of this multi-site study will provide other U.S. hospitals with guidance to implement programs to reduce antimicrobial resistance at their institutions. The objective of this program is to measure (see recipient activities) the change in incidence and prevalence of patient colonization and infection with select antimicrobial resistant bacteria of epidemiologic concern in the following scenario:

1. During a time of altered antimicrobial prescription activity (specifically the routine cycling of available antimicrobial agents).
2. In a (1) medical intensive care unit and (2) other target patient population group(s) (e.g., trauma intensive care unit, transplant patients, diabetic patients, etc.).

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit or for-profit organizations participating in the healthcare delivery to patients in hospitals. These hospitals must fulfill the following criteria and provide appropriate documentation (see application instructions) in the application:

1. Have >250 licensed beds.
2. Have a medical intensive care unit in which a limited number (i.e., 1-4) of attending physicians have ultimate responsibility for patient care in that intensive care unit during a typical month (i.e., a closed unit).
3. Have ongoing surveillance in the medical intensive care unit of two types:

(1) nosocomial infections and (2) rectal (or stool) surveillance cultures, on admission or at some standard period, for some antimicrobial resistant bacteria.

4. Have access to a clinical microbiology laboratory which can demonstrate proficiency at:

- a. Identifying extended-spectrum β -lactamase producing enterobacteriaceae.
- b. Maintain viable frozen specimens from surveillance samples.

Note: Public Law 104-65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately \$200,000 is available in FY 1999 to fund approximately 3 awards. It is expected that the average award will be \$80,000, ranging from \$60,000 to \$100,000. It is expected that the awards will begin on or about September 30, 1999 and will be made for a 12-month budget period within a project period of up to 3 years. The funding estimate may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Funding Preferences

To achieve appropriate geographic representation of the study network, funding preference may be given to approved applications that would enhance the geographic diversity of the network (e.g., network ideally comprised of sites from different cities or states).

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Develop consensus among appropriate patient-care, pharmacy and infection control personnel towards

changing antimicrobial prescribing practices in (1) the medical intensive care unit, and (2) a second target patient population group (e.g., trauma intensive care unit, respiratory care unit, other). Implement this change in antimicrobial prescribing practice, specifically a cycling program. Characteristics of the cycling program should include cycling between classes of agents with similar spectrum of coverage available for empiric treatment of patients at a defined interval. This should also include provisions to ensure the safety of all patients affected by this change in medical practice, and maintain the spirit of a multi-center study as part of a collaborative network.

b. Prior to and during the periods of changes in antimicrobial prescribing,

1. Enhance existing surveillance activities in the medical intensive care unit including routine rectal or stool cultures on all patients upon admission to the unit in a manner to minimize laboratory burden and maximize ability to detect colonization with target organisms upon admission and before discharge from the unit. This may include combining data with results of routine clinical cultures of eligible patients.

2. Obtain basic demographic, severity of illness, exposure, and outcome data on patients in the intensive care unit.

c. Monitor antimicrobial use in the medical intensive care unit and second target patient population group. Document changes in dispensed antimicrobials throughout the study period.

d. Demonstrate infection control activities remain similar throughout the study period (i.e., barrier precautions, hand washing frequency) through periodic observational studies of healthcare workers in the target patient population group.

e. Obtain technical assistance, if needed.

f. Monitor and evaluate scientific and operational accomplishments and progress in achieving the purpose of this program.

g. Participate in the development of a research protocol for IRB review by all cooperating institutions participating in the research project.

h. As part of the study network manage, analyze, and interpret surveillance and observational data; provide select data for aggregation among study network; publish and disseminate important information in collaboration with the study network.

2. CDC Activities

a. Provide consultation, scientific and technical assistance in protocol

development and in general operation of the study network. The CDC IRB will also review and approve the protocol initially and on at least an annual basis until the research project is completed.

b. Participate in analysis and interpretation of aggregate surveillance data from study network.

c. Assist in monitoring and evaluating scientific and operational accomplishments of the study network and progress in achieving the purpose and overall goals of this program.

d. As needed, perform laboratory evaluation of specimens or isolates (e.g., molecular epidemiologic studies, evaluation of diagnostic tools) obtained as part of this program.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan.

Applications should address the following topics in the order presented:

1. Understanding the objectives of the study network and program.

2. Description of the target population groups.

3. Description of existing capacity. There are several things applicants could do to document their capacity to perform the recipient activities:

a. Demonstration of capacity to alter physician prescribing activity in an intensive care unit may include (in decreasing order of strength):

1. Previous publication (peer-reviewed or abstract) of a trial of routine cycling of antimicrobial agents in an intensive care unit (in appendix).

2. Photocopies of memorandum or internal documents which cite the successful institution of an antimicrobial control program in the intensive care unit (in appendix).

3. Letters of support from pharmacy, critical care, or infectious disease departments which cite that alteration of prescribing activity in an intensive care unit has been (or is planned to be) accomplished (in appendix).

b. Provide in an appendix to the application a list of the rates of antimicrobial resistance among the bacteria listed in the eligibility criteria (from routine clinical cultures or surveillance cultures) among patients in the medical intensive unit or the hospital.

4. Operational plan. This should include a description of the change in antimicrobial prescribing (i.e., description of best possible cycling

practice based on relevant surveillance data and patient population)

5. Evaluation plan.

6. Budget.

7. Appendix.

Applicant's operational plan should clearly address all recipient activities. The narrative (excluding budget, budget narrative, appendices, and required forms) should be no more than 20 double-spaced pages, printed on one side, with one inch margins, and un-reduced font (10 or 12 point). The following information should be presented in appendices: Letters of support or memorandum (see application content above), curricula vitae (CV) of co-investigators, and budget. Also, for purposes of meeting the eligibility requirement, there are several means in which applicants may provide documentation of eligibility in the appendix:

1. Demonstrate the medical intensive care unit is a closed unit (i.e., a unit in which a limited number of physicians are responsible for patient care in that unit) by submitting a letter from the appropriate department describing which clinicians have primary responsibility for patient care in the medical intensive care unit.

2. Demonstrate ongoing surveillance of nosocomial infections or antimicrobial resistance in the medical intensive care unit by submitting a letter from the infection control department describing the type of surveillance currently performed in the medical intensive care unit, including any surveillance cultures done routinely.

3. Provide letter of support from the microbiology or infection control laboratory describing the laboratory capacity to perform the necessary functions listed in the eligibility criteria. Including capacity to change antimicrobial prescribing activity in the target population groups, and capacity to obtain and aggregate surveillance data (see application instructions).

In addition, documentation of relevant accomplishments, such as abstracts, manuscripts, or bibliographies may be included in appendices. Information that should be included in the narrative will not be accepted if placed in the appendices.

Budget Instructions: For each staff member listed under the Personnel line item, indicate their specific responsibilities. All other line-items should also be clearly justified.

F. Submission and Deadline

Letter of Intent (LOI)

All eligible parties intending to submit an application are requested to

inform CDC of their intention to do so by submitting a brief LOI no later than July 15, 1999. The purpose of the LOI is to assist CDC in timely planning and administration of the evaluation process. The LOI should be a brief notice that (1) identifies the applicant organization, and (2) provides the name, address, and telephone number of a contact person. LOI should be submitted to the technical assistant contact identified in "where to obtain additional information" section of this announcement.

Application

Submit the original and two copies of PHS 5161-1 (OMB Number 0937-0189) Forms are in the application kit. On or before August 15, 1999 submit the application to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received by Grants Management office in time for scheduled review. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Understanding the objectives of the program (5 points) a. Demonstration of a clear understanding of the background and objectives of this cooperative agreement program.

b. Demonstration of a clear understanding of the requirements, responsibilities, and complexities that may be encountered in participating in this study network.

2. Description of target population groups involved in the program activities, including a medical intensive care unit and another population group. (5 points)

3. Description of existing capacity to perform enhanced surveillance during a period of changing antimicrobial prescribing activity in the target patient-

populations. (40 points) a. Description of applicants past experience and documentation of accomplishments in conducting active surveillance, applied epidemiologic research, applied laboratory research, and prevention research on the incidence of nosocomial infections and/or antimicrobial resistant pathogens. (A list of relevant papers and abstracts should be included in the appendix, as well as the CV for all key professional personnel). (10 points)

b. Description of applicant's past experience and documentation of accomplishments in changing prescribing activity in an intensive care unit (e.g., previous experience with routine cycling or antimicrobial agents), and demonstrate the capacity to alter physician prescribing activity as a part of this study (see application content for suggested documentation criteria). (13 points)

c. Description of applicants past experience of collecting and aggregating surveillance data, including documentation (see application content) that susceptibility profiles of clinical isolates from medical intensive care unit patients include ≥ 2 of the following: (1) the proportion of *Enterobacter cloacae* resistant to ceftazidime or cefotaxime or ceftriaxone is $>25\%$, (2) *Pseudomonas aeruginosa* isolates resistant to imipenem is $>10\%$, (3) *Klebsiella pneumoniae* resistant to ceftazidime is $>5\%$, and/or *Acinetobacter baumannii* resistant to ceftazidime is $>20\%$. (10 points)

d. Demonstration of support from non-applicant participating departments, laboratories, individuals, or consultants, indicated in applicant's operational plan. Applicant should provide (in an appendix) letters of support which clearly indicate collaborators' willingness to be participants in the study network. Do not include letters of support from CDC personnel. (5 points)

e. Statements supporting applicant's ability to participate in a multi center collaborative network (2 points).

4. Operational plan (45 points) a. The extent to which the applicant's plan for establishing and maintaining the enhanced surveillance for antimicrobial resistant bacteria clearly describes the (1) proposed organizational and operative structure/procedures, (2) clearly identifies the roles and responsibilities of all participating departments or individuals, and (3) addresses each of the recipient activities. (15 points)

b. The extent to which the applicant describes plans for collaboration with CDC and the other members of this study network in the establishment and

operation of the multi-center study described in this programs objectives, including project design/development, management and analysis of data, and synthesis and dissemination of findings. (10 points)

c. Description of consensus building process, which is ongoing or planned, to change prescribing practices in the target patient-population as a part of routine change in medical care (i.e., cycled availability of antimicrobial agents), and appropriateness of the described cycling program to alter the target pathogens as documented in that unit (see attachment I). (15 points)

d. The degree to which the applicant has met the CDC policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes (1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (2) The proposed justification when representation is limited or absent; (3) A statement as to whether the design of the study is adequate to measure differences when warranted; (4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits. (5 points)

5. Evaluation (5 points). Quality of a plan for monitoring and evaluating progress in achieving the purpose and overall objectives of this cooperative agreement program.

6. Budget (not scored). Extent to which the line-item budget is detailed, clearly justified, and consistent with the purpose and objectives of this program. Extent to which applicant shows federal and non-Federal (e.g., State or Private Funding) shares of total cost for program.

7. Human Subjects (not scored). Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Semiannual progress reports. The first semiannual report is required with each year's continuation application and should cover program activities from beginning of the current budget period to the date of report/application preparation. The second semiannual report is due 90 days after the end of each budget period and should cover activities for the entire budget period recently completed. This second report

may simply be a "cut/paste" update of the first semiannual report to add information from date of first report to the end of the budget period.

2. financial status report, no more than 90 days after the end of the budget period; and

3. final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the "Where to Obtain Additional Information" section of this announcement.

The following other requirements are also applicable:

AR-1 Human Subjects Requirements

AR-2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research

AR-9 Paperwork Reduction Act Requirements

AR-10 Smoke-Free Workplace Requirements

AR-11 Healthy People 2000

AR-12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under Public Health Service Act, Section 301(a) [42 U.S.C. 241(a)], 317(k)(1) [42 U.S.C. 247b(k)(1)], and 317(k)(2) [42 U.S.C. section 247b(k)(2)], as amended. The catalog of federal domestic number is 93.283.

J. Where To Obtain Additional Information

To receive additional written information and to request an application kit, call 1-888-GRANTS4 (1-888-472-6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest. See also the CDC home page on the Internet for information of programs and grants: <http://www.cdc.gov>

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Oppie Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99149, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341-4146, Telephone (770) 488-2748, Email address: oxb3@cdc.gov.

For program technical assistance, contact: Scott Fridkin, M.D., Hospital Infections Program, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, MS E-55, Atlanta, GA

30333, Telephone number: (404) 639-6417, Email address: skf0@cdc.gov.

Dated: June 25, 1999.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99-16759 Filed 6-30-99; 8:45 am]

BILLING CODE 4163-18-U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary and Alternative Medicine; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Cancer Advisory Panel for Complementary and Alternative Medicine, Thursday, July 8, 1999, to Friday, July 9, 1999, Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814 which was published in the **Federal Register** on June 21, 1999, 64 FR 33105.

The public comments session is scheduled on July 9, 1999, from 11:00 am to 11:30 am.

Dated: June 24, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99-16697 Filed 6-30-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel.

Date: July 22-23, 1999.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, One Metro Center, Bethesda, MD 20814.

Contact Person: Ken D. Nakamura, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301-402-0838. (Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: June 24, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99-16698 Filed 6-30-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel.

Date: July 12-13, 1999.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ken D. Nakamura, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301-402-0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: June 24, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99-16699 Filed 6-30-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental Research Special Emphasis Panel, 99-71, R01 Review.

Date: June 29, 1999.

Time: 10:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: H. George Hausch, Chief, Scientific Review Section, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594-2372.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Dental Research Special Emphasis Panel, 99-70, R01 Review.

Date: June 29, 1999.

Time: 10:00 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Yong A. Shin, Scientific Review Administrator, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594-2372.

Name of Committee: National Institute of Dental Research Special Emphasis Panel, 99-76, P01 Review.

Date: July 29, 1999.

Time: 12:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, Rm. 4AN44F, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: H. George Hausch, Chief, Scientific Review Administrator, 4500 Center

Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594-2372.

Name of Committee: National Institute of Dental Research Special Emphasis Panel, 99-66, Applicant Interview, P01.

Date: August 5-6, 1999.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Philip Washko, Scientific Review Administrator, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594-2372.

Name of Committee: National Institute of Dental Research Special Emphasis Panel, 99-68, P01 Applicant Interview.

Date: August 15-16, 1999.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Yong A. Shin, Scientific Review Administrator, 4500 Center Drive, Natcher Building, Rm. 4AN44F, National Institutes of Health, Bethesda, MD 20892, (301) 594-2372.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: June 24, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99-16695 Filed 6-30-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: July 1, 1999.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9592, Bethesda, MD 20892-9529, 301-496-9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: June 24, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99-16696 Filed 6-30-99; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Document Entitled, "Forming Management Bodies to Implement Legal Spring and Summer Migratory Bird Subsistence Hunting in Alaska"

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service is requesting comments on a plan to establish management bodies for the development of a migratory bird subsistence program in Alaska. This action is the result of the 1997 amendments to the migratory bird treaties with Canada and Mexico ratified by the US Senate on October 23, 1997. The amendment to the treaty with Canada requires that indigenous inhabitants of the State of Alaska will have a meaningful role in migratory bird conservation by participating on relevant management bodies. A Notice of Intent to write an options document leading to the establishment of management bodies was published on page 49707 of the **Federal Register** dated Thursday, September 17, 1998. The document, which is now available for review, describes four models for organizing management bodies. You are encouraged to comment on each of the models or present an alternative model.

DATES: Comments must be received by close of business on September 30, 1999.

ADDRESSES: Submit comments to Regional Director, US Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, AK 99503, Attn: Migratory Bird Management; fax: 907/786-3641. See Supplementary Information section for electronic access and filing addresses.

FOR FURTHER INFORMATION CONTACT: Mimi Hogan at 907/786-3673 or Bob Stevens at 907/786-3499.

SUPPLEMENTARY INFORMATION: Copies of the document for review may be obtained by writing to the above address or by telephoning Mimi Hogan or Bob Stevens. Electronic Access and Filing Addresses: The document is also available for viewing and downloading at <www.r7.fws.gov/mbm/treaty>. Comments can be sent by e-mail to <treaty@fws.gov>. Submit comments as an ASCII file avoiding the use of special characters and any form of encryption.

Dated: June 23, 1999.

David B. Allen,

Regional Director, Anchorage, Alaska.

[FR Doc. 99-16784 Filed 6-30-99; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-040-1610-00]

Correction on the Dates of the Protest Period for the Proposed Caliente Management Framework Plan Amendment and Final Environmental Impact Statement for the Management of Desert Tortoise Habitat

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Notice of the changes in the protest period.

SUMMARY: The protest period for the Proposed Plan Amendment and Final Environmental Impact Statement for the Caliente Management Framework Plan will be extended to July 30, 1999. The Proposed Plan Amendment may be protested by any person who participated in the planning process, and who has an interest which is or may be adversely affected by the approval of the Proposed Plan Amendment. A protest may raise only those issues which were submitted for the record during the planning process (see 43 Code of Federal Regulations 1610.5-2).

All protests must be written and must now be postmarked on or before July 30, 1999 and shall contain the following information:

—The name, mailing address, telephone number, and interest of the person filing the protest.

—A statement of the issue or issues being protested.

—A statement of the part or parts of the document being protested.

—A copy of all documents addressing the issue or issues previously submitted during the planning process by the protesting party, or an indication of the date the issue or issues were discussed for the record.

—A concise statement explaining precisely why the Bureau of Land Management, Nevada State Directors' decision is wrong.

Upon resolution of any protests, an Approved Plan Amendment and Record of Decision will be issued. The Approved Plan Amendment/Record of Decision will be mailed to all individuals who participated in this planning process and all other interested publics upon their request.

DATES: All written protests must be postmarked no later than July 30, 1999.

ADDRESSES: Protests must be filed with: Director, Bureau of Land Management, Attn. Ms. Brenda Williams, Protest Coordinator, WO-210/LS-1075, Department of the Interior, Washington, DC 20240.

Copies of the Proposed Plan Amendment/FEIS may be obtained from the Ely Field Office, HC33 Box 33500, Ely, NV 89301 and the Caliente Field Station, U.S. Highway 93, P.O. Box 237, Caliente NV, 89008.

Public reading copies are available for review at the public libraries of Clark, White Pine and Lincoln Counties, all government document repository libraries and at the following BLM locations:

Office of External Affairs, Main Interior Building, Room 5000, 1849 C Street, NW, Washington, DC;

Public Room, Nevada State Office, 1340 financial Blvd., Reno, NV;

The Caliente Field Station and the Ely Field Office at the above addresses.

FOR FURTHER INFORMATION CONTACT: Gene L. Draais, Project Manager at (775) 289-1880 at the Ely Field Office.

Dated: June 22, 1999.

James M. Perkins,

Acting Ely Field Manager.

[FR Doc. 99-16780 Filed 6-30-99; 8:45 am]

BILLING CODE 4310-HC-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-952-09-1420-00]

Montana: Filing of Amended Protraction Diagram Plats

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice.

SUMMARY: The plats of the amended protraction diagrams accepted June 21, 1999, of the following described lands, are scheduled to be officially filed in the Montana State Office, Billings, Montana, thirty (30) days from the date of this publication.

Tps. 4, 5, and 6 N., Rs. 16, 17, 18, and 19 W.

The plat, representing the Amended Protraction Diagram 17 Index of unsurveyed Townships 4, 5, and 6 North, Ranges 16, 17, 18, and 19 West, Principal Meridian, Montana, was accepted June 21, 1999.

Tps. 7 and 8 N., Rs. 17, 18, and 19 W.

The plat, representing the Amended Protraction Diagram 17 Index of unsurveyed Townships 7 and 8 North, Ranges 17, 18, and 19 West, Principal Meridian, Montana, was accepted June 21, 1999.

T. 4 N., R. 17 W.

The plat, representing Amended Protraction Diagram 17 of unsurveyed Township 4 North, Range 17 West, Principal Meridian, Montana, was accepted June 21, 1999.

T. 4 N., R. 18 W.

The plat, representing Amended Protraction Diagram 17 of unsurveyed Township 4 North, Range 18 West, Principal Meridian, Montana, was accepted June 21, 1999.

T. 4 N., R. 19 W.

The plat, representing Amended Protraction Diagram 17 of fractional unsurveyed Township 4 North, Range 19 West, Principal Meridian, Montana, was accepted June 21, 1999.

T. 5 N., R. 16 W.

The plat, representing Amended Protraction Diagram 17 of fractional unsurveyed Township 5 North, Range 16 West, Principal Meridian, Montana, was accepted June 21, 1999.

T. 5 N., R. 17 W.

The plat, representing Amended Protraction Diagram 17 of unsurveyed Township 5 North, Range 17 West, Principal Meridian, Montana, was accepted June 21, 1999.

T. 5 N., R. 18 W.

The plat, representing Amended Protraction Diagram 17 of unsurveyed Township 5 North, Range 18 West, Principal Meridian, Montana, was accepted June 21, 1999.

T. 5 N., R. 19 W.

The plat, representing Amended Protraction Diagram 17 of fractional

unsurveyed Township 5 North, Range 19 West, Principal Meridian, Montana, was accepted June 21, 1999.

T. 6 N., R. 16 W.

The plat, representing Amended Protraction Diagram 17 of fractional unsurveyed Township 6 North, Range 16 West, Principal Meridian, Montana, was accepted June 21, 1999.

T. 6 N., R. 17 W.

The plat, representing Amended Protraction Diagram 17 of unsurveyed Township 6 North, Range 17 West, Principal Meridian, Montana, was accepted June 21, 1999.

T. 6 N., R. 18 W.

The plat, representing Amended Protraction Diagram 17 of unsurveyed Township 6 North, Range 18 West, Principal Meridian, Montana, was accepted June 21, 1999.

T. 6 N., R. 19 W.

The plat, representing Amended Protraction Diagram 17 of fractional unsurveyed Township 6 North, Range 19 West, Principal Meridian, Montana, was accepted June 21, 1999.

T. 7 N., R. 17 W.

The plat, representing Amended Protraction Diagram 17 of unsurveyed Township 7 North, Range 17 West, Principal Meridian, Montana, was accepted June 21, 1999.

T. 7 N., R. 18 W.

The plat, representing Amended Protraction Diagram 17 of unsurveyed Township 7 North, Range 18 West, Principal Meridian, Montana, was accepted June 21, 1999.

T. 7 N., R. 19 W.

The plat, representing Amended Protraction Diagram 17 of fractional unsurveyed Township 7 North, Range 19 West, Principal Meridian, Montana, was accepted June 21, 1999.

T. 8 N., R. 17 W.

The plat, representing Amended Protraction Diagram 17 of unsurveyed Township 8 North, Range 17 West, Principal Meridian, Montana, was accepted June 21, 1999.

T. 8 N., R. 18 W.

The plat, representing Amended Protraction Diagram 17 of unsurveyed Township 8 North, Range 18 West, Principal Meridian, Montana, was accepted June 21, 1999.

The amended protraction diagrams were prepared at the request of the U.S. Forest Service to accommodate Revision of Primary Base Quadrangle Maps for the Geomtronics Service Center.

A copy of the preceding described plats of the amended protraction diagrams, accepted June 21, 1999, will be immediately placed in the open files and will be available to the public as a matter of information.

If a protest against these amended protraction diagrams, accepted June 21,

1999, as shown on these plats, is received prior to the date of the official filings, the filings will be stayed pending consideration of the protests. These particular plats of the amended protraction diagrams will not be officially filed until the day after all protests have been accepted or dismissed and become final or appeals from the dismissal affirmed.

FOR FURTHER INFORMATION CONTACT:

Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107-6800.

Dated: June 22, 1999.

Steven G. Schey,

Acting Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 99-16782 Filed 6-30-99; 8:45 am]

BILLING CODE 4310-DN-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-020-1430-01; NMNM 98057/G-010-G9-0254]

Public Land Order No. 7394; Withdrawal of Public Land and Federal Minerals for the Copper Hill Area; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 3,632.31 acres of public land from surface entry and mining, and 1,148.19 acres of federally reserved mineral interests underlying private surface estate from mining, for a period of 20 years, for the Bureau of Land Management to protect the outstanding cultural, wildlife, and visual resources of the Copper Hill area. The land has been and will remain open to mineral leasing. An additional 640 acres of non-Federal land and the surface estate of the above 1,148.19 acres would become subject to the withdrawal if acquired by the United States.

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Hal Knox, BLM Taos Field Office, 226 Cruz Alta Road, Taos, New Mexico 87571, 505-758-8851.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States

mining laws, (30 U.S.C. Ch. 2 (1994)), but not from leasing under the mineral leasing laws, for the Bureau of Land Management to protect the outstanding cultural, wildlife, and visual resources of the Copper Hill area:

New Mexico Principal Meridian

T. 23 N., R. 10 E.,
Sec. 12, E $\frac{1}{2}$ E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 13, E $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$;
Sec. 24, E $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$ E $\frac{1}{2}$;
Sec. 25, E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ and
NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$.
T. 23 N., R. 11 E.,
Sec. 7, E $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ N $\frac{1}{2}$ N $\frac{1}{2}$ S $\frac{1}{2}$,
S $\frac{1}{2}$ N $\frac{1}{2}$ S $\frac{1}{2}$, and S $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 8, S $\frac{1}{2}$;
Sec. 9, S $\frac{1}{2}$ S $\frac{1}{2}$ S $\frac{1}{2}$ N $\frac{1}{2}$ and S $\frac{1}{2}$;
Sec. 15, lots 7 and 8, and SW $\frac{1}{4}$;
Sec. 18, lot 1, N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and
SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 19, lot 1, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$,
and S $\frac{1}{2}$;
Sec. 20, lots 1, 2, and 3, NE $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$, and
N $\frac{1}{2}$ S $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 21, S $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 22, lots 5 to 8, inclusive, and W $\frac{1}{2}$;
Sec. 28, N $\frac{1}{2}$ N $\frac{1}{2}$ N $\frac{1}{2}$;
Sec. 30, N $\frac{1}{2}$ N $\frac{1}{2}$ N $\frac{1}{2}$.

The area described contains 3,632.31 acres in Taos County.

2. Subject to valid existing rights, the federally reserved mineral interests in the following described land are hereby withdrawn from mining under the United States mining laws (30 U.S.C. Ch.2 (1994)), but not from leasing under the mineral leasing laws, for the Bureau of Land Management to protect the outstanding cultural, wildlife, and visual resources of the Copper Hill area:

New Mexico Principal Meridian

T. 23 N., R. 11 E.,
Sec. 17, lots 1 and 2, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and
SE $\frac{1}{4}$;
Sec. 21, N $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and SE $\frac{1}{4}$.

The area described contains 1,148.19 acres in Taos County.

3. The surface estate of the land described in Paragraph 2 is non-Federal. In the event the land returns to Federal ownership, it would be subject to the terms and conditions of this withdrawal as described in Paragraph 1.

4. The following described non-Federal land is located in the Copper Hill area. In the event the land returns to Federal ownership, it would become subject to the terms and conditions of this withdrawal as described in Paragraph 1:

T. 23 N., R. 11 E.,
Sec. 16.

The area described contains 640 acres in Taos County.

5. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of

the land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

6. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: June 11, 1999.

John Berry,

Assistant Secretary of the Interior.

[FR Doc. 99-16714 Filed 6-30-99; 8:45 am]

BILLING CODE 4310-AG-U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-1430-05; N-62868]

Notice of Realty Action: Segregation Terminated, Lease/Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management, DOI.

ACTION: Segregation terminated, recreation and public purposes lease/conveyance.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada was segregated on July 23, 1997 for exchange purposes under serial number N-61855. The exchange segregation on the subject lands will be terminated upon publication of this notice in the **Federal Register**. The land has been examined and found suitable for lease/conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). Clark County proposes to use the land for the expansion of the White Transportation Center.

Mount Diablo Meridian, Nevada

T. 21 S., R. 61 E.,

Sec. 19, NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$.

Containing 2.5 acres, more or less, generally located at Cameron St. and University Ave.

The land is not required for any federal purpose. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe. And will be subject to:

1. Easements thirty (30) feet in width on the north and east boundaries together with a 15 foot spandrel on the northeast corner in favor of Clark County for streets, roads, and public utilities.

2. Those rights for road purposes which have been granted to Clark County by Permit No. N-44661 under the Act of October 21, 1976 (43 U.S.C. 1761).

3. Those rights for communication site purposes which have been granted to Sprint Central by Permit No. N-61854 under the Act of October 21, 1976 (43 U.S.C. 1761).

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas Field Office, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the Recreation and Public Purposes Act, leasing under the mineral leasing laws, and disposal under the mineral material disposal laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance for classification of the lands to the Las Vegas Field Manager, Las Vegas Field Office, 4765 Vegas Drive, Las Vegas, Nevada 89108.

Classification Comments

Interested parties may submit comments involving the suitability of the land for the expansion of the White Transportation Center. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or 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 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 the expansion of the White Transportation Center.

Any adverse comments will be reviewed by the State Director.

In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

Dated: June 17, 1999.

Rex Wells,

Assistant Field Manager, Division of Lands, Las Vegas, NV.

[FR Doc. 99-16712 Filed 6-30-99; 8:45 am]

BILLING CODE 4310-HC-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-010-2810-00; GP9-0214]

Recreation Management Restrictions, etc: Lakeview District, OR: Fire Prevention Order

AGENCY: Bureau of Land Management (BLM), Lakeview District, Interior.

ACTION: Fire prevention order.

SUMMARY: During periods of very high and extreme fire danger, human-caused fires cause considerable resource damage. Pursuant to Title 43 CFR 9212.1(h) and 9212.2(a), the following acts are prohibited on lands administered by the Lakeview District, Bureau of Land Management to prevent human caused fires and reduce wildfire potential:

1. Building, maintaining, attending, or using a fire, campfire, or stove fire, including charcoal briquettes except at the following designated campgrounds (portable cooking stoves using liquified or bottled fuels are allowed):

Lakeview Resource Area

Duncan Reservoir, Green Mountain, Buck Creek, West Fork Silver Lake, The Junipers (The Sand Dunes).

Klamath Falls Resource Area

North and South Gerber Reservoir, Stan H. Spring, Potholes, Miller Creek, Wildhorse.

2. Smoking while traveling in timber, brush, or grass areas, except in vehicles on roads, or while stopped in an area at least three (3) feet in diameter, that is barren or cleared of all flammable material.

3. Operating any type of motorized vehicle except on roadways clear of flammable vegetation. Parking of vehicles off roadways must be done in an area barren of flammable materials.

4. Operating any type of motorized vehicle without the following:

a. One shovel not less than twenty-six (26) inches in overall length, with a blade not less than eight (8) inches wide.

b. One water container of at least one gallon filled to capacity, or a 2.5-pound fire extinguisher, 4BC, fully-charged.

c. One axe, with a handle 26 inches in length and a head weight of not less than two (2) pounds.

Note: These items are not required while traveling on state and county roads.

5. Operating a chain saw.

6. Welding, or operating an acetylene or other torch with open flame.

Exemptions

Pursuant to Title 43 CFR 9212.3(a) the following persons are exempt from this order:

1. Persons with a permit specifically authorizing the otherwise prohibited act or omission.

2. Any Federal, State or local officer, or member of an organized rescue or fire fighting force while in the performance of an official duty.

Penalties

Violation of these prohibitions are punishable under Title 43 CFR by a fine of not more than \$1000 or imprisonment of not more than 12 months, or both. Violations may also be subject to the enhanced fines provided for by Title 18 U.S.C. 3571 (\$100,000 and up to 12 months).

DATES: These prohibitions will become effective whenever the fire danger indices reach "very high". Notices of the effective dates of these prohibited acts will be posted in prominent locations and publicized through the media prior to their enactment. They will be rescinded as soon as the fire danger decreases to a safe level. Fire prevention orders are normally enacted on an emergency basis for a short period of time (during the very high and extreme fire danger levels), but this can happen several times a year as the weather changes.

FOR FURTHER INFORMATION CONTACT: Larry Bowman, BLM, Lakeview District, HC 10 Box 337, Lakeview, OR 97630, ph: (541) 947-6264.

Dated: June 18, 1999.

Steven A. Ellis,

District Manager.

[FR Doc. 99-16711 Filed 6-30-99; 8:45 am]

BILLING CODE 4310-33-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID-957-1910-00-4839]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m., June 18, 1999.

The plat representing the dependent resurvey of portions of the subdivisional lines and the subdivision of sections 21, 22, 27, and 28, and the metes-and-bounds survey of certain tracts in sections 21, 22, 27, and 28, T. 4 S., R. 5 E., Boise Meridian, Idaho, Group 1034, was accepted June 18, 1999. This survey was executed to meet certain administrative needs of the Mountain Home Air Force Base, USAF.

All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho 83709-1657.

Dated: June 18, 1999.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 99-16785 Filed 6-30-99; 8:45 am]

BILLING CODE 4310-GG-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-924-1430-01; MTM 89170]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Montana; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice Correction.

SUMMARY: This notice corrects an error in the land description published as FR Doc. 99-13531 in the **Federal Register**, 64 FR 28833-4, May 27, 1999, for a proposed Bureau of Land Management withdrawal.

On page 28834, column 1, the legal description immediately following T. 25 N., R. 24 E., should be corrected to include "sec. 1, lot 13". The acreage remains the same.

Dated: June 23, 1999.

John E. Moorhouse,

Acting Deputy State Director, Division of Resources.

[FR Doc. 99-16779 Filed 6-30-99; 8:45 am]

BILLING CODE 4310-DN-P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Announcement of Minerals Management Service Meeting on Natural Gas Royalty-In-Kind Pilot Program in the Federal Gulf of Mexico Region

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Minerals Management Service (MMS) will hold a public meeting with lessees, operators and payors, and potential purchasers concerning royalty-in-kind gas produced from Federal leases administered by MMS in the Gulf of Mexico Region. The purpose of the meeting is to discuss the operational issues involved in implementing sales of Federal gas production to be taken as royalty in kind.

DATES: The meeting will be held on July 20, 1999, from 10:00 a.m. until 3:00 p.m., Central Daylight Time.

ADDRESSES: The meeting will be held at MMS's Houston Compliance Division Office, Room 104, 4141 N. Sam Houston Parkway East, Houston, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Bonn J. Macy, Minerals Management Service, 1849 C Street, NW, MS 4230, Washington, D.C. 20240-0001; telephone number (202) 208-3827; fax (202) 208-3918; e-mail Bonn.Macy@mms.gov.

Comments: Written comments on the meetings or the topics for discussion listed below should be addressed to Mr. Bonn J. Macy at the address given in the **FOR FURTHER INFORMATION CONTACT** section.

SUPPLEMENTARY INFORMATION: The subject of this Notice is preparation for the Gulf of Mexico Royalty-in-Kind (RIK) Pilot, the last of three planned RIK Pilots being implemented by MMS. This Pilot, in MMS's Gulf of Mexico Region (GOMR), will potentially involve large numbers of leases, operators, payors, lessees, and potential purchasers. The GOMR Pilot will be similar to the Pilot we are currently operating in the "8(g)" zone off the coast of Texas. Much of what we have done in the 8(g) Pilot will be expanded and further developed in the GOMR. Gas volumes in the GOMR

Pilot will be substantially larger, involving as much as 800 million cubic feet of gas per day. The objectives of this GOMR Pilot program for Federal gas are, as with all three Pilots, to determine the key factors required for a successful Federal RIK program and to test its effectiveness for collecting Federal oil and gas royalties. Consistent with these objectives, MMS seeks the comments and suggestions of the public and our stakeholders. We urge all with an interest in the program to attend and participate in the discussion.

MMS will direct operators of affected Federal leases and associated communitization/unit agreements to deliver royalty volumes in kind to the Federal Government beginning this fall. For all other leases or agreements, payors will continue paying royalties based on current requirements.

Topics to be discussed at the meeting are:

1. Overall framework and phases of the GOMR Pilot.
2. Intent of the GOMR Pilot.
3. Responsibilities of Federal Government or its purchasers or agents:
 - 100 per cent take of all royalty volumes delivered.
 - Communication with operator.
 - Imbalance procedures.
 - Reporting.
4. Responsibilities of operators:
 - Reporting.
 - Imbalance procedures.
 - Communication with purchaser or agent.
 - Verification of royalty volumes.
 - Project termination and next phase of the pilot.
5. Delivery for Federal RIK gas volumes and transportation arrangements.
6. Sales of RIK natural gas production:
 - Within the Federal Government.
 - To the public.
7. Question and answer period.

Dated: June 25, 1999.

Walter D. Cruickshank,

Associate Director for Policy and Management Improvement.

[FR Doc. 99-16744 Filed 6-30-99; 8:45 am]

BILLING CODE 4310-MR-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-416]

Certain Compact Multipurpose Tools; Notice of Commission Decision Not To Review an Initial Determination Granting Summary Determination; and Request for Submissions on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has decided not to review the presiding administrative law judge's ("ALJ's") initial determination granting a motion for summary determination concerning violation of section 337 of the Tariff Act of 1930 as amended (19 U.S.C. 1337) by the four respondents remaining in the investigation.

FOR FURTHER INFORMATION CONTACT: P.N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3061. General information concerning the Commission also may be obtained by accessing its Internet server (<http://www.usitc.gov>). Hearing-impaired individuals can obtain information concerning this matter by contacting the Commission's TDD terminal at 202-205-1810.

SUPPLEMENTARY INFORMATION: On August 28, 1998, Leatherman Tool Group, Inc., filed a complaint with the Commission alleging violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain compact multipurpose tools that infringe claims of four U.S. design patents. The Commission instituted the investigation on September 30, 1998. Five firms were named as respondents: Suncoast of America, Inc.; Quan Da Industries; Kumasama Products Co., Ltd.; Jiangsu Hongbao Group, Corp.; and SCIKO Chinalight, Ltd. See 63 FR 52287 (Sept. 30, 1998). The Commission added Charles Amash Imports, Inc., d/b/a Grip On Tools, as a sixth respondent on December 14, 1998. See 63 FR 70215 (Dec. 18, 1998).

Grip On and Suncoast eventually were terminated on the basis of consent orders. Notice of Commission Decision Not to Review an Initial Determination Terminating a Respondent on the Basis of a Consent Order [and] Issuance of Consent Order (Apr. 21, 1999); Order No. 13 (Mar. 25, 1999); Notice of Commission Decision Not to Review an Initial Determination Terminating a

Respondent on the Basis of a Consent Order [and] Issuance of Consent Order (Mar. 5, 1999); and Order No. 9 (Feb. 5, 1999).

The Commission subsequently found the remaining respondents to be in default, in light of their failure to answer the complaint and notice of investigation in the manner prescribed by the Commission rules and their failure to respond to orders directing them to show cause why they should not be found in default. See Notice of Commission Decision Not to Review an Initial Determination Finding a Respondent in Default (May 11, 1999); Order No. 14 (Apr. 8, 1999); Notice of Commission Decision Not to Review an Initial Determination Finding Three Respondents in Default (Mar. 25, 1999); and Order No. 11 (Mar. 2, 1999).

On February 1, 1999, complainant Leatherman Tool Group, Inc., filed Motion No. 416-6 for summary determination that the four respondents remaining in the investigation have violated section 337.

On February 11, 1999, the Commission investigative attorney filed a response supporting the motion. No other party responded to the motion.

On May 27, 1999, the ALJ issued the ID granting the motion for summary determination concerning violation of section 337 by respondents. The ALJ found that there is no genuine issue of fact that: (1) Each respondent has imported an accused tool into the United States, sold it for importation, and/or sold it in the United States after importation; (2) the four design patents at issue are valid and enforceable; and (3) the complainant has satisfied the technical prong of the domestic industry requirement (19 U.S.C. 1337(a)(2)).¹

No party filed a petition for review of the ID pursuant to 19 CFR 210.43(a), and the Commission found no basis for ordering a review on its own initiative pursuant to 19 CFR 210.44. The ID thus became the determination of the Commission pursuant to 19 CFR 210.42(h)(3).

As a final disposition of this investigation, the Commission may issue (1) an order that could result in exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders that could result in respondents being required to cease and desist from engaging in unfair

¹ The Commission previously determined not to review an ID granting a summary determination on the economic prong of the statutory domestic industry requirement. See Notice of Commission Decision Not to Review an Initial Determination Granting Summary Determination on the Domestic Industry Requirement (Mar. 5, 1999); and Order No. 7 (Feb. 2, 1999).

action in the importation and sale of such articles. The Commission is therefore interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background, see *In the Matter of: Certain Devices for Connecting Computers Via Telephone Lines*, Inv. No. 337-TA-360, USITC Publication No. 2843 (December 1994) (Commission Opinion).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist order would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are the subject of this investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving written submissions concerning the amount of the bond that should be imposed.

Written Submissions

The parties to the investigation, interested Government agencies, and other interested persons or entities are encouraged to file written submissions on remedy, the public interest, and bonding.

The document constituting the ID also contains the ALJ's recommended determination ("RD") under 19 CFR 210.42(a)(2) concerning remedy and bonding. The ALJ has recommended that the Commission issue a general exclusion order and set the bond at 100 percent of the entered value of the accused imports during the Presidential review period. The parties' written submissions on remedy, the public interest, and bonding may assert their

arguments concerning the RD in accordance with 19 CFR 210.46(a). The Commission also requests that the complainant and the Commission investigative attorney submit proposed remedial orders for the Commission's consideration.

All written submissions and proposed remedial orders must be filed with the Office of the Secretary no later than 5:15 p.m. on Tuesday, July 13, 1999. Reply submissions must be filed no later than 5:15 p.m. on Tuesday, July 20, 1999. No further submissions on remedy, the public interest, and bonding will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions and proposed remedial orders must file the original document and 14 true copies with the Office of the Secretary on or before the deadlines stated above. Any person desiring to submit a document or portion thereof in confidence must request confidential treatment unless the information contained in the document or portion thereof has already been granted such treatment during the investigation. All requests for confidential treatment should be directed to the Secretary of the Commission and must include a full statement of the reasons that the Commission should grant such treatment. See 19 CFR 201.6. All nonconfidential written submissions will be available for public inspection at the Office of Secretary.

Nonconfidential copies of the ID granting the motion for summary determination, the RD on remedy and public interest, all other nonconfidential documents filed in the investigation are or will be available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Commission's Office of the Secretary, Dockets Branch, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone 202-205-1802.

By order of the Commission.

Issued: June 28, 1999

Donna R. Koehnke,

Secretary.

[FR Doc. 99-16809 Filed 6-30-99; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-302 (Review) and 731-TA-454 (Review)]

Fresh and Chilled Atlantic Salmon From Norway

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing duty and antidumping duty orders on fresh & chilled Atlantic salmon from Norway.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty and antidumping duty orders on fresh & chilled Atlantic salmon from Norway would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of consideration, the deadline for responses is August 20, 1999. Comments on the adequacy of responses may be filed with the Commission by September 13, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the rules of practice and procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193) or Vera Libeau (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 99-5-022. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Background.

On April 12, 1991, the Department of Commerce issued countervailing duty and antidumping duty orders on imports of fresh & chilled Atlantic salmon from Norway (56 FR 14920). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include that information provided in response to this notice.

Definitions

The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Country in these reviews is Norway.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission found one Domestic Like Product: fresh and chilled Atlantic salmon, including adult Atlantic salmon and Atlantic salmon smolt.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission found one Domestic Industry: producers of fresh and chilled Atlantic salmon, including adult Atlantic salmon and Atlantic salmon smolt.

(5) The Order Date is the date that the countervailing duty and antidumping duty orders under review became effective. In these reviews, the Order Date is April 12, 1991.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Reviews and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 20, 1999. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in

Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is September 13, 1999. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution

As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a

union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the countervailing duty and antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1990.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in units and pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data

in units and pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in units and pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other

products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

Issued: June 25, 1999.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 99-16818 Filed 6-30-99; 8:45 am]

BILLING CODE 7020-02-U

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-457 (Review)]

Heavy Forged Handtools From China

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on heavy forged handtools from China.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on heavy forged handtools from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 99-5-018. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

be assured of consideration, the deadline for responses is August 20, 1999. Comments on the adequacy of responses may be filed with the Commission by September 13, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Mary Messer (202-205-3193) or Vera Libeau (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background

On February 19, 1991, the Department of Commerce issued antidumping duty orders on imports of the following classes or kinds of heavy forged handtools from China: (1) Axes & adzes, (2) bars & wedges, (3) hammers & sledges, and (4) picks & mattocks (56 F.R. 6622). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Country in these reviews is China.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission found four Domestic Like Products: (1) Axes, adzes and hewing tools, other than machetes, with or without handles; (2) bar tools, track tools, and wedges; (3) hammers and sledges, with heads weighing 2 pounds or more, with or without handles; and (4) picks and mattocks, with or without handles.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission found four Domestic Industries: (1) producers of axes, adzes and hewing tools, other than machetes, with or without handles; (2) producers of bar tools, track tools, and wedges; (3) producers of hammers and sledges, with heads weighing 2 pounds or more, with or without handles; and (4) producers of picks and mattocks, with or without handles. The Commission excluded from the Domestic Industries companies that do no more than assemble imported heads with handles purchased from a domestic manufacturer. The Commission also excluded one domestic producer, Madison Mill, from the Domestic Industries under the related parties provision.

(5) The Order Date is the date that the antidumping duty orders under review became effective. In these reviews, the Order Date is February 19, 1991.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Reviews and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations,

wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 20, 1999. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is

September 13, 1999. All written submissions must conform with the provisions of § 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution

Please provide the requested information separately for each Domestic Like Product, as defined by the Commission in its original determinations, and for each of the products identified by Commerce as Subject Merchandise. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product to which your response pertains, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business

association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on each Domestic Industry for which you are filing a response in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of each Domestic Like Product for which you are filing a response. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1990.

(7) If you are a U.S. producer of a Domestic Like Product, provide the following information separately on your firm's operations on each product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of each Domestic Like Product accounted for by your firm's(s'') production; and

(b) The quantity and value of U.S. commercial shipments of each Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of each Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise

from the Subject Country, provide the following information on your firm's(s'') operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s'') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s'') operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s'') production; and

(b) The quantity and value of your firm's(s'') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s'') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for each Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods;

development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: June 25, 1999.

By order of the Commission.

Donna R. Koehnke
Secretary.

[FR Doc. 99-16825 Filed 6-30-99; 8:45 am]

BILLING CODE 7020-02-U

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-459 (Review)]

Polyethylene Terephthalate (PET) Film From Korea

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on PET film from Korea.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on PET film from Korea would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of

consideration, the deadline for responses is August 20, 1999. Comments on the adequacy of responses may be filed with the Commission by September 13, 1999.

For further information concerning the conduct of this review and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Mary Messer (202-205-3193) or Vera Libeau (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background

On June 5, 1991, the Department of Commerce issued an antidumping duty order on imports of PET film from Korea (56 FR 25669). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Definitions

The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is Korea.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission found one Domestic Like Product: PET film, including equivalent PET film. One Commissioner defined the Domestic Like Product differently.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission found one Domestic Industry: producers of PET film, including equivalent PET film. One Commissioner defined the Domestic Industry differently.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is June 5, 1991.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 99-5-023.

make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**.

Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 20, 1999. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is September 13, 1999. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to

the review you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution

As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section

771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1990.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/ which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

Issued: June 25, 1999.
By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 99-16819 Filed 6-30-99; 8:45 am]

BILLING CODE 7020-02-U

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-466, 465, and 468 (Review)]

Sodium Thiosulfate From China, Germany, and the United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on sodium thiosulfate from China, Germany, and the United Kingdom.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on sodium thiosulfate from China, Germany, and the United Kingdom would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of consideration, the deadline for responses is August 20, 1999. Comments on the adequacy of responses may be filed with the Commission by September 13, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the rules of practice and procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193) or Vera

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 99-5-019. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Libeau (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background

On February 19, 1991, the Department of Commerce issued antidumping duty orders on imports of sodium thiosulfate from China, Germany, and the United Kingdom (56 FR 6623). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) *The Subject Countries* in these reviews are China, Germany, and the United Kingdom.

(3) *The Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission found one Domestic Like Product: sodium thiosulfate.

(4) *The Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission found one Domestic

Industry: producers of sodium thiosulfate.

(5) The *Order Date* is the date that the antidumping duty orders under review became effective. In these reviews, the Order Date is February 19, 1991.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Reviews and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of

the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 20, 1999. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is September 13, 1999. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to § 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response To This Notice of Institution

If you are a domestic producer, union/worker group, or trade/business

association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in § 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in § 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Countries that currently export or have exported Subject Merchandise to the United States or other countries since 1990.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on

an aggregate basis, for the firms in which your workers are employed/ which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise

in the Subject Countries accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

Issued: June 25, 1999.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 99-16824 Filed 6-30-99; 8:45 am]

BILLING CODE 7020-02-U

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-464 (Review)]

Sparklers From China

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on sparklers from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on sparklers from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of consideration, the deadline for responses is August 20, 1999. Comments on the adequacy of responses may be filed with the Commission by September 13, 1999.

For further information concerning the conduct of this review and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193) or Vera Libeau (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 99-5-024. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Background

On June 18, 1991, the Department of Commerce issued an antidumping duty order on imports of sparklers from China (56 FR 27946). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is China.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission found one Domestic Like Product: sparklers.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission found one Domestic Industry: producers of sparklers.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is June 18, 1991.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the

Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**.

Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 20, 1999. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is September 13, 1999. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also

conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution

As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in

general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1990.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise

produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

Issued: June 25, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary

[FR Doc. 99-16820 Filed 6-30-99; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-376 and 563-564 (Review)]

Stainless Steel Butt-Weld Pipe Fittings from Japan, Korea, and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on stainless steel butt-weld pipe fittings from Japan, Korea, and Taiwan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on stainless steel butt-weld pipe fittings from Japan, Korea, and Taiwan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of consideration, the deadline for responses is August 20, 1999. Comments on the adequacy of responses may be filed with the Commission by September 13, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's rules of practice and

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 99-5-025. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the rules of practice and procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193) or Vera Libeau (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office

of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background

On the dates listed below, the Department of Commerce issued antidumping duty orders on the subject imports:

Order date	Product/country	Inv. No.	FR cite
3/25/88	Stainless steel butt-weld pipe fittings/Japan	731-TA-376	53 F.R. 9787
2/23/93	Stainless steel butt-weld pipe fittings/Korea	731-TA-563	58 F.R. 11029
6/16/93	Stainless steel butt-weld pipe fittings/Taiwan	731-TA-564	58 F.R. 33250

The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are Japan, Korea, and Taiwan.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission found one Domestic Like Product: finished and unfinished stainless steel butt-weld pipe fittings of less than 14 inches in diameter.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission found one Domestic

Industry: integrated and combination producers of finished and unfinished stainless steel butt-weld pipe fittings of less than 14 inches in diameter.

(5) The Order Dates are the dates that the antidumping duty orders under review became effective. In these reviews, the Order Dates are as presented in the preceding tabulation.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Reviews and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later

than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 20, 1999. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should

conduct expedited or full reviews. The deadline for filing such comments is September 13, 1999. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution

If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union

or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in Japan that currently export or have exported Subject Merchandise to the United States or other countries since 1987. A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in Korea and Taiwan that currently export or have exported Subject Merchandise to the United States or other countries since 1992.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) The quantity and value of U.S. commercial shipments of the Domestic

Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand

conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

Issued: June 25, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99-16821 Filed 6-30-99; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-540, 354, and 541 (Review)]

Certain Stainless Steel Pipe From Korea, Sweden, and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on certain stainless steel pipe from Korea, Sweden, and Taiwan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on certain

stainless steel pipe from Korea, Sweden, and Taiwan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of consideration, the deadline for responses is August 20, 1999. Comments on the adequacy of responses may be filed with the Commission by September 13, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION CONTACT:

Mary Messer (202-205-3193) or Vera Libeau (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:

Background

On December 3, 1987, the Department of Commerce issued an antidumping duty order on imports of seamless stainless steel hollow products from Sweden (52 FR 45985). The Department of Commerce amended the order on November 5, 1992 to include welded stainless steel hollow products from Sweden (57 FR 52761). The Department

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 99-5-021. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

subsequently revoked the order as to the seamless products on August 16, 1995, the order thus remaining in effect only as to the welded products (60 FR 42529). On December 30, 1992, the Department of Commerce issued antidumping duty orders on imports of welded ASTM A-312 stainless steel pipe from Korea (57 FR 62301) and Taiwan (57 FR 62300). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Korea, Sweden, and Taiwan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In the original and remand determinations concerning Sweden, the Commission found two Domestic Like Products: (1) Welded pipe and tube, excluding articles containing between 10.1 and 11.5 percent chromium (primarily grade 409 pipe and tube), and (2) seamless pipe and tube, including redraw hollows and finished seamless pipe and tube. One Commissioner defined the welded pipe and tube Domestic Like Product differently. Because the antidumping order was subsequently revoked as to seamless pipe and tube, the seamless pipe and tube Domestic Like Product, as defined above, is no longer like, or most similar in characteristics with, the merchandise from Sweden that remains subject to the order. Accordingly, for purposes of responding to this notice, persons should consider welded pipe and tube, excluding articles containing between 10.1 and 11.5 percent chromium by weight (primarily grade 409 pipe and tube), to be the sole Domestic Like Product corresponding to the subject merchandise from Sweden.

In its original determinations concerning Korea and Taiwan, the Commission found one Domestic Like Product: welded stainless steel pipes and pressure tubes, excluding grade 409 tubes and mechanical tubes (also known as ornamental tubes). For purposes of this notice, you should report information separately on each of the two foregoing welded pipe and tube Domestic Like Products.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In the original and remand determinations concerning Sweden, the Commission found two Domestic Industries corresponding to the two Domestic Like Products. The first is the welded pipe and tube industry, which consists of integrated companies that melt stainless steel, produce the required basic shapes (sheet, strip, and plate), and then make the pipe and tube; and non-integrated companies that purchase the basic shapes and make the pipe and tube. The second is the seamless pipe and tube industry, which consists of integrated companies that melt the steel, produce the basic shapes, and then make the pipe and tube; and redrawers. Because the antidumping order was subsequently revoked as to seamless pipe and tube, the Domestic Industry corresponding to the Domestic Like Product is now the welded pipe and tube industry, as defined above. The Commission excluded one domestic producer, Sandvik, from the Domestic Industry under the related parties provision. In its original determinations concerning Korea and Taiwan, the Commission found one Domestic Industry: producers of welded stainless steel pipes and pressure tubes, excluding grade 409 tubes and mechanical tubes (also known as ornamental tubes). For purposes of this notice, you should report information separately on each of the two foregoing welded pipe and tube Domestic Industries.

(5) The *Order Dates* are the dates that the antidumping duty order under review became effective. In the review concerning Sweden, the Order Date is December 3, 1987. In the reviews concerning Korea and Taiwan, the Order Date is December 30, 1992.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Reviews and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 20, 1999. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in

Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is September 13, 1999. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution

Please provide the requested information separately for each Domestic Like Product, as defined above, and for each of the products identified by Commerce as Subject Merchandise. If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent

Subject Country. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product to which your response pertains, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on each Domestic Industry for which you are filing a response in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of each Domestic Like Product for which you are filing a response. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in Sweden that currently export or have exported Subject Merchandise to the United States or other countries since 1986. A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in Korea and Taiwan that currently export or have exported Subject Merchandise to the United States or other countries since 1991.

(7) If you are a U.S. producer of a Domestic Like Product, provide the following information separately on your firm's operations on each product during calendar year 1998 (report quantity data in short tons and value data in thousands of U.S. dollars, f.o.b.

plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of each Domestic Like Product accounted for by your firm's(s'') production; and

(b) The quantity and value of U.S. commercial shipments of each Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of each Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s'') operations on that product during calendar year 1998 (report quantity data in short tons and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s'') operations on that product during calendar year 1998 (report quantity data in short tons and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s'') production; and

(b) The quantity and value of your firm's(s'') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s'') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for each Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

Issued: June 25, 1999.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 99-16822 Filed 6-30-99; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION**Investigations Nos. 701-TA-178 (Review) and 731-TA-636-638 (Review)****Stainless Steel Wire Rod From Brazil, France, India, and Spain**

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing duty and antidumping duty orders on stainless steel wire rod from Brazil, France, India, and Spain.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty and antidumping duty orders on stainless steel wire rod from Brazil, France, India, and Spain would be likely to lead to continuation

or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;¹ to be assured of consideration, the deadline for responses is August 20, 1999. Comments on the adequacy of responses may be filed with the Commission by September 13, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at <http://www.usitc.gov/rules.htm>.

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202-205-3193) or Vera Libeau (202-205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>).

SUPPLEMENTARY INFORMATION:**Background**

On the dates listed below, the Department of Commerce issued countervailing duty and antidumping duty orders on the subject imports:

Order date	Product/country	Inv. No.	FR cite
1/3/83	Stainless steel wire rod/Spain	701-TA-178	48 FR 52
12/1/93	Stainless steel wire rod/India	731-TA-638	58 FR 63335
1/28/94	Stainless steel wire rod/Brazil	731-TA-636	59 FR 4021
1/28/94	Stainless steel wire rod/France	731-TA-637	59 FR 4022

The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Brazil, France, India, and Spain.

(3) The *Domestic Like Product* is the domestically produced product or

products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission found one Domestic Like Product: stainless steel wire rod.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission found one Domestic Industry: producers of stainless steel wire rod.

(5) The *Order Dates* are the dates that the countervailing duty and antidumping duty orders under review became effective. In these reviews, the Order Dates are as presented in the preceding tabulation.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign

manufacturer or through its selling agent.

Participation in the Reviews and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117-0016/USITC No. 99-5-020.

Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S.

International Trade Commission, 500 E Street, SW, Washington, DC 20436.

the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**.

Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 20, 1999. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is September 13, 1999. All written submissions must conform with the provisions of §§ 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to

the reviews you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution

If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term "firm" includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the countervailing duty and antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various

factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in Spain that currently export or have exported Subject Merchandise to the United States or other countries since 1982. A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in Brazil, France, and India that currently export or have exported Subject Merchandise to the United States or other countries since 1992.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in short tons and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in short tons and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including

antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in short tons and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad).

Demand conditions to consider include

end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

Issued: June 25, 1999.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 99-16823 Filed 6-30-99; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR-99-3]

Hazardous Waste Operations and Emergency Response (HAZWOPER); Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

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

ACTION: Notice of an opportunity for public comment.

SUMMARY: OSHA solicits comments concerning the proposed reduction and extension of the information collection requirements contained in the standard on Hazardous Waste Operations and Emergency Response (HAZWOPER) (29 CFR 1910.120).

Request for Comment

The Agency is particularly interested in comments on the following issues:

- Whether the information collection requirements are necessary for the proper performance of the Agency functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and

- Ways to minimize the burden on employers who must comply, for example, by using automated, electronic, mechanical, and other technological information and transmission collection techniques.

DATES: Submit written comments on or before August 30, 1999.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR-99-3, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-2625, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone: (202) 693-2350. Commenters may transmit written comments 10 pages or less in length by facsimile to (202) 693-1648.

FOR FURTHER INFORMATION CONTACT:

Theda Kenney, Directorate of Safety Standards Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3605, 200 Constitution Avenue, N.W., Washington, DC 20210; telephone: (202) 693-2222. A copy of the Agency's Information Collection Request (ICR) supporting the need for the information collection requirements in the HAZWOPER standard is available for inspection and copying in the Docket Office, or mailed on request by telephoning Theda Kenney at (202) 693-2222 or Barbara Bielaski at (202) 693-2444. For electronic copies of the ICR on HAZWOPER, contact OSHA on the Internet at <http://www.osha-slc.gov>.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA-95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is correct.

The Occupational Safety and Health Act of 1970 (the Act) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents. (29 U.S.C. 657.) In this regard, the information collection requirements in the HAZWOPER Standard (29 CFR 1910.120) prevent or

minimize the consequences of accidents involving highly hazardous chemicals.

II. Proposed Actions

OSHA proposes to reduce its earlier estimates of the burden hours for the HAZWOPER Standard from 2,229,062 to 1,592,338 hours. The burden reduction resulted when the Agency reestimated the number of clean-up sites, as well as the number of storage, treatment, and disposal (STD) sites (also referred to as Resource Conservation and Recovery Act [RCRA] sites) from 725 to 1,115. OSHA determined that the number of emergency response units remained the same as originally estimated. The Agency also changed the methodology for the training requirements and medical surveillance provisions, using the number of employees rather than sites to better estimate the burden hours for these provisions.

In addition, OSHA identified several activities as usual and customary business practices. Under PRA-95, the burden associated with usual and customary activities are not calculated as part of the paperwork burden.

OSHA will summarize the comments submitted in response to this notice and will include this summary in the request to OMB to extend the approval of the information collection requirements contained in the HAZWOPER standard.

Type of Review: Extension of currently approved information collection requirements.

Agency: Occupational Safety and Health Administration.

Title: Hazardous Waste Operations and Emergency Response (HAZWOPER) (29 CFR 1910.120).

OMB Number: 1218-0202.

Affected Public: Business or other for-profit; Federal government; state, local or tribal government.

Number of Respondents: 38,363.

Frequency: Varies (On Occasion, Annually).

Average Time per Response: Varies from 5 minutes (.08 hr.) to 64 hours.

Estimated Total Burden Hours: 1,592,338.

III. Authority and Signature

Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), Secretary of Labor's Order No. 6-96 (62 FR 111), and 29 CFR part 1911.

Signed at Washington, DC, this 25th day of June 1999.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 99-16808 Filed 6-30-99; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 99-093]

NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee.

DATES: Thursday, July 22, 1999, 10:00 a.m. to 4:00 p.m.; and Friday, July 23, 1999, 8:00 a.m. to 12:00 Noon.

ADDRESSES: National Aeronautics and Space Administration Headquarters, 300 E Street, SW, MIC-6, Room 6H46, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond P. Whitten, Code UM, National Aeronautics and Space Administration, Washington, DC 20546, 202/358-1996.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

- Action Status
- Update: Office of Life & Microgravity Sciences and Applications
- Biology Pillars
- Congressional Budget
- ISS Research
- Biology Inspired Technology
- Discussion of Committee Findings and Recommendations
- Subcommittee Report Review

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: June 25, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99-16788 Filed 6-30-99; 8:45 am]

BILLING CODE 7510-01-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 99-094]

NASA Advisory Council, Aero-Space Technology Advisory Committee, Rotorcraft Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a NASA Advisory Council, Aero-Space Technology Advisory Committee, Rotorcraft Subcommittee meeting.

DATES: Tuesday, August 24, 1999, 8:30 a.m. to 5:00 p.m.; Wednesday, August 25, 1999, 8:30 a.m. to 5:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, Ames Research Center, Building 235, Galileo Room, Moffett Field, CA 94035.

FOR FURTHER INFORMATION CONTACT: Ms. Sue Zabor, National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035, 650/604-2890.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Agenda topics for the meeting are as follows:

- Rotorcraft Base Program
- Short Haul & Civil Tiltrotor Program
- Rotorcraft Safety Program
- Rotorcraft Subcommittee Recommendations

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: June 25, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99-16789 Filed 6-30-99; 8:45 am]

BILLING CODE 7510-01-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that meetings of the Combined Arts Panel, Dance Section (Creation &

Presentation and Planning & Stabilization categories) to the National Council on the Arts will be held on August 9–13, 1999 in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC., 20506. The panel will meet with 9:00 a.m. to 6:00 p.m. on August 9th–12th and from 9:00 a.m. to 4:00 p.m. on August 13th. A portion of this meeting, from 11:00 a.m. to 12:30 p.m. on August 13th, will be open to the public for policy discussions.

The remaining portions of this meeting, from 9:00 a.m. to 6:00 p.m. on August 9th–12th and from 9:00 a.m. to 11:00 a.m. and 12:30 p.m. to 4:00 p.m. on August 13th, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 12, 1999, these sessions will be closed to the public pursuant to (c)(4)(6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the Panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, D.C. 20506, or call 202/682–5691.

Dated: June 21, 1999.

Kathy Plowitz-Worden,

*Panel Coordinator, Panel Operations,
National Endowment for the Arts.*

[FR Doc. 99–16787 Filed 6–30–99; 8:45 am]

BILLING CODE 7537–01–M

OFFICE OF MANAGEMENT AND BUDGET

[OMB Circular A–127, “Financial Management Systems.”]

Interim Final Revision of OMB Circular A–127, “Financial Management Systems”

AGENCY: Office of Management and Budget, Executive Office of the President.

SUMMARY: OMB Circular No. A–127 “Financial Management Systems,” dated July 23, 1993, prescribes policies and standards for executive departments and agencies to follow in developing, operating, evaluating, and reporting on financial management systems. The Office of Management and Budget is issuing an interim final revision to Circular A–127 to incorporate recommendations from the Chief Financial Officers (CFO) Council. These recommendations change the process for acquiring software to meet core financial system requirements by eliminating the restriction to only acquire the software and related services from the FMSS Schedule, and to provide for software testing that is independent of the procurement process. These recommendations will result in the revision of Sections 8d and 9b, as well as adding a new Section 9a(3) and 9c. These changes are shown below.

DATES: The interim final revision is effective July 1, 1999. Comments on the interim final revision must be received on or before August 2, 1999.

ADDRESSES: Comments on this interim final revision should be addressed to Jean Holcombe, Federal Financial Systems Branch, Office of Federal Financial Management, Office of Management and Budget, 725 17th Street, N.W., Room 6025, Washington, DC 20503. Comments up to three pages in length may be submitted via facsimile to 202–395–3952. Electronic mail comments may be submitted via Internet to jholcomb@omb.eop.gov. Please include the full body of electronic mail comments in the text and not as an attachment. Please include the name, title, organization, postal address, and E-mail address in the text of the message.

FOR FURTHER INFORMATION CONTACT: Jean Holcombe, Federal Financial Systems Branch, Office of Federal Financial Management, Office of Management and Budget, (202) 395–3993.

SUPPLEMENTARY INFORMATION: In January, 1997, at the request of Federal agencies, the Financial Systems Committee (FSC) of the Chief Financial

Officers (CFO) Council formed the Joint Systems Solution Team (JSST) to assess the core financial management system acquisition process that was based upon using the FMSS Schedule. At that time, the mandatory GSA FMSS Schedule acquisition award process was linked directly with the software certification (testing) process. The team recommended to the CFO Council an approach that included separation of the testing of products from the acquisition process in order to: (1) Provide more information to agencies; (2) provide assistance to vendors to stimulate product development, and (3) establish a procurement vehicle with streamlined procedures. Through research and analysis, including on-site visits and groupware sessions with public and private sector representatives, the JSST recommended a three-phase program to achieve the goals of effective certification of the off-the-shelf financial systems and simplified procurement. The three phases recommended were: (1) Determinations of requirements, (2) test and qualification of software, and (3) establishment of a procurement vehicle with streamlined procedures. The JSST also recommended that a Program Management Office (PMO) within the Joint Financial Management Improvement Program (JFMIP) be responsible for the requirements determination and the testing and qualification phases and that GSA manage the establishment and administration of the procurement vehicle. These recommendations were approved by the CFO Council. Circular A–127 is being revised to reflect changes in testing and acquiring that resulted from these recommendations. In addition, OMB intends to seek public comment on additional revision to A–127 later this year. These revisions will include: (1) FFMIA review and reporting requirements; (2) guidance on procuring financial management systems and services; and (3) clarifications of current financial management system requirements.

Jacob J. Lew,

Director.

The changes to Circular A–127 are as follows.

1. Section 8d of the current Circular should be deleted in its entirety and replaced with the following:

8d(1). Use of “Off-the-Shelf” Software. Agencies replacing software to meet core financial system requirements are required to use the GSA FMSS Multiple Award Schedule until its expiration on September 30, 1999. As of October 1, 1999 agencies replacing software to meet core financial system

requirements are no longer required to use the GSA FMSS Multiple Award Schedule; they must use "off-the-shelf" software that has been tested and certified through the JFMIP software certification process as meeting JFMIP Core Financial Management System Requirements. Agencies may purchase this software using the strategy and procurement vehicle they believe will best enable them to meet their needs in a timely and effective manner following the competition requirements associated with the procurement vehicle being used to conduct the acquisition.

In addition, agencies will notify JFMIP that a core financial management software procurement is planned—preferably prior to, or in the early phases of, acquisition planning. JFMIP will electronically post a public message to permit interested certified system vendors to market agencies. The sole purpose of this message is to facilitate agency market research. This message is not intended to, and shall not, serve as an invitation for offerors to submit bids, proposals, or quotes.

OMB policy pertaining to using "off-the-shelf" software is contained in OMB Circular A-130 and must be followed when replacing financial management systems.

8d(2). *Software Certification Testing.* "Off-the-shelf" software will be tested to ensure that it meets core financial system requirements as defined in the *Core Financial System Requirements* document published by JFMIP. JFMIP will coordinate the testing process and issue software certifications. Information on the details of the certification testing process and its results will be available to any interested Federal agency for any certified software package.

2. A new section 9a(3) is being added to the current Circular as follows:

9a.(3). *Notify JFMIP on Plans to Acquire Core Financial System Software.* Agencies shall notify JFMIP on plans to acquire software supporting core financial system functions.

3. Section 9b of the current Circular is revised to read as follows:

9b. *GSA Responsibilities.* GSA is responsible for continuing to support existing contracts under the FMSS Schedule until their completion. GSA also will make procurement vehicles available to agencies for acquiring software which has been certified according to the processes in Section 8d(2).

4. A new Section 9c is being added and will read as follows:

9c. *JFMIP Responsibilities.* JFMIP will establish processes for testing "off-the-shelf" software supporting core

financial system requirements which include:

- Developing and administering the certification test.
- Notifying GSA when a software package successfully completes the certification test.
- Providing interested parties with information on the core financial system requirements and their related testing scenarios.
- Providing interested parties with details on the results of the certification tests for certified software packages.
- Posting a public notice on planned core financial system procurements.

[FR Doc. 99-16763 Filed 6-30-99; 8:45 am]

BILLING CODE 3110-01-U

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Reportable Events

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intention to request extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation ("PBGC") intends to request that the Office of Management and Budget ("OMB") extend approval, under the Paperwork Reduction Act, of the collection of information under Part 4043 of its regulations relating to Reportable Events (OMB control number 1212-0013; expires September 30, 1999). This notice informs the public of the PBGC's intent and solicits public comment on the collection of information.

DATES: Comments should be submitted by August 30, 1999.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, or delivered to that address between 9 a.m. and 4 p.m. on business days. Written comments will be available for public inspection at the PBGC's Communications and Public Affairs Department, suite 240 at the same address, between 9 a.m. and 4 p.m. on business days.

Copies of the collection of information may be obtained without charge by writing to the PBGC's Communications and Public Affairs Department at the address given above or calling 202-326-4040. (For TTY and TDD users, call the Federal relay service

toll-free at 1-800-877-8339 and ask to be connected to 202-326-4040.) The reportable events regulations, forms, and instructions may be accessed on the PBGC's web site at <http://www.pbgc.gov>.

FOR FURTHER INFORMATION CONTACT: James L. Beller, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, 202-326-4024. (For TTY and TDD users, call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4040.)

SUPPLEMENTARY INFORMATION: Section 4043 of the Employee Retirement Income Security Act of 1974 (ERISA) requires plan administrators and plan sponsors to report certain plan and corporate events to the PBGC. The reporting requirements give the PBGC timely notice of events that indicate plan or employer financial problems. The PBGC uses the information provided in determining what, if any, action it needs to take. For example, the PBGC might need to institute proceedings to terminate the plan (placing it in trusteeship) under section 4042 of ERISA to ensure the continued payment of benefits to plan participants and their beneficiaries or to prevent unreasonable increases in its losses.

The collection of information under the regulation has been approved through September 30, 1999, by OMB under control number 1212-0013. The PBGC intends to request that OMB extend approval for another three years. 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.

The PBGC estimates that it will receive 305 reportable event per year under this collection of information. The PBGC further estimates that the average annual burden of this collection of information is 1,249 hours and \$187,350.

The PBGC is soliciting public comments to—

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who

are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Issued in Washington, D.C., this 28th day of June, 1999.

Stuart Sirkin,

*Director, Corporate Policy and Research
Department, Pension Benefit Guaranty
Corporation.*

[FR Doc. 99-16795 Filed 6-30-99; 8:45 am]

BILLING CODE 7708-01-P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Notice of Failure To Make Required Contributions

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intention to request extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation ("PBGC") intends to request that the Office of Management and Budget ("OMB") extend approval, under the Paperwork Reduction Act, of the collection of information under Part 4043 of its regulations relating to Notice of Failure to Make Required Contributions (OMB control number 1212-0041; expires September 30, 1999). This notice informs the public of the PBGC's intent and solicits public comment on the collection of information.

DATES: Comments should be submitted by August 30, 1999.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, suite 340, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, or delivered to that address between 9 a.m. and 4 p.m. on business days. Written comments will be available for public inspection at the PBGC's Communications and Public Affairs Department, suite 240 at the same address, between 9 a.m. and 4 p.m. on business days.

Copies of the collection of information may be obtained without charge by writing to the PBGC's Communications and Public Affairs Department at the address given above or calling 202-326-4040. (For TTY and TDD users, call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4040.) The regulations, forms, and instructions

relating to the notice of failure to make required contributions may be accessed on the PBGC's web site at <http://www.pbgc.gov>.

FOR FURTHER INFORMATION CONTACT:

James L. Beller, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, 202-326-4024. (For TTY and TDD users, call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4040.)

SUPPLEMENTARY INFORMATION: Section 302(f) of the Employee Retirement Income Security Act of 1974 ("ERISA") and section 412(n) of the Internal Revenue Code of 1986 ("Code") impose a lien in favor of an underfunded single-employer plan that is covered by the termination insurance program if (1) any person fails to make a required payment when due, and (2) the unpaid balance of that payment (including interest), when added to the aggregate unpaid balance of all preceding payments for which payment was not made when due (including interest), exceeds \$1 million. (For this purpose, a plan is underfunded if its funded current liability percentage is less than 100 percent.) The lien is upon all property and rights to property belonging to the person or persons who are liable for required contributions (i.e., a contributing sponsor and each member of the controlled group of which that contributing sponsor is a member).

Only the PBGC (or, at its direction, the plan's contributing sponsor or a member of the same controlled group) may perfect and enforce this lien. Therefore, ERISA and the Code require persons committing payment failures to notify the PBGC within 10 days of the due date whenever there is a failure to make a required payment and the total of the unpaid balances (including interest) exceeds \$1 million.

PBGC Form 200, Notice of Failure to Make Required Contributions, and related filing instructions, implement the statutory notification requirement. Submission of Form 200 is required by 29 CFR 4043.81.

The collection of information under the regulation has been approved through September 30, 1999, by OMB under control number 1212-0041. The PBGC intends to request that OMB extend approval for another three years. 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.

The PBGC estimates that it will receive 10 Form 200 filings per year

under this collection of information. The PBGC further estimates that the average burden of this collection of information is 42.5 hours and \$6,375.

The PBGC is soliciting public comments to—

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Issued in Washington, D.C., this 28th day of June, 1999.

Stuart Sirkin,

*Director, Corporate Policy and Research
Department, Pension Benefit Guaranty
Corporation.*

[FR Doc. 99-16796 Filed 6-30-99; 8:45 am]

BILLING CODE 7708-01-P

SELECTIVE SERVICE SYSTEM

Forms Submitted to the Office of Management and Budget for Extension of Clearance

1. The following forms have been submitted to the Office of Management and Budget (OMB) for extension of clearance in compliance with the Paperwork Reduction Act (44 U.S. Chapter 35):

SSS-2, 3A&B, 3C

Title: The Selective Service System Change of Information, Correction/Change Form and Registration Status Forms.

Purpose: To insure the accuracy and completeness of the Selective Service System registration data.

Respondents: Registrants are required to report changes or corrections in data submitted on SSS Form 1.

Frequency: When changes in a registrant's name or address occur.

Burden: The reporting burden is two minutes or less per report.

II. The following forms, to be used only in the event that inductions into the armed services are resumed, have

been submitted to the Office of Management and Budget (OMB) for the extension of clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35):

SSS-21

Title: Claim Documentation Form—Administrative.

Purpose: Is used to document those claims for reclassification which can be approved by an Area Office upon the presentation of documentary proof.

Respondents: Registrants whose past or present status is reason for reclassification.

Frequency: One-time.

Burden: The report burden is ten minutes or less per individual.

SSS-23

Title: Claim Documentation Form—Divinity Student.

Purpose: Is used to document a claim for classification as a divinity student.

Respondents: Registrants who are divinity students.

Frequency: One-time.

Burden: The reporting burden is 20 minutes or less per individual.

SSS-24

Title: Claim Documentation Form—Hardship to Dependents.

Purpose: Is used to document a claim for classification on the basis of the hardship induction will cause a registrant's dependent(s).

Respondents: Registrants whose induction will cause hardship on their dependent(s).

Frequency: This form is normally used one-time.

Burden: The reporting burden is 30 minutes or less per individual.

SSS-25

Title: Claim Documentation Form—Minister of Religion.

Purpose: Is used to document claims for classification as a regular of duly ordained minister.

Respondents: Registrants who are regular or duly ordained ministers.

Frequency: One-time.

Burden: The reporting burden is 20 minutes or less per individual.

SSS-26

Title: Claim Documentation Form—Alien or Dual National.

Purpose: Is used to document a registrant's claim for classification as an Alien, Dual National or Treaty Alien.

Respondents: Registrants who wish to be classified as an Alien, Dual National or Treaty Alien.

Frequency: One-time.

Burden: The reporting burden is 20 minutes or less per individual.

SSS-27

Title: Claim Documentation Form—Postponement of Induction.

Purpose: Is used to document a claim for the postponement of induction.

Respondents: Registrants whose present status warrants postponement of induction.

Frequency: This form is normally used one-time.

Burden: The reporting burden is ten minutes or less per individual.

SSS-109

Title: Student Certificate.

Purpose: Is used to substantiate a claim for postponement of induction because the subject registrant is a student.

Respondents: Registrants who are attending school but have not graduated.

Frequency: This certificate is normally used one-time.

Burden: The reporting burden is six minutes or less per individual.

SSS-130

Title: Application by Alien for Relief from Training and Service in the Armed Forces of the United States.

Purpose: Is used to request relief from training and service based on being a national of a country with which an applicable treaty is in effect, i.e., "Treaty Alien."

Respondents: Those registrants who are "Treaty Aliens" and desire not to serve in the Armed Forces of the United States.

Frequency: One-time.

Burden: The reporting burden is five minutes or less per individual.

SSS-402

Title: Uncompensated Registrar Appointment.

Purpose: Is used to verify the official status of applicants for the position of Uncompensated Registrars and to establish authority for those appointed to perform as Selective Service System Registrars.

Respondents: United States citizens over the age of 18.

Frequency: One-time.

Burden: The reporting burden is three minutes or less.

Copies of the above identified forms can be obtained upon written request to Selective Service System, Reports Clearance Officer, 1515 Wilson Boulevard, Arlington, Virginia 22209-2425.

Written comments and recommendations for the proposed extension of clearance of the form(s) should be sent within 60 days of publication of this notice to Selective Service System, Reports Clearance Officer, 1515 Wilson Boulevard, Arlington, Virginia 22209-2425.

A copy of the comments should be sent to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Selective Service System, Office of Management and Budget, New Executive Office Building, Room 3235, Washington, D.C. 20503.

Dated: June 24, 1999.

Gil Coronado,

Director.

[FR Doc. 99-16783 Filed 6-30-99; 8:45 am]

BILLING CODE 8015-01-M

DEPARTMENT OF STATE

[Public Notice #3073]

Secretary of State's Arms Control and Nonproliferation Advisory Board; Closed Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. 2 section 10(a)(2)(1996), the Secretary of State announces the following Arms Control and Nonproliferation Advisory Board (ACNAB) meetings:

Date	Location
July 14-15, 1999	Sandia National Laboratory, Albuquerque, NM.
August 25-26, 1999	Minot Air Force Base, ND.
September 14-15, 1999	State Department Building, 2201 C Street, NW, Room 5930, MS Washington, DC 20520.
October 26-27, 1999	Los Alamos National Laboratory, Los Alamos, NM.
November 8-9, 1999	Livermore National Laboratory, Livermore, CA.
December 1-2, 1999	State Department Building, 2201 C Street, NW, Room 5930, MS Washington, DC 20520.

Pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2 section 10(d)(1996), and in accordance with Executive Order 12958, in the interest of national defense and foreign policy, it has been determined that these Board meetings will be closed to the public, since the ACNAB members will be reviewing and discussing classified matters.

The purpose of this Advisory Board is to advise the President and the Secretary of State on scientific, technical, and policy matters affecting arms control. The Board will review specific arms control and nonproliferation issues. Members will be briefed on current U.S. policy and issues regarding negotiations such as the Convention on Conventional Weapons and the Chemical and Biological Weapons Convention. Members will observe mock arms control inspections at Minot Air Force Base, ND.

For more information, please contact Robert Sherman, Executive Director, Arms Control and Nonproliferation Board, at (202) 647-1192.

Dated: June 28, 1999.

Robert Sherman,

Executive Director, Secretary of State's Arms Control and Nonproliferation Advisory Board.
[FR Doc. 99-16880 Filed 6-29-99; 1:18 pm]

BILLING CODE 4710-27-U

DEPARTMENT OF STATE

[Public Notice No. 3070]

United States International Telecommunications Advisory Committee, Radiocommunication Sector (ITAC-R); Notice of Meeting

The Department of State announces a meeting of the U.S. International Telecommunication Advisory Committee Radiocommunication Sector (ITAC-R). The purpose of the Committee is to advise the Department on policy and positions with respect to the International Telecommunication Union and international radiocommunication matters.

The ITAC-R will meet from 1:30 to 4:30 on July 21, 1999 at the Department of State east auditorium to review ITU Council actions with respect to radiocommunication matters, consider draft guidelines for preparatory activities for international radiocommunication meetings and to begin preparations for the Conference Preparatory Meeting (CPM) for the World Radiocommunication Conference 2000.

Members of the general public may attend this meeting and join in the

discussions, subject to the instructions of the Chair. Admission of public members will be limited to seating available. Entrance to the Department of State is controlled; people intending to attend ITAC-R meeting and subsequent preparatory meetings for the CPM should send a fax to (202) 647-7407 no later than 24 hours before the meeting. The fax should include the name of the meeting (ITAC-R National Committee and date of meeting), your name, social security number, date of birth, and organization. One of the following will be required for admission: U.S. driver's license, U.S. passport, U.S. Government identification card. Enter from the "C" Street Main Lobby; in view of escorting requirement, non-government attendees should plan to arrive not less than 15 minutes before the meeting begins.

Dated: June 23, 1999.

John T. Gilsenan,

Chairman, ITAC-R National Committee.

[FR Doc. 99-16797 Filed 6-30-99; 8:45 am]

BILLING CODE 4710-45-P

DEPARTMENT OF STATE

[Public Notice No. 3072]

United States International Telecommunication Advisory Committee, Telecommunication Standardization Sector (ITAC-T) National Committee; Notice of Meeting

The Department of State announces meetings of the U.S. International Telecommunication Advisory Committee Telecommunication Standardization (ITAC-T). The purpose of the Committee is to advise the Department on policy and technical issues with respect to the International Telecommunication Union and international telecommunication standardization. Meetings will be held at the Department of State, 2201 "C" Street, NW, Washington, DC.

The ITAC-T National Committee will meet from 9:30 to 4 on July 20 in Room 5951 (rather than July 13), August 19 in Room 3524 (rather than August 25), September 14, in room 1406, and October 6, 1999 in Room 1207 to prepare for the next ITU Telecommunication Sector Advisory Group (TSAG) and World Telecommunication Sector Assembly (WTSA) meetings.

Members of the general public may attend these meetings and join in the discussions, subject to the instructions of the Chair. Admission of public members will be limited to seating available. Entrance to the Department of State is controlled; people intending to

attend ITAC-T National Committee meetings should send a fax to (202) 647-7407 not later than 24 hours before the meeting. This fax should display the name of the meeting (ITAC-T National Committee and date of meeting), your name, social security number, date of birth, and organizational affiliation. One of the following valid photo identifications will be required for admission: U.S. driver's license, U.S. passport, U.S. Government identification card. Enter from the "C" Street Main Lobby; in view of escorting requirements, non-Government attendees should plan to arrive not less than 15 minutes before the meeting begins.

Dated: June 23, 1999.

Marian R. Gordon,

Director, Telecommunication and Information Standards.

[FR Doc. 99-16798 Filed 6-30-99; 8:45 am]

BILLING CODE 4710-45-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Announcement of the June 1999 Federal Aviation Administration Change 12 of the Standard Clauses

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability.

SUMMARY: The Federal Aviation Administration (FAA) announces the availability of the June 1999 Change 12 of the standard clauses used in FAA procurement contracts and Screening Information Requests (SIR), as well as the latest versions of the real property and utility clauses.

ADDRESSES: The complete text of the June 1999 FAA Change 12 of the standard clauses and the latest versions of the real property and utility clauses are available on the Internet at <http://fast.faa.gov/>. Use of the Internet World Wide Web Site is strongly encouraged for access to copies of the FAA Acquisition Management System and the current clauses. If Internet service is not available, requests for copies of these documents may be made to the following address: FAA Acquisition Reform, ASU-100, Rm. 438, 800 Independence Avenue, SW, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT:

Yvonne Joseph, Procurement Management Branch, Federal Aviation Administration, Rm. 435, 800 Independence Avenue, SW, Washington, DC 20591, (202) 267-8638.

SUPPLEMENTARY INFORMATION: On October 31, 1995, Congress passed an *Act Making Appropriations for the Department of Transportation and Related Agencies, for the Fiscal Year Ending September 30, 1996, and for Other Purposes* (The 1996 DOT Appropriations Act). On November 15, 1995, the President signed this bill into law. In Section 348 of this law, Congress directed the Administrator of the FAA to develop and implement a new acquisition management system that addresses the unique needs of the agency. The new FAA Acquisition Management System went into effect on April 1, 1996 (see *Notice of availability* at 61 FR 15155 (April 4, 1996)).

The Air Traffic Management System Performance Improvement Act of 1996, title II of the Federal Aviation Reauthorization Act of 1996, Pub. L. 104-264, October 9, 1996, expanded the procurement reforms previously authorized by the 1996 DOT Appropriations Act. Amendment 01 implements title II and makes other necessary changes to, and clarifications of, the FAA Acquisition Management System.

Issued in Washington, DC, on June 18, 1999.

Deborah W. Wilson,

Acting Director of Acquisitions, ASU-1.

[FR Doc. 99-16530 Filed 6-30-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program for Kona International Airport, Kailua-Kona, HI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on a new Noise Compatibility Program for Kona International Airport, submitted by the state of Hawaii, Department of Transportation, under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) (hereinafter referred to as "the Act") and 14 CFR part 150. These findings are made in recognition of the description of Federal and non-federal responsibilities in Senate Report No. 96-52 (1980). On September 24, 1998, the FAA determined that the Noise Exposure Maps, submitted by the State of Hawaii, Department of Transportation under 14 CFR part 150, were in compliance with applicable

requirements. On March 23, 1999, the Associate Administrator for Airports approved the Noise Compatibility Program for Kona International Airport.

EFFECTIVE DATE: The effective date of the FAA's approval of the Noise Compatibility Program for Kona International Airport is March 23, 1999.

FOR FURTHER INFORMATION CONTACT:

David J. Wellhouse, Airport Planner, Honolulu Airports District Office, Federal Aviation Administration, Box 50244, Honolulu, Hawaii 96850-0001, Telephone: 808/541-1243. Street address: Federal Building, 300 Ala Moana Boulevard, Room 7-128, Honolulu, Hawaii 96813. Documents reflecting the FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to a Noise Compatibility Program for Kona International Airport, effective March 23, 1999. Under Section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (herein after referred to as the "Act"), an airport operator who has previously submitted a Noise Exposure Map may submit to the FAA a Noise Compatibility Program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non compatible land uses and prevention of additional non compatible land use within the area covered by the Noise Exposure Maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport Noise Compatibility Program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal Program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act, and is limited to the following determinations:

a. The Noise Compatibility Program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non compatible land uses;

c. Program measures would not create an undue burden on interstate or foreign

commerce, unjustly discriminate against types of classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the federal government and;

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of navigable airspace and air traffic control responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport Noise Compatibility Program are delineated in FAR part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, State or local law. Approval does not, by itself, constitute a FAA implementation action. A request for Federal action or approval to implement specific Noise Compatibility Measures may be required and a FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under the Airport and Airway Improvement Act of 1982, as amended. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Honolulu, Hawaii.

The state of Hawaii, Department of Transportation submitted to the FAA on December 29, 1997, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from March 1996 through November 1996. The Kona International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on September 24, 1998. Notice of this determination was published in the **Federal Register** on October 8, 1998.

The Kona International Airport study contained a proposed Noise Compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2001. It was requested that the FAA evaluate and approve this material as a Noise Compatibility Program as described in section 104(b) of the Act. The FAA began its review of the program on September 24, 1998 and was required by a provision of the Act to approve or disapprove the program within 180-days

(other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed an approval of such program.

The submitted program contained one proposed action for noise abatement, one action for noise mitigation, and three program management measures for both on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program was approved, by the Associate Administrator for Airports, effective March 23, 1999.

Outright approval was granted for two of the five specific program measures. The approved measures included such items as: Annually monitor aircraft noise levels and operations at the airport; monitor development proposals in the airport environs; and include disclosure provisions in land transfer documents. No Action was taken on the measure to implement an informal preferential runway use program and on the measure to use Runway 35, 68 percent of the time at night during light winds instead of Runway 7. The measure to install sound treatment of impacted residences within the 60 DNL contour was disapproved pending submission of additional information.

These determinations are set forth in detail in the Record of Approval endorsed by the Associate Administrator for Airports on March 23, 1999. The Record of Approval, as well as other evaluation materials, and the documents comprising the submittal are available for review at the FAA office listed above and at the administrative offices of state of Hawaii, Department of Transportation and at the Kona International Airport, Kailua-Kona, Hawaii.

Issued in Hawthorne, California on June 23, 1999.

Ellsworth L. Chan,

Acting Manager, Airports Division, AWP-600, Western-Pacific Region.

[FR Doc. 99-16755 Filed 6-30-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent To Prepare an Environmental Impact Statement (EIS) and Hold Scoping Meetings for Proposed Runway Reconfiguration at San Francisco International Airport (SFO), San Francisco, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice to prepare an EIS and conduct three (3) public scoping meetings and one (1) scoping meeting for interested Federal, state and local agencies.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this Notice to advise the public that an Environmental Impact Statement will be prepared to evaluate a proposed reconfiguration of the runways at San Francisco International Airport, San Francisco, California. To ensure that all major and/or substantial issues related to the proposed action are identified three (3) public scoping meetings and one (1) scoping meeting for interested Federal; state and local agencies will be held.

FOR FURTHER INFORMATION CONTACT: Camille Garibaldi, Environmental Protection Specialist, SFO-613, Planning and Programming Section, Federal Aviation Administration, San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010-1303, Telephone: (650) 876-2927. Comments on the scope of the EIS should be submitted to the address above and must be received no later than September 9, 1999.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) in cooperation with the U.S. Army Corps of Engineers (ACOE), and U.S. Fish and Wildlife Service (FWS), will prepare an Environmental Impact Statement for the proposed reconfiguration of the runways at SFO. The need to prepare a National Environmental Policy Act (NEPA) Environmental Impact Statement (EIS) is based on the procedures described in FAA Order 5050.4A, Airport Environmental Handbook: SFO is a commercial service airport located within a standard metropolitan statistical area and the proposed runway reconfiguration includes construction of reconfigured runways to accommodate air carrier aircraft arrival and departure operations. FAA approval of the Airport Layout Plan for the airfield design will impact the area around the airport that has existing non-compatible land uses

in terms of aircraft noise; and the proposed development is likely to be controversial on several other significant environmental categories.

The City and County of San Francisco, pursuant to the California Environmental Quality Act of 1970 (CEQA) will also prepare an Environmental Impact Report (EIR) for the proposed development.

The FAA is the Federal Lead Agency responsible for preparing the EIS in cooperation with ACOE and FWS. The City and County of San Francisco, Office of Environmental Review is the State Lead Agency responsible for preparing the EIR. The lead agencies anticipate that separate EIS and EIR documents will be prepared on a parallel course. The EIS will meet the requirements of NEPA, while the EIR will meet CEQA requirements.

ALTERNATIVES: The EIS will evaluate multiple alternatives including various runway configurations at SFO, off airport alternatives, and a no action alternative. The proposed Runway Reconfiguration project alternatives will include one or more of the components listed below. A range and/or combination of construction methodologies will be considered. Methodologies may include fill in San Francisco Bay. Examples of potential construction methodologies include placement of fill in the San Francisco Bay (up to approximately 1,500 acres) and/or piling to support the runway(s).

Potential Runway Reconfiguration Project Components

- Construction of a new Runway 28R/10L parallel to and north of existing Runway 28R/10L.
- Construction of a new Runway 1/19 parallel to and either east or west of the existing Runway 1/19 system.
- New/revised instrument approach/departure flight procedures.
- Lengthening and northerly relocation of existing Runway 19R/1L.
- Construction of Runway Safety Areas for new and existing runways per the latest FAA requirements.
- Reconstruction and relocation of taxiway system to support the newly reconfigured runways.
- Reconstruction and relocation of airfield access roadways to support the new runway configuration.
- Reconstruction and relocation of navigation, communication and aircraft control facilities as required to support the reconfigured runways.
- Reconstruction of Aircraft Rescue and Fire Fighting facilities as necessary to support the runways.

- Potential removal and/or relocation of hangar and airfreight facilities to support the runway configuration.

- Reconstruction of ancillary support facilities such as drainage facilities, utilities and seawalls, etc to support the runway reconfiguration.

- Potential borrow site for fill material.

- Mitigation projects, as required, for the runway reconfiguration and associated actions.

PUBLIC SCOPING MEETINGS: The FAA will hold three (3) public and one (1) governmental agency scoping meetings to solicit input from the public and various Federal, state and local agencies to ensure that the full range of issues related to the proposed project are addressed and all major and/or substantial issues are identified. The first public scoping meeting will be held on Wednesday, August 4, 1999, from 7 p.m. to 10 p.m. at the South San Francisco Conference Center, 225 South Airport Boulevard, South San Francisco, California. The second public scoping meeting will be held on Saturday, August 7, 1999, from 12 p.m. to 4 p.m. at the San Mateo City Council Chambers, 300 West 20th Avenue, San Mateo, California. The third public scoping meeting will be held on Tuesday, August 10, 1999, from 7 p.m. to 10 p.m. at the City of San Francisco Board of Supervisors' Legislative Chamber, Room 250 at City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, California. A scoping meeting will be held specifically for governmental and public agencies on Tuesday, August 10, 1999, from 1 p.m. to 3 p.m. In the City of San Francisco Board of Supervisors' Legislative Chamber, Room 250 at City Hall, for those agencies which have jurisdiction or special expertise on any environmental issue that should be addressed in the EIS being prepared for the project.

Comments and Suggestions: Written comments and suggestions concerning the scope of the EIS may be mailed to the FAA informational contact listed above and must be received no later than September 9, 1999.

Issued in Hawthorne, California on June 24, 1999.

Herman C. Bliss,

*Manager, Airports Division, AWP-600,
Western-Pacific Region.*

[FR Doc. 99-16756 Filed 6-30-99; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Streamlining; Notice of Availability of Information

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of available information.

SUMMARY: The FHWA is announcing the availability of information about environmental streamlining efforts under section 1309 of the Transportation Equity Act for the 21st Century (TEA-21).

FOR FURTHER INFORMATION CONTACT: Ms. Lucy Garliauskas, Office of NEPA Facilitation, HENP, (202)366-2068, or Ms. Virginia I. Cherwek, Office of the Chief Counsel, HCC-31, (202)366-1372, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590; e-mail:

lucy.garliauskas@fhwa.dot.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the Office of the Federal Register's home page at: <http://www.nara.gov/fedreg> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara>.

Background

The environmental provisions of TEA-21, Pub. L. 105-178, 112 Stat. 107, 232, reflect Congress' reaction to concerns expressed about delays, unnecessary duplication of effort, and added costs often associated with the current process for reviewing and approving transportation projects. At the same time, the Congress did not change any environmental laws. Therefore, the FHWA concludes that the Congress intended no reduction in environmental protection. The chief objective of section 1309 of TEA-21, Environmental Streamlining, is to focus efforts on better, earlier, and more timely coordination among Federal, State, and local agencies.

The FHWA is currently in the process of identifying and defining ways to improve and streamline the environmental review processes for the development of highway projects consistent with continued environmental protection. These efforts may include:

(a) Entering into a national Memorandum of Understanding with

other Federal agencies who are responsible for reviewing environmental documents prepared under the National Environmental Policy Act of 1969, Pub. L. 91-190, 83 Stat. 852, as amended, for a highway construction or transit project, or who issue a permit, license, and opinion relating to the project;

(b) Recognizing successful efforts, promoting creative solutions at State and local levels, building upon successful practices;

(c) Encouraging field organizations to pursue partnering opportunities and programmatic agreements for site specific or project specific (pilot) efforts;

(d) Developing national dispute resolution procedures; and

(e) Identifying ways to develop performance measures and to benchmark techniques assessing the effectiveness of the project development processes and practices.

The FHWA is also considering revisions to its Environmental Impact and Related Procedures regulations. Any proposed revisions will be published separately in the **Federal Register** for public comment.

Updates on the FHWA's activities, documents, and streamlining initiatives are available to the public. Additionally, information on future meetings and conference calls will be located on the FHWA Office of Planning and Environment's website: <http://www.fhwa.dot.gov/environment/index.htm>.

Authority: 23 U.S.C. 315; sec. 1309, Pub. L. 105-178, 112 Stat. 107, 232; and 49 CFR 1.48.

Issued on: June 24, 1999.

Kenneth R. Wykle,

Administrator.

[FR Doc. 99-16827 Filed 6-30-99; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA-99-5057]

Fatigue Reducing Technologies

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Request for information.

SUMMARY: In accordance with section 4021(a) of the Transportation Equity Act for the 21st Century (TEA-21), the FHWA seeks information about technologies that may reduce commercial motor vehicle (CMV) driver fatigue, while also lowering CMV emissions and reducing fuel consumption. The FHWA believes that many such technologies may exist in

various stages of development and would like to obtain more information about them.

DATES: The FHWA must receive your submission of information on potential technologies on or before August 30, 1999.

ADDRESSES: All information should refer to the docket number that appears in the heading of this document. Submit it to the Docket Clerk, U.S. DOT Dockets, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. All submissions will be available for examination at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. If you desire notification of receipt of your submission of information, include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Albert Alvarez, Office of Motor Carrier Research & Standards, HMCS-20, (202) 366-4706, or Mr. Charles Medalen, Office of Chief Counsel, HCC-20, (202) 366-1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC. 20590-0001. Office hours are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments by using the DOT's Dockets Management System (DMS) at <http://dms.dot.gov>. The DMS is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1662. Internet users may reach the **Federal Register's** home page at <http://www.nara.gov/fedreg> and the Government Printing Office's database at <http://www.access.gpo.gov/nara>.

Background

Section 4021 of TEA-21 (Pub. L. 105-178) requires the Secretary of Transportation to encourage the research, development, and demonstration of technologies that may aid in reducing commercial motor vehicle (CMV) operators' fatigue. In implementing Section 4021, the Secretary must take into account the degree to which the fatigue-reducing technology: will be cost-efficient; can be used effectively under diverse climactic conditions; and will further emission

reductions, conserve energy, and support other transportation goals.

The FHWA has received information about a few private initiatives that appear to reduce fatigue while meeting varied climactic demands, conserving energy, and reducing emissions. However, as far as the FHWA is aware, the relative benefits and costs of these technologies (e.g., in terms of fuel consumption, definable level of emissions reductions, developmental cost, and operating cost) have not been subjected to a rigorous assessment. Moreover, other viable products may be planned or under development that the FHWA should include in any general assessment.

Consequently, the FHWA is interested in obtaining as much information as possible about a variety of emerging technologies, and requests that all interested parties provide the agency with information about specific technologies that appear to satisfy the intent of section 4021.

The FHWA will use the information that it collects to help it determine research priorities and funding needs. The FHWA also will use the information to determine whether Federal support of initial engineering and cost-benefit evaluations of the described technologies would be appropriate to answer questions about their performance. Analyzing performance will help determine potential benefits, as well as cost or design obstacles that might lessen acceptance. This cost-benefit analysis would be essential before the FHWA could make any further public investment in research to determine how well any specific technology mitigates fatigue.

Response Requirements

The FHWA asks that respondents provide the following information, at a minimum:

1. A general description of the technology itself, identifying, for example, its chemical, mechanical, and electronic components and configuration;
2. A brief description of the developmental history;
3. A summary of the technology's current or intended use(s);
4. The energy source(s) used, or to be used. In particular, whether it would, in a commercial motor vehicle environment, rely upon existing sources (e.g., on-vehicle fuel or battery power) or some additional/external source of energy;
5. A description of its status (i.e., initial design stage, available prototype,

pilot application/testing in an industry or transportation environment);

6. If appropriate, its current domestic or foreign application, either in transportation or some other industrial capacity;

7. Its potential for use and maintainability in a mobile CMV environment (assuming the technology is not now specifically designed for, or being used on CMVs);

8. Information about its public and private sector sponsor(s); and

9. The estimated cost of the technology.

In addition to the specific questions listed above, commenters are encouraged to discuss any other issues they believe are relevant to the assessment of technologies described in this Notice. The FHWA requests that commenters avoid submitting proprietary or confidential information.

Subsequent Evaluations

Once the FHWA has completed its review of all the submissions, the agency will publish a summary report on the characteristics, status and future developmental needs of the technologies described by individual respondents to this Notice. The FHWA also will discuss in its report the agency's determination of any need for additional evaluations or tests, based on the nature and number of individual technologies described in the submissions. The FHWA hopes to devote research dollars in FY 2000 to these additional evaluations or tests, as determined appropriate, subject to the availability of funds.

Authority: 23 U.S.C. 315; 49 CFR 1.48; Sec. 4021(a) of Pub. L. 105-178.

Issued on: June 23, 1999.

Kenneth R. Wykle,

Federal Highway Administrator.

[FR Doc. 99-16758 Filed 6-30-99; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 99-5476; Notice 2]

Electric Vehicles International; Grant of Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 121

We are granting the application by Electric Vehicles International LLC ("EVI") of Anderson, Indiana, to be exempted from portions of Federal Motor Vehicle Safety Standard No. 121, *Air Brake Systems*. The statutory basis

for granting this request is our finding that "compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard." 49 U.S.C. 30113.

We published a notice of receipt of the application on April 12, 1999 (64 FR 17715), and asked for comments on it. There was one comment: Gillig Corporation opposed granting the application. We present Gillig's comment in our discussion below on why we have decided to grant EVI's request.

The discussion below is based on information that EVI provided in its application.

Why EVI Needs an Exemption

EVI requested an exemption for three years. In August 1997, EVI was organized as a corporation, acquiring some of the assets of Specialty Vehicle Mfg. Corp. of California, a manufacturer of buses and trolleys for use in transit and shuttle service. EVI's goal is to turn the operation into "a first class bus company." It estimated its projected start-up costs at \$4,000,000, and has raised \$3,000,000 through a private placement offering.

Effective with vehicles manufactured on or after March 1, 1998, S5.1.6.1(a) of Standard No. 121 requires each single unit vehicle including buses to be equipped with an antilock brake system. EVI's product line consists of battery-powered and hybrid electric buses and trolleys, primarily used by transit agencies. Presently, it produces Generation III buses and trolleys. These vehicles are rated at 18,000 to 22,000 GVW, "so they do not fall in either the light vehicle or heavy vehicle class." It knows "from experience working with axle suppliers that it would take a minimum of 18-24 months to receive a prototype axle with antilock brakes." After receiving the prototype system, it would have to review for further design changes necessary to install on future vehicles.

Why Compliance Would Cause EVI Substantial Economic Hardship

To design, develop, and test an antilock brake system for a production rate of 50 to 300 vehicles per year would create a substantial increase in the price of the buses and trolleys that EVI intends to manufacture. If EVI is unable to obtain an exemption, it would have to "cease production and close the company." Its net loss for the 5 months it was in existence in 1997 was \$437,900, increasing to \$1,632,800 for the 12 months of 1998. The company had manufactured two vehicles as of the end of January 1998.

How EVI Has Tried in Good Faith To Comply With Standard No. 121

EVI's buses use an air-over-hydraulic brake system. The company has searched the industry to find an antilock brake system for vehicles defined as "medium duty vehicles." To date, it has been unable to find any manufacturer that has a system available to meet its braking requirements. Attachment 3 to EVI's application listed 19 manufacturers and suppliers that it contacted in its attempt to comply with the antilock brake system requirements in Standard No. 121.

Why an Exemption for EVI Would Be in the Public Interest and Consistent with the Objectives of Motor Vehicle Safety

The City of Anderson is assisting EVI financially with additional capital with the stipulation that EVI hire "at least 51% low and moderate income persons by creating jobs." EVI will offer prospective assembly positions extensive training in conjunction with the County's job training and partnership administration.

EVI enclosed data purporting to show that the total service and emergency brake stopping distance of its bus already comply with the maximum stopping distances specified in Table II of Standard No. 121, and will be unaffected by an exemption.

Why Gillig Corporation Opposes Granting EVI a Temporary Exemption

As noted earlier, we received one comment on EVI's application, from Gillig Corporation, which opposed it.

Gillig describes itself as "a manufacturer of heavy duty buses, primarily for transit operations." It views the antilock features of Standard No. 121 as a justifiable safety requirement, and not an option dependent on the profitability of a corporation. Given the April 1994 SNPRM that proposed applicability of antilock feature to buses initially in 1998, Gillig argues that this "is more than enough notice to plan for a business like change over," and concludes that "EVI ignored this important standard for at least two years." It criticizes EVI's "development time claims [as] obviously overstated." Gillig asserts that all EVI's competitors "have exactly the same business problems and economic hardships," and feels that it is "unfair for EVI to seek relief . . . for their business mismanagement." Gillig comments that "virtually all transit buses are included in F[ederal]T[ransit]A[dministration] funding programs" and that the taxpayers will not be receiving buses that fully comply with the FMVSS. Finally, in Gillig's view, we

"encouraged this petition last year with a large scale exception to Orion Bus Industries."

Our Finding That a Denial Would Cause Substantial Economic Hardship to a Manufacturer That Has Tried in Good Faith To Comply With Standard No. 121

According to its application, EVI was organized in August 1997, slightly over 6 months before the effective date of the requirement from which it seeks temporary relief. For this reason, Gillig's comment that "EVI ignored this important standard for at least two years" does not seem to be accurate. Nor does it appear that "all EVI's competitors have exactly the same business problems and economic hardships," because we have received no other applications from start-up manufacturers who cannot find a supplier. The Orion exemption (63 FR 26248) that Gillig mentioned is not on point; Orion simply was unable to complete an order of 148 buses before the effective date of the anti-lock requirement because of the insolvency of one of its suppliers. The rest of Orion's production complied as of March 1, 1998.

EVI's total production to date appears to be two buses, produced before March 1, 1998. The company first approached us about applying for an exemption at the end of September 1998. It appears obvious that it did not do so until it concluded that it could not find a supplier, after contacting 19 prospects. Although Gillig commented that EVI's "development times are obviously overstated," EVI's inability to find a supplier was not contested. In the meantime, EVI's cumulative net losses as of the end of 1998 were approximately \$2,000,000.

We find therefore that denial of an exemption will cause substantial economic hardship to a company that has made a good faith attempt to meet the anti-lock requirements of the air brake standard.

Our Finding That a Temporary Exemption Would Be in the Public Interest and Consistent With the Objectives of Motor Vehicle Safety

EVI informed us that, under a financing agreement with the City of Anderson, it is required to hire at least 51% low and moderate income persons by creating jobs, in conjunction with the County's job training and partnership administration. We have concluded that it is in the public interest as well to

facilitate the development of electric and hybrid propulsion systems.

EVI enclosed data which it believes show that the total service and emergency brake stopping distances of its bus already comply with the maximum stopping distances specified in Table II of Standard No. 121, and will be unaffected by an exemption.

We find therefore that a temporary exemption is in the public interest and consistent with the objectives of motor vehicle safety. We are nevertheless mindful that vehicles engaged in carrying the public on a daily basis ought to comply with anti-lock requirements at the earliest possible time. Although EVI has asked for a 3-year exemption, and we are granting it, we have the authority to impose appropriate terms on the grant (49 U.S.C. 30113(b)(1)). We are therefore asking EVI to provide us with a yearly report on the progress it is making in bringing its buses into full compliance with Standard No. 121, with the hope that this may be achieved before the end of the exemption period. This report will also include the number of buses

produced under the exemption as of that date.

Grant of the Temporary Exemption

Electric Vehicles International is hereby granted NHTSA Temporary Exemption No. 99-7 from S5.1.6.1(a) of 49 CFR 571.121 Standard No. 121 *Air brake systems*, expiring May 1, 2002, subject to the condition that it provide a report to the Administrator on May 1, 2000, and May 1, 2001, detailing its continuing efforts to conform, and including the number of buses manufactured under the exemption.

Authority: 49 U.S.C. 30113; delegations of authority at 49 CFR 1.50 and 501.4.

Issued on: June 22, 1999.

Ricardo Martinez,

Administrator.

[FR Doc. 99-16718 Filed 6-30-99; 8:45 am]

BILLING CODE 4910-59-P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations: "The Treasury of St. Francis of Assisi"

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: This is an amendment to the Notice regarding Culturally Significant Objects Imported for Exhibition in the exhibit entitled "The Treasury of St. Francis of Assisi." This is to amend **Federal Register** Doc. 99-1839, FR Vol. 64, No. 17 (January 27, 1999) by inserting the following language after the words "June 27, 1999": "and at the Fine Arts Museums of San Francisco, CA from on or about July 24, 1999, to on or about November 14, 1999." is in the national interest.

Dated: June 25, 1999.

Les Sin,

General Counsel.

[FR Doc. 99-16749 Filed 6-30-99; 8:45 am]

BILLING CODE 8230-01-M

Final Rule

Thursday
July 1, 1999

Part II

**Environmental
Protection Agency**

**40 CFR Part 51
Regional Haze Regulations; Final Rule**

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 51****[FRL-6353-4]****RIN 2060-AF32****[Docket No A-95-38]****Regional Haze Regulations****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: Section 169A of the Clean Air Act (CAA) sets forth a national goal for visibility which is the "prevention of any future, and the remedying of any existing, impairment of visibility in Class I areas which impairment results from manmade air pollution." There are 156 Class I areas across the country, including many well-known national parks and wilderness areas, such as the Grand Canyon, Great Smokies, Shenandoah, Yellowstone, Yosemite, the Everglades, and the Boundary Waters. Regional haze is visibility impairment caused by the cumulative air pollutant emissions from numerous sources over a wide geographic area. The EPA promulgated regulations in 1980 to address visibility impairment that is "reasonably attributable" to one or a small group of sources, but EPA deferred action on regional haze regulations until monitoring, modeling, and scientific knowledge about the relationship between pollutants and visibility effects improved. In 1993, the National Academy of Sciences (NAS) concluded that "current scientific knowledge is adequate and control technologies are available for taking regulatory action to improve and protect visibility."

On July 31, 1997 (62 FR 41138), EPA published proposed amendments to the 1980 regulations to set forth a program to address regional haze visibility impairment. The EPA also published a notice of availability of additional information on the proposed regional haze regulation on September 3, 1998. This notice took comment specifically on new implementation plan timelines set forth in the Transportation Equity Act for the 21st Century, Public Law 105-178, and on a proposal from the Western Governors' Association (WGA) for addressing the recommendations of the Grand Canyon Visibility Transport Commission (GCVTC) in the final rule. The EPA received more than 1300 comments overall on the proposal and notice of availability.

Today's final rule calls for States to establish goals and emission reduction

strategies for improving visibility in all 156 mandatory Class I national parks and wilderness areas. Specific provisions are included in the rule allowing nine western States to implement the recommendations of the GCVTC within the framework of the national regional haze program. In addition, EPA encourages States to work together in regional partnerships to develop and implement multistate strategies to reduce emissions of visibility-impairing fine particle pollution.

DATES: The regulatory amendments announced herein take effect on August 30, 1999.

ADDRESSES: *Docket.* The public docket for this action is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday excluding legal holidays, at the Air and Radiation Docket and Information Center (6102), Attention: Docket A-95-38, Room M-1500, 401 M Street, SW, Washington, DC 20460, phone 202-260-7548, fax 202-260-4400, email: A-and-R-Docket@epamail.epa.gov. A reasonable fee for copying may be charged. The regional haze regulations are subject to the rulemaking procedures under section 307(d) of the CAA. The documents relied on to develop the regional haze regulations have been placed in the docket.

FOR FURTHER INFORMATION CONTACT: For general questions regarding this notice, contact Richard Damberg, U.S. EPA, MD-15, Research Triangle Park, NC 27711, telephone (919) 541-5592, email: damberg.rich@epa.gov.

SUPPLEMENTARY INFORMATION:**Electronic Availability**

The official record for this rulemaking, as well as the public version, has been established under docket number A-95-38 (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 Confidential Business Information, is available for inspection from 8:00 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address in **ADDRESSES** at the beginning of this document. World Wide Web sites have been developed for overview information on visibility issues and related programs. These web sites can be accessed from Uniform Resource Locator (URL): <http://www.epa.gov/airlinks/>.

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I. Overview of Today's Final Rule

This preamble provides the details and rationale for the final regional haze rule. Unit II includes background information on regional haze and on the legal and scientific basis for today's action. Unit III describes the provisions of the national requirements for regional haze and includes a discussion of the comments received on the July 1997 proposal. Unit IV discusses specific regional provisions for 16 western Class I areas that were the subject of a 1996 report by the GCVTC. Unit V is a discussion of issues related to implementation of the rule by Indian tribes. Unit VI summarizes several technical amendments to existing visibility regulations in order to coordinate those requirements with the requirements of today's final rule. Unit VII discusses how today's final rulemaking is in compliance with the requirements of various executive orders and statutes.

II. Background Information on the Regional Haze Program

A. Regional Haze

Regional haze is visibility impairment that is produced by a multitude of sources and activities which emit fine particles and their precursors and which are located across a broad geographic area.¹ Twenty years ago, when initially adopting the visibility protection provisions of the CAA, Congress specifically recognized that the "visibility problem is caused primarily by emission into the atmosphere of SO₂, oxides of nitrogen, and particulate matter, especially fine particulate matter, from inadequate[ly] controlled sources."² The fine particulate matter

(PM) (e.g., sulfates, nitrates, organic carbon, elemental carbon, and soil dust) that impairs visibility by scattering and absorbing light can cause serious health effects and mortality in humans, and contribute to environmental effects such as acid deposition and eutrophication. Data from the existing visibility monitoring network show that visibility impairment caused by air pollution occurs virtually all the time at most national park and wilderness area monitoring stations.³ Average visual range in many Class I areas⁴ in the Western United States is 100–150 kilometers (13.6–9.6 deciviews),⁵ or about one-half to two-thirds of the visual range that would exist without manmade air pollution. In most of the east, the average visual range is less than 30 kilometers (25 deciviews or more), or about one-fifth of the visual range that would exist under estimated natural conditions. The role of regional transport of fine particles in contributing to elevated PM levels and regional haze impairment has been well documented by many researchers⁶ and

³ National Park Service. Air Quality in the National Parks: A Summary of Findings from the National Park Service Air Quality Research and Monitoring Program. Natural Resources Report 88–1. Denver, CO, July 1988.

⁴ Areas designated as mandatory Class I Federal areas are those national parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks which were in existence on August 7, 1977. Visibility has been identified as an important value in 156 of these areas. See 40 CFR part 81, subpart D. The extent of a Class I area includes subsequent changes in boundaries, such as park expansions. (CAA section 162(a)). States and tribes may designate additional areas as Class I, but the requirements of the visibility program under section 169A of the CAA apply only to "mandatory Class I Federal areas," and they do not directly address any additional areas.

⁵ "Deciview" is a visibility metric discussed further in unit III.C. of today's notice, and defined in section 51.301(bb) of the rule. Higher deciview values indicate greater levels of visibility impairment.

⁶ See National Acid Precipitation Assessment Program. Acid Deposition: State of Science and Technology. Report 24, Visibility: Existing and Historical Conditions—Causes and Effects, Table 24–6. Washington, DC 1991. See also U.S. EPA. Air Quality Criteria for Particulate Matter. Office of Research and Development, National Center for

recognized as a significant issue by policymakers from Federal, State and local agencies, industry and environmental organizations.

B. How Today's Final Rule Responds to the CAA

The visibility protection program under sections 169A, 169B, and 110(a)(2)(J) of the CAA is designed to protect Class I areas⁷ from impairment due to manmade air pollution. Congress adopted the visibility provisions in the CAA to protect visibility in these "areas of great scenic importance."⁸ The current regulatory program addresses visibility impairment in these areas that is "reasonably attributable"⁹ to a specific source or small group of sources. In adopting section 169A, the core visibility provisions adopted in the 1977 CAA Amendments, Congress also expressed its concern with visibility problems caused by pollutants that "emanate from a variety of sources." It noted the problem of "hazes" from "regionally distributed sources,"¹⁰ and concluded that additional provisions were needed to remedy "the growing visibility problem." The purpose of today's final rule is to revise the existing visibility regulations¹¹ in order to integrate provisions addressing regional haze impairment. Today's final rule establishes a comprehensive visibility protection program for Class I areas. Figure 1 is a map indicating the locations of the Class I areas.

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Environmental Assessment. EPA/600/P–95/001bF. Research Triangle Park, NC. 1996.

⁷ For the purposes of this preamble, the term "Class I area" will be used to describe the 156 mandatory Class I Federal areas identified in section 51.301(o) and in part 81, subpart D of this title.

⁸ H.R. Rep. No. 294, 95th Cong. 1st Sess. at 205 (1977).

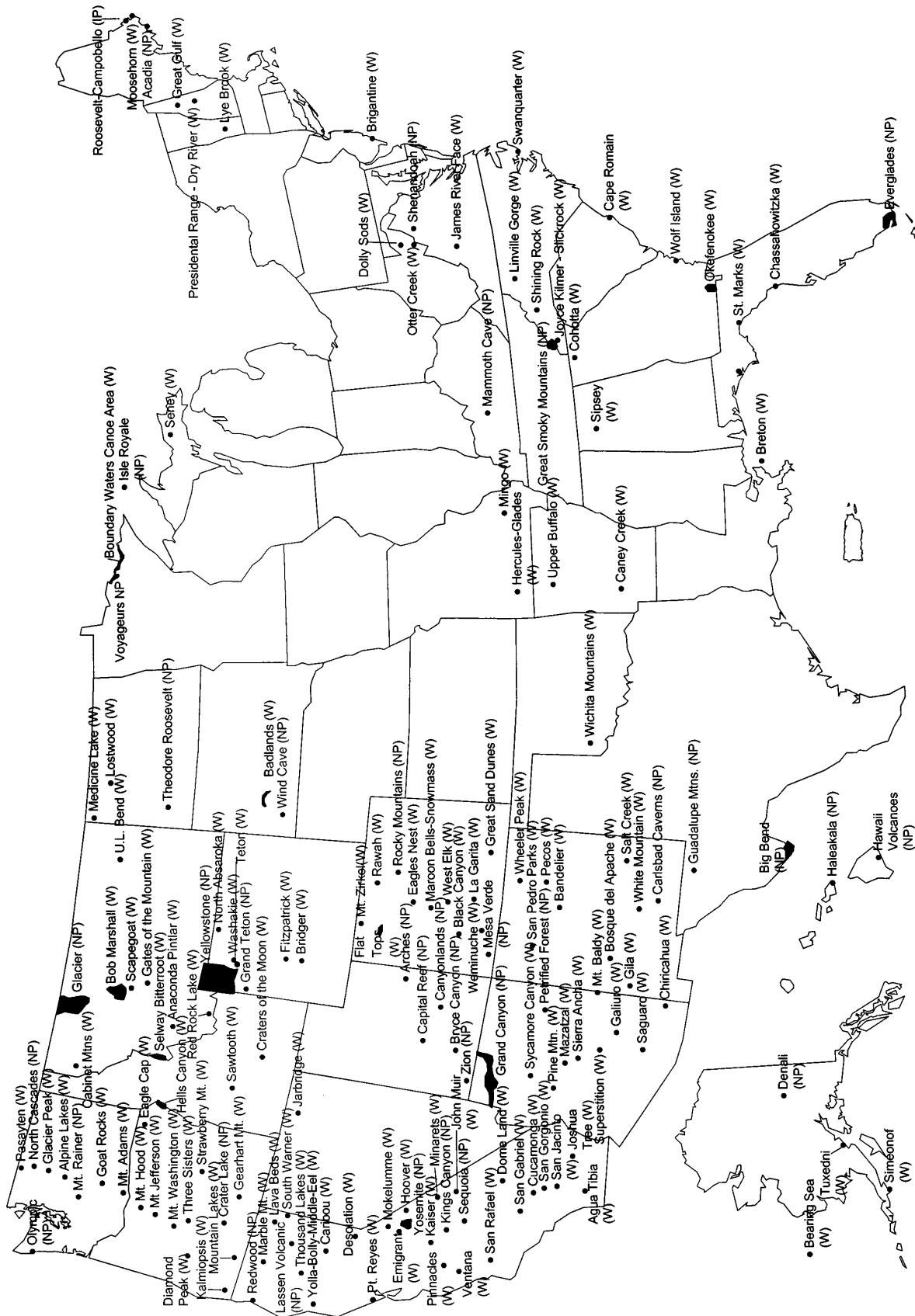
⁹ "Reasonably attributable" visibility impairment, as defined in section 51.301(s), means "attributable by visual observation or any other technique the State deems appropriate." It includes impacts to Class I areas caused by plumes or layered hazes from a single source or small group of sources.

¹⁰ H.R. Rep. No. 95–294 at 204 (1977).

¹¹ 45 FR 80084 (December 2, 1980) and section 51.300–307.

¹ U.S. EPA. Air Quality Criteria for Particulate Matter. Office of Research and Development, National Center for Environmental Assessment. EPA/600/P–95/001bF. Research Triangle Park, NC. 1996.

² H.R. Rep. No. 95–294 at 204 (1977).



C. The 1980 Visibility Regulation—Commitment to a Regional Haze Program

Section 169A of the CAA, established in the 1977 Amendments, sets forth a national visibility goal that calls for “the prevention of any future, and the remedying of any existing, impairment of visibility in Class I areas which impairment results from manmade air pollution.” The EPA’s initial visibility regulations, developed in 1980, address visibility impairment that is “reasonably attributable” to a single source or small group of sources. Under the 1980 rules, the 35 States and 1 territory containing Class I areas¹² are required to:

(1) Revise their SIPs to assure reasonable progress toward the national visibility goal;

(2) Determine which existing stationary facilities should install the best available retrofit technology (BART) for controlling pollutants which impair visibility;

(3) Develop, adopt, implement, and evaluate long-term strategies for making reasonable progress toward remedying any existing and preventing any future impairment in the Class I areas;

(4) Adopt certain measures to assess potential visibility impacts due to new or modified major stationary sources, including measures to notify Federal land managers (FLMs) of proposed new source permit applications, and to consider visibility analyses conducted by FLMs in their new source permitting decisions; and

(5) Conduct visibility monitoring in Class I areas.

The 1980 rules addressing “reasonably attributable” visibility impairment were designed to be the first phase in EPA’s overall program to protect visibility. The EPA explicitly deferred national rules addressing regional haze impairment until some future date:

* * * when improvement in monitoring techniques provides more data on source-specific levels of visibility impairment, regional scale models become refined, and our scientific knowledge about the relationships between emitted air pollutants and visibility impairment improves.¹³

¹² The States and one territory having at least one Class I area are listed in section 51.300(b)(2). These States and one territory are as follows: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Idaho, Kentucky, Louisiana, Maine, Michigan, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Virgin Islands, Washington, West Virginia, and Wyoming. For a specific list of Class I areas located in each state or territory, see 40 CFR 81.401–437.

¹³ 45 FR 80086.

The EPA believes that the technical tools and our scientific understanding of visibility impairment are now sufficiently refined to move forward with a national program addressing regional haze in Class I areas. The EPA’s position is supported by the NAS 1993 report, *Protecting Visibility in National Parks and Wilderness Areas*. One of the principal conclusions of this report is that “current scientific knowledge is adequate and control technologies are available for taking regulatory action to improve and protect visibility.”¹⁴ Section II.D. describes a number of other studies and information now available which provide the technical basis to move forward with a regional haze program.

In addition, EPA finds the visibility protection provisions of the CAA to be quite broad. Although EPA is addressing visibility protection in phases, the national visibility goal in section 169A calls for addressing visibility impairment generally, including regional haze.¹⁵

Further, Congress added section 169B as part of the 1990 Amendments to the CAA to focus attention on regional haze issues; it calls for EPA to issue regional haze rules within 18 months of receipt of the final report from the GCVTC. In addition, section 169B includes provisions for EPA to conduct visibility research with the National Park Service and other Federal agencies, to develop an interim findings report on the visibility research,¹⁶ to develop a Report to Congress on expected visibility improvements due to implementation of other air pollution programs,¹⁷ and to provide periodic reports to Congress on trends in visibility improvements. Section 169B also provides the authority to the Administrator to establish visibility transport commissions in response to a petition from two or more States, or on her and/or his own motion. To date, EPA has not received any

¹⁴ National Research Council Committee on Haze in National Parks and Wilderness Areas, *Protecting Visibility in National Parks and Wilderness Areas*, National Academy Press, 1993, p. 11.

¹⁵ *State of Maine v. Thomas*, 874 F.2d 883, 885 (1st Cir. 1989) (“EPA’s mandate to control the vexing problem of regional haze emanates directly from the CAA, which ‘declares as a national goal the prevention of any future, and the remedying of any existing, impairment of visibility in Class I areas which impairment results from manmade air pollution.’”) (citation omitted).

¹⁶ U.S. EPA, *Interim Findings on the Status of Visibility Research*, Office of Research and Development, EPA/600/R-95/021, February 1995. See also 60 FR 8659 notice announcing the report availability and how to obtain copies (Feb. 15, 1995).

¹⁷ U.S. EPA, *Effects of the 1990 CAA Amendments on Visibility in Class I Areas: An EPA Report to Congress*, October 1993 (EPA-452/R-93-014).

petitions from groups of States requesting formation of a visibility transport commission.

Section 169B(f) called for EPA to establish a visibility transport commission for the region affecting visibility of the Grand Canyon National Park. The purpose of this commission was to assess scientific and technical information pertaining to adverse impacts on visibility at the Park from existing emissions and projected growth in emissions. The statute specifically called for a report to EPA recommending measures to remedy such impacts and to address long-term strategies for addressing regional haze.¹⁸ In 1991, EPA established the GCVTC,¹⁹ and the GCVTC issued its final report in June 1996.²⁰ The recommendations of the GCVTC and their incorporation as potential SIP requirements into the final rule, are discussed in greater detail in unit IV of the preamble.

Finally, section 169B(e) calls for the Administrator to consider past research and the recommendations of visibility transport commissions in carrying out the “regulatory responsibilities under section 169A, including criteria for measuring ‘reasonable progress’ toward the national goal.”²¹ The EPA is required by the CAA to meet these regulatory responsibilities within 18 months of receiving the GCVTC report. Today’s final rule fulfills EPA’s responsibility under section 169A, pending since 1980, to put in place a national regulatory program that addresses both reasonably attributable and regional haze visibility impairment. Today’s action is also EPA’s response to the GCVTC report as anticipated by section 169B.

D. Sources of Scientific Information and Policy Recommendations on Regional Haze

In developing today’s revisions to the visibility regulations, EPA has taken into account a significant body of scientific information and policy recommendations on visibility issues that have been developed over more than 20 years. This unit highlights key sources of information upon which the final regional haze rule is based.

For many years, visibility impairment has been considered the “best understood and most easily measured

¹⁸ CAA section 169B(d)(2)(C).

¹⁹ 56 FR 57522, November 12, 1991.

²⁰ Grand Canyon Visibility Transport Commission, *Recommendations for Improving Western Vistas*, Report to the U.S. EPA, June 10, 1996 (hereafter referred to as “GCVTC Report”).

²¹ CAA section 169B(e)(1).

effect of air pollution.”²² Visibility degradation has also been recognized as an indicator of multiple human-health effects and environmental effects resulting from air pollution all over the world.²³ Visibility conditions have been monitored and evaluated for many years, using airport visibility data collected from the 1940's to the present.²⁴

In October 1979, EPA published a Report to Congress describing the state of the science on visibility.²⁵ The report, required under section 169A(a)(3), described available methods for visibility monitoring, modeling, and assessment of strategies to make progress toward the national goal. This report was developed in advance of the 1980 visibility regulations. As noted above, EPA deferred action on regional haze until monitoring techniques, modeling capabilities, and the understanding of the pollutants affecting visibility were improved. In 1986, the IMPROVE (Interagency Monitoring of Protected Visual Environments) visibility monitoring program was initiated in 30 Class I areas. The IMPROVE program has been coordinated through a cooperative, multiagency approach with participation by EPA, the FLMS, and States. Through the IMPROVE program, significant progress has been made in understanding the effect of various pollutants on current visibility conditions and trends, in developing well-accepted monitoring protocols, and in developing a sound approach for calculating light extinction values from aerosol and humidity data. The IMPROVE program has issued two major reviews of the monitoring data collected to date,²⁶ and numerous

technical papers have been developed using data collected by the network.

In addition, in 1996 EPA began to include a chapter on visibility trends, based on data collected throughout the IMPROVE network, in the National Air Quality and Emissions Trends Report in 1996.²⁷ Data from 1988 to the present are analyzed for the best 20 percent, middle 20 percent, and worst 20 percent days of the annual distribution, and aggregated for eastern and western sites. Annual summary data are also presented for each individual site in an appendix.

Visibility research continued throughout the 1980's and is documented in many published articles and the proceedings of three major visibility conferences.²⁸ In addition, the NAPAP completed a comprehensive review of the state of the science of visibility in 1991.²⁹ This peer-reviewed report reached a number of important conclusions, including: (1) Light scattering is dominated by fine particles; (2) sulfates are the dominant source of light extinction in the east, and one of several major sources of extinction in the west; (3) rural visibility varies significantly between the east and west; (4) average natural visibility conditions are 150 kilometers visual range (9.6 deciviews) in the east and 230 kilometers visual range (5.3 deciviews) in the west; and (5) haze trends in the eastern United States have been dominated by sulfur emission trends since the late 1940's.

The NAS formed a Committee on Haze in National Parks and Wilderness Areas in 1990 to address a number of regional haze-related issues, including methods for determining anthropogenic source contributions to haze and methods for considering alternative source control measures. The 1993

report by this Committee contributed significantly to the state of the science regarding regional haze visibility impairment.³⁰ The Committee issued several important conclusions in the report, including: (1) Current scientific knowledge is adequate and control technologies are available for taking regulatory action to address regional haze; (2) progress toward the national goal will require regional programs that operate over large geographic areas and limit emissions of pollutants that can cause regional haze; (3) a program to address regional haze visibility impairment that focuses solely on determining the contributions of individual emission sources to such visibility impairment is likely to fail, and instead, strategies should be adopted to consider simultaneously the effect of many sources on a regional basis; (4) visibility impairment can be attributed to emission sources on a regional scale through the use of several kinds of models; (5) visibility and control policies might need to be different in the west than the east; (6) efforts to improve visibility within Class I areas will benefit visibility outside these areas and could help alleviate other types of air quality problems as well; (7) achieving the national visibility goal will require a substantial, long-term program; and (8) continued progress toward this goal will require a greater commitment toward atmospheric research, monitoring, and emissions control research and development.

Also in 1993, EPA developed its Report to Congress on the projected effects on visibility in Class I areas due to implementation of the 1990 CAA Amendments.³¹ The report concluded that conditions on the worst visibility days are expected to improve by approximately 3 deciviews by 2010 across the most impaired portions of the Eastern United States. Most of this improvement is expected in the 1995–2005 timeframe due to sulfur dioxide reductions under the acid rain program. In the Southwestern United States, the visibility change was predicted to be less than 1 deciview in most Class I areas except San Geronio Wilderness (which is located downwind of Los Angeles), for which a 1–2 deciview improvement is expected.

²² Council on Environmental Quality, Visibility Protection for Class I Areas: The Technical Basis, Washington, DC, 1978.

²³ National Research Council, NAS Committee on Haze in National Parks and Wilderness Areas, Protecting Visibility in National Parks and Wilderness Areas, National Academy Press, 1993, p. 23.

²⁴ National Acid Precipitation Assessment Program (NAPAP), Acid Deposition: State of Science and Technology. Report 24, Visibility: Existing and Historical Conditions—Causes and Effects, Washington, DC, 1991.

²⁵ U.S. EPA, Protecting Visibility: An EPA Report to Congress; Office of Air Quality Planning and Standards, EPA-450/5-79-008, October 1979.

²⁶ Sisler, J. et al., Spatial and Seasonal Patterns and Long-Term Variability of the Chemical Composition of the Haze in the U.S.: An Analysis of Data from the IMPROVE Network, Fort Collins, CO, Cooperative Institute for Research in the Atmosphere, Colorado State University, 1996. See also Sisler, J., et al., Spatial and Temporal Patterns and the Chemical Composition of the Haze in the United States: An Analysis of Data From the IMPROVE Network, 1988–1991, Fort Collins, CO, 1993.

²⁷ U.S. EPA, National Air Quality and Emissions Trends Report, 1996, Office of Air Quality Planning and Standards, EPA 454/R-97-013, January 1998. See also U.S. EPA, National Air Quality and Emissions Trends Report, 1997, Office of Air Quality Planning and Standards, EPA 454/R-98-016, January 1999.

²⁸ Atmospheric Environment, Proceedings of EPA Symposium on Plumes and Visibility—Measurements and Model Components, November 1980, Atmos. Environ., 15:1785–2646. See also Bhardwaja, P.J., ed., Visibility Protection: Research and Policy Aspects. Transactions of APCA Specialty Conference, September 1986, Grand Tetons National Park, WY. Air Pollution Control Assoc., Pittsburgh, PA, 1987. See also Mathai, C.V., ed., Visibility and Fine Particles. Transactions of AWMA specialty conference, October 1989, Estes Park, CO. Air and Waste Management Assoc., Pittsburgh, PA, 1990.

²⁹ National Acid Precipitation Assessment Program (NAPAP), Acid Deposition: State of Science and Technology, Report 24, Visibility: Existing and Historical Conditions—Causes and Effects, Washington, DC, 1991.

³⁰ National Research Council, NAS Committee on Haze in National Parks and Wilderness Areas, Protecting Visibility in National Parks and Wilderness Areas, National Academy Press, Washington, DC, 1993.

³¹ U.S. EPA, Effects of the 1990 Clean Air Act Amendments on Visibility in Class I Areas: An EPA Report to Congress, Office of Air Quality Planning and Standards, EPA-452/R-93-014, October 1993.

As required by section 169B(a)(2) of the CAA, EPA issued a report in 1995 on interim findings on the status of visibility research completed since 1990.³² This report reviewed four major visibility related reports published since 1990,³³ provided citations of published research papers, and summarized research under way by the GCVTC, four Federal agencies, and the Electric Power Research Institute. As noted above, the GCVTC issued a report in June 1996 containing recommendations for protecting visibility at 16 Class I areas on the Colorado Plateau. Based on EPA's discretionary authority under section 169B(c), it expanded the scope of the GCVTC:

* * * to include additional Class I areas in the vicinity of the Grand Canyon National Park—what is sometimes referred to as the “Golden Circle” of parks and wilderness areas. This includes most of the national parks and national wilderness areas of the Colorado Plateau.³⁴

The GCVTC was charged with assessing information about visibility impacts in the region and making policy recommendations to EPA to address such impacts. The CAA called for the GCVTC to assess studies conducted under section 169B as well as other available information “pertaining to adverse impacts on visibility from potential or projected growth in emissions for sources located in the * * * Region,” and to issue a report to EPA recommending what measures, if any, should be taken to protect visibility.³⁵ The CAA specifically provided for the GCVTC's report to address the following measures: (1) The establishment of clean air corridors, in which additional restrictions on increases in emissions may be appropriate to protect visibility in affected Class I areas; (2) the imposition of additional new source review requirements in clean air corridors;³⁶ and (3) the promulgation of regulations addressing regional haze.

In unit IV of the proposal, EPA discusses the major recommendations of the GCVTC. The GCVTC's recommendations have components that contemplate implementation through a combination of actions by EPA, other

Federal agencies, States and tribes in the region, and voluntary measures on the part of public and private entities throughout the region. The GCVTC's recommendations also distinguish between recommended actions and policy or strategy options for consideration. Unit IV addresses how EPA took these recommendations, as well as the body of technical information developed by the GCVTC, into account in developing the final rule.

Response to comments. Some commenters on the regional haze proposal suggested that EPA had not provided an adequate scientific or legal justification for developing a regional haze program. The commenters asserted that the science of regional haze is not understood well enough to develop regulations at this time. In addition, some commenters claimed that EPA has not provided adequate technical guidance for implementation of the rule, and that providing such guidance is a legal prerequisite to promulgating a regional haze rule. The EPA does not agree with these claims.

First, EPA believes it has relied upon a substantial amount of scientific evidence to support development of the regional haze program. Many of the important studies, reports, and other scientific and technical information on which the regional haze rule is based are referenced earlier in this section. In particular, the NAS Committee on Haze in National Parks and Wilderness Areas concluded that “Current scientific knowledge is adequate and control technologies are available for taking regulatory action to improve and protect visibility.”³⁷ Thus, EPA believes that its decision to move forward with promulgation of the regional haze program is reasonable, particularly in light of the fact that the Agency's obligation to address regional haze originated more than 20 years ago with passage of the 1977 CAA Amendments.

Second, as discussed in the response to comments, today's final rule provides the States with the necessary guidelines to implement a regional haze program. The EPA believes that the supposition that all technical guidance associated with a program be developed before a rule can be promulgated is unfounded. The EPA recognizes the importance of timely implementation guidance and is committed to providing such guidance, as appropriate, for the regional haze program.

The EPA does not interpret sections 169A and 169B as requiring all technical guidance to be issued by the Agency before the rule is finalized. The EPA is committed to working closely with the States and other interested parties in developing effective guidance documents within a reasonable period of time after promulgation of the final regional haze rule.

E. Relationship to Secondary NAAQS for PM

Today's final rule is an important element in EPA's overall approach to protecting visibility under the CAA. In July 1997, EPA established national secondary ambient air quality standards (NAAQS) for particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers (PM_{2.5}) as part of its final decision on revision of the existing NAAQS for particulate matter under section 109(d) of the CAA.³⁸ The secondary standards were based on EPA's determination that the levels selected were “requisite to protect the public welfare” against visibility impairment on a nationally uniform basis as provided in section 109(b). Consistent with the purposes of section 169A, however, EPA recognized that such nationally uniform standards would not eliminate all visibility impairment in all parts of the country.³⁹ The visibility impacts remaining in Class I areas are addressed by today's final rule.

Today's final rule has additional benefits, as EPA expects the regional strategies implemented as part of the regional haze program to improve visibility outside of Class I areas as well. Thus, the regional haze program should contribute to the improvement of local visibility impacts outside of Class I areas that may persist after attainment of the secondary standards.

F. Regional Planning and Integration With Programs to Implement the NAAQS for Ozone and Particulate Matter

The regional haze program is being promulgated in a manner that facilitates integration of emission management strategies for regional haze with the implementation of programs for new NAAQS for ozone and PM. This is being done because of the existing scientific evidence that these air quality problems have common precursor pollutants, emission sources, atmospheric processes, spatial scales for transport, and geographic areas of concern.

³² U.S. EPA, Interim Findings on the Status of Visibility Research, Office of Research and Development, EPA/600/R-95/021, February 1995.

³³ These reports have already been mentioned in this section: the 1993 NAS report, the 1993 IMPROVE report (Sisler et al.), the 1993 EPA Report to Congress, and the 1991 NAPAP Report to Congress.

³⁴ 56 FR 57523

³⁵ CAA Section 169B(d).

³⁶ A clean air corridor is defined as a region that generally brings clear air to a receptor region, such as the Class I areas of the Golden Circle.

³⁷ National Research Council, NAS Committee on Haze in National Parks and Wilderness Areas, Protecting Visibility in National Parks and Wilderness Areas, National Academy Press, Washington, DC, 1993, p. 11.

³⁸ 62 FR 38652 (July 18, 1997).

³⁹ See section 160(1); H.R. Rep. No. 95-294 at 205 (1977).

Because of the key role of regional pollutant transport in contributing to haze at Class I areas, most of which are in remote locations, the regional haze program recognizes the value of multistate coordination for regional haze program planning and implementation. Consistent with the recommendations of the Clean Air Act Advisory Committee, Subcommittee on Ozone, Particulate Matter, and Regional Haze Implementation Programs,⁴⁰ EPA strongly encourages States to undertake multistate regional planning efforts addressing regional haze in a way that coordinates technical analyses and strategy development with the NAAQS to the maximum extent possible. Examples of ongoing coordination among States to address visibility issues include the Western Regional Air Partnership (WRAP) and the Southern Appalachian Mountain Initiative.

The EPA believes that States (and tribes, at their discretion), in partnership with other interested stakeholders, should consider conducting future regional air quality planning efforts to address the implementation of the ozone and PM NAAQS and regional haze program. We encourage States to continue to work together to establish common protocols and approaches for emissions inventory development, emissions tracking, application of regional models, and development of effective emission reduction strategies.

The EPA plans to participate early and actively in regional planning efforts. The EPA recognizes that we must provide early input on issues and to make our views known as issues arise. The EPA has a responsibility to independently review the adequacy of implementation plans in the public rulemaking process and to consider all public comments received on a plan in determining if it meets applicable requirements. However, it is equally important that EPA be open in letting participants know of our views and concerns throughout the process.

The EPA will soon issue final guidance on such regional planning efforts for the purposes of implementing the ozone, particulate matter, and regional haze implementation programs.⁴¹ Also, as a part of EPA's 1999 fiscal year budget, Congress

provided \$4 million dollars to support regional planning activities. EPA is currently involved with the States in a process to define the appropriate size and composition of regional planning bodies. The final planning guidance will provide a discussion of several important issues related to regional planning efforts. These issues include:

- Taking credit for emissions reductions in other States;
 - Important principles for future regional planning efforts;
 - The technical assessment process; and
 - The strategy development process.
- Some important principles discussed in the guidance for conducting regional planning efforts include the following points.
- Regional planning efforts should be a product of State (and, at the discretion of any tribe, tribal) leadership and, thus, should be led by States (and tribes), not EPA. Representatives should have the authority to speak for their organizations.

- States (and tribes at their discretion) should be prepared to make strong, early commitments to implementing the outcome of the regional process to ensure that SIP submittal dates are met.

- Participants in regional planning efforts should set up a work plan to carry out their work. The work plan should contain clearly stated products of the process, dates for completion of those products and mechanisms for funding the needed analyses.

- The technical assessment process should include steps for problem definition, development of emissions inventories, and development of tools to evaluate strategy alternatives.

- In the strategy development process, participants should strive to develop a consensus about (1) the set of regional emissions reductions strategies needed to attain the NAAQS or make "reasonable progress" toward the national visibility goal in Class I areas, and (2) the degree to which each State and relevant source category should be required to reduce emissions to implement the recommended strategies.

III. Discussion of National Program Requirements and Response to Comments

• Scope of Rule—Extending Coverage to All States

Proposed rule. In the regional haze proposal, EPA proposed to amend section 51.300(b)(3) to extend coverage to all States (excluding certain territories) for the purpose of addressing regional haze visibility impairment. This approach differed from the 1980 visibility regulations for "reasonably

attributable" impairment, which required the 35 States and the Virgin Islands containing Class I areas to submit SIP revisions and to revise them periodically to assure reasonable progress toward the national visibility goal. Thus, under the proposal, the following additional States and the District of Columbia would be required to submit visibility SIPs: Nebraska, Kansas, Iowa, Wisconsin, Illinois, Indiana, Ohio, Mississippi, New York, Pennsylvania, Massachusetts, Rhode Island, Connecticut, and Maryland. The territories of Puerto Rico, Guam, American Samoa, and the Northern Mariana Islands were not included because their distance from any Class I area significantly exceed the distance that their emissions could be expected to be transported in order to contribute to visibility impairment in any Class I area. However, Hawaii, Alaska, and the Virgin Islands would be subject to the regional haze provisions because of the potential for emissions from sources within their borders to contribute to regional haze impairment in Class I areas also located within their own jurisdiction.

In the proposal, EPA also recommended that all States initially participate in regional planning efforts to more precisely characterize which States are contributing to visibility impairment in other States, as well as the magnitude of such contributions. States could then develop strategies for making reasonable progress in Class I areas throughout the region. The EPA noted that as a result of this process, all States may not have to adopt control strategies. At the same time, EPA cited the 1993 NAS report, which observed that the requirement for a State to revise its implementation plan if it "may reasonably be anticipated" to contribute to visibility impairment indicates that Congress intended that "the philosophy of precautionary action should apply to visibility protection as it applies to other areas [such as the NAAQS]." Thus, EPA proposed that, at a minimum, all States should be required to develop visibility SIPs in order to "prevent any future impairment" as called for by the national goal in section 169A(a)(1).

Contracts received. The EPA received a number of comments on the proposed applicability provisions. Many commenters approved of EPA's approach to require SIPs from all States. Those who did not agree with the scope of the program provided a number of reasons for their opposition. Some commenters recognized the need for a regional haze program, but stated that EPA must first conduct or review

⁴⁰ Subcommittee for Ozone, Particulate Matter, and Regional Haze Implementation Programs, Final Report on Subcommittee Discussions, May 1998.

⁴¹ See the November 17, 1998 draft of Implementation Guidance for the Ozone and Particulate Matter NAAQS and Regional Haze Program. EPA's internet site for an electronic version of this guidance: <http://www.epa.gov/ttn/oarpg/tlpgm.html>.

additional scientific analyses in order to provide justification for requiring additional States to submit visibility SIPs. Other commenters felt that in the proposed applicability provisions, EPA exceeded its statutory authority by extending the regional haze program to States that have not been demonstrated to "cause or contribute" to visibility impairment. Some commenters suggested that EPA rely on States with Class I areas to engage nearby States, as appropriate, in regional planning efforts. Some commenters in States containing Class I areas suggested that, for their particular Class I areas, there was no demonstrated visibility problem. They asserted that because visibility levels should already be deemed acceptable, there was no need for a regional haze program in their States. Other commenters felt that EPA should include specific criteria (e.g., distance, emissions, and visibility impact cutoffs) for excluding States or geographic areas from consideration as contributing to regional haze visibility impairment.

Final rule. Consistent with the proposal, EPA has concluded in today's final rule that all States contain sources whose emissions are reasonably anticipated to contribute to regional haze in a Class I area and, therefore, must submit regional haze SIPs. The rationale for this finding is discussed in more detail below.

In making this finding, EPA considered three factors: (1) The specific statutory language in the CAA; (2) the weight of evidence demonstrating long-range transport of fine particulate pollution that affects visibility in Class I areas; and (3) current monitored conditions in Class I areas across the country. The EPA's consideration of each of these factors is discussed below.

Two key provisions in section 169A support EPA's finding that all States must develop SIPs for regional haze. Section 169A(b)(2) requires EPA to promulgate regulations to require SIPs from those States where the emissions "may reasonably be anticipated to cause or contribute to any impairment of visibility" in a mandatory Class I Federal area. The EPA believes that this provision does not require the Agency to provide absolute certainty regarding the effect of emissions from the State on visibility in a particular Class I area.

The Ninth Circuit has interpreted the language, "may reasonably be anticipated to cause or contribute to any impairment of visibility," in a case involving identical language in section 169A(b)(2)(A) relating to BART.⁴² The

EPA believes that the court's interpretation of this phrase may be appropriately used in regard to program applicability as well. In its decision, the court found that the language "may reasonably be anticipated to cause or contribute" establishes an "extremely low triggering threshold" for requiring a source to control emissions, adding that "the NAS correctly noted that Congress has not required ironclad scientific certainty establishing the precise relationship between a source's emission and resulting visibility impairment. * * *" ⁴³ In considering whether additional States should be subject to the visibility program, EPA believes the court's reasoning supports adoption of the predicate requirement that States develop the necessary provisions in their implementation plans to determine whether and to what extent control of emissions from sources is needed. That is, given that the court believed this "low triggering threshold" was sufficient to require a source to control its emissions under BART, EPA believes it is reasonable that a similarly low or even lower threshold applies to whether States should be required to engage in air quality planning and analysis as a prerequisite to determining the need for control of emissions from sources within their State. The EPA believes this is particularly appropriate since the requirement for SIPs does not mandate the actual control of emissions from any source without further technical analysis by the State. Accordingly, EPA believes the concept of an "extremely low triggering threshold" can also apply in determining which States should submit SIPs for regional haze.

Section 169A(a)(1) sets forth a national goal of "the prevention of any future, and the remedying of any existing, impairment of visibility in Class I areas which impairment results from manmade air pollution." Thus, in addition to requiring a program to reduce existing impairment, the CAA requires SIPs to be established in order to prevent future impairment. This preventative component of the national goal requires that States have the framework in place to address future growth in emissions from new sources or other activities that could impair visibility. For this reason, the EPA does not believe that it is appropriate to establish criteria for excluding States or geographic areas from consideration as potential contributors to regional haze visibility impairment.

As noted in the proposal, EPA is not specifying in this final rule what

specific control measures a State must implement in its initial SIP for regional haze. That determination can only be made by a State once it has conducted the necessary technical analyses of emissions, air quality, and the other factors that go into determining reasonable progress. As discussed in section II(F), because of the regional, multistate nature of visibility impairment in Class I areas,⁴⁴ EPA recommends that these analyses and the determination of the extent of emissions reductions needed from individual States be developed and refined through multistate planning efforts using the best available technical tools, such as regional-scale modeling. The EPA also recommends the coordination of resulting strategies for regional haze with strategies needed to attain the PM_{2.5} NAAQS. The EPA anticipates that as a result of the more refined analyses required by this rule, some States may conclude that control strategies specifically for protection of visibility are not needed at this time because the analyses may show that existing measures are sufficient to meet reasonable progress goals. The EPA is requiring States to document their analyses, including any consultations with other States in support of their conclusions that further controls are not needed at this time. The EPA believes that there is more than sufficient evidence to support our conclusion that emissions from each of the 48 contiguous States may be reasonably anticipated to cause or contribute to visibility impairment in a Class I area.

As stated in EPA's proposal, a large body of evidence demonstrates that long-range transport of fine PM contributes to regional haze and other related effects such as acid rain. In the preamble to the proposal and in the relevant docket, EPA cited numerous studies that contribute to this body of evidence.⁴⁵ Indeed, EPA recognized the role of long-range transport in relation to visibility impairment 20 years ago in its 1979 Report to Congress on visibility.⁴⁶

Among the more important studies on which EPA relied are the 1991 report from the NAPAP, the 1993 NAS report *Protecting Visibility in National Parks*

⁴⁴ Refer to unit II of this final rule for additional background on the long-range transport of pollution contributing to regional haze.

⁴⁵ See Unit II, Background Information. See also July 29, 1997 memorandum to regional haze docket A-95-38, "Supporting Information for Proposed Applicability of Regional Haze Regulations," by Richard Damberg, EPA, Office of Air Quality Planning and Standards.

⁴⁶ U.S. EPA, *Protecting Visibility: An EPA Report to Congress, Office of Air Quality Planning and Standards, EPA-450/5-79-008*, October 1979.

⁴² *Central Arizona Water Conservation District v. EPA*, 990 F.2d 1531 (1993).

⁴³ 990 F.2d at 1541.

and Wilderness Areas, EPA studies using the regional acid deposition model (RADM), the 1996 GCVTC report Recommendations for Improving Western Vistas, and two contractor reports prepared for EPA.⁴⁷ All of these reports are available in the docket. They were referenced and discussed in EPA's proposal and in an additional memorandum to the docket. The NAPAP report included a comprehensive technical review of historical visibility trends.⁴⁸ The NAS report found that the range of fine particle transport is on the order of hundreds or thousands of kilometers.⁴⁹ Analyses using the RADM have estimated that sulfate and nitrate deposition receptors are influenced by sources located up to 600–800 kilometers away.⁵⁰ In its deliberations and in its final report, the GCVTC acknowledged the role of long-range transport from sources and activities located across a very large geographic area, and its effect on the Class I areas on the Colorado Plateau.⁵¹

Finally, two contractor modeling reports prepared for EPA provided information that preliminarily demonstrated that each State not having a Class I area had emissions contributing to impairment in at least one downwind Class I area. Some State commenters asserted that the contractor reports referenced in the proposal show relatively low contributions from all or part of their States toward visibility impairment in a nearby Class I area. As a result, these commenters suggested that EPA had sufficient information to reach a conclusion that all or part of their States could be excluded from the regional haze program. The EPA

disagrees with these comments for two reasons.

First, the EPA did not base its proposed applicability provisions only on the referenced contractor reports. The EPA based its decision on the assessments provided by these reports as well as a number of other studies and sources of information. Second, as explained above, EPA believes that all States must have a visibility SIP to prevent, at a minimum, future impairment of visibility. While EPA agrees that portions of some States may not need to implement additional measures, at this time, to improve visibility impairment in any Class I area, the EPA believes that more refined future assessments will be needed to support such a finding. Additionally, the EPA believes that a State wishing to demonstrate that it does not contribute to visibility impairment in any Class I area will need to provide information showing that it has consulted with other potentially affected States to assist EPA in assuring that the State's demonstration is not contradicted by evidence presented by other States.

Current monitoring information for Class I areas shows that all of the monitored sites in the central and eastern parts of the country have visibility impairment levels exceeding estimated natural conditions for the 20 percent most impaired days, some by more than 20 deciviews. Although the degree of impairment varies, the data demonstrate that no existing site has reached the goal in section 169A(a)(1) of the CAA for "remediating * * * any existing impairment of visibility."⁵²

In light of this finding, EPA disagrees with the commenter who asserted that because visibility levels in its State are already "acceptable," there is no need for the State to implement a regional haze program. The section 169A national goal of the visibility program, a condition of no human-caused impairment, does not provide for judgments of acceptable visibility levels which are poorer than natural conditions in Class I areas. Through adoption of section 169A(a)(1), Congress established natural visibility conditions as the overall goal.

The data also show that in the monitored locations in the central and

eastern United States, sulfate is the key contributor to visibility impairment, responsible for between 45–90 percent of light extinction due to aerosols on the 20 percent most impaired days. This fact is significant because the broad, regional scale of long-range transport of sulfate has already been acknowledged in many studies done for the acid rain program. Based on these data, it appears that although the acid rain program is expected to improve visibility by approximately 3 deciviews in the most impaired Class I areas in the Eastern United States by 2005,⁵³ further regional reductions in SO₂ emissions may be needed after the acid rain program is complete to assure continued visibility improvement toward the national goal. Thus, EPA finds it is reasonable to require SIPs from the States without Class I areas which are located in the central and eastern parts of the United States since many, if not all, are expected to have sources contributing to regional loadings of SO₂ emissions, even after implementation of the acid rain program is completed.

For all of the reasons stated above, EPA has concluded in today's final rule that EPA's statutory authority and scientific evidence are sufficient to require all States to develop regional haze SIPs to ensure the prevention of any future impairment of visibility, and to conduct further analyses to determine whether additional emission reduction measures are needed to ensure reasonable progress in remediating existing impairment in downwind Class I areas.

B. Timetable for Submitting the First Regional Haze State Implementation Plan (SIP)

This final rule establishes a schedule setting forth deadlines by which the States must submit their first regional haze SIPs and subsequent revisions to that first SIP. In this unit, we discuss the deadlines for the first regional haze SIP, the concerns raised in comments regarding these deadlines, and recent legislation affecting the deadlines. The requirements for periodic revisions to this first regional haze SIP are discussed below in unit III.J.

Proposed rule. The proposed rule, consistent with section 169B(e)(2) of the CAA, would have required States to submit revisions to their SIP to address regional haze within 12 months of the effective date of the rule. We had intended that these 12-month SIP

⁴⁷ See Latimer and Associates, Particulate Matter Source—Receptor Relationships Between All Point and Area Sources in the United States and PSD Class I Area Receptors, Report prepared for EPA, Office of Air Quality Planning and Standards, September 1996. See also ENVIRON International Corporation, Development of Revised Federal Class I Area Groups in Support of Regional Haze Regulations, Report prepared for EPA, Office of Air Quality Planning and Standards, September 1996.

⁴⁸ National Acid Precipitation Assessment Program. Acid Deposition: State of the Science and Technology. Report 24, Visibility: Existing and Historical Conditions—Causes and Effects, Washington, DC, 1991.

⁴⁹ National Research Council, NAS Committee on Haze in National Parks and Wilderness Areas, Protecting Visibility in National Parks and Wilderness Areas, National Academy Press, Washington, D.C., 1993.

⁵⁰ Dennis, Robin L. "Using the Regional Acid Deposition Model to Determine the Nitrogen Deposition Airshed of the Chesapeake Bay Watershed," in Atmospheric Deposition to the Great Lakes and Coastal Waters, edited by Joel Baker, 1996.

⁵¹ GCVTC, Recommendations for Improving Western Vistas, Report to the U.S. EPA, June 1996.

⁵² Sisler, J. et al., Spatial and Seasonal Patterns and Long-Term Variability of the Chemical Composition of the Haze in the United States: An Analysis of Data from the IMPROVE Network, Fort Collins, CO, Cooperative Institute for Research in the Atmosphere, Colorado State University, 1996. See also Sisler, J., et al., Spatial and Temporal Patterns and the Chemical Composition of the Haze in the United States: An Analysis of Data from the IMPROVE Network, 1988–1991, Fort Collins, CO, 1993.

⁵³ U.S. EPA, Effects of the 1990 Clean Air Act Amendments on Visibility in Class I Areas: An EPA Report to Congress, Office of Air Quality Planning and Standards, EPA-452/R-93-014, October 1993.

submittals serve as program planning SIPs in which the States would review existing regulatory authorities and provide the framework for a number of future actions.

Comments received. Commenters expressed the view that 12 months was an insufficient time period to meet the proposed requirements for the program planning SIP. Moreover, commenters were concerned that the 12-month SIP requirement was not well coordinated with similar program planning for the new PM_{2.5} standard.

Transportation Equity Act for the 21st Century (TEA-21). After the close of the comment period for the July 1997 proposal, Congress passed the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178. The TEA-21 superseded the statutory requirement for a 12-month SIP deadline and established a specific schedule for regional haze SIP submissions. In a September 3, 1998 notice of availability, EPA provided the public with an opportunity to comment on how the regional haze rule should address the TEA-21 requirements.⁵⁴

The TEA-21 provisions establish a timetable for the regional haze SIPs by first creating certain deadlines for PM_{2.5} monitoring and area designations, and then by linking those deadlines to further deadlines for the regional haze program. The TEA-21 amendments, in section 4102(a), require EPA to fund a PM_{2.5} monitoring network. In section 4102(b), EPA and States are required to put this network in place by no later than December 31, 1999.

Section 4102(c)(1) of TEA-21 establishes deadlines for States to use the data collected by the network for purposes of formally designating areas as attaining the PM_{2.5} standard or as nonattainment or unclassifiable. Section 4102(c)(1) states:

(1) The Governors shall be required to submit designations referred to in section 107(d)(1) of the CAA for each area following promulgation of the July 1997 PM_{2.5} national ambient air quality standard within 1 year after receipt of 3 years of air quality monitoring data performed in accordance with any applicable Federal reference method for the relevant areas.

Section 4102(c)(2) of TEA-21 contains the following language which links the timing requirements for the visibility program to the PM_{2.5} designation process:

(2) For any area designated as nonattainment for the July 1997 PM_{2.5} national ambient air quality standard in accordance with the schedule set forth in this section, notwithstanding the time limit

prescribed in paragraph (2) of section 169B(e) of the CAA, the Administrator shall require State implementation plan revisions referred to in such paragraph (2) to be submitted at the same time as State implementation plan revisions referred to in section 172 of the CAA implementing the revised national ambient air quality standard for fine particulate matter are required to be submitted. For any area designated as attainment or unclassifiable for such standard, the Administrator shall require the State implementation plan revisions referred to in such paragraph (2) to be submitted 1 year after the area has been so designated. The preceding provisions of this paragraph shall not preclude the implementation of the agreements and recommendations set forth in the GCVTC Report dated June 1996.

To accompany the statutory changes contained in the TEA-21 law, Congress released a Conference Report. With respect to the visibility provisions of TEA-21, the Conference Report states:

The Conferees recognize that the Regional Haze regulation has not been finalized and the Administrator of the Environmental Protection Agency (EPA) is still considering the views of various stakeholders. The Conferees agree with EPA's public statements that the schedule for the State Implementation Plan due pursuant to section 169B(e)(2) of the * * * [Clean Air] * * * CAA should be harmonized with the Schedule for State Implementation Plan submissions required for PM_{2.5} ambient air quality standard promulgated in July, 1997.⁵⁵

This new statutory language has two effects. First, it supersedes the section 169B requirement for EPA to require States to submit SIPs within 12 months of the promulgation of today's final rule. Second, it spells out a timetable for SIP revisions that is linked to the dates of attainment/nonattainment designations for PM_{2.5}. It is important to note that the timetable is based on the designation of areas within a State. Thus, under the legislation, one State could have multiple SIP submission deadlines depending on the dates of designation of each area within the State. This issue, and how EPA intends to address it, is further discussed later in this unit.

According to a Presidential memorandum dated July 16, 1997, the EPA and States must collect 3 years of monitoring data in order to have a sufficient basis for designations. This point is reiterated in TEA-21.⁵⁶ Routine collection of monitoring data begins in 1999. Hence, we expect the requirements of TEA-21, section 4102(c)(1), to result in the following:

Submissions of designation requests by States. States must submit

designations within 1 year of the date that 3 years of PM_{2.5} data are available. Because widespread monitoring for PM_{2.5} is being implemented between January 1999 and December 31, 1999, we expect 3 years of data to be collected by December 31, 2001 for most areas and no later than December 31, 2002 for the remaining areas. Taking into account additional time (not more than 6 months) for quality assurance and certification of the data, we expect 3 years of data to be available for States to use for designations between July 2002 and July 2003. In the TEA-21 amendments, States have up to 1 year to submit designations. Thus, we expect that the required date for submittal of designations generally will occur between July 2003 and July 2004.⁵⁷

EPA action on State designations. The EPA is required to act upon the designations no later than 1 year after the date States are required to submit the designations, but not later than December 31, 2005 in any case. If States submit their designations between July 2003 and July 2004, EPA would be required to designate areas between July 2004 and July 2005.

For areas designated as attainment or unclassifiable, the TEA-21 amendments require that States must submit SIPs for regional haze within 1 year after EPA publishes the designations. As a result, for these areas, regional haze SIPs are likely to be due generally between July 2005 and July 2006.

For areas designated as nonattainment for fine particulate matter, the TEA-21 amendments require States to submit SIP revisions addressing regional haze "at the same time as States submit SIPs as required by section 172 of the CAA implementing the July 1997 revision to the national ambient air quality standard for fine particulate matter." Section 172(b) of the CAA requires SIPs no later than 3 years after EPA publishes the nonattainment designation. If EPA designates areas nonattainment between July 2004 and July 2005, the regional haze SIPs for areas designated as nonattainment and the PM_{2.5} nonattainment SIPs would both be due no later than the July 2007 to July 2008 timeframe.

The date for startup of PM_{2.5} monitoring may vary in different parts of a given State. Accordingly, the EPA expects that States may not be able to submit designation requests at the same time for the entire State. Rather, EPA

⁵⁷ We expect that some States will want to move expeditiously with some designations, leading to submissions and final action on some areas as early as late 2002 or early 2003. Where this is the case, this would lead to earlier regional haze SIP submittal deadlines as well.

⁵⁴ 63 FR 46952.

⁵⁵ H.R. Conf. Rep. No. 550, 105th Cong., 2d. Sess. 519 (1998), reprinted in 1998 U.S.C.A.N., No. 6 at 196.

⁵⁶ See TEA-21, Section 4102(c)(1).

expects that it is possible that individual "areas" within a given State may be designated at different times. Even if areas were all designated at the same time, in many States some areas will likely be designated attainment, with others designated nonattainment. In either case, the TEA-21 deadlines would require separate regional haze SIPs for each of these areas to be submitted at different times.

While the language in TEA-21 establishing the timetable for submission of regional haze SIPs is generally clear, the transportation legislation does not address the situation where States are participating in a regional planning effort that incorporates numerous areas. On its face, TEA-21 requires the submission of separate regional haze SIPs on an area-by-area basis with varying deadlines that could range over a period of several years. As noted above, however, regional haze is the result of emissions from a number of sources located over a broad geographic area. Because of the long-range transport of pollutants causing regional haze, EPA believes that well-coordinated regional planning efforts are needed to make progress toward natural visibility conditions. As EPA noted in the September 3, 1998 notice of availability, we do not believe that Congress intended to inhibit regional planning efforts by requiring area-by-area submittals. In light of this, EPA requested comment on incorporating an optional approach into the final rule to facilitate regional planning.

Notice of availability of additional information. The optional approach EPA described in the September 3, 1998 notice of availability would allow States which commit to participating in regional planning efforts to postpone addressing certain of the requirements of the regional haze program. Under this approach, States would have the option to first submit SIPs which contain commitments to specific integrated regional planning efforts but which do not set forth control strategies. States committing to regional planning would subsequently submit SIP revisions containing control strategies for attainment, unclassifiable, and nonattainment areas at the same time. This would allow multiple areas within a single planning region to have coordinated deadlines for regional haze control strategies. In the supplemental notice, we noted that this approach could have the effect of delaying control strategy plan submittal dates for some areas, but we believe that such an option will support more effective coordination between the PM_{2.5} and

regional haze programs, will support coordinated regional planning for both programs, and will be consistent with the statement of congressional intent.

Comments received. Some commenters argued that TEA-21 does not authorize EPA to defer implementation of the regional haze program in this way. The basis for this argument is the claim that the 1-year deadline in section 169B(e)(2) applies only to regulations promulgated pursuant to the report of a visibility transport commission. These commenters claim that EPA is obligated under section 169A to provide for more expedited implementation of measures to assure reasonable progress.

The final rule. The regulations made final today are issued under the authority of CAA sections 169A and 169B. As discussed in unit II.C above, EPA in 1980 explicitly deferred issuing regulations to address regional haze until our scientific and technical knowledge was better developed. In 1990, Congress amended the CAA by adding section 169B. This section authorizes the establishment of visibility transport commissions which, among other things, must issue a report addressing "the promulgation of regulations under [section 169A] to address long range strategies for addressing regional haze." Section 169B further establishes explicit timeframes in which EPA must, taking into account any reports of visibility transport commissions, issue regulations under section 169A, and in which States must respond by submitting revised SIPs. Congress modified the timeframe for SIP submission in TEA-21 to ensure the ability of EPA to harmonize the implementation of today's final rule with the requirements for the new PM_{2.5} NAAQS.⁵⁸ Today's final rule carries out EPA's obligation under sections 169A and 169B to issue regulations addressing regional haze according to the timeframe as set forth in section 169B as modified by TEA-21.

The final rule includes the deadlines for SIP submittals set forth in TEA-21 and incorporates an optional set of requirements for States which commit to participate in regional planning. Commenters generally agreed with EPA's view in the notice of availability that it is important to ensure that the PM_{2.5} program and regional haze program are fully integrated. The EPA believes that the approach taken in the final rule supports effective coordination between these programs, while also facilitating regional planning.

⁵⁸ See H.R. Conf. Rep. No. 550, 105th Cong., 2d Sess. 517.

In the final rule, the timetable for SIP submittals is set forth in section 51.308(b) and (c). Section 51.308(b) directly codifies the TEA-21 timetable. Section 51.308(c) provides States that have committed to participate with other States in a regional planning process the option of choosing to defer submittal of a SIP which addresses the substantive requirements of the regional haze program. States are not required to exercise the option provided by section 51.308(c), but those which do must meet the deadlines set forth in that section for submitting a SIP which addresses the distinct requirements in section 51.308(c) and a SIP revision which addresses the substantive requirements of the regional haze program.⁵⁹

As a first step, States electing to participate in regional planning must submit a SIP demonstrating the State's ongoing participation in a regional planning process. This SIP must address all areas in the State and is due on the earliest date by which an implementation plan affecting any area within the State would be due under the TEA-21 deadlines. Unless an entire State is designated as nonattainment, this SIP will be due 1 year after EPA designates any area within the State as attainment or unclassifiable. This SIP submission must contain a number of specific elements to demonstrate the State's commitment to the regional planning process and to ensure that by the date of the SIP submittal, the States in the regional planning body have taken the necessary steps to initiate the regional planning process.

The following briefly summarizes the required elements of the first SIP submittal called for under the optional approach for regional planning:

Need for regional planning. In the SIP, the State must demonstrate the need for regional planning. The State must make this demonstration by showing that emissions from sources within the State contribute to visibility impairment in Class I areas in another State, or by showing that other States contribute to visibility impairment in the Class I areas in the State. The EPA does not intend for this to be an overly complex analysis.

Description of regional planning organization. The State must also submit a detailed description of the regional planning process. In its SIP, the State must show that the participating

⁵⁹ The option for regional planning provided by section 51.308(c) is not available for Alaska, Hawaii, and the Virgin Islands. Class I areas within their boundaries are not affected by emissions from any other State. As a result, regional planning will not be needed to develop regional haze SIPs for these areas.

States have a credible regional planning process in place which all parties are committed to follow. We have outlined general principles for regional planning organizations in a document entitled Implementation Guidance for the Revised Ozone and Particulate Matter (PM) National Ambient Air Quality Standards (NAAQS) and the Regional Haze Program, which discusses features of effective regional planning organizations, including a discussion of organization and representation issues, issues related to developing workplans and schedules, and issues related to ensuring that technical efforts are consistent. This document is available on the internet at <http://www.epa.gov/ttn/oarpg/t1pgm.html>.

Enforceable commitment to submit coordinated control strategy by 2008. The regional planning SIP must include provisions requiring the State to submit a SIP revision meeting all of the requirements of the regional haze rule. This SIP revision is due by the latest date an area within the planning region would be required to submit an implementation plan under TEA-21, but in no event any later than December 31, 2008. The SIP must require that the SIP revision is developed in coordination with the other States in the regional planning body and that it fully addresses the recommendations of that body.

List of BART-eligible sources. The State must identify those sources from

one of 26 source categories and placed into operation between 1962 and 1977 that are potentially subject to BART. This information will enable the State and regional planning organization to begin evaluating options for meeting the BART requirement or for implementing an emissions trading program or alternative measure that achieves greater reasonable progress.

Summary of timetable for submission of the first regional haze SIPs. The following table is a summary of the deadlines for submitting the first regional haze SIPs.

For this case . . .	. . . States must submit the first regional haze SIPs no later than:	. . . and the SIP must meet . . .
Areas designated as attainment or unclassifiable for PM _{2.5} . Areas designated as nonattainment for PM _{2.5} ...	1 year after EPA publishes the designation (generally 2004–2006). At the same time as PM _{2.5} SIPs are due under section 172 of the CAA. (That is, 3 years after EPA publishes the designation, generally 2006–2008).	ALL requirements of section 51.308(d) and (e). ALL requirements of section 51.308(d) and (e).
States participating in multistate regional planning efforts for combined attainment and non-attainment areas.	Two phases: Commitment to regional planning due 1 year after the EPA publishes the first designation for any area within the State, and. Complete implementation plan due at the same time as PM _{2.5} SIPs are due under section 172 of the CAA. (That is, 3 years after EPA publishes the designation). December 31, 2003	The regional planning requirements listed in section 51.308(c). The “core requirements” listed in section 51.308(d) and BART requirements in section 51.308(e).
States following the recommendations of the GCVTC, as contained in section 51.309 of the final rule.		SIPs must meet the specific provisions for Grand Canyon Transport Region States listed in section 51.309.

C. Tracking Deciviews and Emissions Reductions

Visibility impairment is caused by particles and gases in the atmosphere. Some particles and gases scatter light, while others absorb light. The net effect is called “light extinction.” The result of these processes is a reduction of the amount of light from a scene that is returned to the observer, creating a hazy condition.

Proposed rule. In the proposal, EPA established a regulatory framework by which a State would establish a “reasonable progress target” for each Class I area within its borders for the purpose of improving visibility on the worst visibility days over the next 10 or 15 years. The States would implement emission management strategies to improve visibility in these Class I areas. The proposal also called for the States to monitor progress in improving visibility over time. The EPA proposed that visibility targets and tracking of visibility changes over time be expressed in terms of the “deciview” haze metric. The proposal also called for

the tracking of pollutant emissions to supplement the tracking of monitored visibility changes for use in periodically reviewing State progress in achieving visibility targets. The proposal included the definition of the deciview metric for tracking visibility. The proposal also called for a review of emissions reductions achieved as part of the long-term strategy.

Deciview. The proposal explained that the deciview is an atmospheric haze index that expresses changes in visibility. This visibility metric expresses uniform changes in haziness in terms of common increments across the entire range of visibility conditions, from pristine to extremely hazy conditions.⁶⁰ Because each unit change in deciview represents a common change in perception, the deciview scale is like the decibel scale for sound. The proposal also stated that “A one deciview change in haziness is a small

but noticeable change in haziness under most circumstances when viewing scenes in Class I areas.”⁶¹

The proposal discussed that an advantage to using the deciview over other scales is that it can be used to express changes in visibility impairment in a way that corresponds to human perception in a linear, or one for one, manner. For example, this metric is designed such that a change of 3 deciviews in a highly impaired environment would be perceived as roughly the same degree of change as a 3 deciview change in a relatively clear environment. As noted in the preamble to the proposed regulation, the deciview is mathematically related to other common metrics used to describe visibility: the light extinction coefficient and visual range. However, the deciview metric can be used to compare changes in perception in a way that the other two metrics cannot. This feature makes the deciview a more useful metric for regulatory purposes. For example, a 5-

⁶⁰ Pitchford, M. and Malm, W., “Development and Applications of a Standard Visual Index,” Atmospheric Environment, v. 28, no. 5, March 1994.

⁶¹ 62 FR 41145.

mile change in visual range can in some cases be very significant, such as from 5 to 10 miles in an impaired environment (equal to a change of 6.9 deciviews), whereas a 5-mile change may not be perceptible in a less impaired environment, such as from 95 to 100 miles (equal to a change of 0.5 deciviews). The following sections discuss the comments received on specific issues and how such issues are addressed in the final rule.

Tracking emissions versus visibility. Many commenters supported the use of the deciview metric to track changes in visibility improvement as a key aspect of the program. These commenters agreed with EPA's proposal that under a visibility-oriented program, progress in fact should be tracked in terms of a visibility-based metric. Others felt the program could be successfully implemented by tracking emissions only because this approach would not be greatly affected by meteorological variations as would an approach based on ambient monitoring.

The final rule provides for the tracking of both visibility improvement and emissions reductions.⁶² The final rule presents visibility improvement and tracking of emissions as linked elements of the program. The EPA has retained the use of the deciview metric for tracking changes in visibility. The EPA believes the tracking of actual visibility improvements is necessary to be responsive to the goals of the CAA. Section 169A(a) of the CAA sets forth the national goal of the "prevention of any future, and the remedying of any existing, impairment of visibility in Class I areas which impairment results from manmade air pollution." The CAA also requires EPA to establish regulations to be implemented by the States to ensure that 'reasonable progress' is made toward the national goal. In addition, section 169B(e) of the CAA calls for EPA to carry out its "regulatory responsibilities under section 169A, including criteria for measuring 'reasonable progress' toward the national goal."⁶³

The EPA believes that tracking of emissions reductions is also an important component of the regional haze program. The mechanism for achieving improvements in visibility will be the implementation of enforceable emissions reduction measures that have been adopted as part of the SIP. Tracking emissions will provide a good indicator of whether

adopted measures are reducing emissions and is thus a useful indicator of progress in reducing visibility impairment. The tracking of emissions without concurrently tracking changes in visibility, however, would be problematic because of the variable effect on visibility of each of the principal constituents of PM, the more significant light scattering efficiency of fine PM versus coarse PM, and the generally greater effect of nearby versus distant sources on visibility impairment.

Since the national goal is expressed in terms of air quality (i.e., visibility) rather than emissions, we believe that it is very important to require the quantitative tracking of visibility impairment as an integral element in measuring reasonable progress. Because ambient monitoring data are subject to meteorological fluctuations, EPA designs standards and requirements for analysis of monitoring data to limit the effects of unusual meteorological events. For regional haze, we have provided in this final rule for the tracking of visibility trends based on 5-year averages of annual deciview values for the most impaired and least impaired days. We believe that this approach responds to commenters' concerns about significant unusual fluctuations in annual average values for the best and worst days due to unusual meteorological conditions in any particular year. However, it is also important to note that EPA has long held that normal meteorological variations should be explicitly accounted for in air quality analyses and control strategy design. Air quality improvement plans should be able to assure protection of public health and welfare under the normal and foreseeable range of meteorological conditions.

Tracking visibility in deciviews. Some commenters disagreed with the use of the deciview to measure changes in visibility, claiming that the deciview metric has not been adequately reviewed for use in a regulatory program. The EPA disagrees with this assertion. The EPA believes the deciview metric has been adequately reviewed for use in the regional haze program. The deciview concept was introduced in 1994 in an article appearing in the peer-reviewed journal *Atmospheric Environment*.⁶⁴ It was presented in the 1996 Criteria Document for the PM NAAQS as a valid metric for

characterizing visibility impairment.⁶⁵ The EPA also recognized the deciview as an appropriate metric for regulatory purposes in chapter 8 of the 1996 Staff Paper for the PM NAAQS review.⁶⁶ Both of these documents were reviewed and accepted by the Clean Air Scientific Advisory Committee. Visibility conditions at Class I areas have been characterized in terms of deciview in summary reports on the IMPROVE visibility monitoring network.⁶⁷

The EPA also supports use of the deciview metric because it satisfies one of the recommendations of the NAS Committee on Haze in National Parks and Wilderness Areas. In its 1993 report on visibility, the NAS recommended the development of an index that takes into account both measurement of physical changes (i.e., changes in air quality) with elements of human perception.⁶⁸ Further, a report on the regional haze proposal by the Congressional Research Service found that the deciview index "conforms closely" ⁶⁹ to the NAS recommendation cited above.

Some commenters stated that the final rule should not suggest that a one deciview change is the threshold of perception in all cases for all scenes. The EPA agrees with the comment that a one deciview change should not be considered the threshold of perception in all cases for all scenes. The EPA believes that visibility changes of less than one deciview are likely to be perceptible in some cases, especially where the scene being viewed is highly sensitive to small amounts of pollution. The EPA also acknowledges the technical point made by some commenters that for other types of scenes with other site-specific

⁶⁵ U.S. EPA, Air Quality Criteria for Particulate Matter, Research Triangle Park, NC, National Center for Environmental Assessment. Office of Research and Development, July 1996.

⁶⁶ U.S. Environmental Protection Agency. Review of the National Ambient Air Quality Standards for Particulate Matter: Policy Assessment of Scientific and Technical Information. OAQPS Staff Paper. Office of Air Quality Planning and Standards. July 1996.

⁶⁷ Sisler, J., et al., Spatial and Seasonal Patterns and Long-Term Variability of the Composition of the Haze in the United States: An Analysis of Data from the IMPROVE Network. Cooperative Institute for Research in the Atmosphere, Colorado State University, 1996. See also Sisler, J., et al., Spatial and Temporal Patterns and the Chemical Composition of the Haze in the United States: An Analysis of Data From the IMPROVE Network, 1988-1991, Fort Collins, CO, 1993.

⁶⁸ National Research Council, Protecting Visibility in National Parks and Wilderness Areas, 1993, p. 354.

⁶⁹ Congressional Research Service, Regional Haze: EPA's Proposal to Improve Visibility in National Parks and Wilderness Areas, November 17, 1997, p. 17.

⁶² Tracking of visibility is addressed in section 51.308(d) and 51.308(g). Tracking of emissions reductions is addressed in section 51.308(g).

⁶³ Section 169B(e)(1).

⁶⁴ Pitchford, M. and Malm, W., "Development and Applications of a Standard Visual Index," *Atmospheric Environment*, V. 28, no. 5, March 1994.

conditions,⁷⁰ a change of more than 1 deciview might be required in order for the change to be perceptible. However, EPA wishes to emphasize that the overall goal of the regional haze program is not to track changes in visibility for only certain vistas at a specific Class I area. Rather, the program is designed to track changes in regional visibility for the range of possible views of sky and terrain found in any Class I area, and to assure progress toward the national goal. For this purpose, EPA supports the use of the deciview metric as calculated from ambient monitoring data for tracking changes in regional visibility. The monitoring network is not designed to track changes in visibility for specific views in each Class I area. Rather, the network is designed to characterize visibility conditions that, for each site, are representative of a fairly broad geographic region. The EPA believes this approach is consistent with the nature of regional haze, which is defined as a uniform haze caused by numerous sources covering a broad area. Thus, although a 1 deciview change may not be the threshold of perception in all situations, the fundamental advantage of using the deciview remains: the deciview metric expresses uniform changes in haziness in terms of common increments across the entire range of visibility conditions, from pristine to extremely hazy conditions. The metric provides a useful means of expressing changes in visibility caused by changes in air quality while also providing a scale that relates visibility to perception. The final rule maintains the deciview as the principle visibility metric used in establishing reasonable progress goals, in defining baseline, current, and natural conditions, and in tracking changes in visibility conditions over time. States may choose to express visibility changes in terms of other metrics, such as visual range or light extinction, as well as in terms of deciview. The definition in the final rule was modified slightly to provide additional clarity.

Light extinction calculated from aerosol data. Some other commenters did not support EPA's proposed approach to calculating light extinction based on monitored fine particle data (referred to as "reconstructed light extinction" in the proposal). These commenters preferred other methods, such as direct measurement of light scattering or light extinction with an optical device. While such methods are desired in comprehensively monitoring

visibility impairment, the EPA supports the use of a common approach for calculating visibility changes based on monitored fine particle data as the primary monitoring method for tracking visual air quality.

Such an approach has been established and implemented for many years by the IMPROVE Steering Committee. The IMPROVE approach uses a set of standard assumptions,⁷¹ which have been tested and found to be reasonable, in calculating light extinction and deciviews from changes in air quality. Two important aspects of the approach are: (1) Standard rates of light extinction per unit mass of visibility-impairing pollutants (e.g., sulfate, nitrate, organic carbon, elemental carbon, and crustal material); and (2) standard effects of humidity on sulfate and nitrate.

Through extensive analysis of empirical data, a value (or "dry extinction coefficient") has been developed for each aerosol component which represents the amount of light extinction (expressed in inverse megameters) caused by each microgram/m³ of that component. Light extinction is calculated by multiplying the aerosol mass for each component by its extinction coefficient and summing the products. Because sulfates and nitrates become more efficient at scattering light as humidity increases, the values for these two components are also multiplied by a relative humidity adjustment factor. It has been shown that annual and seasonal light extinction values developed according to this method correlate well with averages of optical measurements of light extinction for the same locations.⁷² The EPA plans to issue future guidance describing the details of calculating visibility changes in this manner and tracking visibility over time.

Although light extinction can be measured directly by certain optical devices (i.e., transmissometers and nephelometers), EPA supports an approach based on the mass of PM components derived from ambient monitoring for calculating light extinction for two main reasons. First, this approach provides for the tracking of actual changes in the components of air pollution, and the information obtained from analysis of the chemical composition of PM is critical to the air quality modeling and strategy

development processes. By understanding the chemical composition of particulate matter, we can better define the manmade and natural components contributing to overall light extinction. Second, direct measurements of visibility from some optical instruments (e.g., transmissometer) are more frequently disrupted by precipitation events (i.e., rain or snow) than are aerosol measurements.

For all of the reasons discussed above, the final rule provides for the tracking of visibility and emissions reductions. The deciview will be the principal visibility metric for use in implementing the regional haze program. The deciview will be used for expressing reasonable progress goals, defining baseline, current, and natural conditions, and tracking changes in visibility conditions over time. The definition of deciview in the final rule in section 51.301(bb) was modified slightly to provide additional clarity and state that deciview values are to be derived from calculated light extinction based on aerosol measurements in accordance with EPA guidance.

D. Regional Haze Implementation Plan Principles

Section 169A of the CAA calls for States to develop implementation plans ensuring reasonable progress toward the national goal, including emission limits, schedules of compliance and other measures as necessary. At a minimum, the CAA calls for SIPs to include a long-term strategy and provisions for BART for certain major stationary sources. We would like to emphasize several overarching themes for the specific implementation plan requirements in the final rule:

- Regional haze regulations and State implementation plans must address all of the statutory requirements outlined in 169A and 169B of the CAA. Regional haze requirements must address a number of specific statutory requirements, including "criteria for reasonable progress," long-term strategies addressing all types of sources and activities, and best available retrofit technology for certain stationary sources. The implementation plan requirements in the final rule are designed to ensure that all of these statutory requirements will be met.

- Tracking "reasonable progress" should involve the tracking of both emissions and visibility improvement. Regional haze implementation plans must include provisions for tracking the implementation of enforceable emission management strategies designed to make reasonable progress toward the national

⁷¹ See Sisler, *et al.*, Spatial and Seasonal Patterns and Long-Term Variability of the Composition of the Haze in the United States: An Analysis of Data from the IMPROVE Network. Cooperative Institute for Research in the Atmosphere, Colorado State University, 1996.

⁷² *Id.*

⁷⁰ For example, where the sight path to a scenic feature is less than the maximum visual range.

visibility goal. Emission control measures will be the component that will be enforceable to ensure reasonable progress. Measuring reasonable progress should involve tracking the actual emissions achieved through implementation of such strategies, and the tracking of visibility for the most impaired and least impaired days using established monitoring and data analysis techniques.

- Strategies for improving visibility should address all types of sources. Section 169A provides for State long-term strategies to address all types of sources and activities emitting pollutants that contribute to visibility impairment in Class I areas, including stationary, mobile, and area sources. Implementation plans also must give specific attention to certain stationary sources built between 1962 and 1977 and provide for meeting the BART provisions for these sources.

- Successful implementation of the regional haze program will involve long-term regional coordination among States. Pollution affecting the air quality in Class I areas can be transported long distances, even hundreds of kilometers. Therefore, States will need to develop strategies in coordination with one another, taking into account the effect of emissions from one jurisdiction to air quality in another. In addition, as noted by the NAS study, "achieving the national visibility goal will require a substantial, long-term program."⁷³ Accordingly, the regional haze program requires the periodic review by each State of whether "reasonable progress" is being achieved and revisions of implementation plans as needed to continue progress toward the national visibility goal.

E. Determination of "Baseline," "Natural" and "Current" Visibility

Background. The fundamental goal of the visibility program, as provided by Congress, is the prevention of future visibility impairment and the remedying of existing impairment in Class I areas. Thus, the regional haze program must track progress toward the national goal.

In order to facilitate this tracking process, the proposed rule required each State having one or more Class I areas to establish, and update as necessary, three important visibility parameters for the best and worst visibility days at each Class I area within the State. Each parameter is discussed in detail below.

- **Baseline conditions**—Baseline conditions represent visibility for the

best and worst days at the time the regional haze program is established. Baseline conditions are calculated using multiyear averaging.

- **Natural conditions**—As specified in the CAA, estimated natural conditions, or the visibility conditions that would be experienced in the absence of human-caused impairment, constitute the ultimate goal of the program. Under the regional haze program, natural conditions need to be estimated for the 20 percent best and worst days.

- **Current conditions**—Current conditions for the best and worst days are calculated from a multiyear average, based on the most recent years of monitored data. This value would be revised at the time of each periodic SIP revision, and would be used to illustrate: (1) The amount of progress made since the last SIP revision, and (2) the amount of progress made from the baseline period of the program.

Baseline Conditions

Proposed rule. The preamble to the proposal discussed an approach for determining baseline visibility conditions for the haziest 20 percent and clearest 20 percent of days that would allow using a minimum of 3 years of monitored data, and up to a maximum of 9 years of data.

Comments received. The EPA received some comments suggesting that it would be more equitable to use a standardized time period to establish baseline values for all Class I areas across the country. Other commenters supported the use of baseline values based on a varying number of years from site to site. Some commenters also supported the establishment of baseline conditions based on a period of time longer than 3 years because a 3-year period could be significantly influenced by unique meteorological circumstances.

Final rule. After considering public comments on the baseline issue, EPA has determined that the most appropriate "baseline period" would be a fixed, 5-year period extending from calendar year 2000 through calendar year 2004. The EPA concluded that a standard baseline period provides for greater national consistency in establishing this important value, and therefore, is preferable to a provision allowing the baseline period to be a variable number of years. Using a common number of years and data points to calculate the baseline value for each site is consistent with fundamental statistical principles and will provide for easy comparison of data from multiple sites as the program is implemented.

The EPA also concluded that it would be preferable to have a baseline value based on more than 3 years in order to establish a more robust baseline value. The EPA agrees with commenters that a 5-year period, rather than a 3-year period, provides for a more stable treatment of the inherent variability in emissions and meteorology. This approach decreases the probability that the baseline period will be unduly affected by unusual or nonrepresentative events.

In deciding upon the specific baseline period of 2000–2004, the Agency took into account the fact that EPA has obtained funding to provide several hundred monitors to the States for the purposes of characterizing PM_{2.5} concentrations in urban and rural areas nationally. In accordance with the part 58 monitoring provision enabling IMPROVE protocol aerosol monitors to be used to characterize PM_{2.5} conditions at background and transport sites, the IMPROVE network will be expanding from 30 to more than 100 sites by the end of 1999 in order to characterize both background PM_{2.5} levels and visibility impairment levels in Class I areas. Thus, EPA concluded that the baseline period should begin in 2000, after monitoring coverage for Class I areas is expanded significantly.

The approach to calculating baseline values will also provide for more stable values because the frequency of monitoring samples in the IMPROVE network will increase in 1999 to one sample every 3 days. In this way, the frequency of sampling for IMPROVE will be consistent with the PM_{2.5} monitoring approach. Thus, annual values should become more robust since 17 percent more samples will be collected each year. Baseline conditions must be determined in terms of deciviews for the years 2000–2004 for the "most impaired days" and the "least impaired days." The final rule defines these values as the average of the 20 percent of monitored days with the highest or lowest light extinction values, expressed in deciviews. The EPA will issue guidance for calculating baseline visibility conditions based on ambient monitoring data. The baseline value is determined by calculating the average deciview value for the 20 percent most (or least) impaired days for each of the 5 years (2000 through 2004), and by averaging those five values.

The final rule also calls for baseline conditions to be established by the State for any Class I area without on-site monitoring by using "representative" monitoring data for the site. In the SIP, the State will need to provide an adequate demonstration supporting the

⁷³ National Research Council, Committee on Haze in National Parks and Wilderness Areas, Protecting Visibility in National Parks and Wilderness Areas, National Academy Press, 1993.

use of any "representative" data. The EPA will issue guidance to help the States address this issue. The IMPROVE Steering Committee (comprised of representatives from EPA, States, and FLMs) is working to develop acceptable criteria to configure the expanded visibility monitoring network in such a way that virtually all Class I areas will either have an aerosol monitor or will be characterized by a "representative" site. The IMPROVE Steering Committee, including State representatives, will complete the process for identifying representative sites before monitoring for the expanded network begins in the year 2000. For this reason, it is expected that most States needing to rely on representative data from another site will be able to meet the requirement of section 51.308(d)(4) by referencing the Visibility Monitoring Guidance Document, which will be released shortly after promulgation of this rule, and other technical support materials developed by the IMPROVE Steering Committee to support the determination of representative sites.

Finally, States that submit SIPs for regional haze by 2003 under section 51.309 (further discussion in unit IV) must determine baseline conditions based on the most recent 5-year period for which monitoring data are available for the Class I area. For an area without monitoring data, the State may use data from another representative Class I area.

Natural Visibility Conditions

Proposal. The proposed rule called for each State having a Class I area, in consultation with the appropriate FLMs, to: (1) Develop a procedure to estimate natural conditions for the 20 percent most impaired and least impaired days at each Class I area within the State; and (2) provide this estimate with the State's first SIP revision for regional haze (in the 2003–2005 timeframe as stated in the proposal). The estimates for natural conditions would be expressed in deciviews. The preamble cited as a default annual average, estimates of natural visibility that were included in the 1991 NAPAP chapter on visibility. When converted to deciview values, these annual average estimates are 9.6 deciviews in the Eastern United States and 5.3 deciviews in the Western United States.

Comments received. A number of commenters noted that there are several factors which can make the determination of natural conditions difficult. For example, organic aerosols resulting from biogenic sources, windblown dust, and natural causes of fire all contribute to natural visibility conditions. Several commenters

emphasized the difficulty in determining the estimated contribution of naturally-caused fire to natural conditions. Some commenters suggested that EPA provide guidance on how to estimate natural conditions.

Final rule. The EPA understands that estimating natural visibility conditions can involve many technically complex issues. The EPA is committed to working with the States, tribes, and FLMs on this issue to develop technical guidance on estimating natural visibility conditions. The EPA expects that these estimates may be refined over time. In addition, after the regional haze rule is promulgated, and in advance of SIP due dates, EPA plans to revise the Interim Air Quality Policy on Wildland and Prescribed Fires⁷⁴ to address a number of issues, including the contribution of fire to natural visibility conditions.

Consistent with the proposal, the final rule retains the requirement that each State provide an adequate estimate of natural visibility conditions for best and worst visibility days in each Class I area within the State. These estimates will be due at the time the State submits its initial control strategy SIP for regional haze. However, because the requirement for a SIP revision within 12 months of promulgation has been overridden by the provisions of TEA–21, there no longer is a requirement for States to separately submit to EPA recommended procedures for estimating natural conditions in advance of their control strategy SIPs.⁷⁵

The EPA recommends that the States work closely with the FLMs, tribes, and EPA in developing and documenting in their SIPs appropriate methods for estimating natural conditions. Estimates of natural visibility conditions are needed to aid all interested parties, including the general public, in understanding how "close" or "far" a particular Class I area is in relation to the ultimate goal of the program. Understanding the estimated relative contributions of natural PM constituents (such as organic carbon and crustal material) also can help the States and tribes in understanding the extent of the contribution from manmade components, and thus can help in designing appropriate emission management strategies in the future. With each subsequent SIP revision, the estimates of natural conditions for each Class I area may be reviewed and revised as appropriate as the technical

basis for estimates of natural conditions improve.

The EPA believes that, as a starting point, it will be appropriate to derive regional estimates of natural visibility conditions by using estimates of natural levels of visibility-impairing pollutants⁷⁶ in conjunction with the IMPROVE methodology for calculating light extinction from measurements of the five main components of fine particle mass (sulfate, nitrate, organic carbon, elemental carbon, and crustal material). By using this approach with appropriate assumptions for annual average relative humidity, EPA estimates natural conditions for the worst visibility days to be approximately 11–12 deciviews in the east and 8 deciviews in the west. The EPA supports use of these estimating techniques as a valid starting point because they rely on peer-reviewed estimates of the natural composition of fine particle mass,⁷⁷ and analysis of data from the IMPROVE program's well-established approach, refined over the past 10 years or more, for calculating light extinction from monitored PM constituents.

Because these values are expressed in regional terms only, further refinement of these estimates will need to take place in the future on a site-specific basis. However, because current conditions at most Class I areas with existing IMPROVE monitoring exceed the above estimates by at least several deciviews (with some of the more impaired Class I areas having values that exceed estimated natural conditions by 20 deciviews or more), EPA does not believe that such refined values are necessary for the initial 10-year program implementation period. As the difference between current and natural conditions for a particular Class I area becomes smaller, it will be important to develop more precise techniques for estimating natural conditions.

Current Conditions

Proposal. The proposed rule required the State to revise its long-term strategy every 3 years and to compare current conditions to the visibility conditions existing at the time of its previous long-term strategy revision. Current conditions would be established for the most impaired and least impaired days, and would be expressed in deciviews.

⁷⁶ See National Acid Precipitation Assessment Program. Acid Deposition: State of Science and Technology. Report 24, Visibility: Existing and Historical Conditions—Causes and Effects, Table 24–6. Washington, DC. 1991.

⁷⁷ The NAPAP estimates were cited in both the Criteria Document and EPA Staff for the PM NAAQS.

⁷⁴ Interim Air Quality Policy on Wildland and Prescribed Fires, U.S. EPA, Office of Air Quality Planning and Standards, May 1998.

⁷⁵ See unit III.B. for a detailed discussion of the TEA–21 provisions and their effect on the timing for implementation of the regional haze program.

Comments received. Many commenters supported EPA's approach to periodic tracking of changes in visibility to determine reasonable progress. Some commenters felt that averaging 5 years of data, rather than 3, would be preferable.

Final rule. Section 51.308(f)(1) of the final rule retains the requirement for each State, at the time of any SIP revision, to determine the current visibility conditions for the most impaired and least impaired days for each Class I area within the State. Current conditions are to be based on

the 5 most recent years of monitoring data available at the time a SIP revision or progress report is submitted. The approach for calculating current conditions is similar to the approach for calculating baseline conditions discussed above: the value is determined by calculating the average for the 20 percent most impaired days for each of the 5 most recent years for which quality-assured data are available, and then by calculating the average of those five values.⁷⁸

Sections 51.308(f)(1) and 51.308(g)(3) of the final rule also require the State to

calculate the difference between current conditions and several other parameters so that this information can be taken into account when the State is revising its SIP and considering new reasonable progress goals. A discussion of these calculations is provided in unit III.J of this preamble addressing periodic SIP revisions and progress reports.

Summary

The following summary table further illustrates the uses of "baseline," "natural," and current conditions in the regional haze program.

Term	What does it mean?	How is it used in the regional haze program?
"Baseline conditions"	Visibility (in deciviews) for the 20 percent most-impaired days, and for the 20 percent least-impaired days, for the years 2000 through 2004.	"Baseline" conditions are used in two ways: (1) For the first regional haze SIPs, due in about 2006–2008, baseline conditions are the reference point against which visibility improvement is tracked. (2) For subsequent SIP updates (in the year 2018 and every 10 years thereafter), baseline conditions are used to calculate progress from the beginning of the regional haze program.
"Natural conditions"	The level of visibility (in deciviews) for the 20 percent most-impaired days, and for the 20 percent least-impaired days, that would exist if there were no manmade impairment..	"Natural conditions" represents the absence of visibility impairment due to human-caused emissions, the ultimate goal of the regional haze program.
"Current conditions"	"Visibility (in deciviews) for the 20 percent most-impaired days, and for the 20 percent least-impaired days, for the most recent 5-year period.	For the initial planning SIPs, "current" and "baseline" conditions are the same. For subsequent 5-year progress reports, "current conditions" describe the amount of progress that has been made at the mid-course review point halfway through an implementation cycle. For subsequent comprehensive regional haze SIPs (beginning in 2018 and every 10 years thereafter), "current conditions" will be used to show how much progress has been made relative to the "baseline," and will serve as the reference point for tracking progress for the next implementation period.

F. Reasonable Progress Goals

The previous section discussed three important visibility parameters for tracking "reasonable progress" toward the national visibility goal. In this section, EPA describes the requirements of section 51.308(d)(1) of the final rule for States to establish "reasonable progress goals" for each Class I area within the State. In addition, this section also discusses important analyses and other factors for States to take into consideration in setting these goals.

Proposed rule. In the proposed rule, EPA presented a framework for a long-term program under which continued progress would be achieved in Class I

areas toward the national visibility goal. The EPA proposed presumptive "reasonable progress targets," expressed in terms of deciviews, for the purposes of improving visibility on the 20 percent worst days and allowing no degradation of visibility on the 20 percent best days. Two options were presented for the presumptive target for the most impaired days: (1) A rate of improvement equivalent to 1.0 deciview over a 10-year period, and (2) a rate of improvement equivalent to 1.0 deciview over a 15-year period. For the least impaired days, EPA proposed a target of no degradation, defined as less than a 0.1 deciview increase.

The EPA noted that the 10- and 15-year time periods for tracking improvement were consistent with section 169A(b)(2)(B), which calls for States to develop long-term strategies covering 10 to 15 years. The EPA also emphasized the importance of achieving a perceptible change in visibility over the time period of a long-term strategy. In addition, EPA stated that gradual improvements in visibility as defined by reasonable progress targets were consistent with the GCVTC definition of reasonable progress, which is "achieving continuous emissions necessary to reduce existing impairment and attain steady improvement of visibility in mandatory Class I areas.

⁷⁸ See the section on Baseline Conditions for a discussion of the rationale for selecting a 5-year period.

* * *⁷⁹ As noted in unit III.C., EPA also proposed to track progress in relation to the targets through the use of monitored air quality data and calculation of light extinction values from this aerosol data.

The proposal also provided a process by which a State could establish alternate reasonable progress targets, expressed in deciviews, provided the State justified the alternate target based on a review of the relevant statutory factors.⁸⁰ These factors are:

- The costs of compliance;
- The time necessary for compliance;
- The energy and nonair quality environmental impacts of compliance; and
- The remaining useful life of any existing source subject to such requirements.

Comments received. A number of commenters advocated a faster rate of improvement than the proposed presumptive rate of 1 deciview every 10 or 15 years since, as proposed, they claimed it could take more than 200 years to reach the national visibility goal in some eastern locations. They felt that this rate of progress should not be considered "reasonable." Many of these commenters supported a rate of improvement for the worst days equal to 10–20 percent of the current deciview value (i.e., 3–6 deciviews per 10 years in an average eastern location with a worst day value of 30 deciviews, and 1.5–3.0 deciviews for an average southwestern location with a worst day value of 15 deciviews). A number of other commenters interpreted the proposed rule as requiring an inflexible visibility "standard" of 1 deciview improvement every 10 or 15 years. They maintained that such a standard would be infeasible to achieve in some areas of the country, and that EPA had failed to justify such a presumption through an analysis of the statutory factors in section 169A(g). These commenters wanted the States to have greater flexibility in setting visibility goals. Some commenters stated that 1 deciview is not the threshold of perception in all situations, and that for this reason the one deciview presumptive target in the proposal should be dropped. Other commenters asserted that the no degradation target for the best visibility days would prevent new source growth in some areas. Some commenters also opposed the presumptive target because of the concern that a State could be subject to

a citizen lawsuit for not meeting a reasonable progress target.

Final rule. In considering how to address the reasonable progress target issue in the final rule, EPA was mindful of the balance that must be maintained between the need for strategies that will achieve meaningful improvements in air quality and the need to provide appropriate flexibility for States in designing strategies that are responsive to both air quality and economic concerns. After considering the comments on the "presumptive target" issue, EPA has revised the rule to eliminate "presumptive targets." There is no presumptive target that States are required to meet to achieve reasonable progress. States have flexibility in determining their reasonable progress goals based on consideration of the statutory factors. However, as discussed below, the final rule requires States to conduct certain analyses to ensure that they consider the possibility of setting an ambitious reasonable progress goal, one that is aimed at reaching natural background conditions in 60 years.

The final rule calls for States to establish "reasonable progress goals,"⁸¹ expressed in deciviews, for each Class I area for the purpose of improving visibility on the hazyest days and not allowing degradation on the clearest days over the period of each implementation plan or revision. The EPA believes that requiring States to establish such goals is consistent with section 169A of the CAA, which gives EPA broad authority to establish regulations to "ensure reasonable progress," and with section 169B of the CAA, which calls for EPA to establish "criteria for measuring reasonable progress" toward the national goal.

This approach is designed to address the concerns of those commenters interested in greater State flexibility in setting visibility goals, as well as the concerns of those commenters who believed that the presumptive 1 deciview target approach could actually provide a disincentive for some States to pursue more ambitious rates of progress, particularly for the most impaired Class I areas in the East. The EPA has taken this approach in the final rule because the CAA national visibility goal and "reasonable progress" provisions do not mandate specific rates of progress, but instead call for "reasonable progress" toward the ultimate goal of returning to natural background conditions. Today's final rule requires the States to determine the rate of progress for remedying existing impairment that is reasonable, taking into consideration the

statutory factors, and informed by input from all stakeholders.

Required analysis of rate of progress which would attain natural conditions in sixty years. The EPA received numerous comments expressing the concern that a rate of progress that would result in reaching the national goal in 200 years should not be considered "reasonable." These comments are based on the fact that the most impaired Eastern United States Class I areas have current conditions for the worst days (around 26–31 deciviews) that exceed estimated natural conditions (approximately 10–12 deciviews) by 16–20 deciviews or more. At the proposed presumptive rate of progress of 1 deciview per 10 years, it would take 200 years or more to reach the national visibility goal in many Eastern Class I areas. In addition, several commenters felt that rates of progress should vary between the east and the west because many parts of the western United States have much lower levels of visibility impairment than the east. For example, they asserted that a 1 deciview improvement over 10 years may not be very ambitious in an eastern location, whereas it could be very ambitious in some of the least impaired Class I areas in the west.

In order to address the diverse concerns of commenters on the proposal, EPA is establishing an analytical requirement that takes into account the varying levels of visibility impairment in Class I areas around the country while ensuring an equitable approach nationwide. To determine an equitable analytical approach, we considered the CAA amendments of 1990, which require actions to attain air quality health standards over a 20-year period for the 1-hour ozone standard, depending on the severity of the area's problem, and over a 10-year period for new standards, such as the new 8-hour ozone standard and the PM_{2.5} standards. The CAA also requires reductions over the same time period to address acid rain. In the eastern United States, EPA's analyses show that the reductions from these and other CAA programs will result in a rate of improvement estimated at approximately 3 deciviews over the period from the mid-1990's to about 2005.⁸² The EPA calculated that if this rate of improvement could be sustained, these areas would reach the national goal in 60 years.⁸³ The EPA

⁸² U.S. EPA, Effects of the 1990 Clean Air Act Amendments on Visibility in Class I Areas: An EPA Report to Congress. Office of Air Quality Planning and Standards, EPA-452/R-93-014, 1993.

⁸³ Calculated by dividing 3 deciviews (per 10 years) into an average of 18 deciviews away from

Continued

⁷⁹ GCVTC Report, June 1996, p. x.

⁸⁰ See CA A section 169A(g)(1) and 169A(g)(2). See also 62 FR 41145–41148.

⁸¹ See section 51.308(d)(1).

concluded that it would be reasonable to establish an analytical requirement based on this rate of progress given that this rate of improvement is expected to be achieved due to emissions under CAA programs.

The EPA also believes that the analytical requirement of the rate of improvement needed to reach natural conditions in 60 years is reasonable because in the near-term, cost-effective controls will continue to be available to reduce emissions that contribute to visibility impairment in Class I areas across the country. Recent analyses for other air quality programs show that significant emissions can be achieved through cost-effective control measures.

In addition, in the longer term, it can be expected that continued progress in visibility will be possible as industrial facilities built in the latter half of the 20th century reach the end of their "useful lives" and are retired and/or replaced by cleaner, more fuel-efficient facilities. Significant improvements in pollution prevention techniques, emissions control technologies, and renewable energy have been made over the past 30 years, and continue to be made. History strongly suggests that further innovations in control technologies are likely to continue in future decades, leading to the ability of new plants to meet lower emissions rates.

In light of this analysis of progress that could potentially be achieved, EPA has established in section 51.308(d)(1)(i)(B) an analytical requirement for setting reasonable progress goals that should provide for greater equity between goals set for the more impaired Eastern United States and the less impaired Western United States. This analytical requirement has the following four steps.

First, the State (or regional planning group) must compare the baseline visibility conditions in the years 2000–2004 (in deciviews) for the most impaired days with the natural background conditions, for each relevant Class I area. From this comparison, the State must determine the amount of progress needed to reach natural background conditions in 60 years, that is, by the year 2064. For example, if the baseline visibility is 30 deciviews, and the natural background is 12 deciviews, then this step would show the need for an 18 deciview improvement between 2004 and 2064.

Second, the State must identify the uniform rate of progress over the 60 year

period that would be needed to attain natural background conditions by the year 2064. For the example case noted above, where 18 deciviews is the amount for the 60-year period, this would result in a uniform rate of progress for each year of (18/60), or 0.3 deciviews for a year.

Third, the State must identify the amount of progress that would result if this uniform rate of progress were achieved during the period of the first regional haze implementation plan. For example, if the first implementation plan covers a 10-year period, then for the above example, the State would identify a 3 deciview amount of progress over that time period.

Fourth, the State must identify and analyze the emissions measures that would be needed to achieve this amount of progress during the period covered by the first long-term strategy, and to determine whether those measures are reasonable based on the statutory factors. These factors are the costs of compliance with the measures, the time necessary for compliance with the measures, the energy and nonair quality environmental impacts of the compliance with the measures, and the remaining useful life of any existing source subject to the measures.

In doing this analysis, the State must consult with other States which are anticipated to contribute to visibility impairment in the Class I area under consideration. Because haze is a regional problem, States are encouraged to work together to develop acceptable approaches for addressing visibility problems to which they jointly contribute. If a contributing State cannot agree with the State establishing the reasonable progress goal, the State setting the goal must describe the actions taken to resolve the disagreement.

If the State determines that the amount of progress identified through the analysis is reasonable based upon the statutory factors, the State should identify this amount of progress as its reasonable progress goal for the first long-term strategy, unless it determines that additional progress beyond this amount is also reasonable. If the State determines that additional progress is reasonable based on the statutory factors, the State should adopt that amount of progress as its goal for the first long-term strategy.

If the State determines, based on the statutory factors, that the identified uniform rate of progress needed to reach natural conditions is not reasonable, the State must provide in its plan submission the analysis and rationale supporting this determination. The State

then must provide a demonstration as part of its SIP submission showing why a less ambitious goal is reasonable, based on the statutory factors. The EPA intends to issue guidance interpreting the statutory factors and providing examples of ways in which they may be applied.

The State must also provide to the public, in accordance with section 51.308(d)(1)(ii), an assessment of the number of years it would take to reach natural conditions if the State continued to make progress at the alternative rate of progress it selected. For example, if average worst day visibility at the class I area is 18 deciviews from estimated natural conditions, the uniform rate of progress needed to reach natural conditions is 3 deciviews per 10 years. If the State determined that 3 deciviews is not reasonable but 2 deciviews is, then the State would have to include a statement in its SIP that it would take 90 years to reach natural conditions if this rate is maintained.

It should be noted that in developing the first regional haze implementation plan (and subsequent revisions), there is a time period of several years between the time period for which data are available and the date of plan submission. The first regional haze implementation plans for most of the United States will use the years 2000 through 2004 as the baseline for monitoring and emission inventories, while the first implementation plan for much of the country will not be due until a deadline that occurs between 2006 to 2008. In identifying the amount of progress needed by the end of the implementation period (the third step described above), States must account for this time period. Assume, for example, for the case discussed above (i.e., a 30 deciview baseline, and a uniform rate of progress of 0.3 deciviews per year to reach natural conditions in 60 years) that the first regional haze SIPs covers the years 2009 through the year 2018. For this case, there would thus be a 4-year period (2005 through 2008) that would occur between the baseline and the date of SIP submission. The uniform rate of progress of 0.3 deciviews per year over this time period would result in 1.2 deciviews of improvement before the plan submission. Hence, for this example, in identifying the amount of progress needed between the baseline and the end of the implementation period (i.e., the year 2018), the State must evaluate strategies that provide for a total of 4.2 deciviews: 1.2 deciviews between the last year of the baseline period and plan submission, and 3 deciviews for the implementation

natural conditions, and multiplying 6 increments by 10 years, assuming 10 years to achieve each increment.

period. The effect of this provision is that States must be mindful of the expected activities that take place before plan submission. Generally, we expect for the first plan submission period that progress in visibility improvement will continue to occur during the 2004 to 2008 period due to implementation of other CAA programs.

Rationale for the required 60-year analysis. The EPA has adopted this analytical requirement for two reasons. First, a common analytical framework that recognizes regional differences meets the concerns of several commenters by providing greater equity between the Eastern United States and Western United States.

Second, EPA believes this analysis will provide important additional information for the public to consider as States establish progress goals. The EPA believes this analysis will provide for a more informed and equitable decision making process by giving the public information about the level of emissions needed, related costs, and other factors associated with improvements in visibility. The EPA recommends that as part of this process, the States use computer-based scene optics modeling tools to present to the general public the anticipated change in Class I area visibility that would result from one reasonable progress goal versus another.

Consideration of other CAA measures. In determining the emissions and visibility improvement achieved during each implementation period, States should include all air quality improvements that will be achieved by other programs and activities under the CAA and any State air pollution control requirements. Therefore, any reasonable progress goal for a Class I area should reflect at least the rate of visibility improvement expected from the implementation of other "applicable requirements" under the CAA during the period covered by the long-term strategy. Consequently, States must take into account, at a minimum, the effect of measures to meet the NAAQS, the national mobile source program, and other applicable requirements under the CAA on Class I area visibility.

While, as noted above, based on our current understanding, EPA expects in the eastern United States that the reductions from measures implementing the CAA requirements will provide the visibility improvement and emissions needed for reasonable progress during the first regional haze implementation plan, EPA also recognizes that States will not be submitting their regional haze plans for several years. In developing its submittal, each State will need to conduct analyses to support its

reasonable progress goals according to information available at the time the plan is submitted about benefits from the existing CAA programs. Each State should set its goal(s) taking into consideration input from its stakeholders and based on the statutory factors described above. In addition, the State must also conduct a BART determination for each source subject to BART as required in section 51.308(e) of the rule and described in section III.H. of the preamble. In considering whether reasonable progress will continue to be maintained, States will need to consider during each new SIP revision cycle whether additional control measures for improving visibility may be needed to make reasonable progress based on the statutory factors.

Some commenters expressed concern that the State would be subject to sanctions or enforcement actions in the event that a State fails to meet a reasonable progress target. As noted above, the reasonable progress goal is a goal and not a mandatory standard which must be achieved by a particular date as is the case with the NAAQS. Once a State has adopted a reasonable progress goal and determined what progress will be made toward that goal over a 10-year period, the goal itself is not enforceable. All that is "enforceable" is the set of control measures which the State has adopted to meet that goal. If the State's strategies have been implemented but the State has not met its reasonable progress goal, the State could either: (1) revise its strategies in the SIP for the next long-term strategy period to meet its goal, or (2) revise the reasonable progress goals for the next implementation period. In either case, the State would be required to base its decisions on appropriate analyses of the statutory factors included in section 51.308(d)(1)(i)(A) and (B) of the final rule.

If a State fails to submit an approvable SIP, or if it fails to implement and enforce strategies adopted into its SIP, the State could be subject to sanctions under the CAA. If the State continues to fail in meeting its obligations, EPA could be required to develop and implement a Federal implementation plan (FIP).

Allowing no degradation for the best days. Some commenters supported the goal of no degradation at a minimum, but they asserted that in many Class I areas, particularly in the east, the "best days" are in fact still quite impaired. In their view, a rule requiring only preservation of existing clean days

would not meet the national goal.⁸⁴ Other commenters stated that a "no degradation" target for the clearest days could result in limitations to economic growth.

The final rule maintains the approach used in the proposed rule, which established a goal of no degradation for the best visibility days. The EPA believes this approach is consistent with the national goal in that it is designed to prevent future impairment, a fundamental concept of section 169A of the CAA. The EPA recognizes that the best days are still impaired in many Class I area locations, particularly in the east. The EPA encourages States to evaluate monitoring data to determine whether the same types of sources are affecting both the clear days and the hazy days. If the relative contribution of different particle types to light extinction is similar for both clear and hazy days, as it is for many sites currently monitored, then by developing strategies to improve conditions on the worst visibility days, the States will likely improve the entire distribution of hazy and clear days. Thus, under the final rule, the clean days for most Class I areas are expected to improve over time. Indeed, recent analyses of visibility trends have shown that at many Class I areas, deciview values for the 20 percent least impaired days are declining.

If at a Class I area the average conditions for clear days degrades over time, the State must provide in the next plan revision an explanation of why this happened, a set of measures designed to reverse this trend, and a plan for implementation during the next 10-year period. The State should review the effectiveness of these measures in subsequent 5-year progress reviews.

Integral vistas. The scenic vistas enjoyed by visitors to many parks often extend to important natural features outside these parks. The 1980 rules included a provision whereby the States could identify specific vistas for protection. For this reason, EPA solicited comment on whether the integral vistas concept should be extended to the regional haze program.

Some commenters supported reopening the vista identification program because such vistas are a significant resource of a Class I area. Several others opposed extending the program for a variety of reasons.

⁸⁴ Data from the IMPROVE network show that for several sites in the Eastern United States, the deciview values for the best days are greater than 14 deciviews, which is higher than even the NAPAP estimate of annual average conditions in the Eastern United States (9.6 deciviews).

The final regional haze rule does not extend the integral vista concept to the regional haze program. As noted earlier in the background section of this preamble, regional haze is caused by a multitude of sources across a broad geographic area, and it can create a uniform haze in all directions. The regional haze program is designed to bring about improvements in regional visibility for the range of possible views of sky and terrain found in any Class I area. Accordingly, the program does not protect only specific views from a Class I area. To address haze, regional strategies will be needed, and emissions resulting from these strategies are expected to improve visibility across a broad region, not just within a Class I area. Thus, although the regional haze program does not include a specific provision regarding integral vistas, the long-term strategies developed to meet reasonable progress goals would also serve to improve scenic vistas viewed from and within Class I areas.

Use of 20 percent most-impaired days and 20 percent least-impaired days. The final rule maintains the approach discussed in the proposal of improving the most-impaired visibility days (i.e., the average of the 20 percent most impaired days over an entire year), and allowing no degradation in the "cleanest" or least impaired days (i.e., the average of the 20 percent least impaired days over an entire year). In deciding upon an appropriate characterization of the "most" and "least" impaired days, EPA considered the typical frequency of aerosol monitoring in the IMPROVE network⁸⁵ (once every 3 days), and the number of samples that would be available for analysis annually (122 possible samples per year). The EPA believes that calculating annual "best" and "worst" conditions on the basis of an average of the 20 percent best and worst visibility days represents a reasonable approach to characterizing the typical best and worst conditions without having these values unduly influenced by a single anomalous data point.

The EPA's basis for maintaining the proposed approach is supported by the CAA and its legislative history, and by the approach used by the GCVTC in its technical assessment work and in its definition of reasonable progress. The EPA believes that a rule that requires strategies for improving the worst days and allowing no degradation on the clean days is consistent with the national visibility goal in section 169A of the CAA, which calls for preventing

any future impairment (protecting clearest days) and remedying any existing impairment (improving the already impaired days). This approach is also supported by the legislative history of the 1990 CAA and the reasonable progress definition. The legislative history provides that, "At a minimum, progress and improvement must require that visibility be perceptibly improved compared to periods of impairment, and that it not be degraded or impaired during conditions that historically contribute to relatively unimpaired visibility."⁸⁶ The GCVTC interpreted "reasonable progress" to be "achieving continuous emissions reductions necessary to reduce existing impairment and attain a steady improvement in visibility in mandatory Class I areas, and managing emissions growth so as to prevent perceptible degradation of clear air days."⁸⁷ In today's final rule, EPA is similarly providing for "attaining a steady improvement in visibility" and "preventing degradation of clean air days" through the requirement to improve the haziest days and prevent degradation of the clearest days.

Tracking progress based on 5-year averages. To determine whether reasonable progress in improving visibility is being achieved, States will need to collect and analyze air quality data each year and review progress at 5-year intervals. Because the regional haze program represents a long-term effort to improve visibility in Class I areas, EPA believes that monitoring and assessments of progress should not be unduly influenced by short-term events or unusual meteorological conditions, but should reflect trends in air quality which are robust and insensitive to minor fluctuations. For this reason, the final rule calls for measuring progress by tracking changes in 5-year average deciview values for the haziest and clearest days, and comparing these current conditions against baseline conditions as well as impairment levels at the time of the last SIP revision. (See unit III.E above for further discussion about establishing baseline and current conditions based on 5-year averages.)

G. Long-Term Strategy

Proposed rule. Under Section 169A(b)(2) of the CAA, EPA's visibility regulations must require States to include in their SIPs "such emission limitations schedules of compliance and other measures as may be necessary to make reasonable progress toward

meeting the national goal specified in * * * [section 169A(a)] * * *." In section 169A(b)(2)(B), the CAA requires that these SIPs must include a "long-term (ten to fifteen years) strategy for making reasonable progress toward meeting the national goal." The EPA interprets the term "long-term strategy" as the control measures that are needed to ensure reasonable progress, together with a demonstration that those measures will provide for reasonable progress during the 10 to 15 year period. The proposed rule required the State to develop a long-term strategy for regional haze with the initial regional haze SIP, and to provide for regular updates. (Issues regarding updates of the long-term strategy are discussed below in unit III.J).

The proposal also required States to consider a specific list of factors when they developed their long-term strategies for regional haze. Under the proposal, in developing long-term strategies for regional haze, States would be required to consider the six items listed in section 51.306(e) of the 1980 rule, and the five items listed in section 51.306(g) of the 1980 rule. We proposed to add a seventh item to section 51.306(e), "the anticipated effect on visibility due to projected changes in point, area and mobile source emissions over the next 10 years."

Comments received. Public commenters on the long-term strategy requirement expressed concerns that the proposed rule had over-emphasized stationary source contributions, and had under-emphasized contributions from minor sources, area sources, mobile sources and prescribed fires. Other commenters expressed concerns that control strategies would be ineffective in cases where contributions from international sources were causing visibility impairment. Commenters also emphasized that States be able to take credit in their long-term strategies for the effects of existing CAA programs. We did not receive any comments on the specific list of factors to consider in developing long-term strategies.

Final rule. As discussed further below in unit III.J of today's notice, the final rule requires control strategies to cover an initial implementation period extending to the year 2018, with a reassessment and revision of those strategies, as appropriate, every 10 years. The final rule, in section 51.308(d)(3), includes a requirement for regional haze SIPs to include a long-term strategy. The long-term strategy must include specific enforceable measures that are sufficient to meet the "reasonable progress goals" for all Class

⁸⁵ The IMPROVE network is described in unit III.I. of the preamble.

⁸⁶ 136 Cong. Rec. S2878 (daily ed. March 21, 1990) (statement of Sen. Adams).

⁸⁷ GCVTC Report, p. x.

I areas affected by emissions from the State.

Multistate contributions—requirements for consultation and apportionment. As noted in section 51.308(d)(3)(i), when a State's emissions are reasonably anticipated to cause or contribute to impairment in a Class I area located in another State or States, the rule requires that the State consult with the other State or States in order to develop coordinated emission management strategies. Regarding the Class I areas within the State, section 51.308(d)(3)(i) also requires States to consult with any other State having emissions that are reasonably anticipated to contribute to impairment in any Class I area within the State.

For Class I areas where the State and other States cause or contribute to impairment in a mandatory Class I area, section 51.308(d)(3)(ii) requires that the State must demonstrate that it has included in its implementation plan all measures necessary to obtain its share of the emissions needed to meet the progress goal for the area. Section 51.308(d)(3)(iii) requires that States must document the technical basis, including modeling, monitoring and emissions information, that it uses to determine its apportionment of emission reduction obligations for the Class I areas the State affects. It is important that EPA and stakeholders understand the modeling, monitoring and emission information that the State used to support its conclusion that the long-term strategy provides for reasonable progress.

The EPA expects that much of the consultation, apportionment demonstrations, and technical documentation will be facilitated and developed by regional planning organizations. We expect, and encourage, these efforts to develop a common technical basis and apportionment for long-term strategies that could be approved by individual State participants, and translated into regional haze SIPs for submission to EPA. While States are not bound by the results of a regional planning effort, nor can the content of their SIPs be dictated by a regional planning body, we expect that a coordinated regional effort will likely produce results the States will find beneficial in developing their regional haze implementation plans. Any State choosing not to follow the recommendations of a regional body would need to provide a specific technical basis that its strategy nonetheless provides for reasonable progress based on the statutory factors. At the same time, EPA cannot require States to participate in regional

planning efforts if the State prefers to develop a long-term strategy on its own. We note that any State that acts alone in this regard must conduct the necessary technical support to justify their apportionment, which generally will require regional inventories and a regional modeling analysis. Additionally, any such State must consult with other States before submitting its long-term strategy to EPA.

Consideration of all anthropogenic sources. In the final rule, we have clarified in section 51.308(d)(3)(iv) that the State should consider all types of anthropogenic sources including stationary, minor, mobile, and area sources in developing its long-term strategy. The State should review all such sources in identifying the emission reduction measures to be included in the strategy. In addition, we provide the following points of clarification:

Minor sources. Because of the focus of the BART provision on major stationary sources, EPA believes that commenters may have the impression that EPA has concluded that minor sources with emissions, below the BART cutoff of 250 tons per year, are not significant contributors to regional haze. This is not the case. The EPA believes that States should take the cumulative emissions from minor sources into account in developing their regional haze long-term strategies. For example, if growth in minor source emissions for a particular category had a substantial impact on emission trends and a corresponding effect on regional haze in a given geographic area, States should consider emission control strategies for such source categories as part of their long-term strategies.

Mobile sources. In cases where pollutants emitted by mobile sources contribute to regional haze, States must include in their SIPs mobile source emissions inventories representing current conditions, as well as comparisons of those emissions with future emissions projected for the end of the covered by the long-term strategy. It will be particularly important for States to address the effects of population growth and accompanying increases in vehicle miles traveled on their ability to provide for reasonable progress. The EPA agrees with commenters that national mobile source emission standards also will be an important factor in projecting mobile source emissions. The EPA intends to support States in their efforts to estimate mobile source emissions (including the effects of Federal rules) of pollutants that lead to regional haze.

Area sources. States also need to develop emission inventories and

conduct analyses to understand the importance of area sources. For example, the GCVTC report cited emissions from road dust as a possible contributor to impairment. Depending on the nature of the visibility problem, road dust and other area sources may at times make a significant contribution to visibility impairment. States should include area sources in emission inventories and control strategy analyses as warranted.

Fire. Commenters expressed a number of concerns with respect to the appropriate consideration of emissions from fire in the development of long-term strategies.

The EPA notes that fire emissions have both a natural and a manmade component. In addressing fire emissions in long-term strategies, EPA believes that States must take into account the degree to which fire emissions cause or contribute to "manmade" visibility impairment and its contribution to natural background conditions. Reducing "manmade" visibility impairment is the focus of sections 169A and 169B of the CAA. The EPA recognizes the natural role of fire in forest ecosystems, and the fact that forest fuels have built up over many years due to past management practices designed to protect public health and safety through fire suppression. Research has shown that these practices have led to an increased risk of catastrophic wildfire as well as reduced forest health. In response to this situation, the Federal land management agencies, as well as some States and private landowners, have recommended the increased use of prescribed fire in order to return certain forest ecosystems to a more natural fire cycle and to reduce the risk of adverse health and environmental impacts due to catastrophic wildfire.

The EPA also recognizes that fire of all kinds (wildfire, prescribed fire, etc.) contributes to regional haze, and that there is a complex relationship between what is considered a natural source of fire versus a human-caused source of fire. For example, the increased use of prescribed fire in some ecosystems may lead to PM emissions levels lower than those that would be expected from catastrophic wildfire. Given that the purpose of prescribed fire in many instances is to restore natural fire cycles to forest ecosystems, it would be appropriate to consider some portion of prescribed fire as "natural." Consequently, in determining natural background for a Class I area, EPA believes States should be permitted to consider some amount of fire in the calculation to reflect the fact that some

prescribed fire effects serve merely to offset what would be expected to occur naturally. The EPA will work with the FLMs, States and other stakeholders to develop guidance on ways in which fire can be considered in the determination of natural background, and in the determination baseline and current conditions.

Commenters asserted that in the proposed rule, EPA ignored the contribution of fires and thus overlooked the most important haze-contributing emission source in many Class I areas. The EPA agrees that fire is an important emission source to include in the analysis, but current data do not show that fire is the predominant source of visibility impairment in any Class I area. Annual data from the IMPROVE network show that elemental carbon (which we generally use as the main indicator of emissions from fire and other combustion sources such as diesel emissions), accounts for only about 3–7 percent of PM_{2.5} mass on the worst visibility days in eastern sites. In western sites, elemental carbon accounts for about 4–7 percent of total PM_{2.5} mass on the worst days. The contribution from fires can be substantial over short-term periods, but fires occur relatively infrequently and thus have a lower contribution to long-term averages. Fire events making substantial contributions to haze in a given Class I area have occurred relatively infrequently, and as a practical matter will contribute less than sources for which emissions are more continuous. As noted previously, the final rule requires States to develop long-term strategies for regional haze that address 5-year averages of the 20 percent worst days. These 5-year averages will also be used in evaluating monitoring results. The frequency with which fires occur will effect the importance of their emissions on predicted future 5-year averages for visibility conditions on the 20 percent worst days.

Commenters expressed concerns with the expected increase in emissions from prescribed burning on Federal lands. Specifically, the commenters asserted that States would not be able to address emission increases from these prescribed burns, and that stationary sources would be required to compensate for the increased amount.

The EPA believes these commenters are mistaken in their view of State's authority to address emissions from prescribed Federal burns. Pursuant to section 118 of the CAA, when States impose requirements on sources, Federal agencies must comply with those requirements in the same manner,

and to the same extent, as any nongovernmental entity. States therefore have the authority to address emissions from prescribed Federal burns in the same manner, and to the same extent, they regulate prescribed fires generally. Additionally, to the degree that States determine in the development of long-range strategies that the manmade component of fire is a significant contributor to regional haze, States have a substantial degree of flexibility under the CAA and in the final rule. The final rule provides States flexibility in determining the amount of progress that is "reasonable" in light of the statutory factors, and also provides flexibility to determine the best mix of strategies to meet the reasonable progress goal they select. Nothing in the final rule requires States to develop long-term strategies that reduce emissions from other sources by amounts equivalent to any increases from the manmade fraction of prescribed fires. We do expect that States consider and analyze the full range of available control measures and that they consider the causes of visibility impairment when evaluating the potential measures to include in their long-term strategies.

The EPA encourages the development of smoke management programs between air regulators and land managers as a means to manage the impacts of wildland and prescribed burning. The sources of information described above, as well as other developmental efforts currently underway, provide effective, flexible approaches to smoke management. Where smoke impacts from fire are identified as an important contributor to regional haze, smoke management programs should be a key component of regional and State regional haze planning efforts and long-term strategies.

There are a number of sources of information on mitigation approaches for fire emissions, including: (1) The EPA Interim Air Quality Policy on Wildland and Prescribed Burning, (2) fire-related strategies developed by the GCVTC and (3) the best available control methods (BACM) document for prescribed burning. In the Interim Air Quality Policy on Wildland and Prescribed Burning, EPA, in collaboration with a national stakeholder group comprised of Federal, State, and private land managers, State air regulators, environmental groups, tribes, and others, developed a framework for managing the impacts of smoke from increased prescribed fire programs across the country. This policy describes the elements and process of smoke management planning

that air regulators and land managers can use to reach agreement on development of smoke programs. The GCVTC included a number of long-term strategies for fire in its report and recommendations, including emissions tracking and emission goals for fire, smoke management programs, and full consideration for alternatives to fire. The GCVTC's strategy is illustrative of the available mitigation approaches for emissions from fire that other States may consider. The GCVTC's approach is contained in section 51.309(d)(6) of the final rule and discussed further in unit IV.C of this notice. The BACM document, Prescribed Burning Background Document and Technical Information Document, EPA-450/2-92-003, is organized to discuss various aspects of State smoke management programs. The document includes information on how States administer and enforce programs for burn/no-burn days, and information on various topics including emission inventories, cost estimation, and public information programs.

Transboundary emissions from sources outside the United States. Some Class I areas located near international borders are particularly prone to influence by emissions beyond the United States border. Commenters expressed concerns that EPA should take into account that States are not able to control international sources in reviewing a State's proposal for a reasonable progress target. Additionally, commenters urged EPA to work with Mexico and Canada to reduce emissions from sources that States determine to be significant contributors to regional haze in their Class I areas.

The EPA agrees that the projected emissions from international sources will in some cases affect the ability of States to meet reasonable progress goals. The EPA does not expect States to restrict emissions from domestic sources to offset the impacts of international transport of pollution. We believe that States should evaluate the impacts of current and projected emissions from international sources in their regional haze programs, particularly in cases where it has already been well documented that such sources are important. At the same time, EPA will work with the governments of Canada and Mexico to seek cooperative solutions on transboundary pollution problems.

Factors to consider for long-term strategies. In section 51.308(d)(3)(v) (A) through (G) in the final rule, we have incorporated a list of seven factors that States must consider in developing long-term strategies. The final rule

includes six factors in the July 1997 proposal that are derived from section 51.306(e) of the existing rule, and the additional item, "the anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the long-term strategy" that was specifically added by the July 1997 proposal. We have decided not to include the five proposed items that are derived from section 51.306(g), because four of these items are included on the list of "reasonable progress" factors in section 51.308(d)(1)(i)(A) of the final rule, and because we believe that the fifth factor "effect of new sources" is part of "projected changes in point source emissions."

In their regional haze SIP submissions, States must describe how each of these seven factors is taken into account in developing long-term strategies. We believe it is useful to clarify several of these factors, and EPA's expectations on how SIPs can address them.

Item (A): Emissions due to ongoing air pollution control programs, including measures to address reasonably attributable visibility impairment.

It is expected that for some areas of the country, such as parts of the eastern United States, emissions achieved for the acid rain program and for meeting the PM_{2.5} NAAQS, will lead to substantial improvements in visibility as well. Item (A) makes clear that States must take these other emissions into account in developing their long-term strategies for regional haze. We expect that some States may be able to demonstrate reasonable progress based on these emissions alone, particularly for the first 10-year period.

Item (B): Measures to mitigate the impacts of construction activities.

Item (B) requires that in developing long-term strategies, States must consider the impacts of construction activities. States, for example, should include these activities in emission inventories used for long-term strategy development.

Item (C): Additional measures and limitations and schedules for compliance to achieve the reasonable progress goal.

Where emissions from ongoing requirements, addressed by item (A), are not sufficient to achieve the reasonable progress goal, States must identify additional measures that will ensure that the goal will be met. Schedules for compliance for these additional measures must be included in the SIP, and measures considered for inclusion must be identified in the SIP submission.

Item (D): Source retirement and replacement schedules.

Item (D) requires the consideration of source retirement and replacement schedules in developing the long-term strategies, particularly, where these schedules would have a significant impact on regional emission loadings and on a State's ability to achieve reasonable progress.

Item (E): Smoke management techniques for agricultural and forestry management purposes including plans as they currently exist within the State for these purposes.

Item (E) highlights the widely recognized importance of prescribed burning programs on regional haze. Issues related to fire and forestry management practices are discussed above.

Item (F): Enforceability of emissions limitations and control measures.

States must ensure that control measures are written in a way that EPA and citizens may enforce as a practical matter. Guidance on practical enforceability issues is readily available in EPA policy guidance memoranda, for example Guidance on Limiting Potential to Emit in New Source Permitting, June 13, 1989.

Item (G): The anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the next 10 years.

Item (G) requires that States must address the anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the next 10 years when developing emissions strategies that will meet the reasonable progress requirements. In some areas, these changes in emissions would be expected primarily from population growth, while in others, emissions changes may result from potential new industrial, energy, natural resource development, or land management activities. These changes in emissions would also include the changes due to measures developed specifically for the regional haze program.

Relationship to long-term strategies under the existing rule. The final rule provides for coordination of the long-term strategies to address regional haze impairment with any existing long-term strategies under the 1980 visibility rule. Some long-term strategies are already in place to address reasonably attributable visibility impairment under the existing 1980 regulation. Coordination of the two programs is addressed in section 51.306(c) of the final rule. This section clarifies two points. First, that the provisions of existing long-term strategies will continue to apply until

regional haze strategies are in place. Second, once the first regional haze strategy is in place, the final rule, in section 51.306(c) requires the State to develop a coordinated long-term strategy which address both reasonably attributable impairment and regional haze.

H. Best Available Retrofit Technology (BART)

Background. One of the principal elements of the visibility protection provisions of the CAA is the provision in section 169A addressing the installation of BART for certain existing sources. The conference committee report accompanying the 1977 CAA amendments indicates that a major concern motivating the adoption of the visibility provisions was "the need to remedy existing pollution in the Federal mandatory class I areas from existing sources."⁸⁸ The BART provision in section 169A(b)(2)(A) demonstrates Congress' intention to focus attention directly on the problem of pollution from a specific set of existing sources. This provision provides that EPA's regulations to protect visibility must require States to revise their SIPs to contain such measures as may be necessary to make reasonable progress toward the national visibility goal, including a requirement that certain existing stationary sources procure, install, and operate the "best available retrofit technology."

The CAA defines the sources potentially subject to BART as major stationary sources, including reconstructed sources, from one of 26 identified source categories which have the potential to emit 250 tons per year or more of any air pollutant, and which were placed into operation between August 1962 and August 1977.⁸⁹ This set of sources potentially subject to BART was defined in the 1977 CAA and will not be modified by rule. The 26 source categories are:

- (1) Fossil-fuel fired steam electric plants of more than 250 million British thermal units per hour heat input,
- (2) Coal cleaning plants (thermal dryers),
- (3) Kraft pulp mills,
- (4) Portland cement plants,
- (5) Primary zinc smelters,
- (6) Iron and steel mill plants,
- (7) Primary aluminum ore reduction plants,
- (8) Primary copper smelters,
- (9) Municipal incinerators capable of charging more than 250 tons of refuse per day,

⁸⁸ H.R. Rep. No. 564, 95th Cong., 1st Sess. at 155 (1977) (emphasis added).

⁸⁹ See CAA sections 169A (b)(2)(A) & (g)(7).

(10) Hydrofluoric, sulfuric, and nitric acid plants,
 (11) Petroleum refineries,
 (12) Lime plants,
 (13) Phosphate rock processing plants,
 (14) Coke oven batteries,
 (15) Sulfur recovery plants,
 (16) Carbon black plants (furnace process),
 (17) Primary lead smelters,
 (18) Fuel conversion plants,
 (19) Sintering plants,
 (20) Secondary metal production facilities,
 (21) Chemical process plants,
 (22) Fossil-fuel boilers of more than 250 million British thermal units per hour heat input,
 (23) Petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels,
 (24) Taconite ore processing facilities,
 (25) Glass fiber processing plants, and
 (26) Charcoal production facilities.

In section 51.301(e) of the 1980 visibility regulations, a source meeting the above criteria was defined as an "existing stationary facility." In today's regional haze rule, EPA has added the definition of a "BART-eligible source" in section 51.301(hh) that is identical to the definition of "existing stationary facility." This new definition is used throughout the regional haze rule and preamble in order to avoid the potential misinterpretation of the "existing stationary facility" definition as representing a collection of sources broader than the subset of sources potentially subject to BART.

The regulations issued in 1980 define BART as "an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted" by a BART eligible facility.⁹⁰ The BART emission limitation must be established, on a case-by-case basis, taking into consideration the following factors:

- The technology available,
- The costs of compliance,
- The energy and nonair environmental impacts of compliance,
- Any pollution control equipment in use at the source,
- The remaining useful life of the source, and
- The degree of improvement in visibility which may reasonably be anticipated from the use of such technology.⁹¹

The EPA published guidelines in 1980 which outline the general procedures for States to follow in analyzing sources

and establishing BART emission limits.⁹² These guidelines apply to situations in which visibility impairment in the Class I area is determined to be "reasonably attributable" to a single source or a small group of sources.

Proposed rule. The proposed regional haze rule discussed a process for addressing BART in the context of regional haze and requested comment on how the requirement should be implemented. The first step in this process was a requirement that the State identify all sources potentially subject to BART early in the planning process. The second step required the State to submit a plan and schedule for evaluating BART and the corresponding potential emissions for those existing sources which may reasonably be anticipated to contribute to regional haze visibility impairment. The notice proposed to provide 3 years for completing this evaluation so that the results could be taken into consideration by States as they develop coordinated strategies for attaining the PM_{2.5} and ozone NAAQS.

In setting out the proposed approach to the BART requirement, EPA proposed that the test for determining whether a BART-eligible source "may reasonably be anticipated to contribute" to regional haze should be evaluated in the context of the overall emissions reduction strategy. The EPA also noted that it believed that a similar approach should be taken in addressing "the degree of improvement in visibility which may reasonably be anticipated" from the imposition of BART controls. The EPA proposed a cumulative approach because of the nature of the regional haze problem (i.e., the cumulative product of emissions from many sources over a broad area) and because of the time and expense necessary to try to determine, one source at a time, the percentage contribution of each BART-eligible source to regional haze. In addition, EPA noted the substantial technical difficulties associated with estimating the degree of visibility improvement resulting from a single source. The EPA broadly requested comments on effective approaches for States and sources to meet the BART requirement under the regional haze program in the most appropriate manner, and in particular how BART, once determined, should be implemented.

⁹² See EPA, Office of Air Quality Planning and Standards, Guidelines for Determining Best Available Retrofit Technology for Coal-Fired Power Plants and Other Existing Stationary Facilities, EPA-450/3-80-009b, November 1980.

Comments received. Commenters identified a number of issues concerning how EPA should address the BART requirement under the regional haze program. Some commenters asserted that the BART requirement simply should not apply under the regional haze program. These commenters argued that the procurement, installation, and operation of BART is not explicitly required under section 169B, and that section 169B is the primary statutory authority for the regional haze program. Other opponents of the BART requirement contended that the proposal placed too much emphasis on stationary sources, and on BART sources in particular, as opposed to other sources of visibility-impairing pollutant emissions, such as mobile and area sources. The commenters contended that BART should not be the principal control strategy employed under the regional haze program.

Another group of commenters supported EPA's proposed approach for addressing the BART requirement. Some pointed out that while existing stationary sources are not the only contributors to regional haze, controlling these sources is an essential element of a national regional haze program. These commenters also supported the approach of evaluating BART-eligible sources collectively to determine their overall contribution to visibility impairment within a given airshed. Several commenters recommended that BART be equivalent to, or more stringent than, new source performance standards (NSPS) for sulfur dioxide and nitrogen oxides. Some commenters suggested allowing an emissions cap-and-trade program to meet the BART requirement. One commenter described a process whereby States would conduct an assessment of the availability of retrofit controls for all BART-eligible sources in a region, calculate the cumulative emissions possible from application of BART to eligible sources, establish a cap for each visibility-reducing pollutant, and implement a 10-year program to achieve emissions equivalent to the emissions cap.

Response to comments. The EPA disagrees with the commenters who argued that the BART requirements should not apply to the regional haze program. The statutory authority for developing a regional haze program emanates from section 169A of the CAA, and any SIPs that are to be developed under a regional haze program must include provisions that meet the requirements of this section, including the requirement that certain sources procure, install, and operate BART.

⁹⁰ Section 51.301(c).

⁹¹ *Id.*

Since 1977, section 169A of the CAA has authorized EPA to address regional haze. Section 169A(a)(1) of the CAA establishes as the national visibility protection goal "the prevention of any future, and the remedying of any existing, impairment of visibility in Class I areas which impairment results from manmade air pollution." Visibility impairment is defined broadly in the CAA and includes that caused by regional haze.⁹³ This language does not distinguish between reasonably attributable impairment and regional haze, but provides for visibility protection generally. This reading of the statute is consistent with the legislative history; in adopting section 169A, Congress evinced its intent to address impairment caused by "hazes" and the potential corresponding need to control a "variety of sources" and "regionally distributed sources."⁹⁴ While EPA deferred addressing regional haze in 1980 when it promulgated the first phase of visibility regulations, it did so because of technical obstacles, not because of a limitation on its legal authority.⁹⁵ Indeed, in the 1980 rule, EPA expressed its intent to address regional haze in a future rulemaking under section 169A. Thus, EPA's decision to address visibility impairment in separate phases does not change the fact that the BART requirement is an integral part of the statutory scheme in section 169A.

The provisions in section 169B of the CAA, adopted in 1990, do not override EPA's statutory authority to require State plans to remedy regional haze. These provisions grew out of Congress' frustration that EPA had not more expeditiously addressed regional haze under its section 169A delegated rulemaking authority. Thus, section 169B(e) explicitly requires EPA to carry out its "regulatory responsibilities under section [169A]" within a set time period. The legislative history confirms that Congress did not intend section 169B to impinge upon EPA's long-standing authority to address regional haze visibility impairment,⁹⁶ including the authority to require BART.

The EPA believes that commenters asserting that EPA overemphasized the control of stationary sources and, in particular, the role of BART in the regional haze program misinterpreted the proposal. The EPA did not intend to emphasize controls on BART-eligible sources over, or to the exclusion of, other sources. While the BART requirement is limited to a specified population of major stationary sources, States will need to consider measures addressing a wide range of sources and activities, including mobile sources, area sources, activities involving fire, and other major and non-major stationary point sources in their long-term strategies. The unit on long-term strategies includes further discussion of this point.

Final Rule. The final rule requires each implementation plan to be revised to contain two basic elements related to BART. The first is the requirement that the States submit a list of the "BART-eligible sources" in the State. Second, the State must determine and include in the plan the "best available retrofit technology," taking into account certain factors identified in section 169A(g)(2) of the CAA, for each BART-eligible source in the State reasonably anticipated to cause or contribute to any impairment of visibility.

In recognition of the control and cost efficiencies that can be achieved through trading programs and other alternative measures, EPA is providing States with the opportunity to adopt alternative measures in lieu of BART where such measures would achieve even greater reasonable progress toward the national visibility goal. The overarching requirement of the visibility protection provisions of section 169A is to make reasonable progress toward the national goal of eliminating visibility impairment. If greater reasonable progress can be made through an approach that does not require source specific application of BART, EPA believes that approach would comport with this statutory goal. The EPA reached this conclusion in determining the appropriate measures to address visibility impairment in the Grand Canyon National Park resulting from the Navajo Generating Station.⁹⁷ In that case, EPA ultimately chose not to adopt the emission control limits indicated by its BART analysis.⁹⁸ Instead, as explained by the Ninth Circuit in

upholding EPA's final decision, EPA acted within its discretion in adopting an alternative emission control standard "that would produce greater visibility improvement at a lower cost. Congress's use of the term 'including' in [section 169A(b)(2)] prior to its listing BART as a method of attaining 'reasonable progress' supports EPA's position that it has the discretion to allow States to adopt implementation plan provisions other than those provided by source-specific BART analyses in situations where the agency reasonably concludes that more 'reasonable progress' will thereby be attained."⁹⁹ Under today's final rule, States may elect to adopt an emissions trading program or other alternative measures in lieu of BART so long as greater reasonable progress is made.

List of BART-eligible sources. To ensure adequate time for developing long-term strategies to ensure reasonable progress, we recommend that States begin identifying and evaluating the list of potential BART sources as soon as possible after promulgation of the final rule. Identifying the BART-eligible sources will require States to collect information as to the dates that emission units at stationary sources were placed into operation, the pollutants emitted, and the potential to emit of these units. We suggest that, at the same time that they begin refining their emissions inventories for PM_{2.5} and its precursors, States request that stationary sources provide them with these dates. While such information is generally available for electric utilities through data bases maintained by the Energy Information Administration, this information is not normally maintained in national data bases for the other 25 source categories subject to BART. However, EPA believes that much of this information is likely to be available in States permitting data bases or other inventories. To assist the States in this task, we will continue efforts to identify other helpful sources of information.

Determination of sources subject to BART. After the State has identified the BART-eligible sources, the next step is determining whether these sources emit any air pollutant "which may reasonably be anticipated to cause or contribute" to any visibility impairment in a Federal Class I area. As noted in the proposal, EPA believes that this determination should not require extremely costly or lengthy studies of the contribution of specific sources to regional haze. Unlike the 1980 regulatory program, which addresses the

⁹³ See CAA section 169A(g)(6); see also *Maine v. Thomas*, 874 F.2d.883, 885 (1st Cir. 1989) ("EPA's mandate to control the vexing problem of regional haze emanates directly" from CAA section 169A).

⁹⁴ H.R. Rep. No. 294, 95th Cong., 1st Sess. 204 (1977).

⁹⁵ 45 FR 80084 (Dec. 2, 1980).

⁹⁶ See 136 Cong. Rec. S2878 (daily ed. March 21, 1990) (statement of Sen. Adams) ("[t]he authority to establish visibility transport regions and commissions is a supplement to the administrators [sic] obligation under current law. * * * The Administrator may not delay requirements under section 169A because of the appointment of a commission for a region under section 169B")

(daily ed. Oct. 26, 1990) (statement of Rep. Wyden) ("[n]either the original House language nor the Senate language adopted in conference repealed or lessened EPA's obligations under the 1977 law").

⁹⁷ See *Central Arizona Water Conservation District v. EPA*, 990 F.2d 1531, 1543 (1993).

⁹⁸ See 56 FR at 50178.

⁹⁹ *Central Arizona Water Conservation District v. EPA*, 990 F.2d 1531, 1543 (1993).

visibility impairment that is reasonably attributable to a specific source or small group of sources, today's final rule addresses the problem of visibility impairment resulting from emissions from a multitude of sources located across a wide geographic area. As the regional haze rule is not limited to addressing visibility impairment that can be attributed to a specific source or small group of sources, EPA believes it would be inappropriate to focus on the contribution of one source or a small group of sources. First, the States will not face the same need to define the precise contribution from one particular source to the visibility problem. Second, establishing the contribution from one particular source to the problem of regional haze would require lengthy and expensive studies and pose substantial technical difficulties. The EPA has thus concluded that a detailed source-receptor analysis would not be appropriate in determining whether a source "may reasonably be anticipated to contribute" to regional haze in a Class I area.

In implementing today's final rule, a State should find that a BART-eligible source is "reasonably anticipated to cause or contribute" to regional haze if it can be shown that the source emits pollutants within a geographic area from which pollutants can be emitted and transported downwind to a Class I area. The EPA believes that this test is an appropriate one for determining whether a source can reasonably be anticipated to cause or contribute to the problem of regional haze. As the Ninth Circuit stated in considering this language:

Congress mandated an extremely low triggering threshold, requiring the installment of stringent emission controls when an individual source "emits any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility" in a Class I Federal area. 42 U.S.C. sec. 7491(b)(2)(A). The NAS correctly noted that Congress has not required ironclad scientific certainty in establishing the precise relationship between a source's emission and resulting visibility impairment.* * *¹⁰⁰

The approach taken here is consistent with that taken in the programs for acid rain and ozone, programs which also address regional air quality problems caused by transported pollutants. These programs do not require a specific demonstration of each source's contribution to the overall problem, but instead focus efforts on developing cost-effective solutions to reducing emissions over a broad area that is

regional or national in scope. For example, in the recent NO_x SIP call addressing the regional transport of NO_x emissions (an ozone precursor) in the Eastern United States, EPA adopted a "collective contribution" approach to determining whether sources "contribute" to ozone nonattainment in downwind areas. In this rulemaking, EPA concluded that because ozone nonattainment results from the collective contribution of many entities over a broad geographic area, even relatively small (in an absolute sense) contributions from upwind entities should be considered to be "significant."¹⁰¹

The EPA has concluded that a similar approach in the regional haze program is appropriate. Where emissions from a region are considered to contribute to regional haze in a Class I area, any emissions from BART-eligible sources in that region should also be considered to cause or contribute to the regional haze problem. The EPA will issue and update guidance, including EPA modeling guidelines,¹⁰² to assist the States in analyzing whether sources contribute to regional haze.

Establishing source-specific BART emission limits. The second element of the BART requirement is for the States to establish emission limitations for those BART-eligible sources which may reasonably be anticipated to cause or contribute to regional haze. To meet this requirement, the State must develop source-specific emission limits which reflect the application of the best system of continuous emission reduction for each pollutant which is emitted by a source subject to BART.¹⁰³ As stated above, the State can also choose to develop an emissions trading program, or other alternative measure, that achieve greater reasonable progress rather than require source specific BART emission limits on each source subject to BART.

In developing source specific emission limits for BART, the State must take into consideration the technology available and a number of specific factors set forth in the statute. These factors are the costs of compliance, the energy and nonair environmental impacts of compliance, any existing pollution control technology in use at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated

from the use of such technology. Taking these factors into account, the State may conclude that BART is the best level of emissions reduction that can be achieved by available retrofit technology or some other level of control. In some cases, the State may determine that a source has already installed sufficiently stringent emission controls for compliance with other programs (e.g., the acid rain program), such that no additional controls would be needed for compliance with the BART requirement. In establishing BART for a particular facility, the State must make available during public review of the SIP at the State level the materials supporting its BART determination. The State must also include this documentation in the technical support materials accompanying the SIP.

In establishing source specific BART emission limits, the State should identify the maximum level of emission reduction that has been achieved in other recent retrofits at existing sources in the source category. As noted above, the visibility regulations define BART as "an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction." Recent retrofits at existing sources provide a good indication of the current "best system" for controlling emissions. Thus, for example, recent retrofits for large utility sources (e.g., sources under the acid rain program and the Navajo Generating Station) have commonly achieved a 90 percent or better rate of SO₂ emissions (at an average cost of \$265 per ton of SO₂ removed).¹⁰⁵ For source categories with recently promulgated NSPS, that standard may also provide a good indication of the current "best system" for controlling emissions. In addition, current information concerning control technology performance for many source categories is available from EPA's Clean Air Technology Center, <http://www.epa.gov/ttn/catc>. EPA plans to issue revised BART guidance to provide updated guidance to the States on how to calculate BART for purposes of regional haze within a year of promulgation of this rule. The EPA will be developing this guidance through a national stakeholder process.

Once the State has identified the retrofit technology that provides the maximum degree of continuous

¹⁰⁰ *Central Arizona Water Conservaiton District v. EPA*, 990 F.2d 1531, 1541 (9th Cir. 1993).

¹⁰¹ 63 FR 57356, 57376 (Oct. 27, 1998).

¹⁰² See 40 CFR part 51, appendix W for information on EPA's modeling guideline for conducting regional-scale modeling for particulate matter and visibility.

¹⁰³ See section 51.301(c).

¹⁰⁴ See CAA section 169A(g)(2).

¹⁰⁵ Ellerman A. Danny et al., *Emissions Trading Under the U.S. Acid Rain Program: Evaluation of Compliance Costs and Allowance Market Performance*, Massachusetts Institute of Technology, Center for Energy and Environmental Policy Research, 1997.

emission reduction, it should take into consideration the costs of compliance, the energy and nonair quality environmental impacts of compliance, any existing pollution control equipment in use at the source, and the remaining useful life of the source. Taking these factors into account allows the State to arrive at an estimate of the "best system" of retrofit control technology for a particular source and a corresponding estimate of the likely emissions which would be achieved by the imposition of BART. These factors should be taken into account for each source subject to BART in order to compare tradeoffs between the control efficiencies and costs associated with various control alternatives.

The remaining factor which the States must take into account in determining BART is "the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology." In applying this factor in the context of the regional haze program, a State should use the degree of improvement in visibility that would be expected at each Class I area as a result of imposing BART, as determined through the application of the factors discussed above, on all sources subject to BART. For the same reasons that the determination of whether a BART-eligible source may be reasonably anticipated to cause or contribute to a visibility problem should be made on a cumulative basis, EPA believes that a regional analysis is appropriate for determining the degree of visibility improvement that can be achieved through application of BART. Moreover, the statute requires the States to consider "the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology."¹⁰⁶ EPA interprets the language "from the use of such technology" to refer to the application of BART level controls to all sources subject to BART. As a result, EPA believes that it is reasonable to interpret this provision as requiring the State to consider, as part of its source-specific analysis, the cumulative impact of applying retrofit controls to all sources subject to BART to estimate the degree of visibility improvement which may reasonably be anticipated to result from the use of BART.

The EPA also believes that such a regional analysis provides important information to the State and to the public about the magnitude of potential emissions from sources subject to BART. This information could be used to help inform the public debate in

developing reasonable progress goals, in setting a regional emissions target for a trading program, and in developing the overall long-term strategies for making reasonable progress.

To calculate the degree of improvement in visibility that would be expected at each Class I area as a result of imposing BART on all sources subject to BART, the State should estimate the possible emissions reductions resulting from the application of BART at all subject sources located within the region that contributes to visibility impairment in the Class I area. The State should work on its own or in conjunction with other States, such as in a regional planning body, to determine the geographic scope of the region that contributes to each Class I area. The States should consult with one another to determine the emission reductions achievable from sources subject to BART in other States.

The estimate of possible emission reductions from sources subject to BART should be based on the application of the technology, cost, time for compliance, energy and nonair environmental impacts, and remaining useful life factors discussed above. Using this estimate, the State will then need to calculate the resulting degree of visibility improvement that would be achieved at Class I areas. The EPA expects that this exercise will be in the form of a regional modeling analysis. The State should use this estimated degree of visibility improvement in determining the appropriate BART emission limitations for specific sources.

Unless a State commits to regional planning, a State must include its source-specific BART determinations in its initial SIP revision for the area in which the source is located.¹⁰⁷ Where the State commits to regional planning, a State may defer submitting its source-specific BART determinations consistent with the timing requirements described in unit III.B. However, the State must submit its list of BART-eligible sources at the same time it submits its committal SIP.

The SIP revision must include the emission limitations determined to be BART for sources subject to BART and a compliance schedule for each source. Each source subject to the BART requirement will have to meet the BART emission limitation within 5 years of SIP approval, as required under the

CAA. As noted above, within a year, EPA will be issuing revised BART guidance to provide States with assistance in determining BART for regional haze.

Alternative Measures in Lieu of BART. In today's final rule, States may elect to adopt alternative measures, such as a regional emissions trading program, in lieu of BART so long as the alternative measures achieve more reasonable progress than would application of source-specific BART. The EPA believes that a regional emissions trading program would be the most efficient means of achieving BART-level emission reductions and the emission reductions needed to meet the States' reasonable progress goals as implemented through the States' long-term strategies.

The EPA believes that this approach is consistent with the Ninth Circuit's decision in *Central Arizona Water Conservation District v. EPA*.¹⁰⁸ In this case, the court upheld EPA's exercise of discretion to adopt an alternative emission standard that achieved greater reasonable progress than would have been achieved through the imposition of BART. Allowing States to adopt alternative measures such as an emissions trading program rather than to require BART will provide the States with the flexibility to achieve greater reasonable progress towards the national goal at a lower cost, while still addressing the Congressional concern that existing sources contributing to visibility impairment be required to control emissions appropriately. The EPA believes that this best fulfills the overarching statutory requirement in section 169A(b) that States make reasonable progress toward the national visibility goal, but also ensures that, at a minimum, the degree of visibility impairment attributable to BART sources is addressed by the States during the first long-term strategy. Moreover, while an appropriately designed alternative might result in differing levels of control at particular sources than a source-by-source BART requirement, the environment will benefit through the achievement of greater reasonable progress.

As noted above, to take advantage of the flexibility offered by this provision, the State must demonstrate that the alternative measures adopted in lieu of meeting the BART requirements achieve greater reasonable progress than would result from the installation of source-specific BART. One way of making this showing is for a State to show in its SIP demonstration that the alternative

¹⁰⁷ For areas designated attainment or unclassifiable for PM_{2.5}, this SIP will be due 12 months after the areas are designated. For areas designated as nonattainment, this SIP will be due no later than 3 years after the area is designated nonattainment.

¹⁰⁸ 990 F.2d 1531, 1543 (1993).

CAA section 169A(g)(2) (emphasis added).

measures will achieve greater emission reductions and visibility improvement than would result from meeting the BART requirements.

In making this showing, States may rely on the assessments and analyses developed by regional planning groups that are formed to address regional haze. To compare the emissions reductions and visibility improvement that would result from application of source specific BART to that resulting from implementation of alternative measures, such as a regional emissions trading program, the State must estimate the emissions reductions that would result from the use of BART-level controls. To do this, the State could undertake a source-specific review of the sources in the State subject to BART, or it could use a modified approach that simplifies the analysis.

To simplify the process of arriving at an estimate of emissions, EPA believes that one approach that would be acceptable in place of a source by source BART analysis would be to consider some of the BART factors on a category-wide basis. For example, the average cost per ton of complying with alternate control technologies and associated energy and nonair environmental impacts could be considered on a category-wide basis. It may be more appropriate to consider other factors on a source-by-source basis. For example, the State could identify the current control technology in operation at each source and calculate the emissions that would be achieved at each source with a given retrofit control technology or determine and consider the remaining useful life of individual sources.

Alternatively, EPA believes it may be appropriate for the State to combine a category-wide BART assessment with a source-specific assessment for certain sources. For example, if a State can verify that a source will be retired within a short period of time, it could take this into account in determining BART-level emissions reductions for that facility while assessing the remaining sources subject to BART on a category-wide basis.

The States accordingly have flexibility in developing a method to determine the emission reductions that could be achieved through the application of BART. Whatever methodology is chosen by the State to evaluate possible emissions reductions from BART, the estimate must reflect at least the minimum level of emissions reductions that can be expected. This estimate becomes the point of comparison for determining whether an alternative measure, such as an emission trading program, achieves greater reasonable

progress toward visibility improvement. Once the State has arrived at an estimate of the emissions that would result from application of source-specific BART, it should then compare the degree of visibility improvement expected to be achieved in Class I areas through the application of BART to the degree of visibility improvement projected to be achieved by the alternative measures proposed by the State.¹⁰⁹ It is not necessary to go through an additional analysis of the BART factors in considering the effects of alternative measures.

The EPA believes that the most likely alternative measures adopted by the States will be an emissions trading program. There are several advantages associated with a regional trading approach in lieu of meeting a source-specific BART requirement. First, it provides flexibility to participating sources in deciding whether to purchase credits or to implement on-site emission reduction strategies, while being designed to achieve an equivalent level of emissions. Many commenters felt the proposal did not provide this type of flexibility. Second, trading allows sources to assess the costs of control technology, alternative fuels, and process changes across a broad array of sources and source categories. Thus, a trading program typically will result in lower cost per ton of pollutant reduced than a program which mandates plant-specific technological control. For example, EPA's experiences in the acid rain program have shown that sulfur dioxide reductions achieved through market-based programs within the electric utility sector continue to be quite cost effective, in the \$170—320 per ton range.¹¹⁰ A program which allows broader trading among sources in other industrial categories as well would likely lead to even greater cost effectiveness for individual sources.

In designing emissions trading programs that will achieve the requisite improvement in visibility, States must ensure that such programs meet several criteria. First, as noted above, the legislative history demonstrates Congress' recognition of the need to

control emissions from a specific set of existing sources. Because of the Congressional focus on control of these sources, any emissions trading program must include, at a minimum, the sources within the trading region subject to BART. The one exception to this is where a source has already installed BART-level pollution control technology and the emission limit is a federally-enforceable requirement. In that case, States may elect to allow a source the option of not participating in the trading program.

Second, a trading program adopted in lieu of BART must be fully implemented within the period of the first long-term strategy. To ensure this, States must provide schedules for implementing emissions trading programs with their SIP submittal. While EPA is allowing States to fully implement a trading program within the period addressed by the State's first long-term strategy, under section 169A, BART emission limits are to be implemented within 5 years. To provide States with the additional flexibility they may need to implement a trading program, EPA has concluded that it is appropriate for States to have the full period of the long-term strategy to achieve the full measure of necessary emissions. The basis for allowing this longer implementation period is the provision that the trading program achieve greater reasonable progress than would be achieved by source-specific application of BART within 5 years of plan submittal. The EPA will consider the estimated period of time to implement the program in determining whether the alternative measures "achieve more reasonable progress." In any event, a trading program adopted in lieu of BART must be implemented during the period of the first long-term strategy.

Third, the reductions in emissions required of BART sources must be surplus to other Federal requirements as of the baseline date of the SIP, that is, the date of the emissions inventories on which the SIP relies. In addition, sources must be required to monitor their emissions in a way that allows States and EPA to assure that the reductions are being achieved. The basic concept of an emission trading program is to allow for alternative, cost-effective ways of achieving equal or greater overall emissions. To ensure that the trading program does achieve a greater overall emission reduction, it is important that the emission credits are created by genuine reductions in emissions. We will be issuing further guidance to assist States in designing

¹⁰⁹ The State should be able to compare the degree of visibility improvement through modeling. For example, for an emissions trading program, the State may undertake a regional modeling analysis that simulates least-cost market trades to predict the geographic distribution of the emission reductions that could be achieved through a market trading program and the resultant improvement in visibility at different Class I areas.

¹¹⁰ U.S. Department of Energy, Energy Information Administration, "The Effects of Title IV of the Clean Air Act Amendments of 1990 on Electric Utilities: An Update," DOE/EIA-0582(97), March 1997.

their trading programs to ensure that programs provide such accountability.

Fourth, the regional trading program may include sources not subject to BART. Inclusion of such sources provides for a more economically efficient and robust trading program. The EPA believes the program can include diverse sources, including mobile and area sources, so long as the reductions from these sources can be accurately calculated and tracked.

Fifth, EPA encourages States wishing to develop such programs to consider the emission reduction requirements of other air quality programs. To implement reductions in a fully integrated fashion, the State should consider the extent to which some sources should be limited in their ability to trade. Examples of such factors include the significant contribution to a local nonattainment situation and the extent to which trading may assist or undermine the achievement of greater progress toward attainment of the NAAQS or the national visibility goal.

A related issue is the connection between determinations of BART under the reasonably attributable regulations and a trading program adopted in lieu of BART. The EPA has adopted a provision in the final rule that allows States to include a geographic enhancement in such a trading program to accommodate reasonably attributable BART. The purpose for including this provision is to address concerns regarding "hot spots"—the concern that some part of visibility impairment in a specific Class I area is attributable or uniquely attributable to a single source or small group of sources because of the nature and location of the pollution from the source(s). Should action be taken by a State (or EPA) to address reasonably attributable impairment, these provisions would allow the State to incorporate methods, procedures, or processes in a market-based strategy to accommodate such action.

Sixth, interpollutant trading should not be allowed until the technical difficulties associated with ensuring equivalence in the overall environmental effect are resolved. Some other emissions trading programs (e.g., trading under the acid rain program) prohibit emission trades between pollutants. An emissions trading program for regional haze might also need to restrict trades to common pollutants. Each of the five pollutants which cause or contribute to visibility impairment has a different impact on light extinction for a given particle mass, making it therefore extremely difficult to judge the equivalence of interpollutant trades in a manner that

would be technically credible, yet convenient to implement in the timeframe needed for transactions to be efficient. This analysis is further complicated by the fact that the visibility impact that each pollutant can have varies with humidity, so that control of different pollutants can have markedly different effects on visibility in different geographic areas and at different times of the year. Despite the technical difficulties associated with interpollutant trading today, EPA would be willing to consider such trading programs in the future that demonstrate an acceptable technical approach.

Application for Exemption from BART. Even where a source may reasonably be anticipated to cause or contribute to visibility impairment, section 169A(c) allows for the exemption of any source from the BART requirements if it can be demonstrated that the source, by itself or in combination with other sources, is not reasonably anticipated to cause or contribute to significant visibility impairment. In addition, as specified in section 169A(c)(2) of the CAA, any fossil-fuel fired power plant with a total generating capacity of 750 megawatts or more may receive an exemption only if the owner demonstrates that the power plant is located at such distance from all Class I areas that it does not, or will not, in combination with other sources, emit any pollutant which may be reasonably anticipated to contribute to significant visibility impairment.

As with the question of whether a source can be reasonably anticipated to cause or contribute to any visibility impairment, EPA believes that the question of whether a source causes or contributes to significant visibility impairment requires an analysis of the cumulative effects of emission sources on a region. Regional modeling will be one appropriate method to determine whether a source could qualify for the exemption from the BART requirements. If a significant cumulative impact is demonstrated from the sources across the relevant regional modeling domain, then any BART-eligible source in the region would most likely be found to be reasonably anticipated to cause or contribute to significant visibility impairment.

The proposed regional haze rule was structured such that the BART exemption provisions in section 51.303 of the existing visibility regulations would also apply to sources subject to BART under the regional haze regulation. In the final rule, EPA has taken the same approach. Consistent with section 51.303, a source may apply to EPA for an exemption from the BART

requirement. The EPA will grant or deny an application after providing notice and opportunity for a public hearing. Any exemption granted by EPA must have the concurrence from all affected Federal land managers.

Timing for Submittal of BART Elements. Because TEA-21 changed the schedule for submittal of visibility SIPs, EPA is not requiring States to submit a list of BART-eligible sources to EPA within 12 months, as proposed. Under the final rule, the emission limits or other measures to address BART under the regional haze program must be included in the State's initial SIP submittal(s), as discussed further in unit III.B of this notice, except where the State commits to regional planning. In the case where a State opts to work with other States to develop a coordinated approach to regional haze by participating in a regional planning process, SIP revisions containing the BART emission limits or alternative measures in lieu of BART will be due generally at the time PM_{2.5} nonattainment SIPs are submitted, but in no case later than December 31, 2008. As discussed in unit III.B, States that submit a commitment to participate in regional planning are required to submit the list of BART-eligible sources as part of that submittal.

I. Monitoring Strategy and Other Implementation Plan Requirements

Monitoring Strategy

Proposed rule. In the proposed rule, we included a requirement for States to develop a monitoring strategy. We believe that actual monitoring data are a critical component of any air quality management approach to visibility impairment. Data on individual components of PM (nitrates, sulfates, elemental carbon, organic carbon, crustal material) are crucial to understanding the causes of visibility impairment at a given location, and accordingly are necessary for long-term strategy development. Reviewing these data with time, and additional data provided by monitoring sites, are necessary to understand whether the long-term strategies are effective.

Under the proposed rule, an initial monitoring strategy was due 12 months after promulgation, with periodic updates every 3 years thereafter. Requirements for visibility monitoring are authorized under section 110(a)(2)(B), requiring SIPs to provide for the monitoring of ambient air quality, and under section 169A(b)(2), which authorizes EPA to establish regulations requiring SIPs to address "other measures as may be necessary."

Four separate provisions were included in the monitoring strategy requirement: (1) a requirement for States to provide for additional that is monitoring "representative of all Class I areas," (2) a requirement for States with Class I areas to assess the relative contributions of sources within and outside the State to any Class I area within the State, (3) requirements for States without Class I areas to include a procedure by which monitoring data will be used to determine the contribution of emissions from within the State to Class I areas outside the State, and (4) a requirement to report all visibility monitoring data to EPA at least annually, in accordance with EPA guidance.

Comments received. Commenters on this requirement raised a number of concerns. One concern raised by State and local agencies was that the costs of monitoring could be substantial and urged EPA to provide funding. Other commenters urged EPA to exercise flexibility in determining the degree to which monitors in one Class I area could be considered representative of other nearby areas. Other commenters raised concerns about the feasibility of monitoring in remote areas and for areas with difficulty in gaining access to monitors during the winter. Commenters also expressed concerns over the timetable for the monitoring plan and the requirement for updating the strategy.

Final rule. Section 51.308(d)(4) of the final rule includes the requirement for a monitoring strategy. Under the final rule, this monitoring strategy is due with the first regional haze SIP, and it must be reviewed every 5 years.

Additional sites. Since the 1980's, EPA has cooperatively managed and funded the IMPROVE network with FLMs and States. Today, the IMPROVE network of 30 Class I sites (and an additional network of about 40 sites that use the IMPROVE methods) collects data on fine particle concentrations and on individual particle species. These individual species (sulfates, nitrates, elemental carbon, organic carbon, crustal material) are important for understanding causes and trends of visibility impairment at a given location. The network also employs optical monitoring methods for the direct measurement of light extinction, and scene monitoring methods using 35 millimeter photography.

The EPA is funding the deployment of several hundred PM_{2.5} monitors by the end of calendar year 1999. In order to meet the requirements for some monitors to characterize background conditions and transport patterns, as

well as to more broadly characterize visibility impairment in Class I areas for implementation of the regional haze program, EPA is funding the deployment of an additional 78 IMPROVE sites for Class I areas by the end of 1999. As a result of this anticipated network expansion, we expect that few, if any, State-funded monitors will be needed in implementing today's final rule. The IMPROVE Steering Committee is coordinating closely with the States on the selection of sites for the expanded network to help ensure that the new sites will meet States' needs for SIP development. The EPA expects that as a result of the IMPROVE Steering Committee process, the expanded network should provide for data that can be considered representative of most if not all Class I areas.

The monitoring strategy must, however, provide for additional monitoring sites if the IMPROVE network is not sufficient to determine whether reasonable progress goals will be met. This provision requires States with Class I areas to work with EPA and the FLMs to ensure that monitoring networks provide monitoring data that are representative of visibility conditions in each affected Class I area within the State. We want to clarify that this provision does not require a monitor in each Class I area, only that a monitor be representative of a Class I area. Accordingly, a monitor in or adjacent to one Class I area can be representative of one or more other Class I areas, based on certain criteria. Additionally, EPA agrees with commenters that a few Class I areas may have severe accessibility problems for which monitoring may not be feasible.

Use of Monitoring Data to Understand Contributions to Class I Areas. States with Class I areas are required to include in the regional haze SIP a monitoring strategy that is tailored to a given representative site. The strategy must identify the ways that the visibility monitoring and chemical composition analysis will be used to understand the emission sources that contribute to visibility impairment at a given monitoring site. Additionally, the monitoring strategy should identify the procedures for reviewing monitoring data and coordinating with other technical experts. We believe that continued coordination of visibility monitoring and chemical composition analysis among States, FLMs, and EPA will be important for future regional planning activities. Analysis of trends in emissions of those constituents can assist States in the development of long-

term strategies for making reasonable progress.

The rule also requires monitoring strategies for States without Class I areas. We believe it is equally important for those States to understand and describe the implications of monitoring data. First, it is important for those States to review monitoring information, including data on the chemical composition of individual species concentrations, to help understand the relative contribution of emissions from their State to Class I areas in other States. Second, it is important for these States to understand and describe how they will use the monitoring data to review progress and trends.

Periodic Updates to Strategy. The rule requires an initial monitoring strategy and periodic updates. The initial monitoring strategy is due with a State's first SIP submission. Additionally, the rule requires that the monitoring strategy be reviewed every 5 years. We believe that when progress is reviewed and control strategies are updated, it will be important to review the monitoring strategy. For the periodic updates, States should review the existing monitoring strategy with the FLMs and other participating agencies to assess the need for additional monitoring sites or modifications to existing sites, as well as the need for updated guidance on monitoring protocols.

Monitoring Guidance. The EPA plans to issue a visibility monitoring guidance document soon after promulgating this rule that will be designed to assist the States in developing monitoring strategies. The document will include technical criteria and procedures for conducting aerosol, optical, and scene monitoring of visibility conditions in Class I areas. The protocols of the IMPROVE network will be included in this guidance.

Reporting of Monitoring Data

Proposed Rule. The proposed rule required States to report all visibility monitoring at least annually for each Class I area having such monitoring. We proposed that States report data in accordance with EPA guidance and through electronic data transfer techniques to the extent possible. There were no adverse comments on this reporting requirement.

Final Rule. We have retained a general requirement in section 51.308(d)(4) that States submit as part of the SIP a monitoring strategy that addresses the reporting of visibility monitoring data to EPA. As noted above, EPA expects that few, if any, additional State-funded sites will be necessary to

fully implement the regional haze rule. Where States do choose to fund additional sites, however, EPA believes it is important for the States to make data from these sites available to EPA and other agencies.

For monitoring sites in the IMPROVE network, the IMPROVE Steering Committee oversees network contractors who quality assure and consolidate data from chemical composition analysis of filter samples. Such data are made available to all interested parties through various electronic formats and online websites. Assuming this practice continues with the IMPROVE Steering Committee, States will experience little or no burden in meeting this requirement for reporting to EPA.

Annual consolidation of these data will serve several purposes. First, a central data base will allow the States and other interested parties to track progress over time in relation to reasonable progress goals. It will also assist the States in understanding current visibility conditions as well as past trends. Consolidation of the data will assist EPA, the State, other agencies, and the public in reviewing the effectiveness of the State's long-term strategy for regional haze. Additionally, consolidation of the data will enable EPA to better characterize national and regional visibility trends in its annual air quality trends report. Finally, a centralized data base will provide for the integration of monitoring data from the new PM_{2.5} monitoring network and the visibility monitoring network, both of which will include PM_{2.5} and PM₁₀ mass, as well as compositional analysis by aerosol species. Class I area particle mass and chemical composition data can fill important data gaps in defining regional concentrations for air quality modeling analyses.

Requirements Under Section 110(a)(2) of the CAA. Visibility SIP submittals must document certain program infrastructure capabilities consistent with the requirements of section 169B(e)(2) and section 110(a)(2) of the CAA. Section 169B(e)(2) requires States to revise their section 110 SIPs to "contain such emission limits, schedules of compliance, and other measures as may be necessary" to carry out regulations promulgated pursuant to this section. The EPA believes that this language authorizes EPA to ensure that States review their existing program infrastructures to ensure that the types of elements required by section 110(a)(2) for programs addressing the NAAQS are also sufficient for adoption and implementation of SIP measures for regional haze. The final rule does not include specific provisions addressing

all elements of section 110(a)(2). However, section 51.308(d)(4)(iv) of the final rule requires the State to maintain and update periodically a statewide inventory of emissions of pollutants that contribute to visibility impairment.

Where a State is also revising its SIP to incorporate changes to address the PM_{2.5} NAAQS, many of these revisions may be sufficient to address both PM_{2.5} and regional haze. The EPA encourages States to consider the needs of both programs when updating the provisions required by section 110 of the CAA to minimize any administrative burdens.

J. Periodic SIP Revisions and 5-year Progress Reports

Proposed Rule. The proposed rule required States to periodically review and revise their SIPs every 3 years. The preamble to the proposal stated that "[t]he EPA believes that a requirement for regular SIP revisions will result in a more effective program over time and provide a focus for demonstrating ongoing progress and making mid-course corrections in emission strategies."¹¹¹ Each SIP revision would include a comprehensive review of the long-term strategy, and a review of emissions reductions estimates relied on in the previous plan if the State does not achieve any reasonable progress target.

The proposal also requested comment on whether SIP revisions should instead be required every 5 years. Regarding this option, EPA also took comment on whether it should revise the existing requirement in the "reasonably attributable" regulations for long-term strategy reviews from every 3 years to every 5 years, such that SIP revision schedules for both regional haze and reasonably attributable impairment would be coordinated.

Public Comments. Some commenters stated that the CAA does not allow EPA to require periodic SIP revisions. Several commenters felt that a requirement to submit comprehensive SIP revisions every 3 years would be overly burdensome, and would not provide enough time to properly evaluate changes in air quality and emissions resulting from implementation of strategies to meet reasonable progress targets. For this reason, a number of commenters supported a 5-year period between SIP revisions. Several participants in the GCVTC supported a 5-year review of progress that meets the procedural requirements of a SIP revision, but that also allows for the State to make a negative declaration if current strategies

are deemed adequate for making reasonable progress at that time.

Other commenters supported SIP revisions every 3 years, citing EPA's preamble language, which noted that implementing mid-course corrections after the 5-year mark may in fact be too late to correct situations where impairment is steadily increasing. Some of these commenters also supported the 3-year cycle for regional haze SIPs since it would be consistent with the requirement for 3-year reviews of long-term strategies in the existing 1980 visibility rules.

Authority for Periodic Updates. The EPA does not agree with commenters that it lacks the authority to require periodic SIP revisions. Section 110(a)(2)(F) of the CAA provides that SIPs are to require "periodic reports on the nature and amounts of emissions and emissions-related data" and "correlation of such reports * * * with any emission limitations or standards established pursuant to this chapter." Moreover, section 110(a)(2)(H) requires SIPs to provide for revision when found to be substantially inadequate to "comply with any additional requirements established under * * * [the CAA]." Both of these provisions provide EPA with the authority to require periodic SIP revisions.

The CAA calls for regulations to protect visual air quality in the Class I areas in a way that assures prevention of future impairment in addition to remedying existing impairment. A one-time review of impairment and development of strategies to address that impairment cannot provide such continuing assurance and, at best, can only focus on remedying currently known manmade visibility impairment within the limits of resources and technology. A program that did not anticipate and provide for the need for future periodic review and revisions, would not be responsive to the national goal of preventing any future manmade visibility impairment.

The requirement for periodic review of SIP measures also directly responds to the CAA goal for States to develop strategies to ensure reasonable progress toward the national goal of no human-caused impairment. Given that the statutory factors which States must consider in determining a reasonable progress goal include costs of control and availability of controls, among others, and given that technology changes can affect costs and availability of controls over time, EPA believes that the requirement for a periodic SIP revision is appropriate. The periodic revisions will assure that the statutory requirement for reasonable progress will

¹¹¹ 62 FR 41151.

continue to be met. The EPA believes that the need for periodic updates is also clear from the NAS conclusion that "achieving the national visibility goal will require a substantial *long-term* (emphasis added) program."¹¹²

Three-year versus 5-year period. In considering the public comments, EPA also took into account the body of evidence indicating a need for multistate regional planning efforts under the regional haze program. Past experience with regional air quality planning efforts, such as the GCVTC or the Ozone Transport Assessment Group (OTAG), has shown that regional air quality planning efforts often take 2 or more years to complete, with additional time needed for State adoption of measures and for review and approval by EPA.

After consideration of the comments described above, and the timeframes needed for regional planning, EPA concluded that a 5-year progress review and SIP revision cycle is more appropriate than a 3-year cycle. The EPA determined that the States will be better able to assess the effectiveness of emission management strategies by considering 5 years of data rather than 3 years since a 5-year period provides for more stable trend lines for emissions and air quality changes than a 3-year period. The EPA also concluded that a 5-year period should result in significantly less administrative burden on the States than a 3-year period.

Final rule requirements for comprehensive plan revisions and progress reports. The EPA has included in the final rule, two main requirements for comprehensive periodic plan revisions (section 51.308(f)) and progress reviews (section 51.308(g)). Section 51.308(f) requires the States to submit a comprehensive SIP revision in 2018 and every 10 years thereafter. It must meet all of the core requirements of section 51.308(d). The BART provisions of section 51.308(e), as noted above, apply only to the first implementation period. Section 51.308(g) requires progress reports for each Class I area in the State in the form of SIP revisions every 5 years.

Requirements for comprehensive periodic plan revisions. Comprehensive SIP revisions under section 51.308(f) must include all of the implementation plan elements found in section 51.308(d) of the final rule. These elements include, but are not limited to, the following: (1) reasonable progress

goals for the next 10-year implementation period, (2) determination of current conditions and review of estimates for natural conditions, (3) a revised long-term strategy, as necessary to achieve the reasonable progress goal for the next 10-year implementation period, and (4) revised emission inventories, technical analyses and monitoring strategies. The EPA wishes to clarify the following points with respect to the basic core provisions of section 51.308(d) for the purpose of periodic comprehensive plan updates.

Reasonable progress goals. For purposes of the periodic plan revisions, the State must select a reasonable progress goal based upon the statutory factors discussed above in unit III.F. In determining the goal for the next implementation cycle, the State must include an analysis of the rate of improvement needed to reach natural conditions by the year 2064 as an analytical framework for the plan revision. To conduct this required analysis, the State must follow the same four steps discussed in unit II.F for the initial plan revision, that is (1) identification of the difference between baseline conditions and natural conditions (noting any updates to the estimate of natural conditions based upon technical refinements), (2) identification of the uniform rate of progress over the 60-year period that would be needed to attain natural conditions by the year 2064, (3) identification of the amount of progress that would result if this uniform rate of progress were achieved during the period of the regional haze implementation plan,¹¹³ and (4) identification of reasonable progress goals in light of the statutory factors, taking the 60-year analysis into account. The State must also calculate the number of years it would take to attain natural conditions if visibility improvement continues at the rate of progress selected by the State as required in section 51.308(d)(1)(ii).

Reporting of Baseline and natural visibility conditions. In the SIP submission for the comprehensive periodic plan updates, the State must identify (1) the visibility change from baseline conditions, (2) the visibility change since the last SIP revision 10

years ago, and (3) the difference between current and natural conditions.

Visibility Change from Baseline Conditions. Section 51.308(f) calls for States to consider, at the time of any future SIP revision after the initial implementation plan, the amount of visibility improvement achieved from baseline visibility conditions (established over the period 2000-2004) in developing future reasonable progress goals and associated strategies. The final rule requires the State to do this by comparing "current conditions" for the 5 years of most recent visibility data with baseline conditions. (See discussion in unit III.E on definition of "current.") Any lack of progress in improvement of visibility from baseline conditions will need to be explained in the SIP revision and considered by the State in the establishment and/or revision of new reasonable progress goals and/or emission management strategies. Similarly, greater than expected improvements should be considered by the State in setting new visibility goals and emission management strategies.

If little or no perceptible visibility improvement has occurred in comparison to baseline conditions, or if conditions have actually degraded, then the State will need to explain the reason for this degradation in the SIP, and should seriously consider establishing more ambitious goals and additional enforceable measures to achieve these goals. The EPA will take into account the amount of progress achieved to date from the baseline period in determining whether any future strategy would ensure "reasonable progress." If significant visibility improvement has occurred from baseline conditions, then EPA can also take this into account in reviewing future reasonable progress goals and strategies.

Visibility Change Since Last SIP Revision. Section 51.308(f) also calls for States, in developing reasonable progress goals for the next 10 years, to take into account how visibility conditions have actually changed since establishment of the previous reasonable progress goal. (This provision would apply beginning in the second SIP revision cycle under the regional haze program.) If conditions degraded or failed to meet reasonable progress goals, the State would be required to analyze the cause of the shortfall, and address it as appropriate in future strategies. If the State has failed to achieve its reasonable progress goal for the prior implementation period, the State would be required to include in its revision a comparison of the visibility improvement the State

¹¹² National Research Council, NAS Committee on Haze in National Parks and Wilderness Areas, Protecting Visibility in National Parks and Wilderness Areas, National Academy Press, 1993, page 10.

¹¹³ Referring to the example in unit III.F, if the second implementation plan covers a 10-year period from 2019 through 2028, then the State would identify a 3 deciview rate of improvement, and the amount of visibility improvement that must be analyzed for the year 2028 would be the 3 deciview improvement for the years 2019 through 2028, plus the 4.2 deciviews of improvement for the years 2004 through 2018.

expected to achieve to the visibility improvement the State actually achieved.

Difference between current and natural conditions. Section 51.308(f) of the final rule requires the State, at the time of any comprehensive SIP revision, to calculate the difference between current conditions and natural conditions for the most impaired and least impaired days. "Current conditions" means the conditions for the most recent 5-year period preceding the required date of the implementation plan submittal. This calculation is needed to determine the total amount of improvement that States will ultimately need to address in their long-term strategies.

Long-term strategies. As for the first implementation plan, subsequent comprehensive updates must identify the enforceable emissions reductions that will provide for meeting the reasonable progress goal for Class I areas within the State and for Class I areas outside the State which may be affected by emissions from the State. Unit III.G provides additional detail on the requirements of the long-term strategies.

Update of monitoring strategies and other requirements. The comprehensive updates are also required to meet the requirements of section 51.308(d)(4) for updated monitoring strategies, updated emission inventories, and other required technical analyses.

Requirements for 5-year progress reports. Section 51.308(g) describes the required elements for progress reports due every 5 years. For States that participate in regional planning and submit initial SIPs in 2008, the first progress report will be due in 2013. If a State submits its initial SIP in the 2004–2008 timeframe, its first progress report would be due before 2013. These progress reports must follow the same procedural requirements required for implementation plan revisions, and the State must provide the opportunity for public review and comment. However, the rule also allows the State to submit this progress report in the form of a negative declaration if the State finds that emission management measures in the SIP are being implemented on schedule, and visibility improvement appears to be consistent with existing reasonable progress goals. The EPA intends for progress reports to involve significantly less effort than a comprehensive SIP revision.

Each 5-year progress report must contain the following elements as specified in section 51.308(g):

- The status of implementation, and summary of the emissions reductions achieved, for all emission management

measures implemented within the State in order to achieve reasonable progress goals for Class I areas within and outside the State.

- For each Class I area located in the State, the report must include calculations of the following parameters:

- Current visibility conditions for the most impaired and least impaired days.
- The difference between current conditions and baseline conditions for the most impaired and least impaired days.
- The change in visibility for the most impaired and least impaired days over the past 5 years.

- An emissions tracking report that analyzes the change over the past 5 years in emissions of pollutants contributing to visibility impairment, disaggregated by source category and emissions activity, for significant categories of sources or activities.

- An assessment of whether current implementation plan strategies are sufficient for the State or affected States to meet their reasonable progress goals.

Based on the required calculations and assessments in the progress report, the State must take one of four actions as specified in section 51.308(h). If the State finds that an additional substantive SIP revision is not required, then it may submit a "negative declaration" to EPA after opportunity for public review and comment. The EPA anticipates that if the State is implementing a reasonable set of strategies according to the schedule as developed in the previous comprehensive SIP revision, and that visibility trends show that reasonable progress goals should be achieved over the 10-year long-term strategy period, then the State should be able to certify, through a negative declaration, that no additional control measures are needed at the time of this mid-course review.

If the State finds that over the past 5 years there has been a substantial increase in emissions by intrastate sources, or there has been a deficiency in plan implementation, the final rule requires the State to revise the SIP within 1 year, rather than waiting for the next 10-year comprehensive review. Such a mid-course correction would be designed to achieve the existing reasonable progress goal for the relevant Class I area. The EPA believes that it is appropriate for the State to take prompt action to address intrastate problems since they would not need to participate in further regional planning.

If the State finds that there is a substantial increase in emissions or a

deficiency in plan implementation resulting primarily from interstate emissions, section 51.308(h)(2) calls for the State to re-initiate the regional planning process with other States so that the deficiency can be addressed in the next comprehensive SIP revision due in 5 years. If the State finds that international emissions sources are responsible for a substantial increase in emissions affecting visibility conditions in any Class I area or causing a deficiency in plan implementation, the State must submit a technical demonstration to EPA in support of its finding. If EPA agrees with the State's finding, EPA will take appropriate action to address the international emissions through available mechanisms. Appropriate mechanisms for addressing visibility-impairing emissions from international sources are further discussed in unit III.G on the long-term strategy.

If EPA finds that the State has not been implementing certain measures adopted into its SIP, or that the State has submitted a SIP that is not approvable, or that the State has failed to submit any required progress report or SIP revision at all, the State could be subject to sanctions in accordance with sections 179(b) and 110(m) of the CAA. If the State does not resolve the situation expeditiously, EPA may be obligated to take further appropriate action to resolve the situation, including promulgation of a FIP within 2 years in accordance with section 110(c) of the CAA. The EPA believes that in this regionally-oriented program, it will be important for States to implement measures designed to improve visibility for Class I areas outside of their State, as well as to improve visibility within the State. The EPA will exercise its FIP authority as appropriate and necessary to ensure that States fulfill their obligations such that Class I areas make reasonable progress toward the national visibility goal.

K. Coordination With Federal Land Managers

Section 51.308(i) of the final rule requires that States consult with FLMs before adopting and submitting their regional haze SIPs. This requirement is consistent with the proposed regional haze rule and the 1980 regulation for "reasonably attributable" visibility impairment. A number of commenters expressed a concern that this provision was not equitable, in that States are required to consult with FLMs, but the rule does not require FLMs to consult with States before they take action, even when actions such as prescribed burning could have a significant impact

on a State's visibility program. These commenters recommended that the proposed rule be amended to mandate a two-way communication.

The EPA agrees that it is important and necessary for FLMs to consult with States on visibility-related issues. Land-use activities on Federal lands can have impacts on nearby areas of a State, and there have been significant air quality issues related to these activities. In recent years, FLMs have undertaken activities to improve communications with States. There are a number of examples of these efforts. The IMPROVE steering committee, the group that oversees FLM efforts to monitor visibility in Class I areas, includes representation from State agencies. Recently, State representation on this committee was expanded by adding two more State members. Another example are the memoranda of understanding that FLMs have entered into with States to coordinate prescribed burning activities. The EPA believes that the FLM agencies generally recognize the importance of involving States in the development and implementation of land use policies and other actions that affect States' abilities to make air quality improvements.

The EPA believes that it is unnecessary to impose an administrative requirement on another agency of the sort requested by commenters in a Federal rule, because Federal agencies are already subject to compliance with SIP requirements in the same manner, and to the same extent as any nongovernmental entity through section 118, as discussed below. The EPA will, however, be working with FLMs and States to assist in their communications over air quality issues.

Commenters also expressed concerns that emissions from Federal agencies are beyond their jurisdiction. These commenters felt that if States were not able to regulate such emissions, then other sources within the State would be treated inequitably under the final rule. The EPA does not agree that Federal sources are beyond a State's jurisdiction. As required by section 118 of the CAA, if a State air quality regulation affects a given type of source within its jurisdiction, Federal facilities having that type of source must comply with the State regulations in the same manner, and to the same extent as any nongovernmental entity. Thus, FLMs having emission sources of the type that are covered by State air quality regulations are subject to the same extent as private sector entities.

IV. Treatment of the GCVTC Recommendations

A. Background

The EPA established the GCVTC on November 13, 1991.¹¹⁴ The purpose of the GCVTC was to assess information about the adverse impacts on visibility in and around 16 Class I areas on the Colorado Plateau region and to provide policy recommendations to EPA to address such impacts. Section 169B of the CAA called for the GCVTC to evaluate visibility research as well as other available information "pertaining to adverse impacts on visibility from potential or projected growth in emissions from sources located in the region."

The GCVTC was required to issue a report to EPA recommending what measures, if any, should be taken to protect visibility.¹¹⁵ The CAA required that, at a minimum, this report was to consider: (1) The establishment of clean air corridors,¹¹⁶ (2) the need to impose additional new source review requirements in any clean air corridors, and (3) additional restrictions on increases in emissions which may be appropriate to protect visibility in affected Class I areas. The GCVTC was also required to address the promulgation of regulations addressing long-range strategies to address regional haze in the region. In June 1996, the GCVTC issued its recommendations to EPA.

The GCVTC recommendations covered a wide range of control strategy approaches, planning and tracking activities, and technical findings. The primary recommendations of the GCVTC covered nine categories of activities:¹¹⁷

- Air pollution prevention and reduction of per capita pollution as a high priority, including non-binding targets on production of electricity from renewable energy sources;
- Tracking the effect of new sources of emissions on clean air corridors;
- Closely monitoring stationary source emissions, establishment of regional targets for sulfur dioxide emissions for the year 2000 and the year 2040 with interim targets to be established in the future, exploration of a similar tracking system for other pollutants, and the development of market-based regulatory programs if emissions targets are not met;

- Emissions reductions in and near Class I areas;
- Capping of mobile source emissions for areas contributing to visibility impairment, and State support for national measures aimed at further reducing tailpipe emissions;
- Further assessment of the contribution of road dust to visibility impairment;
- Future binational collaboration to resolve technical and policy concerns about contributions to visibility impairment on the Colorado Plateau resulting from emissions from pollution sources in Mexico;
- Implementation of smoke management programs to minimize effects of all fire activities on visibility; and
- The need for a future regional coordinating entity to follow through on implementing the recommendations.

Proposed rule. In the July 31, 1997 proposal of the regional haze rule, EPA included an extensive review of the recommendations of the GCVTC.¹¹⁸ The preamble discussed how several concepts from the GCVTC's recommendations were incorporated into the proposed framework for the national regional haze program. For example, EPA proposed an approach for tracking reasonable progress, based on improving conditions on the worst visibility days and not allowing conditions on the best days to degrade, that was consistent with both the GCVTC's definition of "reasonable progress" and with the CAA national visibility goal of remedying any existing impairment and preventing any future impairment. The proposal also called for tracking of continuous emissions to inform State control strategy decisions on a periodic basis.¹¹⁹

However, in its proposal, EPA chose not to incorporate the GCVTC's specific emission management strategies as direct requirements for SIPs. The EPA followed this approach because the proposed rule was designed to establish a national framework for development of SIPs to remedy regional haze visibility impairment in all Class I areas nationwide. In addition, it was not clear how the various elements of the GCVTC's report were to be translated into SIP requirements. The EPA noted in the proposal that the "Commission's recommendations have components that contemplate implementation through a combination of actions by EPA, other Federal agencies, States and Tribes in the region, and voluntary measures on the part of the public and private

¹¹⁴ See 56 FR 57522, Nov. 12, 1991.

¹¹⁵ CAA Section 169B(d).

¹¹⁶ A Clean air corridor is defined as a region that generally brings clear air to a receptor region, such as the Class I areas of the Golden Circle.

¹¹⁷ See GCVTC Report, pp. i-iii.

¹¹⁸ 62 FR 41141.

¹¹⁹ 62 FR 41146.

entities throughout the region.”¹²⁰ The EPA indicated that such a mixture of activities made it difficult for EPA to directly require States to implement all of these measures in their SIPs. Instead, the EPA specifically sought public comment on the manner in which the national regional haze program framework, as proposed, would allow for implementation of the GCVTC’s recommendations.¹²¹ The EPA also solicited comment on whether to adopt the GCVTC’s stationary source strategies with or without modification.¹²²

The EPA also reiterated its position in testimony before the United States Congress, stating that “we specifically designed the regional haze rule to allow for implementation of the GCVTC’s recommendations to address the environmental goal of improving visibility.”¹²³

In public meetings and written comments following the proposal, interested parties expressed concern that the proposed rule did not specifically endorse or incorporate the GCVTC’s recommendations. Some commentors asserted that the rule “ignored” the recommendations. The EPA also received numerous comments that supported adoption of the GCVTC recommendations as part of the national regional haze rule. In particular, several commentors who believed that EPA’s proposed rule did not adequately support the GCVTC’s recommendations asserted that EPA’s participation in the GCVTC implied that strategies developed to address visibility in Class I areas of the Colorado Plateau would be taken into account within the structure of the rule. Commentors also noted that EPA’s proposal of a visibility target and requirements to address BART left a high degree of uncertainty as to whether the GCVTC recommendations could form the basis for SIPs.

On June 29, 1998, after the close of the public comment period on the proposed regulations, the WGA sent to EPA additional comments on the proposed regional haze rules. These comments contained specific new language for addressing the recommendations of the GCVTC. The comments offered provisions to be included in the national regional haze rule to allow certain western States to

submit SIPs to assure reasonable progress in addressing regional haze impacts on the Colorado Plateau based upon the technical work and policy recommendations of the GCVTC.¹²⁴ The transmittal letter signed by Michael O. Leavitt, Governor of the State of Utah, reemphasized the commitment of Western governors to the GCVTC recommendations, and requested that EPA take public comment on their suggested preamble and rule language as part of the EPA process in reaching decisions on a final regional haze rule. In response to this submittal, on September 3, 1998, EPA published a notice of availability in the **Federal Register**.¹²⁵ The notice solicited public comment on the contents of the WGA letter and EPA’s translation of the letter’s requirements for SIPs into draft regulatory language. The comment period for the notice of availability closed on October 5, 1998 and EPA received approximately 125 comments. In summary, most of the commentors supported the adoption of provisions to directly address the GCVTC recommendations in the national rule, although many requested changes to the draft regulatory language. Some commentors expressed concern over how these provisions would relate to the national rule, in particular to the national provisions for BART. Other commentors addressed the way in which the WGA letter and EPA’s draft regulatory language translated the GCVTC’s recommendations. In addition, some commentors expressed concern over the timing of the SIP submittals both over the linkage to timing of SIP submittals for ozone and PM_{2.5} SIPs and the requirements of TEA-21. Commentors also requested EPA to commit to consider the national transportation measures noted by the GCVTC as part of EPA’s responsibility toward helping the States make reasonable progress.

In the final rule, EPA is establishing specific SIP requirements which may be used by the States and tribes that participated in the GCVTC to satisfy the national regional haze rule. These SIP requirements will form a basis for these States to meet the CAA requirements for reasonable progress in the 16 Class I areas addressed by the GCVTC Report. These SIP requirements acknowledge and give effect to the substantial body of work already completed by the States and tribes participating in the GCVTC. The Agency, therefore, and for reasons explained in more detail below, provides these SIP requirements as an

optional way for these States and tribes to implement the national rule based on the merits of the work of the GCVTC completed before establishment of the national framework. The EPA finds that the GCVTC actions to date address, or provide a mechanism to address, the statutory factors for assessing reasonable progress required by the CAA. The EPA is satisfied that the GCVTC’s strategies as set forth in section 51.309, when supplemented by the annex process discussed below, will provide for “reasonable progress” toward the national visibility goal for the 16 parks and wilderness areas addressed by the GCVTC. Consequently, if a State submits a plan that addresses the requirements of section 51.309, including the requirements related to the annex, as described below, that plan will be considered to comply with the national rule’s requirement for reasonable progress for the period from plan approval to 2018.

Today’s final rulemaking, including section 51.309, is directly responsive to the western States’ and tribes’ comments calling for recognition of the policy development efforts of the GCVTC. At the same time, the rule allows for future cooperative efforts among the GCVTC States, so that the national requirements for ensuring reasonable progress are fully addressed. This action exemplifies how the regional haze protection provisions can be flexible and allow for a broad range of emissions control strategies tailored to a specific region. This action fully recognizes the GCVTC and its follow-up body, the WRAP, as a valid regional planning process to address, at a minimum, the 16 Class I areas that were the focus of the GCVTC. Section 51.309 provides for continued work of the GCVTC, which may be accomplished through the WRAP, to establish a complete framework which can be adopted in the SIPs for addressing all sources of visibility impairment in the 16 Class I areas. The section also sets forth provisions for addressing additional Class I areas that were not directly addressed in the GCVTC report.

Section 51.309 does not preclude States from developing and adopting their own control strategies. Rather, it provides an expedited process whereby a State choosing to follow the GCVTC’s recommendations in its SIP can rely fully on the technical analyses, policy recommendations, and agreements reached by the GCVTC members, thereby significantly reducing the effort required to establish federally approvable SIPs. A State remains free to develop and submit a SIP to EPA which does not rely on the GCVTC’s work or

¹²⁰ 62 FR 41142.

¹²¹ 62 FR 41143.

¹²² 62 FR 41143.

¹²³ Written Testimony of John S. Seitz, Director, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, before the Subcommittee on Forest and Public Land Management of the Committee on Energy and Natural Resources, United States Senate, October 28, 1997.

¹²⁴ Docket A-95-38, Item # VIII-G-76.

¹²⁵ 63 FR 46952.

section 51.309. Such a State will be fully subject to the requirements and schedules set forth in section 51.308, in the same manner and to the same extent as the States and tribes throughout the United States that did not participate in the GCVTC process.

B. General Requirements of Section 51.309

Section 51.309 requires specific emissions control strategies for a broad region of the Western United States and includes measures which address different types of emissions sources, including stationary, area and mobile sources. Some of these strategies are already in place while others, such as mobile source provisions and the structure of a market trading system to assure compliance with stationary source emissions goals, will require development of additional regulatory measures. A review of each element of section 51.309 is found in unit IV.C below.

The GCVTC recommended emission reduction targets from stationary sources of SO₂ for the years 2000 and 2040. The GCVTC did not recommend quantitative interim targets between the years 2000 and 2040. Therefore, in addition to provisions for specific emissions strategies, section 51.309 allows for an annex to the GCVTC report which will be considered in establishing specific targets for SO₂ emissions from stationary sources in the region between 2003 and 2018. This annex process and EPA's approval of acceptable interim emissions targets for SO₂ will be key in completing a series of strategies that can be deemed by EPA as meeting reasonable progress for the Class I areas on the Colorado Plateau.

The provisions for adoption of strategies consistent with the GCVTC recommendations do not preclude the States and tribes from developing additional control strategies for achieving reasonable progress in other Class I areas. Nor do they preclude States and tribes which did not participate in the GCVTC, but which may benefit from its strategies due to the geographic proximity of their Class I areas to the State where strategies will be implemented and regional transport throughout the west, from building on these strategies to address reasonable progress for their Class I areas. However, for all Class I areas not on the Colorado Plateau, the States and tribes would need to demonstrate, through the required analyses, that implementation of these strategies would contribute to meeting the requirements of section 51.308. By focusing first on implementation strategies for the 16

Class I areas based on the recommendations of the GCVTC, all western States may reduce the technical and administrative costs of addressing the remaining Class I areas by building on the outcome of existing programs rather than requiring the development of two programs in parallel.

In the national rule, EPA is requiring States to analyze the rate of progress in visibility improvement that would be needed to reach natural conditions within 60 years. The analyses must assess what strategies are available to meet that rate for the period of the long-term strategy. The GCVTC reviewed the period from 1990 to 2040 to assess what strategies were reasonable to achieve visibility improvement in the 16 Class I areas. The GCVTC's Alternatives Assessment Committee developed a modeling system linking emissions control strategies, the costs of such strategies and the degree of visibility improvement that would result from those strategies. While not specifically attempting to reach natural conditions within 60 years, a key emissions control scenario assessed in the GCVTC process was a "maximum management alternative." The GCVTC looked at many source types and their impacts on visibility. This specific assessment applied all known and anticipated control strategies over the time period as an indicator of the maximum amount of improvement in visibility possible in the region. The results of this analysis did not show sufficient emissions to reach natural conditions in any mandatory Class I area by 2040. The analysis of this scenario did, however, demonstrate that the "maximum management alternative" is not likely to be achievable based on technological, economic and policy choices made by the Alternates Assessment Committee due to costs, degree of visibility improvement and other factors. Consequently, EPA finds this analysis, plus the management alternatives chosen (i.e., market-based emissions reductions, specific source-sector reductions, etc.) to be an acceptable basis for approvable SIP strategies for the 16 Class I areas for the first long-term strategy period since, in effect, reaching natural conditions by 2040 was shown not to be reasonable in this transport region at this time. In making this finding, EPA concludes that the GCVTC analyses and process provide for an assessment comparable to that called for by section 51.308.

In promulgating section 51.309, EPA is establishing specific SIP requirements for the time period 2003 through 2018 based on demonstrations by the GCVTC. The EPA finds the GCVTC

demonstrations satisfy requirements for review of the statutory factors as provided for under subsection 51.308(d).

While the GCVTC's assessment included projections to the 2040, EPA feels that the strategies incorporated in section 51.309 must be re-evaluated in 2018 to assure that they will continue to achieve reasonable progress after a thorough review of the CAA factors. As discussed elsewhere in today's notice, this periodic review and revision of regional haze SIPs is needed because of technological changes and economic factors which are likely to significantly alter both the rate of emissions growth within a region, and the degree to which new technologies can more effectively reduce emissions, both of which can affect the rate of visibility improvement. In addition, the requirement for periodic revisions is consistent with the statutory provisions governing long-term strategies.

The EPA agrees with commentors who noted certain benefits to following the pathway provided through section 51.309 for addressing regional haze impairment. First, there is the benefit that the mixture of required strategies for the 16 Class I areas has already been through public comment as part of the GCVTC deliberations and subject to review by many stakeholders. This previous public debate should help ensure broader public support for the State's plans as they are adopted and implemented. As pointed out by commentors, one of the benefits of the GCVTC recommended strategies is that they are aimed at developing cost-effective control strategies and ensuring compliance flexibility for affected sources. For example, the strategy to address emissions from stationary sources uses a milestone and backstop emissions trading program mechanism. This rewards voluntary emissions reductions since a regional emissions trading program would only become effective if regional milestones are exceeded. Given that the provisions for the milestone and backstop emissions trading system may be approvable in lieu of BART, depending on the milestones developed in the annex, full compliance with BART emissions limitations would not be required within 5 years of plan submittal, as would be required of States which submit plans under section 51.308 requiring source-specific BART. In addition, the economies of scale offered by the work of the WRAP in conducting coordinated assessment activities, such as economic and air quality modeling, could be substantial in aiding States in meeting their planning obligations.

Finally, EPA's provisional view that SIPs which meet section 51.309 would satisfy the requirement for reasonable progress minimizes the analyses required of States which adhere to the requirements of section 51.309, compared to States making an independent submittal under section 51.308.

C. Elements of the GCVTC-Based State and Tribal Implementation Plans

1. Time Period

Section 51.309(d)(1) establishes the time period of the plan to cover the 16 parks and wilderness areas for the period 2003 through 2018. The GCVTC's recommended emissions reduction strategies, including the emission reduction approach for stationary sources of SO₂, establish the long-term strategy requirements for plan submittals to EPA until the year 2018. This time period is consistent with the submittals required under section 51.308 which will be due between 2004 and 2008 depending on the classification of State areas with respect to attainment of the recently promulgated NAAQS for PM_{2.5}. The time period covered by the plan revision due under section 51.309, 2003–2018, is somewhat different from the timeframe for long-term strategies required by section 51.308 for the Class I areas not on the Colorado Plateau. The differences that exist acknowledge the substantial early work of the GCVTC, on the 16 Class I areas, while at the same time making the strategy review cycle consistent with the timetable established in section 51.308.

The EPA received comment that it should allow the GCVTC recommendations to be the basis of all future strategies to address regional haze for the 16 Class I areas on the Colorado Plateau permanently. The EPA disagrees. No given set of emissions strategies can be determined reliably to achieve reasonable progress into the distant future. While the GCVTC strategies adopted by the States under the provisions of section 51.309 may well continue to be adequate to meet the future long-term strategy requirement, a full review of emissions strategies for all Class I areas of the region is appropriate to assure that "reasonable progress" is being achieved and will continue to be achieved during the periods of subsequent long-term strategies. As noted above, the relevant facts concerning costs of controls, availability of control strategies, and other statutory factors will change over time. Advancements in technology and changes in economic factors will likely

provide opportunities for implementation of new cost-effective control measures to assure reasonable progress. The structure of EPA's rule is designed to require States, through the SIP process, to review the statutory factors on a periodic basis and determine appropriate changes to their strategies based on that review.

2. Projection of Visibility Improvement

Section 51.309(d)(2) requires the plan to contain a projection of the visibility conditions expected through the year 2018 and to take into account the measures required in the GCVTC report and the provisions of section 51.309. This projection must, at a minimum, be expressed in units of deciview.

The Agency received comment that the GCVTC States should not be required to estimate visibility conditions using the deciview metric, but should be permitted simply to track emissions over time. While EPA encourages States to track emissions in order to evaluate the emission reduction effectiveness of adopted control measures, it is equally important that changes be translated into visibility improvements in order to be responsive to the national goal. As noted earlier in unit III.C of this notice on the deciview metric, EPA's selection of the deciview scale is an appropriate way to do this. The Agency also included this provision to ensure that the public understands the relationship of the SIP to visibility conditions at the Class I areas and to the national goal of no manmade impairment in visibility in these areas. The Agency thus feels that it is appropriate to inform the public on the relationship between chosen emissions control measures and their effect on visibility by requiring States to report on actual and expected changes in visibility to be achieved through implementation of section 51.309. Those changes can be based on monitored data as well as estimated for future conditions based on implementation of emissions strategies. Moreover, the requirement for use of the deciview metric does not prevent the States from using other indicators, in addition to the deciview, for describing regional haze conditions, such as standard visual range or atmospheric light extinction.

3. Treatment of Clean Air Corridors

Section 51.309(d)(3) requires the States to identify a geographic region or regions which will be subject to a comprehensive emissions tracking strategy. The purpose of such comprehensive emissions tracking is to ensure that the frequency of clear days,

or days with good visibility, increases or does not decrease at any of the 16 Class I areas addressed by the GCVTC. This section of the rule is designed to make the review of emissions, and their resulting impact on the clear days at the Class I areas, part of the public record through the SIP approval process. It does not mandate any emissions control strategies specifically aimed at improving clear days, but provides for the State to periodically review the need for such strategies. If anthropogenic emissions create visibility impairment above natural conditions, and if overall annual human-caused emissions reductions take place in a region, it is likely that visibility will improve for both the most impaired days and the least impaired days.

The geographic area (or areas) to be covered by the emissions tracking strategy is to be determined initially based on the GCVTC Meteorology Subcommittee's report entitled *Clean Air Corridors: A Framework for Identifying Regions that Influence Clean Air on the Colorado Plateau*. The geographic area (or areas) can be further refined based on new technical findings over time. The requirement to track emissions will enable States to quickly determine if changes in patterns of emissions will reduce the number of clean air days (defined as the average of the 20 percent clearest days) in any of the 16 Class I areas. The State must analyze the effects of the emissions changes and implement additional measures to protect the clean days if necessary. The States may include the tracking of emissions for the clean air corridors with tracking of emissions for other purposes such as compliance with stationary source emissions targets, if appropriate. The EPA notes that clean air corridors will be protected by other implementation plan requirements, such as other SIP measures that may apply to existing stationary sources. States may wish to rely on technical cooperation now beginning under the WRAP as an efficient means to consolidate efforts on emission inventories and projections needed to monitor clean air corridor emissions and their effects on clear air days.

4. Implementation of Stationary Source Reductions

To achieve the reductions in emissions for stationary sources projected in the GCVTC's strategies, subsection 51.309(f)(1)(i) requires the establishment of SO₂ emission reduction milestones as part of the development of an annex to the GCVTC report. Section 51.309(d)(4) requires monitoring and reporting of stationary

source emissions of SO₂ in order to assess compliance with these milestones during the period 2003 to 2018. The SIP must contain criteria and procedures for implementing a market trading program or other program documented in the SIP, consistent with section 51.309(f)(1)(i), if triggered by emissions exceeding the emissions reduction milestones. In particular, the SIPs must provide for implementation of the market-based program or other emissions control strategy as called for by an assessment of SO₂ emissions for the years 2003, 2008, 2013, and 2018. States must fully activate the market system or other program within 1 year after an assessment showing the excessive emissions. In addition, the implementation plan must provide for all affected sources to comply with the market system or other programs allocating emissions within 5 years after the date the program is triggered. The rule also requires States to report on actual emissions reductions and compare them to the established milestones. If a market trading program or other program is triggered, the rule requires States to report whether all sources covered by the market trading or other programs are in compliance with applicable requirements.

In addition to requirements for control of emissions of SO₂, the rule requires the State to explore emission management options for stationary source emissions of PM and NO_x. The States are required to report by 2003 on their consideration of the need for emissions targets for these pollutants to prevent growth in emissions of these pollutants in the region as a whole. The EPA believes that the States should base their decisions on the need for, and levels of, emissions targets for these pollutants on the degree to which such pollutants contribute to regional haze impairment in the Class I areas addressed by their SIPs. The States must report to EPA by 2003 on their decisions whether to develop targets and additional control strategies for PM and NO_x emissions from stationary sources. If the States determine that such targets and controls are needed, they must submit a plan revision to EPA not later than December 31, 2008 containing any necessary long-term strategies and BART or other requirements for stationary sources of PM and NO_x.

In adopting the requirements for stationary source emission reduction milestones in this manner, EPA is indicating that the State's adoption of approvable SO₂ milestones and a backstop market trading program as set forth in section 51.309(f) in addition to the other requirements in section 51.309

would provide for reasonable progress for the 16 Class I areas for the implementation period from 2003 to 2018. The emissions reductions provided for by the milestones and trading program must address the BART provisions in section 51.308(e). For the reasons discussed in the portion of this preamble concerning BART requirements, EPA believes that the GCVTC's adoption of a market based alternative to source-by-source BART will permit the GCVTC States to meet the provisions of the national rule which allow the use of alternative measures in lieu of BART. Implementation of the framework established by subsections 51.309 (d)(4) and (f) will thus satisfy the provisions for an alternative measure in lieu of BART for regional haze impairment set forth in section 51.308(e)(2), provided the interim milestones called for in the annex assure greater reasonable progress than would be achieved by application of BART. The EPA will supplement its actions on the stationary source strategy with future rulemaking on the States' submission of interim milestones for SO₂ emissions as part of the annex. In reviewing the interim milestones, EPA will be informed by the annex to the GCVTC report provided for in section 51.309(f) to be discussed later.

5. Mobile Sources

Section 51.309(d)(5) requires implementation plans to address the contribution to regional haze by emissions from mobile sources. This mobile source provision is based on the finding in the GCVTC Report that reducing total mobile source emissions is an essential part of any long-term strategy for management of visibility on the Colorado Plateau.¹²⁶ The GCVTC found that some urban areas will already be developing mobile source emissions budgets and programs to meet other CAA requirements. To the extent that mobile source emissions in these or other areas are found to contribute significantly to visibility impairment in the Class I areas of the Colorado Plateau, the GCVTC recommended that an emissions budget be established for any area with a significant contribution to the regional mobile source emissions total. The GCVTC called for the budgets to be established beginning in the approximate year in which emissions from mobile sources are projected to be at their lowest point during the planning period of 2003 to 2018, which is expected to be in 2005. The emissions budget should serve both as a planning

objective and a performance indicator for that area.

Accordingly, today's final rule requires all plans to provide for an inventory of current and projected emissions (VOC, NO_x, SO₂, elemental carbon, organic carbon, and direct fine particles) from mobile sources for the 2003 to 2018 period. Because, as noted in the GCVTC Report, the inventory for the year 2005 is expected to represent the expected lowest total emissions from mobile sources in the planning period, that inventory must be included in the SIP. Once State inventories have been compiled and evaluated, the States with urban areas found to contribute significantly to visibility impairment in the 16 Class I areas must establish and document their mobile source emissions budgets for any such area. In addition, the States must establish SIP components which limit VOC, SO₂, NO_x, elemental and organic carbon and direct fine particulate mobile source emissions to their projected lowest levels for the period 2003 to 2018. The State plans must also provide for the implementation of measures to achieve the mobile emissions budget, and for demonstrations of compliance with any such budget. The demonstrations must include a tracking system to evaluate and demonstrate the State is meeting its share of the regional mobile source emissions budget.

The GCVTC report also noted that the Federal government has a role in addressing mobile source emissions. The GCVTC report identified several national mobile source-related emissions reduction strategies under consideration by EPA that are important to visibility conditions in the Class I areas on the Colorado Plateau. The GCVTC agreed to promote these initiatives on a national level. With regard to ongoing development of policies and regulations on emissions from mobile sources, the June 29 letter from the WGA requests that EPA "make a binding commitment in its final regional haze rule to fully consider the GCVTC's recommendations" on several national mobile source emissions control strategies. Comment on the regional haze rule specifically requested that EPA commit to consider development of a list of very specific national mobile source emissions control strategies.

The EPA agrees with the GCVTC's conclusion that emissions from mobile sources can be significant contributors to regional haze visibility impairment. The EPA is currently working on a number of the strategies the GCVTC requested us to "fully consider" and the

¹²⁶ GCVTC Report, pp. 38–46.

summary below indicates the status of activities under way.

No.	Measure	Status of EPA efforts to fully consider the measure
1	Adoption of the 49-State LEV standard in 2001 and Tier II vehicle emission standards in year 2004 (if determined to be more effective).	Combined Tier II/gasoline sulfur NPRM is being drafted, with publication expected in early to mid-1999.
2	Support of EPA's current proposal for new on-road, heavy-duty vehicles emission standards that reduce NO _x emissions by at least 50 percent over the 1998 requirements in the CAA, while maintaining current stringent PM emission limits.	Finalized 2004 standards for on-road heavy-duty in 10/97 [62 FR 54693]; reductions in NO _x emissions and secondary PM.
3	Pursue additional PM reductions from on-road vehicles	Potential actions being evaluated.
4	Pursue additional engine emission standards for new off-road vehicles (heavy-duty, construction-type) that provide reasonably achievable reductions.	Finalized standards in 8/98 [63 FR 56967]. Also planning a technology review by December 2001 to evaluate feasibility standards and additional reductions.
5	Explore broader application of and additional reductions in the sulfur content of both gasoline and diesel fuel.	Gasoline sulfur control-rulemaking underway. Considering regulation of diesel fuel sulfur.
6	Promotion of cleaner-burning fuels	In first year of implementing clean-fuel fleets program. The Office of Mobile Sources presented a series of fleet manager workshops during May, June and July of '98. Clean Fuel Fleet Program Implementation Guidance was issued in August '98. We have a team within OMS working on promoting clean fuels efforts.
7	Pursue fuel standards and control strategies for diesel locomotives, marine vessels/pleasure craft, airplanes, and Federal vehicles as described in the GCVTC's Report.	Study of these issues is ongoing, but no specific actions have been scheduled.
8	Support requirements for effective refueling vapor recovery systems that capture evaporative emissions.	On-board re-fueling standards for cars and trucks finalized October 1996. We may consider refueling systems for on-road, heavy-duty gasoline in future.

The EPA will continue to work with States and regional planning entities to help them assess how national mobile source emissions strategies will affect other strategies needed to ensure reasonable progress toward the national visibility goal during the implementation of the regulations promulgated today. The EPA will also grant States full credit for implementation of future national mobile source programs in emissions strategies needed to attain reasonable progress goals.

6. Emissions Related to Fire

Section 51.309(d)(6) requires documentation that all prescribed fire programs within the State consider and address the effects of smoke on visibility when planning and issuing permits for prescribed fires. The GCVTC Report stated that "fire has played a major role in the development of and maintenance of most ecosystems in the West."¹²⁷ In addition, the report notes "emissions from fire (wildfire and prescribed fire) are an important episodic contributor to visibility-impairing aerosols, including organic carbon, and particulate matter (PM_{2.5})". Agricultural burning emissions and their effects have been identified as a concern by the GCVTC but have not been quantified due to lack of data. The GCVTC concluded that all types of fire (prescribed fire, wildfire, and

agricultural burning) must be addressed equitably as part of a visibility protection strategy.¹²⁸

The EPA agrees with the GCVTC's conclusions and is including in this section of the rule a requirement for the States to address all types of fire in fulfilling the requirements of this section and in submitting SIPs for approval by EPA. Section 51.309(d)(6) requires each State to establish an emissions inventory and tracking system (spatial and temporal) for VOC, NO_x, elemental carbon and organic carbon, and direct fine particulate emissions from prescribed fire, wildfire, and agricultural burning. The EPA believes that such information could be developed on a regional basis and could be accomplished through mechanisms such as recording acres experiencing fire and calculating emissions based on vegetation type and soil moisture. Most importantly, the rule requires the establishment of enhanced smoke management programs for fire that consider visibility effects, in addition to health and nuisance objectives, and calls for programs to be based on the criteria of efficiency, economics, law, emissions reduction opportunities, land management objectives, and reduction of visibility impacts. The comprehensive approach envisioned by the rule will allow States to plan a smoke management program that

minimizes visibility impacts but also fully recognizes the ecological role of fire.

The smoke management plans must address all sources of fire used for land management purposes. The provisions of this section also provide for establishment of annual emissions goals for fire (excluding wildfire) that will minimize increases in emissions to the maximum extent feasible. These goals are to be established cooperatively by States, tribes, State and Federal land management agencies, and their private sector counterparts, considering factors similar to those identified for enhanced smoke management plans.

7. Dust From Roads

Section 51.309(d)(7) requires States to assess the impact of dust emissions on regional haze visibility in the 16 Class I areas. If such dust emissions are determined to be a significant contributor to visibility impairment, the State must implement emissions management strategies to address their impact. In the technical work of the GCVTC, road dust was not shown to be a major contributor to regional haze impairment based on current monitoring data. However, work on future emissions projections of road dust emissions was directly tied to growth in vehicle miles traveled (VMT). The large increase projected for the west in VMT over the planning period of the GCVTC report resulted in initial

¹²⁷ GCVTC Report, p. 47.

¹²⁸ See Id.

predictions of a very large contribution of road dust to regional haze.¹²⁹ This technical result was addressed in the GCVTC report and the GCVTC discounted the predictions of the future impacts from road dust. However, the GCVTC recommended that its policy conclusion that distant road dust is not likely to play an important role in regional haze should be confirmed through further tracking of road dust emissions. The GCVTC also emphasized that road dust control should be considered in locations “in and near” Class I areas.¹³⁰ The EPA agrees with this approach and has included the assessment of road dust as a requirement of the SIP. In addition, today’s action requires appropriate SIP measures over time based on the contribution of road dust to regional haze.

8. Pollution Prevention

This section addresses the GCVTC’s recommendations on pollution prevention and renewable energy. The GCVTC goal recommended that renewable energy comprise 10 percent of the regional power needs by 2005 and 20 percent by 2015. The Administration has recently offered legislation proposing a national mandate of 7.5 percent by 2010. The Commission’s goal represents the outcome of its consensus process and is a more aggressive goal than what the Administration has proposed as a national mandate. As with other GCVTC recommendations, the EPA has included this provision in this rule in recognition of the overall body of the GCVTC’s work and believes it is consistent with the provisions of the national rule. Section 51.309(d)(8) requires the State to summarize all pollution prevention plans currently in place, inventory the current and expected energy generation capacity through 2002, the total energy generation capacity and production for the State, the State’s percentage of total energy generation and capacity that comes from renewable energy sources, and the State’s anticipated contribution toward the GCVTC’s goal that renewable energy comprise 10 percent of the regional power needs by 2005, and 20 percent by 2015.

The GCVTC found that to prevent further degradation of vistas in the west, it would be necessary to combine cost-effective pollution control strategies with a greater emphasis on pollution prevention, including low or zero emission technologies and energy conservation. It further found that there

was a high potential for renewable energy production, especially electrical energy, and that the relative cost of renewable energy production is declining over time. The GCVTC cited forecasts of renewable energy production by the Western Systems Coordinating Council and by the Land and Water Fund of the Rockies in support of its adoption of the goal that 10 percent of regional power needs be served by renewable energy sources by the year 2005 and 20 percent by the year 2015.¹³¹

In establishing assessment and reporting requirements for the States, EPA is supporting the GCVTC Report’s promotion of renewable power production. Such production will likely be based on emerging renewable energy technologies such as wind, solar, biomass, and geothermal. The EPA also supports tracking annual goals for increases in renewable power generation in the transport region.¹³² The GCVTC identified strategies which the States could rely on to help achieve this regional renewable energy goal, including, but not limited to, focusing research funding for renewables, financial incentives, and requiring new power generation projects to include a portion of the generation from renewable energy sources. The EPA notes that the WRAP is committed to following through on the GCVTC’s recommendations and can assist the States in developing strategies they can rely on to achieve regional renewable energy goals contained in the GCVTC Report.

In response to the GCVTC’s recommendations on pollution prevention, section 51.309(d)(8) calls for each SIP to provide for incentives to reward efforts that go beyond compliance and/or achieve early compliance with air pollution related requirements. The plan also must identify specific areas where renewable energy has the potential to supply power where it is not now provided by current service systems and where renewable energy systems are most cost effective. The plan must contain projections of the short-term and long-term emissions reductions, visibility improvements, costs savings, and secondary benefits associated with renewable energy goals, energy efficiency and pollution prevention activities. The plan must also contain a description of the programs being relied on to achieve the State’s contribution toward the GCVTC’s renewable energy goals.

The State must provide a demonstration of its progress toward achieving the renewable energy goals in 2003, 2008, 2013 and 2018. The demonstration must include documentation describing the potential for renewable energy resources, the percentage of renewable energy associated with new power generation projects implemented or planned, and the renewable energy generation capacity and production in use or planned within the State. Where a State cannot feasibly meet its planned contribution to the regional renewable energy goals, the State must identify the measures implemented to achieve its contribution and explain why meeting the State’s contribution was not feasible.

Commentors on EPA’s September 3, 1998 notice of availability stated that incorporation of language from the WGA letter on renewable energy restricts State and local energy planning since a SIP is federally enforceable under the CAA. Commentors also expressed the opinion that the requirements for SIPs to address renewable energy goals may overstep EPA’s legal authorities which are limited to emissions limitation and pollution performance standards.

The EPA disagrees that the provisions of section 51.309(d)(8) impermissibly restrict State and local energy planning or that these provisions exceed EPA’s authority under the CAA. As stated previously, the requirements of section 51.309 are provided to GCVTC States as an alternative to the general provisions of section 51.308 as a means of giving effect to the policy and technical work of the GCVTC. The goals themselves are not enforceable and States are not required to meet the renewable energy goals. However, as the WGA letter and the GCVTC provide, these provisions are not severable. States which wish to take advantage of the GCVTC’s efforts and EPA’s acceptance thereof are obligated to meet all of the requirements of section 51.309.

Rather, EPA is setting enforceable requirements for the States to assess progress toward goals established by the GCVTC with respect to renewable energy production as a means for reducing dependence on more polluting forms of energy production. States participating in the GCVTC strategy are responsible for explaining why they cannot meet the GCVTC goals. The required reporting by the States will inform the public of air quality improvements that would result from that goal had it been realized. It is the relationship between renewable energy production and associated environmental effects (direct and

¹²⁹ GCVTC Report, p. 46.

¹³⁰ See *id.*

¹³¹ GCVTC Report, p. 28.

¹³² GCVTC Report, p. 7.

indirect) that is the thrust of the assessment and reporting effort under the SIP.

9. Implementation of Additional Requirements

In section 51.309(d)(9), EPA requires SIPs to provide for implementation of other GCVTC Report policy and strategy options that can be practicably included as enforceable emissions limits, schedules of compliance or other enforceable measures to make reasonable progress toward the national visibility goal for the 16 Class I areas.

The GCVTC's recommendations included items that are not appropriate to directly translate to SIP requirements for every State. The EPA supports State choice of appropriate actions on other options and measures identified by the GCVTC and has, therefore, established a general provision for SIPs calling for them to consider and adopt additional measures as necessary and appropriate. The rule further requires States to report to EPA in 2003, 2008, 2013, and 2018 on what measures have been adopted and the status of implementation of those measures.

10. International Transport of Pollution

One of the additional areas of concern noted in the GCVTC report, for instance, relates to effects of emissions from sources outside of the territory of the United States. As stated elsewhere in this notice, the EPA will not hold States responsible for developing strategies to "compensate" for the effects of emissions from foreign sources. However, the States should not consider the presence of emissions from foreign sources as a reason not to strive to ensure reasonable progress in reducing any visibility impairment caused by sources located within their jurisdiction. The States retain a duty to work with EPA in helping the Federal government use appropriate means to address international pollution transport concerns. Indeed, such efforts are under way. The EPA and other Federal officials are working with representatives of the Mexican government to complete a study which will assess the contribution of fossil-fuel fired electric generation stations in northern Mexico to haze in Big Bend National Park. These efforts and funding of work to establish emissions inventories in Mexico will help address concerns raised by the GCVTC. In addition to activities directly related to visibility effects, there are other efforts underway related to the United States-Mexico border health issues. Given that emissions contributing to health effects and those contributing to visibility

impairment are generally the same, the border studies and emissions inventories will help support assessment of regional visibility conditions. In addition to work with Mexico, EPA routinely meets with representatives of the Canadian government on issues related to transport of air pollutants, particularly focusing on emissions affecting acidic deposition. The EPA intends to continue to work through appropriate channels in building technical information and addressing policy concerns related to international pollution transport.

11. Periodic Implementation Plan Revisions

Section 51.309(d)(10) requires the States to periodically assess their progress in implementing measures for protection of visibility. This includes a review of how the measures implemented under section 51.309 are consistent with the national rule's provisions for long-term strategies and BART. The assessments must be completed by 2008, 2013, and 2018 and must be submitted to EPA as SIP revisions that comply with the procedural requirements of sections 51.102 and 51.103. As with any other review and revision of SIP requirements, States will be expected to use the most current available technical methods and procedures in conducting their assessments.

The provisions of section 51.309(d)(10) further require that where a State concludes that planning adjustments are necessary as a result of emissions occurring within the State, it revise its implementation strategies to include rule revisions that are effective within 1 year after the State makes such a conclusion in order to assure reasonable progress at any of the 16 Class I areas on the Colorado Plateau. States may also conclude, based on their assessments, that no changes to the plan are needed, and the plan revision requirement can be met by submitting a "negative declaration" as an implementation plan revision to EPA. This revision must provide the State's basis for finding that no changes are needed. This submission will provide the public with necessary information and an opportunity to comment on the State's findings.

The EPA views the requirement of section 51.309(d)(10) as a periodic check on progress rather than a thorough revision of regional strategies. The State interim assessments should focus on significant failures or shortfalls in implementing adopted strategies and on emissions from in-State or out-of-

State sources which may be causing degradation in regional haze visibility but were not anticipated in the development of the original plan and will, therefore, not be addressed by currently-adopted programs. If a State makes such findings with respect to in-State sources, EPA expects the State to revise its SIP, reducing emissions to be consistent with the regional planning effort reflected in the reasonable progress SIPs due in 2003. If transport of emissions from out of State is suspected of impairing reasonable progress, the State should identify this to EPA and should initiate cooperative efforts with upwind States so the emissions can be more fully evaluated and, as needed, addressed in the next mandatory full SIP revision. This requirement is virtually identical to the provisions for periodic review under sections 51.308(g) and (h).

12. State Planning and Interstate Coordination

Section 51.309(d)(11) provides flexibility to a State to address its contribution to visibility impairment through the regional emissions control strategies discussed above. The SIP strategies to protect the 16 Class I areas on the Colorado Plateau can thus be developed through interstate coordination in a regional planning process. Such regional planning can help a State develop documentation of the technical and policy basis for the individual State apportionment of emissions and visibility impairment, the contribution to emissions addressed by the State's plan, coordination in the analysis of interstate transport and control of pollution with other States, and compliance with other criteria for approval of SIPs under CAA sections 110 and 169A and B. Therefore, under today's final rule and EPA policy, States may rely on regional entities' efforts to develop and document technical and policy support for the SIPs required by this rule. For the purposes of implementing the requirements of section 51.309, EPA recognizes the WRAP as a regional planning group for purposes of interstate consultation under section 51.308(c).

As indicated in the introduction to the section of today's notice addressing the WGA and GCVTC recommendations, States retain the right to develop their own programs with or without reliance on the work products of a regional entity. In the case where a State chooses to develop a SIP without reliance on a regional planning process, however, the State will need to show how it accounted for the effect of its emissions on Class I areas which may be

located beyond the State's borders, as well as the effect of upwind emissions from other States on the Class I areas within its borders.

The regional haze SIP for a State choosing not to implement the requirements of section 51.309, including the SIP submittal deadlines, would be governed by the national rules provided in section 51.308. Any State choosing not to adopt a SIP in accordance with the GCVTC strategy and optional approach in section 51.309, but wishing to use the WRAP mechanism for regional cooperation in developing its SIP requirements, would need to comply with all of the requirements outlined in the national rule in section 51.308.

13. Tribal Implementation Plans

The WGA called for EPA's final rule to permit tribes within the GCVTC Transport Region to implement visibility programs, or reasonably severable elements, in the same manner as States, regardless of whether such tribes have participated as members of a visibility transport GCVTC. The EPA has not included the WGA's recommended rule provision in today's action because the necessary authority for tribal organizations has already been provided in a previous EPA rulemaking.¹³³ The EPA does, however, agree with the position expressed in the WGA recommendation. The EPA wishes to clarify that tribes may directly implement the requirements of this section of the regional haze rule in the same manner as States. The Tribal Authority Rule provides for this, as discussed further in unit V of today's notice. The independence of tribes means that a tribal visibility program is not dependent on strategies selected by the State or States in which the tribe is located. If tribes within the Transport Region decline to implement visibility programs and EPA finds that emissions management strategies are needed to assure reasonable progress, EPA will work with the appropriate tribes directly to provide for Federal implementation of appropriate emissions reduction strategies. This is based on the government to government principles of Federal-Tribal relations.

D. Requirements for States Electing Not To Follow All Provisions of the Section 51.309(e)

The EPA notes that the provisions for allowing the Transport Region States to adopt SIPs based on the GCVTC recommendations requires that States endorse the range of strategies

recognized by the GCVTC. A State electing not to implement the GCVTC recommendations as set forth in section 51.309(d) must address all of its Class I areas and any Class I area to which its sources' emissions may contribute to impairment under the provisions of section 51.308. In addition, any Transport Region State must advise other States electing to comply with section 51.309 of the nature and effect of their program on visibility impairing emissions so that other States can use this information in developing programs under section 51.309. This provision assures that all components needed to address reasonable progress are part of SIPs either under the provisions of section 51.309 or section 51.308.

E. Annex to the GCVTC Report

1. Interim Milestones

Section 51.309(f) calls for an annex to the GCVTC Report for the purpose of completing the program requirements to meet reasonable progress under the CAA, including submission of a complete long-term strategy and addressing the BART requirement for the 16 Class I areas on the Colorado Plateau. The purpose of the annex is to develop interim emissions milestones for stationary source SO₂ interim targets between the year 2000 target and the target for the year 2040. Under section 51.309(f)(1)(i), the States must consider four specific factors in setting the interim emission milestones. The first factor affecting the selection of interim milestones is the GCVTC's definition of reasonable progress. The GCVTC notes in its report that the term "reasonable progress" refers to "progress in reducing human-caused haze in Class I areas under the national visibility goal."¹³⁴ It goes on to note that "the CAA indicates that 'reasonable' should consider the cost of reducing air pollution emissions, the time necessary for compliance, the energy and non-air quality environmental impacts of reducing emissions, and the remaining useful life of any existing air pollution source considered for these reductions." The discussion also includes the GCVTC's Public Advisory Committee definition that "progress towards the national visibility goal is achieving continuous emissions reductions necessary to reduce existing impairment and attain steady improvement in visibility in mandatory Class I areas, and managing emissions growth so as to prevent perceptible degradation of clean air days." Together, these provisions call for the achievement of continuous

emissions reductions and tracking the reductions to ensure visibility improvement in hazy days and visibility maintenance on clear days. To be consistent with and responsive to the guiding principles, recommendations and strategies adopted by the GCVTC, EPA expects any interim targets to demonstrate a significant continuous downward trend in emissions and not postpone significant progress to periods covered by future long-term strategies.

The second factor is the quantifiable target for 2040 to which interim targets must contribute. This target is a 50 to 70 percent reduction by 2040 in emissions from stationary source SO₂ emissions, based on the projection of the GCVTC's baseline forecast scenario from actual 1990 emission levels. Interim targets should reflect assessment of reasonable measures which reduce regional loadings of SO₂. Such assessments may include examination of interim targets based on costs per ton of reducing SO₂ in line with recently adopted control measures.

The third factor is the applicable requirements of the CAA for making reasonable progress and implementing BART. As noted previously in this preamble, the CAA requires a long-term strategy to ensure reasonable progress and the application of BART to certain large sources that are reasonably anticipated to cause or contribute to regional haze. The rule requires the annex to address the BART provisions of the national rule. As noted in the earlier discussion of BART, EPA will accept alternative measures, such as regional emissions trading programs, which achieve greater reasonable progress in lieu of meeting the source-specific BART requirement. As noted elsewhere in the preamble, EPA plans to issue revised BART guidance within a year. During the next year and a half, EPA also plans to issue new or revised guidance related to the design of emission trading programs, including guidance on the structure of economic incentive programs. Given this schedule, EPA intends to work closely with the WRAP as it develops the annex, its approach to meeting the rule's BART requirements and its backstop market-trading program. The EPA believes that its participation in the WRAP will help to ensure that the way in which the annex addresses BART and the market trading program will be compatible with EPA's revised BART guidance and any new or revised guidance EPA issues related to emissions trading programs.

In the event EPA finds that the annex does not meet the rule's BART provisions because it is inconsistent

¹³³ See 63 FR 7254 (Feb. 12, 1998).

¹³⁴ GCVTC Report, p. x-xi.

with EPA's revised BART guidance, the Transport Region States may submit a revised annex to address any deficiencies. The revision should be submitted as expeditiously as practicable but no later than 12 months from EPA's determination that the annex is deficient with respect to BART due to its inconsistency with the BART guidance. Similarly, if EPA finds the annex does not meet the provisions of any EPA guidance applicable to market-trading programs that is issued after promulgation of this rule, the Transport Region States may submit a revision to the annex to remedy any such deficiencies. These revisions should also be submitted no later than 12 months from EPA's determination that the annex cannot be incorporated in the SIP because of inconsistencies with the guidance. The EPA expects that the States and WRAP stakeholders will make every effort to address both the revised BART guidance and any new or revised emission trading program guidance within the timeframe established by section 51.309 for submittal of the annex. By providing for EPA participation in the WRAP, encouraging State and stakeholder efforts to respond expeditiously to new or revised guidance, and calling for any needed revisions to the annex to be submitted within a year from an EPA determination of deficiency, this approach will ensure compliance with the SIP submittal deadlines in section 51.309(c).

The fourth factor to be addressed in the setting of interim milestones is the timing of implementation plan assessments of progress and the identification of mechanisms to address cases where emissions exceed milestone levels for the reporting years 2003, 2008, 2013 and 2018. This schedule is designed to achieve eventual coordination of target years with assessments for regions affecting other Class I areas. Because these efforts call for continuing consultation and sharing of information between regions as well as between States, timetables for further work by the GCVTC States are designed to bring the GCVTC States' long-term strategy updates in line with the schedule for the next long-term strategy update required of all other States.

2. Documentation of Market Trading or Other Alternative Measures To Assure Reasonable Progress.

In addition to the interim targets, section 51.309(f)(1)(iii) requires the annex to contain final documentation of the market trading program or other programs to be implemented by the GCVTC States if current implementation

plans and voluntary measures are not sufficient to meet the established interim milestones. This documentation must include model rules, memoranda of understanding, and other materials necessary to describe in detail and establish in enforceable fashion how emission reduction progress will be monitored, what conditions will require the market trading program to be activated, how allocations will be performed, and how the program will operate.

3. Additional Class I Areas

An additional provision, section 51.309(g) allows States to elect to demonstrate reasonable progress for other Class I areas within the Transport Region States beyond the original 16 areas addressed by the GCVTC's assessment, relying on the strategies recommended by the GCVTC. See the discussion in unit IV.F. of this preamble.

4. Geographic Enhancements

The EPA has also adopted provisions in subsections 51.309(b)(7) and 51.309(f)(4) that would allow the Transport Region States to establish a process as part of a broad regional strategy, such as backstop market-trading program, to accommodate the situation where a State takes action to address reasonably attributable BART under the provisions of section 51.306(c)(2). As noted elsewhere, the annex, if approved, will allow the Transport Region States to submit a SIP which adopts an alternative measure in lieu of BART. The purpose for including the provisions regarding geographic enhancement is to address the intersection between the existing reasonably attributable BART provision and regional haze BART, which may be met through an emissions trading program such as the milestone/backstop market-trading program which is to be included in the annex. Existing rules address "hot spots"—those situations in which part of the visibility impairment in a specific national park or wilderness area is reasonably attributable to a single source or small group of sources in the airshed because of the nature and location of the pollution relative to the Class I area. Should action be taken by the State to address such reasonably attributable impairment through BART, the geographic enhancement provisions would allow the backstop market-based trading program to accommodate such action. These provisions parallel a similar allowance in subsections 51.301(ii) and 51.308(e)(2)(C)(v).

The EPA is repeating these provisions, with minor language

changes, to be clear that they apply to both the milestones or backstop market-trading program provided for in the annex. Subsection 51.309(b)(7) defines the term geographic enhancement for the provisions governing the annex and section 51.309(f)(4) allows the annex to contain a geographic enhancement. Similar to the national program, these provisions will allow the market trading system included in the annex to accommodate situations where a State wishes to require BART control measures on sources or a small group of sources due to reasonably attributable impairment and that source has been included in the backstop market trading program under the annex. In this situation, the milestone or backstop market-trading program may include a level of reasonably attributable impairment which may require additional emissions reductions over and above those achieved under the quantitative emissions reductions milestones established for regional haze.

5. The EPA Responsibilities in Relation to the Annex

Section 51.309(f)(3) spells out EPA's responsibilities with respect to the annex and calls for EPA to publish the annex upon receipt. The EPA must then conduct a review and decide, after notice and opportunity for public comment, whether the annex meets the requirement of section 51.309(f)(1) and whether it assures reasonable progress. If EPA finds the interim targets and accompanying documentation meet the requirements of reasonable progress, then it will incorporate the interim targets into the stationary source SIP requirements in section 51.309(d)(4) within 1 year of receipt, after public notice and comment. If EPA decides that the annex does not meet SIP requirements for reasonable progress or if EPA does not receive an annex, it will notify the GCVTC States, who will then be subject to the general provisions of section 51.308 in the same manner as other States.

One commentator on the annex approach described in EPA's September 3 notice of availability noted that the WGA letter set forth a tight timetable for development of the market system and that it appears to violate the TEA-21 requirements. In response, EPA notes that these are the timetables established by the GCVTC in 1996 and which have been the basis for work by the follow-up body of the WRAP. With respect to TEA-21, the colloquy between Senator Allard and Senator Baucus in the Congressional Record on the conference report concerning implementation of GCVTC recommendations is instructive,

and EPA believes that it fully addresses the commentor's concern. Senator Baucus stated that "[TEA-21] clarifies that it does not affect EPA's authority to provide for State implementation of the agreements and recommendations set forth in the June 1996 GCVTC Report on a schedule consistent with the GCVTC's Report. * * * The conferees added specific language so as not to preclude the Administrator from providing for earlier State implementation of the GCVTC's agreements and recommendations * * *." ¹³⁵ That language states that:

The preceding provisions of this paragraph shall not preclude the implementation of the agreements and recommendations set forth in the GCVTC Report dated June 1996.

TEA-21 section 4102(c)(2).

F. Additional Class I Areas

Section 51.309(g) calls for Transport Region States to identify in their 2003 plan submissions whether they elect to meet the provisions of section 51.308 or 51.309 in establishing their long-term strategy and BART requirements for additional Class I areas not covered by the original GCVTC effort. By no later than December 31, 2008 the States electing to use section 51.309 to address additional Class I areas must submit plan revisions which include a modeling demonstration establishing expected visibility conditions on the most-impaired and least-impaired days at the Class I areas for which they seek to demonstrate reasonable progress. These demonstrations may be conducted by the State or based on refined studies conducted by regional entities. The plan must include the analyses required in section 51.308(d)(1). The plan can build upon and take full credit for the strategies adopted for the 16 Class I areas. It must also contain any additional measures beyond those strategies that may be needed to demonstrate reasonable progress in those areas, in accordance with the provisions of section 51.308(d)(1) through (4). As provided for in section 51.309(g)(2), a Transport Region State may have until no later than December 31, 2008, to submit a plan for additional Class I areas, which is the date for submission that additional Class I areas under section 51.308. Transport Region States may well benefit by addressing the additional Class I areas under section 51.309, since using the same rule provision for both sets of Class I areas could facilitate coordination of the requirements for the areas as well as

enabling consolidation of plans after 2008.

Furthermore, if the State can develop the necessary demonstration for other Class I areas before 2003, a Transport Region State could submit one implementation plan in 2003 covering both the 16 Class I areas and other Class I areas for which it must assure reasonable progress.

V. Implementation of the Regional Haze Program in Indian Country

This section discusses how the requirements of the regional haze rule relate to emissions released from Indian country.

A. Background on Tribal Air Quality Programs

Before discussing how the regional haze rule affects tribes, we believe it is useful to briefly describe EPA's overall policy and rulemaking efforts on tribal air quality programs.

On November 8, 1984, the EPA released a policy statement entitled "EPA Policy for the Administration of Environmental Programs on Indian Reservations." This policy statement, available on the Internet at <http://www.epa.gov/indian/1984.htm>, stresses a number of themes. In particular, this policy stresses that EPA, consistent with overall Federal government policy, will pursue the principle of Indian "self-government," and that it will work with tribal governments on a "government-to-government" basis. The policy statement also emphasizes EPA's desire to work with interested tribal governments in developing programs and in preparing to assume regulatory and environmental program management responsibility for Indian country. The EPA will retain responsibility for protecting tribal air quality until such time as tribes administer their own air quality protection programs.

The CAA, as amended in 1990, added a new section 301(d) which authorizes EPA to "treat tribes as States" for the purposes of administering CAA programs. Section 301(d) required that EPA promulgate regulations listing specific CAA provisions for which it would be appropriate to treat tribes as States and establishing the criteria that tribes must meet in order to be eligible for such treatment under the CAA. The EPA proposed these regulations on August 25, 1994 (59 FR 43956), and finalized the rule on February 12, 1998 (63 FR 7254). Much of the regulatory language in this rule is codified in the Code of Federal Regulations (CFR) as a new 40 CFR part 49. This rule is

generally referred to as the Tribal Authority Rule or TAR.

The TAR includes general eligibility requirements for tribes interested in assuming program responsibilities that are codified in section 49.6 of the rule. These eligibility requirements are designed in part to ensure that such tribes have the infrastructure needed to successfully implement a tribal air quality program. Tribes may request a formal eligibility determination using administrative procedures contained in 49.7. Tribes may also use the administrative procedures in 49.7 to seek approval to implement CAA programs. The TAR authorizes EPA to review requests for eligibility determinations and program approvals simultaneously. As noted in 49.7(c), tribes that are interested in seeking EPA approval to implement air quality programs under the CAA may request approval to implement only partial elements of a CAA program, so long as the elements of the partial program are "reasonably severable."

Section 301(d)(4) of the CAA confers discretionary authority on EPA to provide, through regulation, alternative means to ensure air quality protection in cases where it determines that treating tribes as "identical" to States would be inappropriate. Accordingly, in promulgating the TAR, EPA provided flexibility to tribes seeking to implement the CAA. Some flexibility is established by virtue of EPA's decision, under 49.4 of the final rule, not to treat tribes as States for specified provisions of the CAA. The rationale for this approach is discussed on pages 7264 and 7265 of the preamble to the final rule, and in unit III.B of the preamble to the proposed rule. For example, unlike States, tribes are not required by the TAR to adopt and implement CAA plans or programs, thus tribes are not subject to mandatory deadlines for submittal of implementation plans. As discussed in the preamble sections identified above, EPA believes that it generally would not be reasonable to impose the same types of deadlines on tribes as on States. Among the CAA provisions for which EPA has determined it will not treat tribes as States is section 110(c)(1) of the CAA, which requires EPA to intervene and ensure air quality protection within 2 years after a State either fails to adopt a SIP or does not win EPA approval for a SIP that was determined to be deficient. The EPA did not apply this provision to tribes because the section 110(c) obligation on EPA to promulgate a FIP is based on failures with respect to required submittals, and, as noted above, tribal submissions under the TAR are voluntary, not mandatory.

¹³⁵ 144 Cong Rec. SS407 (daily ed. May 22, 1998).

Instead, pursuant to its section 301(d)(4) discretionary authority, EPA has provided in the TAR that, where necessary and appropriate, it will promulgate FIPs within reasonable timeframes to protect air quality in Indian country. See 40 CFR 49.11(a).

B. Issues Related to the Regional Haze Program in Indian Country

Today's final rule imposes requirements for revisions to SIPs. The rule requires States to develop SIP revisions to address regional haze, to update the SIP every 10 years, and to continue to evaluate progress toward the national visibility goal. The requirements of today's final rule are among those air quality programs for which tribes may be determined eligible and receive authorization to implement under the TAR. Tribes wishing to assume these regional haze program requirements and be "treated as States" may seek approval under 40 CFR 49, but are not required to do so. Where tribes do not take on this responsibility, EPA will ensure air quality protection in Indian country consistent with the provisions of 40 CFR 49.11(a).

We encourage tribes to participate in regional planning efforts for regional haze. A good example of tribal participation in regional haze planning is the efforts of tribal representatives on the GCVTC. These efforts are continuing with tribal participation on the WRAP. The EPA expects, as noted above, that additional regional planning groups will be formed in reaction to today's final rule. A number of tribes have indicated interest in participating in regional planning efforts, and we believe this is beneficial in many respects. Tribal participation can help provide emissions inventory information that can serve to better understand the importance of sources in Indian country to regional visibility impairment. Conversely, such participation can also help provide a forum for tribal participants to alert regional planning organizations as to concerns on how regional emissions are affecting air quality in Indian country.

As noted in the preamble to the TAR, we intend to work with tribes to identify air quality priorities and needs, to build communication and outreach to tribes on air quality issues, and to provide training to build tribes' technical capacity for implementing air quality programs. We recognize, however, that not all tribes will have the resources nor the expertise to participate in regional planning efforts for regional haze. An important EPA role in regional planning efforts will be to ensure that the overall objectives of the regional haze program

are met where tribes are unable to participate.

In order to encourage tribes to develop self-sufficient programs, the TAR provides tribes with the flexibility of submitting programs as they are developed, rather than in accordance with statutory deadlines. This means that tribes that choose to develop programs, where necessary may take additional time to submit implementation plans for regional haze over and above the deadlines in the TEA-21 legislation as codified in today's final rule. (See unit III.B for a discussion of these deadlines.) The TEA-21 legislation changed the deadlines for State submission of SIP revisions to address regional haze, which were originally set out in section 169B(e)(2) of the CAA. Section 49.4(f) of the TAR provides that deadlines related to SIP submittals under section 169B(e)(2) do not apply to tribes. We encourage tribes choosing to develop implementation plans to make every effort to submit by the deadlines to ensure that the plans are integrated with and coordinated with regional planning efforts. In the interim, EPA will work with the States and tribes to ensure that achievement of reasonable progress is not delayed.

As noted previously in unit II of this notice, sections 169A and 169B of the CAA contain requirements for visibility protection in Class I areas, and do not require that States or tribes develop plans and control strategies for visibility protection for additional locations. These provisions of the CAA do not require implementation plans to address regional haze in other Class I areas, such as those designated as Class I by tribes or States under section 164 of the CAA. One commenter from a tribe expressed concerns that the scenic beauty and value of tribal areas should not be viewed by EPA as less important than the national parks and wilderness areas that have "mandatory Class I" status. While EPA believes that these tribal areas are not afforded the same legal protection under the CAA as Class I areas, it is important for tribes to understand that the regional haze control program for the Federal areas will help to protect scenic locations of interest to tribes. For example, EPA believes that modeling analyses aimed at addressing Class I areas can readily add receptor locations to analyze the visibility improvements at selected tribal locations. The EPA will work with regional planning bodies to ensure that tribal interests are represented and to foster communication between States and tribes, and we will encourage the consideration of impacts on visibility in

tribal locations in regional planning efforts.

VI. Miscellaneous Technical Amendments to the Existing Rule

The rule includes the following changes to coordinate the requirements of today's regional haze rule with the 1980 visibility regulations for "reasonably attributable" visibility impairment:

Section 51.300. Purpose and Applicability

We have amended this section to clarify that subpart P includes provisions for regional haze as well as reasonably attributable visibility impairment.

Section 51.301. Definitions

We have added the following terms: reasonably attributable visibility impairment, regional haze, deciview, State, most-impaired days, least-impaired days, implementation plan, tribe, BART-eligible source, and geographic enhancement. The other definitions in this section apply to the program for reasonably attributable impairment as well as the new regional haze program, except where it is noted that they only apply to the program for reasonably attributable impairment.

Section 51.302. Implementation Control Strategies

We have changed references in section 51.302(a) to the administrative process requirements for public hearings and SIP submissions, which are now located in section 51.102 and 51.103. We have also amended this section to clarify that the implementation control strategies addressed in the section apply to reasonably attributable visibility impairment.

Section 51.305. Monitoring

We have amended this section to clarify that the monitoring requirements in this section apply to reasonably attributable visibility impairment.

VII. Administrative Requirements

In preparing any final rule, EPA must meet the administrative requirements contained in a number of statutes and executive orders. In this section of the preamble, we discuss how the final regional haze rule addresses these administrative requirements.

A. Regulatory Planning and Review by the Office of Management and Budget (OMB) (Executive Order 12866)

Under Executive Order 12866 (58 FR 51735, October 4, 1993,) the Agency

must determine whether the regulatory action is "significant" and, therefore, subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a "significant regulatory action" and EPA has submitted it to OMB for review. The drafts of rules submitted to OMB, the documents accompanying such drafts, written comments thereon, written responses by EPA, and identification of the changes made in response to OMB suggestions or recommendations are available for public inspection at EPA's Air and Radiation Docket Information Center (Docket No. A-95-38).

The EPA has prepared and entered into the docket a Regulatory Impact Analysis (RIA) entitled Regulatory Impact Analysis for the Regional Haze Rule. This RIA assesses the costs, economic impacts, and benefits for four illustrative progress goals, two sets of control strategies, two sets of assumptions for estimating benefits, and systems of national uniform versus regionally varying progress goals. The RIA is a caveated and illustrative assessment of the potential consequences of the regional haze rule in 2015, a year near the end of the first long-term progress period, 2018. As a result of comments from the public as well as changes initiated by EPA staff, the RIA has a broader scope, improved data, and more realistic modeling than the analysis issued with the proposed rule.

Despite these improvements, the RIA is not a precise reflection of the actual costs, economic impacts, and benefits associated with the progress goals and emission management strategies developed as a result of the final regional haze rule. This is due to the

fact that under the regional haze rule, the States bear the primary responsibility for establishing reasonable progress goals as well as emission management strategies for meeting these goals. Until such time as the States make those decisions, EPA can only speculate as to which goals may be established and what types of control requirements or emission limits might result from the associated emission management strategies.

According to the RIA, there is substantial visibility improvement due to emissions from other CAA programs such as those for the new O3 and PM NAAQS and the Tier 2 mobile sources rule. With illustrative goals ranging from 1.0 deciview improvement in 15 years to 10 percent deciview improvement in 10 years, the RIA finds that between 22 and 52 percent of the Class I area counties in the continental U.S. achieve or surpass the progress goals due to emissions reductions from other CAA programs. Furthermore, by looking at only partial attainment of the PM and O3 NAAQS and a modest (relative to the proposed rule) Tier 2 program, the RIA understated the visibility improvements from these and other CAA programs. Hence, if States established reasonable progress goals equivalent to the amount of visibility improvement which could be achieved by other CAA programs, the incremental control costs of the regional haze rule may be less than the costs estimated in the RIA, as noted below, for the first long-term strategy period. Under these conditions there could be costs associated with the planning, analysis, and BART control elements of the rule. Incremental annualized costs for those elements are estimated to be \$72 million (1990 dollars).

However, if States all choose to establish the same illustrative progress goal, the RIA estimates incremental control costs ranging from \$1 to \$4 billion with associated benefits ranging from \$1 billion to \$19 billion. But, visibility is not the only monetized effects category. Many of the benefits which could be monetized are associated with improvements to human health and other welfare effects. This is because the emission control strategies targeted at improving visibility in Class I areas also generate air quality improvements in many other parts of the country. However, the estimated visibility benefits which are monetized are substantial, ranging, for example, from 86 to 111 percent of control costs for the 1 deciview improvement in 15 years illustrative progress goal and from 32 to 52 percent for the 10 percent

deciview improvement in 10 years illustrative progress goal.

The RIA finds that the estimated net benefits (benefits minus costs) may increase and the potential for adverse economic impact would decrease if States exercise their discretion to establish State or region-specific reasonable visibility progress goals and emission-management strategies.

According to the RIA simulations, not all Class I areas achieve or surpass the illustrative visibility progress goals even after the simulation of two sets of control strategies. But, the visibility improvement is substantial with 84 to 94 percent of the 121 counties with 147 Class I areas in the continental U.S. achieving the 1.0 deciview in 15 years goal and 31 to 43 percent of the areas achieving 10 percent deciview improvement in 10 years goal. Furthermore, all areas have improved visibility. How much of the estimated progress shortfall is due to the failure of the RIA to fully account for the visibility progress due to other CAA programs and advances in control technology is unknown.

The RIA, although highly caveated and illustrative, represents an improvement over the analysis prepared for the proposed rule. Furthermore, the RIA demonstrates significant visibility progress in 121 counties with 147 Class I areas in the continental U.S. These improvements result from other CAA programs as well as those targeted at the illustrative progress goals. Despite incomplete coverage of effects and pollutants, the monetized benefits of strategies associated with illustrative nationally uniform goals are substantial, outweighing the control strategy costs under most conditions for the first long-term strategy period. However, higher net benefits may result and the potential for significant adverse impact may be mitigated if States exercise the discretion to establish reasonable progress goals and emission management strategies. The flexibility for State discretion is, of course, exactly what the regional haze rule provides.

B. Regulatory Flexibility Act

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. The EPA has also determined that this rule will not have a significant impact on a substantial number of small entities because the rule does not establish requirements applicable to small entities.

The Regulatory Flexibility Act (5 U.S.C. §§ 601 et seq.) (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (Pub. L.

No.104–121) (SBREFA), provides that whenever an agency is required to publish a general notice of proposed rulemaking, it must prepare and make available an initial regulatory flexibility analysis, unless it certifies that the proposed rule, if promulgated, will not have “a significant economic impact on a substantial number of small entities.” 5 U.S.C. § 605(b). Courts have interpreted the RFA to require a regulatory flexibility analysis only when small entities will be subject to the requirements of the rule. See *Motor and Equip. Mfrs. Ass’n v. Nichols*, 142 F.3d 449 (D.C. Cir. 1998); *United Distribution Cos. v. FERC*, 88 F.3d 1105, 1170 (D.C. Cir. 1996); *Mid-Tex Elec. Co-op, Inc. v. FERC*, 773 F.2d 327, 342 (D.C. Cir. 1985) (agency’s certification need only consider the rule’s impact on entities subject to the rule).

As stated in the proposal, the regional haze rule will not establish requirements applicable to small entities. The rule applies to States, not to small entities. The rule requires States to develop, adopt, and submit SIP revisions that will ensure reasonable progress toward the national visibility goal, and would generally leave to the States the task of determining how to obtain those reductions, including which entities to regulate. In developing emission control measures, section 169A of the CAA requires States to address BART for a select list of major stationary sources defined by section 169A(g)(7) of the CAA. As noted in the proposal, however, the State’s determination of BART for regional haze involves some State discretion in considering a number of factors set forth in section 169A(g)(2), including the costs of compliance. Further, the final rule allows States to adopt alternative measures in lieu of requiring the installation and operation of BART at these major stationary sources. As a result, the potential consequences of today’s final rule at specific sources are speculative. Any requirements for emission control measures, including any requirements for BART, will be established by State rulemakings. The States will accordingly exercise substantial intervening discretion in implementing the final rule.

For the final rule, EPA is confirming its initial certification that the rule would not have a significant impact on a substantial number of small entities. The EPA notes, however, that the Agency did conduct a more general analysis of the potential impact on small entities of possible State implementation strategies. This analysis is documented in the RIA. In addition, as noted in the proposal, EPA undertook

small-entity outreach activities on a voluntary basis. The EPA also has issued guidance, entitled “Guidance on Mitigation of Impact to Small Business While Implementing Air Quality Standards and Regulations,” which can be found on the internet at: <http://ttnwww.rtpnc.epa.gov/implement/actions.html> Other. This guidance outlines potential implementation strategies that would mitigate impacts on small sources and encourages States to make use of these strategies wherever possible and appropriate. The EPA did receive comments regarding the impact on the regional haze rule on small entities. These comments are addressed in the Response to Comments document.

C. Paperwork Reduction Act—Impact on Reporting Requirements

The information collection requirements in this rule relating to State requirements for the protection of visibility in Class I national parks and wilderness areas were submitted to OMB for review and approval under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* An Information Collection Request document was prepared by EPA (ICR No. 1813.02) and a copy may be obtained from Sandy Farmer, by mail at OPPE Regulatory Information Division, U.S. EPA (2137) 401 M Street, S.W.; Washington, DC 20460, by email at farmer.sandy@epamail.epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at <http://www.epa.gov/icr>. The information requirements are not effective until OMB approves them.

This collection of information has an estimated reporting burden, for the fifty States and District of Columbia, of approximately 22,000 to 47,000 hours for a 3-year period between mid-1999 and mid-2002. The Agency expects the Federal burden will be approximately 1900 to 4000 hours for the 3-year period. The Agency anticipates States costs of about \$980,000 to \$2,064,000 for the 3-year period. The Agency estimates the annual Federal costs to be approximately \$83,000 to \$175,000 for the 3-year period. These estimates include time for reviewing requirements and instructions, evaluating data sources, gathering and maintaining data, and completing and reviewing the collection of information.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of

collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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. The OMB control numbers for EPA’s regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) (UMRA), establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, 2 U.S.C. 1532, EPA generally must prepare a written statement, including a cost-benefit analysis, for any proposed or final rule that “includes any Federal mandate that may 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.” A “Federal mandate” is defined under section 421(6), 2 U.S.C. 658(6), to include a “Federal intergovernmental mandate” and a “Federal private sector mandate.” A “Federal intergovernmental mandate,” in turn, is defined to include a regulation that “would impose an enforceable duty upon State, local, or tribal governments,” section 421(5)(A)(i), 2 U.S.C. 658(5)(A)(i), except for, among other things, a duty that is “a condition of Federal assistance,” section 421(5)(A)(i)(I). A “Federal private sector mandate” includes a regulation that “would impose an enforceable duty upon the private sector,” with certain exceptions, section 421(7)(A), 2 U.S.C. 658(7)(A).

Before promulgating an EPA rule for which a written statement is needed under section 202 of the UMRA, section 205, 2 U.S.C. 1535, of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective, or least burdensome alternative that achieves the objectives of the rule.

The RIA prepared by EPA and placed in the docket for this rulemaking is consistent with the requirements of

section 202 of the UMRA. Furthermore, EPA is not directly establishing any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments. Thus, EPA is not obligated to develop under section 203 of the UMRA a small government agency plan. Further, as described in the proposal, EPA carried out consultations with the governmental entities affected by this rule in a manner consistent with the intergovernmental consultation provisions of section 204 of the UMRA.

The EPA also believes that because the rule provides States with substantial flexibility, the proposed rule meets the UMRA requirement in section 205 to select the least costly and burdensome alternative in light of the statutory mandate to issue regulations that make reasonable progress toward the national visibility protection goal. The rule provides States with the flexibility to establish reasonable progress goals and BART based on certain criteria, one of which is the costs of compliance. The rule also provides States with the flexibility to adopt alternatives, such as an emissions trading program, in lieu of requiring BART. Finally, the rule provides the States with the flexibility to develop long-term strategies. The regional haze rule, therefore, inherently provides for adoption of the least costly, most cost effective, or least burdensome alternative that achieves the objective of the rule.

The EPA is not reaching a final conclusion as to the applicability of the requirements of UMRA to this rulemaking action. It is questionable whether a requirement to submit a SIP revision constitutes a Federal mandate. The obligation for a state to revise its SIP that arises out of sections 110(a), 169A and 169B of the CAA is not legally enforceable by a court of law and, at most, is a condition for continued receipt of highway funds. Therefore, it is possible to view an action requiring such a submittal as not creating any enforceable duty within the meaning of section 421(5)(A)(i) of UMRA (2 U.S.C. 658(5)(A)(i)). Even if it did, the duty could be viewed as falling within the exception for a condition of Federal assistance under section 421(5)(A)(i)(I) of UMRA (2 U.S.C. 658(5)(A)(i)(I)). As noted earlier, however, notwithstanding these issues, the discussion in section 2 and the analysis in Chapter 8 of the RIA constitutes the UMRA statement that would be required by UMRA if its statutory provisions applied, and EPA has consulted with governmental entities as would be required by UMRA. Consequently, it is not necessary for EPA to reach a conclusion as to the

applicability of the UMRA requirements.

E. Environmental Justice—Executive Order 12898

Executive Order 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. The requirements of Executive Order 12898 have been addressed to the extent practicable in the RIA cited above, particularly in chapters 2 and 9 of the RIA.

F. Congressional Review Act

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 U.S. The 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 U.S. prior to publication of the rule in the **Federal Register**. A "major rule" cannot take effect until 60 days after it is published in the **Federal Register**. This action is a "major rule" as defined by 5 U.S.C. section 804(2). This rule will be effective August 30, 1999.

G. Protection of Children From Environmental Health Risks and Safety Risks—Executive Order 13045

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. The EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to

influence the regulation. The regional haze rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Enhancing the Intergovernmental Partnership—Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's final rule does not create a mandate on State, local or tribal governments. As explained in the discussion of UMRA (unit VII.D), this rule does not impose an enforceable duty on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

The EPA notes, however that considerable consultation has taken place with State, local and tribal government representatives in developing the final regional haze rule. In September 1995, EPA formed a subcommittee under the authority of the Federal Advisory Committee Act to advise the Agency on various issues related to implementation of the revised ozone and particulate matter NAAQS and the regional haze program. This group met a total of 13 times between September 1995 and completion of its duties in December 1997. Several State and local governmental representatives were on this subcommittee. The EPA received and reviewed comments from over 40 States and 1 tribal government on the July 1997 proposal. Tribes in the west have been active in discussion on regional haze, both as members of the GCVTC, and in the follow-on body, the WRAP. In addition, EPA has held

numerous meetings with State and local representatives.

I. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Because the rule does not establish a visibility progress goal or emission management strategy, the rule does not impose control or other direct compliance requirements. Hence, the rule does not create a mandate on tribal governments. Accordingly, the requirements of 3(b) of Executive Order 13084 do not apply to this rule.

J. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Pub. L. No. 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not

consider the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Nitrogen dioxide, Particulate matter, Sulfur oxides, Volatile organic compounds.

Dated: April 22, 1999.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7410, 7414, 7421, 7470-7479, 7491, 7492, 7601, and 7602.

Subpart P—Protection of Visibility

2. Section 51.300 is amended by revising paragraphs (a), (b)(1) introductory text, and (b)(2), and by adding paragraph (b)(3) to read as follows:

§ 51.300 Purpose and applicability.

(a) *Purpose.* The primary purposes of this subpart are to require States to develop programs to assure reasonable progress toward meeting the national goal of preventing any future, and remedying any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution; and to establish necessary additional procedures for new source permit applicants, States and Federal Land Managers to use in conducting the visibility impact analysis required for new sources under § 51.166. This subpart sets forth requirements addressing visibility impairment in its two principal forms: "reasonably attributable" impairment (i.e., impairment attributable to a single source/small group of sources) and regional haze (i.e., widespread haze from a multitude of sources which impairs visibility in every direction over a large area).

(b) *Applicability.* (1) *General Applicability.* The provisions of this subpart pertaining to implementation plan requirements for assuring reasonable progress in preventing any future and remedying any existing visibility impairment are applicable to:

* * * * *

(2) The provisions of this subpart pertaining to implementation plans to address reasonably attributable visibility impairment are applicable to the following States:

Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Idaho, Kentucky, Louisiana, Maine, Michigan, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Virgin Islands, Washington, West Virginia, Wyoming.

(3) The provisions of this subpart pertaining to implementation plans to address regional haze visibility impairment are applicable to all States as defined in section 302(d) of the Clean Air Act (CAA) except Guam, Puerto Rico, American Samoa, and the Northern Mariana Islands.

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3. Section 51.301 is amended by removing the paragraph designations, placing the defined terms in alphabetical order, revising the definitions of *Federal Land Manager*, *Major stationary source*, *Natural conditions*, and *Visibility impairment*, and adding in alphabetical order definitions of *Reasonably attributable visibility impairment*, *Regional haze*, *Deciview*, *State*, *Most impaired days*, *Least impaired days*, *Implementation plan*, *Indian tribe or tribe*, *BART-eligible source*, and *Geographic enhancement for the purpose of § 51.308* to read as follows:

§ 51.301 Definitions.

* * * * *

BART-eligible source means an existing stationary facility as defined in this section.

* * * * *

Deciview means a measurement of visibility impairment. A deciview is a haze index derived from calculated light extinction, such that uniform changes in haziness correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to highly impaired. The deciview haze index is calculated based on the following equation (for the purposes of calculating deciview, the atmospheric light extinction coefficient must be calculated from aerosol measurements):

Deciview haze index = $10 \ln_e (b_{ext}/10 \text{ Mm}^{-1})$.

Where b_{ext} = the atmospheric light extinction coefficient, expressed in inverse megameters (Mm^{-1}).

* * * * *

Federal Land Manager means the Secretary of the department with authority over the Federal Class I area (or the Secretary's designee) or, with respect to Roosevelt-Campobello International Park, the Chairman of the Roosevelt-Campobello International Park Commission.

Geographic enhancement for the purpose of § 51.308 means a method, procedure, or process to allow a broad regional strategy, such as an emissions trading program designed to achieve greater reasonable progress than BART for regional haze, to accommodate BART for reasonably attributable visibility impairment.

Implementation plan means, for the purposes of this part, any State Implementation Plan, Federal Implementation Plan, or Tribal Implementation Plan.

Indian tribe or tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Least impaired days means the average visibility impairment (measured in deciviews) for the twenty percent of monitored days in a calendar year with the lowest amount of visibility impairment.

Major stationary source and *major modification* mean major stationary source and major modification, respectively, as defined in § 51.166.

Most impaired days means the average visibility impairment (measured in deciviews) for the twenty percent of monitored days in a calendar year with the highest amount of visibility impairment.

Natural conditions includes naturally occurring phenomena that reduce visibility as measured in terms of light extinction, visual range, contrast, or coloration.

Reasonably attributable visibility impairment means visibility impairment that is caused by the emission of air pollutants from one, or a small number of sources.

Regional haze means visibility impairment that is caused by the emission of air pollutants from numerous sources located over a wide geographic area. Such sources include,

but are not limited to, major and minor stationary sources, mobile sources, and area sources.

State means "State" as defined in section 302(d) of the CAA.

Visibility impairment means any humanly perceptible change in visibility (light extinction, visual range, contrast, coloration) from that which would have existed under natural conditions.

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4. Section 51.302 is amended by revising the section heading, paragraphs (a), (c) introductory text, (c)(1), (c)(2) introductory text, (c)(4) introductory text, and (c)(4)(iv) to read as follows:

§ 51.302 Implementation control strategies for reasonably attributable visibility impairment.

(a) *Plan Revision Procedures.* (1) Each State identified in § 51.300(b)(2) must have submitted, not later than September 2, 1981, an implementation plan meeting the requirements of this subpart pertaining to reasonably attributable visibility impairment.

(2)(i) The State, prior to adoption of any implementation plan to address reasonably attributable visibility impairment required by this subpart, must conduct one or more public hearings on such plan in accordance with § 51.102.

(ii) In addition to the requirements in § 51.102, the State must provide written notification of such hearings to each affected Federal Land Manager, and other affected States, and must state where the public can inspect a summary prepared by the Federal Land Managers of their conclusions and recommendations, if any, on the proposed plan revision.

(3) Submission of plans as required by this subpart must be conducted in accordance with the procedures in § 51.103.

(c) *General plan requirements for reasonably attributable visibility impairment.* (1) The affected Federal Land Manager may certify to the State, at any time, that there exists reasonably attributable impairment of visibility in any mandatory Class I Federal area.

(2) The plan must contain the following to address reasonably attributable impairment:

(4) For any existing reasonably attributable visibility impairment the Federal Land Manager certifies to the State under paragraph (c)(1) of this

section, at least 6 months prior to plan submission or revision:

(iv) The plan must require that each existing stationary facility required to install and operate BART do so as expeditiously as practicable but in no case later than five years after plan approval.

5. Section 51.305 is amended by revising the section heading and paragraph (a) to read as follows:

§ 51.305 Monitoring for reasonably attributable visibility impairment.

(a) For the purposes of addressing reasonably attributable visibility impairment, each State containing a mandatory Class I Federal area must include in the plan a strategy for evaluating reasonably attributable visibility impairment in any mandatory Class I Federal area by visual observation or other appropriate monitoring techniques. Such strategy must take into account current and anticipated visibility monitoring research, the availability of appropriate monitoring techniques, and such guidance as is provided by the Agency.

6. Section 51.306 is amended by revising the section heading, paragraph (a)(1), paragraph (c) introductory text, and paragraph (d) to read as follows:

§ 51.306 Long-term strategy requirements for reasonably attributable visibility impairment.

(a)(1) For the purposes of addressing reasonably attributable visibility impairment, each plan must include a long-term (10–15 years) strategy for making reasonable progress toward the national goal specified in § 51.300(a). This strategy must cover any existing impairment the Federal Land Manager certifies to the State at least 6 months prior to plan submission, and any integral vista of which the Federal Land Manager notifies the State at least 6 months prior to plan submission.

(c) The plan must provide for periodic review and revision, as appropriate, of the long-term strategy for addressing reasonably attributable visibility impairment. The plan must provide for such periodic review and revision not less frequently than every 3 years until the date of submission of the State's first plan addressing regional haze visibility impairment in accordance with § 51.308(b) and (c). On or before this date, the State must revise its plan to provide for review and revision of a coordinated long-term strategy for addressing reasonably attributable and

regional haze visibility impairment, and the State must submit the first such coordinated long-term strategy. Future coordinated long-term strategies must be submitted consistent with the schedule for periodic progress reports set forth in § 51.308(g). Until the State revises its plan to meet this requirement, the State must continue to comply with existing requirements for plan review and revision, and with all emission management requirements in the plan to address reasonably attributable impairment. This requirement does not affect any preexisting deadlines for State submittal of a long-term strategy review (or element thereof) between August 30, 1999, and the date required for submission of the State's first regional haze plan. In addition, the plan must provide for review of the long-term strategy as it applies to reasonably attributable impairment, and revision as appropriate, within 3 years of State receipt of any certification of reasonably attributable impairment from a Federal Land Manager. The review process must include consultation with the appropriate Federal Land Managers, and the State must provide a report to the public and the Administrator on progress toward the national goal. This report must include an assessment of:

(d) The long-term strategy must provide for review of the impacts from any new major stationary source or major modifications on visibility in any mandatory Class I Federal area. This review of major stationary sources or major modifications must be in accordance with § 51.307, § 51.166, § 51.160, and any other binding guidance provided by the Agency insofar as these provisions pertain to protection of visibility in any mandatory Class I Federal areas.

7. Section 51.307 is amended by revising paragraph (a) introductory text, (a)(2) and (c) to read as follows:

§ 51.307 New source review.

(a) For purposes of new source review of any new major stationary source or major modification that would be constructed in an area that is designated attainment or unclassified under section 107(d)(1)(D) or (E) of the CAA, the State plan must, in any review under § 51.166 with respect to visibility protection and analyses, provide for:

(2) Where the State requires or receives advance notification (e.g. early consultation with the source prior to submission of the application or notification of intent to monitor under

§ 51.166) of a permit application of a source that may affect visibility the State must notify all affected Federal Land Managers within 30 days of such advance notification, and

(c) Review of any major stationary source or major modification under paragraph (b) of this section, shall be conducted in accordance with paragraph (a) of this section, and § 51.166(o), (p)(1) through (2), and (q). In conducting such reviews the State must ensure that the source's emissions will be consistent with making reasonable progress toward the national visibility goal referred to in § 51.300(a). The State may take into account the costs of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, and the useful life of the source.

8. A new § 51.308 is added to subpart P to read as follows:

§ 51.308 Regional haze program requirements.

(a) *What is the purpose of this section?* This section establishes requirements for implementation plans, plan revisions, and periodic progress reviews to address regional haze.

(b) *When are the first implementation plans due under the regional haze program?* Except as provided in paragraph (c) of this section and § 51.309(c), each State identified in § 51.300(b)(3) must submit an implementation plan for regional haze meeting the requirements of paragraphs (d) and (e) of this section by the following dates:

(1) For any area designated as attainment or unclassifiable for the national ambient air quality standard (NAAQS) for fine particulate matter (PM_{2.5}), the State must submit a regional haze implementation plan to EPA within 12 months after the date of designation.

(2) For any area designated as nonattainment for the PM_{2.5} NAAQS, the State must submit a regional haze implementation plan to EPA at the same time that the State's plan for implementation of the PM_{2.5} NAAQS must be submitted under section 172 of the CAA, that is, within 3 years after the area is designated as nonattainment, but not later than December 31, 2008.

(c) *Options for regional planning.* If at the time the SIP for regional haze would otherwise be due, a State is working with other States to develop a coordinated approach to regional haze by participating in a regional planning process, the State may choose to defer

addressing the core requirements for regional haze in paragraph (d) of this section and the requirements for BART in paragraph (e) of this section. If a State opts to do this, it must meet the following requirements:

(1) The State must submit an implementation plan by the earliest date by which an implementation plan would be due for any area of the State under paragraph (b) of this section. This implementation plan must contain the following:

(i) A demonstration of ongoing participation in a regional planning process to address regional haze, and an agreement by the State to continue participating with one or more other States in such a process for the development of this and future implementation plan revisions;

(ii) A showing, based on available inventory, monitoring, or modeling information, that emissions from within the State contribute to visibility impairment in a mandatory Class I Federal Area outside the State, or that emissions from another State contribute to visibility impairment in any mandatory Class I Federal area within the State.

(iii) A description of the regional planning process, including a list of the States which have agreed to work together to address regional haze in a region (i.e., the regional planning group), the goals, objectives, management, and decisionmaking structure of the regional planning group, deadlines for completing significant technical analyses and developing emission management strategies, and a schedule for State review and adoption of regulations implementing the recommendations of the regional group;

(iv) A commitment by the State to submit an implementation plan revision addressing the requirements in paragraphs (d) and (e) of this section by the date specified in paragraph (c)(2) of this section. In addition, the State must commit to develop its plan revision in coordination with the other States participating in the regional planning process, and to fully address the recommendations of the regional planning group.

(v) A list of all BART-eligible sources within the State.

(2) The State must submit an implementation plan revision addressing the requirements in paragraphs (d) and (e) of this section by the latest date an area within the planning region would be required to submit an implementation plan under paragraph (b) of this section, but in any event, no later than December 31, 2008.

(d) *What are the core requirements for the implementation plan for regional haze?* The State must address regional haze in each mandatory Class I Federal area located within the State and in each mandatory Class I Federal area located outside the State which may be affected by emissions from within the State. To meet the core requirements for regional haze for these areas, the State must submit an implementation plan containing the following plan elements and supporting documentation for all required analyses:

(1) *Reasonable progress goals.* For each mandatory Class I Federal area located within the State, the State must establish goals (expressed in deciviews) that provide for reasonable progress towards achieving natural visibility conditions. The reasonable progress goals must provide for an improvement in visibility for the most impaired days over the period of the implementation plan and ensure no degradation in visibility for the least impaired days over the same period.

(i) In establishing a reasonable progress goal for any mandatory Class I Federal area within the State, the State must:

(A) Consider the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any potentially affected sources, and include a demonstration showing how these factors were taken into consideration in selecting the goal.

(B) Analyze and determine the rate of progress needed to attain natural visibility conditions by the year 2064. To calculate this rate of progress, the State must compare baseline visibility conditions to natural visibility conditions in the mandatory Federal Class I area and determine the uniform rate of visibility improvement (measured in deciviews) that would need to be maintained during each implementation period in order to attain natural visibility conditions by 2064. In establishing the reasonable progress goal, the State must consider the uniform rate of improvement in visibility and the emission reduction measures needed to achieve it for the period covered by the implementation plan.

(ii) For the period of the implementation plan, if the State establishes a reasonable progress goal that provides for a slower rate of improvement in visibility than the rate that would be needed to attain natural conditions by 2064, the State must demonstrate, based on the factors in paragraph (d)(1)(i)(A) of this section,

that the rate of progress for the implementation plan to attain natural conditions by 2064 is not reasonable; and that the progress goal adopted by the State is reasonable. The State must provide to the public for review as part of its implementation plan an assessment of the number of years it would take to attain natural conditions if visibility improvement continues at the rate of progress selected by the State as reasonable.

(iii) In determining whether the State's goal for visibility improvement provides for reasonable progress towards natural visibility conditions, the Administrator will evaluate the demonstrations developed by the State pursuant to paragraphs (d)(1)(i) and (d)(1)(ii) of this section.

(iv) In developing each reasonable progress goal, the State must consult with those States which may reasonably be anticipated to cause or contribute to visibility impairment in the mandatory Class I Federal area. In any situation in which the State cannot agree with another such State or group of States that a goal provides for reasonable progress, the State must describe in its submittal the actions taken to resolve the disagreement. In reviewing the State's implementation plan submittal, the Administrator will take this information into account in determining whether the State's goal for visibility improvement provides for reasonable progress towards natural visibility conditions.

(v) The reasonable progress goals established by the State are not directly enforceable but will be considered by the Administrator in evaluating the adequacy of the measures in the implementation plan to achieve the progress goal adopted by the State.

(vi) The State may not adopt a reasonable progress goal that represents less visibility improvement than is expected to result from implementation of other requirements of the CAA during the applicable planning period.

(2) *Calculations of baseline and natural visibility conditions.* For each mandatory Class I Federal area located within the State, the State must determine the following visibility conditions (expressed in deciviews):

(i) Baseline visibility conditions for the most impaired and least impaired days. The period for establishing baseline visibility conditions is 2000 to 2004. Baseline visibility conditions must be calculated, using available monitoring data, by establishing the average degree of visibility impairment for the most and least impaired days for each calendar year from 2000 to 2004. The baseline visibility conditions are

the average of these annual values. For mandatory Class I Federal areas without onsite monitoring data for 2000–2004, the State must establish baseline values using the most representative available monitoring data for 2000–2004, in consultation with the Administrator or his or her designee;

(ii) For an implementation plan that is submitted by 2003, the period for establishing baseline visibility conditions for the period of the first long-term strategy is the most recent 5-year period for which visibility monitoring data are available for the mandatory Class I Federal areas addressed by the plan. For mandatory Class I Federal areas without onsite monitoring data, the State must establish baseline values using the most representative available monitoring data, in consultation with the Administrator or his or her designee;

(iii) Natural visibility conditions for the most impaired and least impaired days. Natural visibility conditions must be calculated by estimating the degree of visibility impairment existing under natural conditions for the most impaired and least impaired days, based on available monitoring information and appropriate data analysis techniques; and

(iv)(A) For the first implementation plan addressing the requirements of paragraphs (d) and (e) of this section, the number of deciviews by which baseline conditions exceed natural visibility conditions for the most impaired and least impaired days; or

(B) For all future implementation plan revisions, the number of deciviews by which current conditions, as calculated under paragraph (f)(1) of this section, exceed natural visibility conditions for the most impaired and least impaired days.

(3) *Long-term strategy for regional haze.* Each State listed in § 51.300(b)(3) must submit a long-term strategy that addresses regional haze visibility impairment for each mandatory Class I Federal area within the State and for each mandatory Class I Federal area located outside the State which may be affected by emissions from the State. The long-term strategy must include enforceable emissions limitations, compliance schedules, and other measures as necessary to achieve the reasonable progress goals established by States having mandatory Class I Federal areas. In establishing its long-term strategy for regional haze, the State must meet the following requirements:

(i) Where the State has emissions that are reasonably anticipated to contribute to visibility impairment in any mandatory Class I Federal area located

in another State or States, the State must consult with the other State(s) in order to develop coordinated emission management strategies. The State must consult with any other State having emissions that are reasonably anticipated to contribute to visibility impairment in any mandatory Class I Federal area within the State.

(ii) Where other States cause or contribute to impairment in a mandatory Class I Federal area, the State must demonstrate that it has included in its implementation plan all measures necessary to obtain its share of the emission reductions needed to meet the progress goal for the area. If the State has participated in a regional planning process, the State must ensure it has included all measures needed to achieve its apportionment of emission reduction obligations agreed upon through that process.

(iii) The State must document the technical basis, including modeling, monitoring and emissions information, on which the State is relying to determine its apportionment of emission reduction obligations necessary for achieving reasonable progress in each mandatory Class I Federal area it affects. The State may meet this requirement by relying on technical analyses developed by the regional planning organization and approved by all State participants. The State must identify the baseline emissions inventory on which its strategies are based. The baseline emissions inventory year is presumed to be the most recent year of the consolidate periodic emissions inventory.

(iv) The State must identify all anthropogenic sources of visibility impairment considered by the State in developing its long-term strategy. The State should consider major and minor stationary sources, mobile sources, and area sources.

(v) The State must consider, at a minimum, the following factors in developing its long-term strategy:

(A) Emission reductions due to ongoing air pollution control programs, including measures to address reasonably attributable visibility impairment;

(B) Measures to mitigate the impacts of construction activities;

(C) Emissions limitations and schedules for compliance to achieve the reasonable progress goal;

(D) Source retirement and replacement schedules;

(E) Smoke management techniques for agricultural and forestry management purposes including plans as currently

exist within the State for these purposes;

(F) Enforceability of emissions limitations and control measures; and

(G) The anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the long-term strategy.

(4) *Monitoring strategy and other implementation plan requirements.* The State must submit with the implementation plan a monitoring strategy for measuring, characterizing, and reporting of regional haze visibility impairment that is representative of all mandatory Class I Federal areas within the State. This monitoring strategy must be coordinated with the monitoring strategy required in § 51.305 for reasonably attributable visibility impairment. Compliance with this requirement may be met through participation in the Interagency Monitoring of Protected Visual Environments network. The implementation plan must also provide for the following:

(i) The establishment of any additional monitoring sites or equipment needed to assess whether reasonable progress goals to address regional haze for all mandatory Class I Federal areas within the State are being achieved.

(ii) Procedures by which monitoring data and other information are used in determining the contribution of emissions from within the State to regional haze visibility impairment at mandatory Class I Federal areas both within and outside the State.

(iii) For a State with no mandatory Class I Federal areas, procedures by which monitoring data and other information are used in determining the contribution of emissions from within the State to regional haze visibility impairment at mandatory Class I Federal areas in other States.

(iv) The implementation plan must provide for the reporting of all visibility monitoring data to the Administrator at least annually for each mandatory Class I Federal area in the State. To the extent possible, the State should report visibility monitoring data electronically.

(v) A statewide inventory of emissions of pollutants that are reasonably anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal area. The inventory must include emissions for a baseline year, emissions for the most recent year for which data are available, and estimates of future projected emissions. The State must also include a commitment to update the inventory periodically.

(vi) Other elements, including reporting, recordkeeping, and other measures, necessary to assess and report on visibility.

(e) *Best Available Retrofit Technology (BART) requirements for regional haze visibility impairment.* The State must submit an implementation plan containing emission limitations representing BART and schedules for compliance with BART for each BART-eligible source that may reasonably be anticipated to cause or contribute to any impairment of visibility in any mandatory Class I Federal area, unless the State demonstrates that an emissions trading program or other alternative will achieve greater reasonable progress toward natural visibility conditions.

(1) To address the requirements for BART, the State must submit an implementation plan containing the following plan elements and include documentation for all required analyses:

(i) A list of all BART-eligible sources within the State.

(ii) A determination of BART for each BART-eligible source in the State that emits any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in any mandatory Class I Federal area. All such sources are subject to BART. This determination must be based on the following analyses:

(A) An analysis of the best system of continuous emission control technology available and associated emission reductions achievable for each BART-eligible source within the State subject to BART. In this analysis, the State must take into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use at the source, and the remaining useful life of the source; and

(B) An analysis of the degree of visibility improvement that would be achieved in each mandatory Class I Federal area as a result of the emission reductions achievable from all sources subject to BART located within the region that contributes to visibility impairment in the Class I area, based on the analysis conducted under paragraph (e)(1)(ii)(A) of this section.

(iii) If the State determines in establishing BART that technological or economic limitations on the applicability of measurement methodology to a particular source would make the imposition of an emission standard infeasible, it may instead prescribe a design, equipment, work practice, or other operational standard, or combination thereof, to

require the application of BART. Such standard, to the degree possible, is to set forth the emission reduction to be achieved by implementation of such design, equipment, work practice or operation, and must provide for compliance by means which achieve equivalent results.

(iv) A requirement that each source subject to BART be required to install and operate BART as expeditiously as practicable, but in no event later than 5 years after approval of the implementation plan revision.

(v) A requirement that each source subject to BART maintain the control equipment required by this subpart and establish procedures to ensure such equipment is properly operated and maintained.

(2) A State may opt to implement an emissions trading program or other alternative measure rather than to require sources subject to BART to install, operate, and maintain BART. To do so, the State must demonstrate that this emissions trading program or other alternative measure will achieve greater reasonable progress than would be achieved through the installation and operation of BART. To make this demonstration, the State must submit an implementation plan containing the following plan elements and include documentation for all required analyses:

(i) A demonstration that the emissions trading program or other alternative measure will achieve greater reasonable progress than would have resulted from the installation and operation of BART at all sources subject to BART in the State. This demonstration must be based on the following:

(A) A list of all BART-eligible sources within the State.

(B) An analysis of the best system of continuous emission control technology available and associated emission reductions achievable for each source within the State subject to BART. In this analysis, the State must take into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use at the source, and the remaining useful life of the source. The best system of continuous emission control technology and the above factors may be determined on a source category basis. The State may elect to consider both source-specific and category-wide information, as appropriate, in conducting its analysis.

(C) An analysis of the degree of visibility improvement that would be achieved in each mandatory Class I Federal area as a result of the emission reductions achievable from all such

sources subject to BART located within the region that contributes to visibility impairment in the Class I area, based on the analysis conducted under paragraph (e)(2)(i)(B) of this section.

(ii) A demonstration that the emissions trading program or alternative measure will apply, at a minimum, to all BART-eligible sources in the State. Those sources having a federally enforceable emission limitation determined by the State and approved by EPA as meeting BART in accordance with § 51.302(c) or paragraph (e)(1) of this section do not need to meet the requirements of the emissions trading program or alternative measure, but may choose to participate if they meet the requirements of the emissions trading program or alternative measure.

(iii) A requirement that all necessary emission reductions take place during the period of the first long-term strategy for regional haze. To meet this requirement, the State must provide a detailed description of the emissions trading program or other alternative measure, including schedules for implementation, the emission reductions required by the program, all necessary administrative and technical procedures for implementing the program, rules for accounting and monitoring emissions, and procedures for enforcement.

(iv) A demonstration that the emission reductions resulting from the emissions trading program or other alternative measure will be surplus to those reductions resulting from measures adopted to meet requirements of the CAA as of the baseline date of the SIP.

(v) At the State's option, a provision that the emissions trading program or other alternative measure may include a geographic enhancement to the program to address the requirement under § 51.302(c) related to BART for reasonably attributable impairment from the pollutants covered under the emissions trading program or other alternative measure.

(3) After a State has met the requirements for BART or implemented emissions trading program or other alternative measure that achieve more reasonable progress than the installation and operation of BART, BART-eligible sources will be subject to the requirements of paragraph (d) of this section in the same manner as other sources.

(4) Any BART-eligible facility subject to the requirement under paragraph (e) of this section to install, operate, and maintain BART may apply to the Administrator for an exemption from that requirement. An application for an

exemption will be subject to the requirements of § 51.303 (a)(2) through (h).

(f) *Requirements for comprehensive periodic revisions of implementation plans for regional haze.* Each State identified in § 51.300(b)(3) must revise and submit its regional haze implementation plan revision to EPA by July 31, 2018 and every ten years thereafter. In each plan revision, the State must evaluate and reassess all of the elements required in paragraph (d) of this section, taking into account improvements in monitoring data collection and analysis techniques, control technologies, and other relevant factors. In evaluating and reassessing these elements, the State must address the following:

(1) Current visibility conditions for the most impaired and least impaired days, and actual progress made towards natural conditions during the previous implementation period. The period for calculating current visibility conditions is the most recent five year period preceding the required date of the implementation plan submittal for which data are available. Current visibility conditions must be calculated based on the annual average level of visibility impairment for the most and least impaired days for each of these five years. Current visibility conditions are the average of these annual values.

(2) The effectiveness of the long-term strategy for achieving reasonable progress goals over the prior implementation period(s); and

(3) Affirmation of, or revision to, the reasonable progress goal in accordance with the procedures set forth in paragraph (d)(1) of this section. If the State established a reasonable progress goal for the prior period which provided a slower rate of progress than that needed to attain natural conditions by the year 2064, the State must evaluate and determine the reasonableness, based on the factors in paragraph (d)(1)(i)(A) of this section, of additional measures that could be adopted to achieve the degree of visibility improvement projected by the analysis contained in the first implementation plan described in paragraph (d)(1)(i)(B) of this section.

(g) *Requirements for periodic reports describing progress towards the reasonable progress goals.* Each State identified in § 51.300(b)(3) must submit a report to the Administrator every 5 years evaluating progress towards the reasonable progress goal for each mandatory Class I Federal area located within the State and in each mandatory Class I Federal area located outside the State which may be affected by

emissions from within the State. The first progress report is due 5 years from submittal of the initial implementation plan addressing paragraphs (d) and (e) of this section. The progress reports must be in the form of implementation plan revisions that comply with the procedural requirements of § 51.102 and § 51.103. Periodic progress reports must contain at a minimum the following elements:

(1) A description of the status of implementation of all measures included in the implementation plan for achieving reasonable progress goals for mandatory Class I Federal areas both within and outside the State.

(2) A summary of the emissions reductions achieved throughout the State through implementation of the measures described in paragraph (g)(1) of this section.

(3) For each mandatory Class I Federal area within the State, the State must assess the following visibility conditions and changes, with values for most impaired and least impaired days expressed in terms of 5-year averages of these annual values.

(i) The current visibility conditions for the most impaired and least impaired days;

(ii) The difference between current visibility conditions for the most impaired and least impaired days and baseline visibility conditions;

(iii) The change in visibility impairment for the most impaired and least impaired days over the past 5 years;

(4) An analysis tracking the change over the past 5 years in emissions of pollutants contributing to visibility impairment from all sources and activities within the State. Emissions changes should be identified by type of source or activity. The analysis must be based on the most recent updated emissions inventory, with estimates projected forward as necessary and appropriate, to account for emissions changes during the applicable 5-year period.

(5) An assessment of any significant changes in anthropogenic emissions within or outside the State that have occurred over the past 5 years that have limited or impeded progress in reducing pollutant emissions and improving visibility.

(6) An assessment of whether the current implementation plan elements and strategies are sufficient to enable the State, or other States with mandatory Federal Class I areas affected by emissions from the State, to meet all established reasonable progress goals.

(7) A review of the State's visibility monitoring strategy and any

modifications to the strategy as necessary.

(h) *Determination of the adequacy of existing implementation plan.* At the same time the State is required to submit any 5-year progress report to EPA in accordance with paragraph (g) of this section, the State must also take one of the following actions based upon the information presented in the progress report:

(1) If the State determines that the existing implementation plan requires no further substantive revision at this time in order to achieve established goals for visibility improvement and emissions reductions, the State must provide to the Administrator a negative declaration that further revision of the existing implementation plan is not needed at this time.

(2) If the State determines that the implementation plan is or may be inadequate to ensure reasonable progress due to emissions from sources in another State(s) which participated in a regional planning process, the State must provide notification to the Administrator and to the other State(s) which participated in the regional planning process with the States. The State must also collaborate with the other State(s) through the regional planning process for the purpose of developing additional strategies to address the plan's deficiencies.

(3) Where the State determines that the implementation plan is or may be inadequate to ensure reasonable progress due to emissions from sources in another country, the State shall provide notification, along with available information, to the Administrator.

(4) Where the State determines that the implementation plan is or may be inadequate to ensure reasonable progress due to emissions from sources within the State, the State shall revise its implementation plan to address the plan's deficiencies within one year.

(i) *What are the requirements for State and Federal Land Manager coordination?*

(1) By November 29, 1999, the State must identify in writing to the Federal Land Managers the title of the official to which the Federal Land Manager of any mandatory Class I Federal area can submit any recommendations on the implementation of this subpart including, but not limited to:

(i) Identification of impairment of visibility in any mandatory Class I Federal area(s); and

(ii) Identification of elements for inclusion in the visibility monitoring strategy required by § 51.305 and this section.

(2) The State must provide the Federal Land Manager with an opportunity for consultation, in person and at least 60 days prior to holding any public hearing on an implementation plan (or plan revision) for regional haze required by this subpart. This consultation must include the opportunity for the affected Federal Land Managers to discuss their:

(i) Assessment of impairment of visibility in any mandatory Class I Federal area; and

(ii) Recommendations on the development of the reasonable progress goal and on the development and implementation of strategies to address visibility impairment.

(3) In developing any implementation plan (or plan revision), the State must include a description of how it addressed any comments provided by the Federal Land Managers.

(4) The plan (or plan revision) must provide procedures for continuing consultation between the State and Federal Land Manager on the implementation of the visibility protection program required by this subpart, including development and review of implementation plan revisions and 5-year progress reports, and on the implementation of other programs having the potential to contribute to impairment of visibility in mandatory Class I Federal areas.

9. A new § 51.309 is added to subpart P to read as follows:

§ 51.309 Requirements related to the Grand Canyon Visibility Transport Commission.

(a) *What is the purpose of this section?* This section establishes the requirements for the first regional haze implementation plan to address regional haze visibility impairment in the 16 Class I areas covered by the Grand Canyon Visibility Transport Commission Report. For the years 2003 to 2018, certain States (defined in paragraph (b) of this section as Transport Region States) may choose to implement the Commission's recommendations within the framework of the national regional haze program and applicable requirements of the Act by complying with the provisions of this section, as supplemented by an approvable Annex to the Commission Report as required by paragraph (f) of this section. If a transport region State submits an implementation plan which is approved by EPA as meeting the requirements of this section, it will be deemed to comply with the requirements for reasonable progress for the period from approval of the plan to 2018.

(b) *Definitions.* For the purposes of this section:

(1) *16 Class I areas* means the following mandatory Class I Federal areas on the Colorado Plateau: Grand Canyon National Park, Sycamore Canyon Wilderness, Petrified Forest National Park, Mount Baldy Wilderness, San Pedro Parks Wilderness, Mesa Verde National Park, Weminuche Wilderness, Black Canyon of the Gunnison Wilderness, West Elk Wilderness, Maroon Bells Wilderness, Flat Tops Wilderness, Arches National Park, Canyonlands National Park, Capital Reef National Park, Bryce Canyon National Park, and Zion National Park.

(2) *Transport Region State* means one of the States that is included within the Transport Region addressed by the Grand Canyon Visibility Transport Commission (Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, and Wyoming).

(3) *Commission Report* means the report of the Grand Canyon Visibility Transport Commission entitled "Recommendations for Improving Western Vistas," dated June 10, 1996.

(4) *Fire* means wildfire, wildland fire (including prescribed natural fire), prescribed fire, and agricultural burning conducted and occurring on Federal, State, and private wildlands and farmlands.

(5) *Milestone* means an average percentage reduction in emissions, expressed in tons per year, for a given year or for a period of up to 5 years ending in that year, compared to a 1990 actual emissions baseline.

(6) *Mobile Source Emission Budget* means the lowest level of VOC, NO_x, SO₂ elemental and organic carbon, and fine particles which are projected to occur in any area within the transport region from which mobile source emissions are determined to contribute significantly to visibility impairment in any of the 16 Class I areas.

(7) *Geographic enhancement* means a method, procedure, or process to allow a broad regional strategy, such as a milestone or backstop market trading program designed to achieve greater reasonable progress than BART for regional haze, to accommodate BART for reasonably attributable impairment.

(c) *Implementation Plan Schedule.* Each Transport Region State may meet the requirements of § 51.308(b) through (e) by electing to submit an implementation plan that complies with the requirements of this section. Each Transport Region State must submit an implementation plan addressing regional haze visibility impairment in the 16 Class I areas no later than

December 31, 2003. A Transport Region State that elects not to submit an implementation plan that complies with the requirements of this section (or whose plan does not comply with all of the requirements of this section) is subject to the requirements of § 51.308 in the same manner and to the same extent as any State not included within the Transport Region.

(d) *Requirements of the first implementation plan for States electing to adopt all of the recommendations of the Commission Report.* Except as provided for in paragraph (e) of this section, each Transport Region State must submit an implementation plan that meets the following requirements:

(1) *Time period covered.* The implementation plan must be effective for the entire time period between December 31, 2003 and December 31, 2018.

(2) *Projection of visibility improvement.* For each of the 16 mandatory Class I areas located within the Transport Region State, the plan must include a projection of the improvement in visibility conditions (expressed in deciviews, and in any additional ambient visibility metrics deemed appropriate by the State) expected through the year 2018 for the most impaired and least impaired days, based on the implementation of all measures as required in the Commission report and the provisions in this section. The projection must be made in consultation with other Transport Region States with sources which may be reasonably anticipated to contribute to visibility impairment in the relevant Class I area. The projection may be based on a satisfactory regional analysis.

(3) *Treatment of clean-air corridors.* The plan must describe and provide for implementation of comprehensive emission tracking strategies for clean-air corridors to ensure that the visibility does not degrade on the least-impaired days at any of the 16 Class I areas. The strategy must include:

(i) An identification of clean-air corridors. The EPA will evaluate the State's identification of such corridors based upon the reports of the Commission's Meteorology Subcommittee and any future updates by a successor organization;

(ii) Within areas that are clean-air corridors, an identification of patterns of growth or specific sites of growth that could cause, or are causing, significant emissions increases that could have, or are having, visibility impairment at one or more of the 16 Class I areas.

(iii) In areas outside of clean-air corridors, an identification of significant emissions growth that could begin, or is

beginning, to impair the quality of air in the corridor and thereby lead to visibility degradation for the least-impaired days in one or more of the 16 Class I areas.

(iv) If impairment of air quality in clean air corridors is identified pursuant to paragraphs (d)(3)(ii) and (iii) of this section, an analysis of the effects of increased emissions, including provisions for the identification of the need for additional emission reductions measures, and implementation of the additional measures where necessary.

(v) A determination of whether other clean air corridors exist for any of the 16 Class I areas. For any such clean air corridors, an identification of the necessary measures to protect against future degradation of air quality in any of the 16 Class I areas.

(4) *Implementation of stationary source reductions.* The first implementation plan submission must include:

(i) Monitoring and reporting of sulfur dioxide emissions. The plan submission must include provisions requiring the monitoring and reporting of actual stationary source sulfur dioxide emissions within the State. The monitoring and reporting data must be sufficient to determine whether a 13 percent reduction in actual stationary source sulfur dioxide emissions has occurred between the years 1990 and 2000, and whether milestones required by paragraph (f)(1)(i) of this section have been achieved for the transport region. The plan submission must provide for reporting of these data by the State to the Administrator. Where procedures developed under paragraph (f)(1)(ii) of this section and agreed upon by the State include reporting to a regional planning organization, the plan submission must provide for reporting to the regional planning body in addition to the Administrator.

(ii) Criteria and procedures for a market trading program. The plan must include the criteria and procedures for activating a market trading program or other program consistent with paragraph (f)(1)(i) of this section if an applicable regional milestone is exceeded, procedures for operation of the program, and implementation plan assessments and provisions for implementation plan assessments of the program in the years 2008, 2013, and 2018.

(iii) Provisions for activating a market trading program. Provisions to activate the market trading program or other program within 12 months after the emissions for the region are determined to exceed the applicable emission reduction milestone, and to assure that

all affected sources are in compliance with allocation and other requirements within 5 years after the emissions for the region are determined to exceed the applicable emission reduction milestone.

(iv) Provisions for market trading program compliance reporting. If the market trading program has been activated, the plan submission must include provisions requiring the State to provide annual reports assuring that all sources are in compliance with applicable requirements of the market trading program.

(v) Provisions for stationary source NO_x and PM. The plan submission must include a report which assesses emissions control strategies for stationary source NO_x and PM, and the degree of visibility improvement that would result from such strategies. In the report, the State must evaluate and discuss the need to establish emission milestones for NO_x and PM to avoid any net increase in these pollutants from stationary sources within the transport region, and to support potential future development and implementation of a multipollutant and possibly multisource market-based program. The plan submission must provide for an implementation plan revision, containing any necessary long-term strategies and BART requirements for stationary source PM and NO_x (including enforceable limitations, compliance schedules, and other measures) by no later than December 31, 2008.

(5) *Mobile sources.* The plan submission must provide for:

(i) Statewide inventories of current annual emissions and projected future annual emissions of VOC, NO_x, SO₂, elemental carbon, organic carbon, and fine particles from mobile sources for the years 2003 to 2018. The future year inventories must include projections for the year 2005, or an alternative year that is determined by the State to represent the year during which mobile source emissions will be at their lowest levels within the State.

(ii) A determination whether mobile source emissions in any areas of the State contribute significantly to visibility impairment in any of the 16 Class I Areas, based on the statewide inventory of current and projected mobile source emissions.

(iii) For States with areas in which mobile source emissions are found to contribute significantly to visibility impairment in any of the 16 Class I areas:

(A) The establishment and documentation of a mobile source emissions budget for any such area,

including provisions requiring the State to restrict the annual VOC, NO_x, SO₂, elemental and organic carbon, and/or fine particle mobile source emissions to their projected lowest levels, to implement measures to achieve the budget or cap, and to demonstrate compliance with the budget.

(B) An emission tracking system providing for reporting of annual mobile source emissions from the State in the periodic implementation plan revisions required by paragraph (d)(10) of this section. The emission tracking system must be sufficient to determine the States' contribution toward the Commission's objective of reducing emissions from mobile sources by 2005 or an alternate year that is determined by the State to represent the year during which mobile source emissions will be at their lowest levels within the State, and to ensure that mobile source emissions do not increase thereafter.

(iv) Interim reports to EPA and the public in years 2003, 2008, 2013, and 2018 on the implementation status of the regional and local strategies recommended by the Commission Report to address mobile source emissions.

(6) *Programs related to fire.* The plan must provide for:

(i) Documentation that all Federal, State, and private prescribed fire programs within the State evaluate and address the degree visibility impairment from smoke in their planning and application. In addition the plan must include smoke management programs that include all necessary components including, but not limited to, actions to minimize emissions, evaluation of smoke dispersion, alternatives to fire, public notification, air quality monitoring, surveillance and enforcement, and program evaluation.

(ii) A statewide inventory and emissions tracking system (spatial and temporal) of VOC, NO_x, elemental and organic carbon, and fine particle emissions from fire. In reporting and tracking emissions from fire from within the State, States may use information from regional data-gathering and tracking initiatives.

(iii) Identification and removal wherever feasible of any administrative barriers to the use of alternatives to burning in Federal, State, and private prescribed fire programs within the State.

(iv) Enhanced smoke management programs for fire that consider visibility effects, not only health and nuisance objectives, and that are based on the criteria of efficiency, economics, law, emission reduction opportunities, land

management objectives, and reduction of visibility impact.

(v) Establishment of annual emission goals for fire, excluding wildfire, that will minimize emission increases from fire to the maximum extent feasible and that are established in cooperation with States, tribes, Federal land management agencies, and private entities.

(7) *Area sources of dust emissions from paved and unpaved roads.* The plan must include an assessment of the impact of dust emissions from paved and unpaved roads on visibility conditions in the 16 Class I Areas. If such dust emissions are determined to be a significant contributor to visibility impairment in the 16 Class I Areas, the State must implement emissions management strategies to address the impact as necessary and appropriate.

(8) *Pollution prevention.* The plan must provide for:

(i) An initial summary of all pollution prevention programs currently in place, an inventory of all renewable energy generation capacity and production in use, or planned as of the year 2002 (expressed in megawatts and megawatt-hours), the total energy generation capacity and production for the State, the percent of the total that is renewable energy, and the State's anticipated contribution toward the renewable energy goals for 2005 and 2015, as provided in paragraph (d)(8)(vi) of this section.

(ii) Programs to provide incentives that reward efforts that go beyond compliance and/or achieve early compliance with air-pollution related requirements.

(iii) Programs to preserve and expand energy conservation efforts.

(iv) The identification of specific areas where renewable energy has the potential to supply power where it is now lacking and where renewable energy is most cost-effective.

(v) Projections of the short- and long-term emissions reductions, visibility improvements, cost savings, and secondary benefits associated with the renewable energy goals, energy efficiency and pollution prevention activities.

(vi) A description of the programs relied on to achieve the State's contribution toward the Commission's goal that renewable energy will comprise 10 percent of the regional power needs by 2005 and 20 percent by 2015, and a demonstration of the progress toward achievement of the renewable energy goals in the years 2003, 2008, 2013, and 2018. This description must include documentation of the potential for renewable energy resources, the

percentage of renewable energy associated with new power generation projects implemented or planned, and the renewable energy generation capacity and production in use and planned in the State. To the extent that it is not feasible for a State to meet its contribution to the regional renewable energy goals, the State must identify in the progress reports the measures implemented to achieve its contribution and explain why meeting the State's contribution was not feasible.

(9) *Implementation of additional recommendations.* The plan must provide for implementation of all other recommendations in the Commission report that can be practicably included as enforceable emission limits, schedules of compliance, or other enforceable measures (including economic incentives) to make reasonable progress toward remedying existing and preventing future regional haze in the 16 Class I areas. The State must provide a report to EPA and the public in 2003, 2008, 2013, and 2018 on the progress toward developing and implementing policy or strategy options recommended in the Commission Report.

(10) *Periodic implementation plan revisions.* Each Transport Region State must submit to the Administrator periodic reports in the years 2008, 2013, and 2018. The progress reports must be in the form of implementation plan revisions that comply with the procedural requirements of § 51.102 and § 51.103.

(i) The report will assess the area for reasonable progress as provided in this section for mandatory Class I Federal area(s) located within the State and for mandatory Class I Federal area(s) located outside the State which may be affected by emissions from within the State. This demonstration may be based on assessments conducted by the States and/or a regional planning body. The progress reports must contain at a minimum the following elements:

(A) A description of the status of implementation of all measures included in the implementation plan for achieving reasonable progress goals for mandatory Class I Federal areas both within and outside the State.

(B) A summary of the emissions reductions achieved throughout the State through implementation of the measures described in paragraph (d)(10)(i)(A) of this section.

(C) For each mandatory Class I Federal area within the State, an assessment of the following: the current visibility conditions for the most impaired and least impaired days; the difference between current visibility

conditions for the most impaired and least impaired days and baseline visibility conditions; the change in visibility impairment for the most impaired and least impaired days over the past 5 years.

(D) An analysis tracking the change over the past 5 years in emissions of pollutants contributing to visibility impairment from all sources and activities within the State. Emissions changes should be identified by type of source or activity. The analysis must be based on the most recent updated emissions inventory, with estimates projected forward as necessary and appropriate, to account for emissions changes during the applicable 5-year period.

(E) An assessment of any significant changes in anthropogenic emissions within or outside the State that have occurred over the past 5 years that have limited or impeded progress in reducing pollutant emissions and improving visibility.

(F) An assessment of whether the current implementation plan elements and strategies are sufficient to enable the State, or other States with mandatory Federal Class I areas affected by emissions from the State, to meet all established reasonable progress goals.

(G) A review of the State's visibility monitoring strategy and any modifications to the strategy as necessary.

(ii) At the same time the State is required to submit any 5-year progress report to EPA in accordance with paragraph (d)(10)(i) of this section, the State must also take one of the following actions based upon the information presented in the progress report:

(A) If the State determines that the existing implementation plan requires no further substantive revision at this time in order to achieve established goals for visibility improvement and emissions reductions, the State must provide to the Administrator a negative declaration that further revision of the existing implementation plan is not needed at this time.

(B) If the State determines that the implementation plan is or may be inadequate to ensure reasonable progress due to emissions from sources in another State(s) which participated in a regional planning process, the State must provide notification to the Administrator and to the other State(s) which participated in the regional planning process with the States. The State must also collaborate with the other State(s) through the regional planning process for the purpose of developing additional strategies to address the plan's deficiencies.

(C) Where the State determines that the implementation plan is or may be inadequate to ensure reasonable progress due to emissions from sources in another country, the State shall provide notification, along with available information, to the Administrator.

(D) Where the State determines that the implementation plan is or may be inadequate to ensure reasonable progress due to emissions from within the State, the State shall develop additional strategies to address the plan deficiencies and revise the implementation plan no later than one year from the date that the progress report was due.

(11) *State planning and interstate coordination.* In complying with the requirements of this section, States may include emission reductions strategies that are based on coordinated implementation with other States. Examples of these strategies include economic incentive programs and transboundary emissions trading programs. The implementation plan must include documentation of the technical and policy basis for the individual State apportionment (or the procedures for apportionment throughout the trans-boundary region), the contribution addressed by the State's plan, how it coordinates with other State plans, and compliance with any other appropriate implementation plan approvability criteria. States may rely on the relevant technical, policy and other analyses developed by a regional entity (such as the Western Regional Air Partnership) in providing such documentation. Conversely, States may elect to develop their own programs without relying on work products from a regional entity.

(12) *Tribal implementation.* Consistent with 40 CFR Part 49, tribes within the Transport Region may implement the required visibility programs for the 16 Class I areas, in the same manner as States, regardless of whether such tribes have participated as members of a visibility transport commission.

(e) *States electing not to implement the commission recommendations.* Any Transport Region State may elect not to implement the Commission recommendations set forth in paragraph (d) of this section. Such States are required to comply with the timelines and requirements of § 51.308. Any Transport Region State electing not to implement the Commission recommendations must advise the other States in the Transport Region of the nature of the program and the effect of the program on visibility-impairing

emissions, so that other States can take this information into account in developing programs under this section.

(f) *Annex to the Commission Report.*

(1) A Transport Region State may choose to comply with the provisions of this section and by doing so shall satisfy the requirements of § 51.308(b) through (e) only if the Grand Canyon Visibility Transport Commission (or a regional planning body formed to implement the Commission recommendations) submits a satisfactory annex to the Commission Report no later than October 1, 2000. To be satisfactory, the Annex must contain the following elements:

(i) The annex must contain quantitative emission reduction milestones for stationary source sulfur dioxide emissions for the reporting years 2003, 2008, 2013 and 2018. The milestones must provide for steady and continuing emission reductions for the 2003–2018 time period consistent with the Commission's definition of reasonable progress, its goal of 50 to 70 percent reduction in sulfur dioxide emissions from 1990 actual emission levels by 2040, applicable requirements under the CAA, and the timing of implementation plan assessments of progress and identification of deficiencies which will be due in the years 2008, 2013, and 2018. The emission reduction milestones must be shown to provide for greater reasonable progress than would be achieved by application of best available retrofit technology (BART) pursuant to § 51.308(e)(2) and would be approvable in lieu of BART.

(ii) The annex must contain documentation of the market trading program or other programs to be implemented pursuant to paragraph (d)(4) of this section if current programs and voluntary measures are not sufficient to meet the required emission reduction milestones. This documentation must include model rules, memoranda of understanding, and other documentation describing in detail how emission reduction progress will be monitored, what conditions will require the market trading program to be activated, how allocations will be performed, and how the program will operate.

(2) The Commission may elect, at the same time it submits the annex, to make recommendations intended to demonstrate reasonable progress for other mandatory Class I areas (beyond the original 16) within the Transport Region States, including the technical and policy justification for these

additional mandatory Class I Federal areas in accordance with the provisions of paragraph (g) of this section.

(3) The EPA will publish the annex upon receipt. If EPA finds that the annex meets the requirements of paragraph (f)(1) of this section and assures reasonable progress, then, after public notice and comment, will amend the requirements of paragraph (d)(4) of this section to incorporate the provisions of the annex within 1 year after EPA receives the annex. If EPA finds that the annex does not meet the requirements of paragraph (f)(1) of this section, or does not assure reasonable progress, or if EPA finds that the annex is not received, then each Transport Region State must submit an implementation plan for regional haze meeting all of the requirements of § 51.308.

(4) In accordance with the provisions under paragraph (f)(1) of this section, the annex may include a geographic enhancement to the program provided for in paragraph (d)(4) of this section to address the requirement under § 51.302(c) related to Best Available Retrofit Technology for reasonably attributable impairment from the pollutants covered by the milestones or the backstop market trading program. The geographic enhancement program may include an appropriate level of reasonably attributable impairment which may require additional emission reductions over and above those achieved under the milestones defines in paragraph (f)(1)(i) of this section.

(g) *Additional Class I areas.* The following submittals must be made by Transport Region States implementing the provisions of this section as the basis for demonstrating reasonable progress for additional Class I areas in the Transport Region States. If a Transport Region State submits an implementation plan which is approved by EPA as meeting the requirements of this section, it will be deemed to comply with the requirements for reasonable progress for the period from approval of the plan to 2018.

(1) In the plan submitted for the 16 Class I areas no later than December 31, 2003, a declaration indicating whether other Class I areas will be addressed under § 51.308 or paragraphs (g)(2) and (3) of this section.

(2) In a plan submitted no later than December 31, 2008, provide a demonstration of expected visibility conditions for the most impaired and least impaired days at the additional mandatory Class I Federal area(s) based

on emissions projections from the long-term strategies in the implementation plan. This demonstration may be based on assessments conducted by the States and/or a regional planning body.

(3) In a plan submitted no later than December 31, 2008, provide revisions to the plan submitted under paragraph (c) of this section, including provisions to establish reasonable progress goals and implement any additional measures necessary to demonstrate reasonable progress for the additional mandatory Federal Class I areas. These revisions must comply with the provisions of § 51.308(d)(1) through (4).

(4) The following provisions apply for Transport Region States establishing reasonable progress goals and adopting any additional measures for Class I areas other than the 16 Class I areas under paragraphs (g)(2) and (3) of this section.

(i) In developing long-term strategies pursuant to § 51.308(d)(3), the State may build upon the strategies implemented under paragraph (d) of this section, and take full credit for the visibility improvement achieved through these strategies.

(ii) The requirement under § 51.308(e) related to Best Available Retrofit Technology for regional haze is deemed to be satisfied for pollutants addressed by the milestones and backstop trading program if, in establishing the emission reductions milestones under paragraph (f) of this section, it is shown that greater reasonable progress will be achieved for these Class I areas than would be achieved through the application of source-specific BART emission limitations under § 51.308(e)(1).

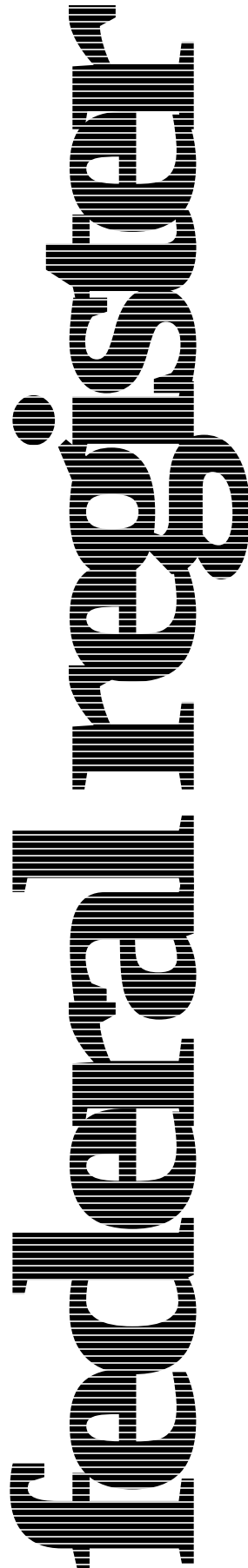
(iii) The Transport Region State may consider whether any strategies necessary to achieve the reasonable progress goals required by paragraph (g)(3) of this section are incompatible with the strategies implemented under paragraph (d) of this section to the extent the State adequately demonstrates that the incompatibility is related to the costs of the compliance, the time necessary for compliance, the energy and no air quality environmental impacts of compliance, or the remaining useful life of any existing source subject to such requirements.

10. In the sections listed in the first column remove the reference listed in the middle column and add the reference listed in the third column in its place:

Section	Remove	Add
51.301(v)	Section 303	§ 51.303
51.302(c)(2)(i)	Section 305	§ 51.305
51.302(c)(2)(i)	Section 306	§ 51.306
51.302(c)(2)(i)	Section 300(a)	§ 51.300(a)
51.302(c)(4)(i)	Section 304(b)	§ 51.304(b)
51.303(a)(1)	Section 302	§ 51.302
51.303(c)	Section 303	§ 51.303
51.303(d)	Section 303	§ 51.303
51.303(g)	Section 303	§ 51.303
51.303(h)	Section 303	§ 51.303
51.304(c)	Section 306(c)	§ 51.306(c)
51.306(a)(1)	Section 300(a)	§ 51.300(a)
51.306(c)(6)	Section 303	§ 51.303
51.307(b)(1)	Section 304	§ 51.304
51.307(b)(1)	Section 304(d)	§ 51.304(d)
51.307(c)	Section 300(a)	§ 51.300(a)

[FR Doc. 99-13941 Filed 6-30-99; 8:45 am]

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Thursday
July 1, 1999

Part III

**Department of
Agriculture**

Forest Service

**Department of the
Interior**

Fish and Wildlife Service

**36 CFR Part 242 and 50 CFR Part 100
Subsistence Management Regulations for
Public Lands in Alaska, Subpart C and
Subpart D—1999–2000 Subsistence
Taking of Fish and Wildlife Regulations;
Final Rule**

**Subsistence Management Regulations for
Public Lands in Alaska, Subparts A, B,
C, and D, Redefinition to Include Waters
Subject to Subsistence Priority; Final
Rule; Correction**

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

ACTION: Final rule.

SUMMARY: This final rule establishes regulations for seasons, harvest limits, methods, and means related to taking of wildlife for subsistence uses during the 1999–2000 regulatory year. The rulemaking is necessary because Subpart D is subject to an annual public review cycle. This rulemaking replaces the wildlife regulations included in the “Subsistence Management Regulations for Public Lands in Alaska, Subpart D—1998–1999 Subsistence Taking of Fish and Wildlife Regulations”, which expire on June 30, 1999. This rule also amends the Customary and Traditional Use Determinations of the Federal Subsistence Board (Section _____.24 of Subpart C).

DATES: Section _____.24 is effective July 1, 1999. Section _____.25 is effective July 1, 1999, through June 30, 2000.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Thomas H. Boyd, Office of Subsistence Management, telephone (907) 786–3888. For questions specific to National Forest System lands, contact Ken Thompson, Regional Subsistence Program Manager, USDA, Forest Service, Alaska Region, telephone (907) 271–2540.

SUPPLEMENTARY INFORMATION:

Background

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126) requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands, unless the State of Alaska enacts and implements laws of general applicability which are consistent with ANILCA, and which provide for the

subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA. The State implemented a program that the Department of the Interior previously found to be consistent with ANILCA. However, in December 1989, the Alaska Supreme Court ruled in *McDowell v. State of Alaska* that the rural preference in the State subsistence statute violated the Alaska Constitution. The Court’s ruling in *McDowell* required the State to delete the rural preference from the subsistence statute, and therefore, negated State compliance with ANILCA. The Court stayed the effect of the decision until July 1, 1990.

As a result of the *McDowell* decision, the Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. On June 29, 1990, the Temporary Subsistence Management Regulations for Public Lands in Alaska were published in the **Federal Register** (55 FR 27114–27170). Consistent with Subparts A, B, and C of these regulations, a Federal Subsistence Board was established to administer the Federal subsistence management program. The Board’s composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, U.S. National Park Service; the Alaska State Director, U.S. Bureau of Land Management; the Alaska Area Director, U.S. Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies have participated in development of regulations for Subparts A, B, and C, and the annual Subpart D regulations. All Board members have reviewed this rule and agree with its substance. Because this rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

Applicability of Subparts A, B, and C

Subparts A, B, and C (unless otherwise amended) of the Subsistence Management Regulations for Public Lands in Alaska, 50 CFR 100.1 to 100.23 and 36 CFR 242.1 to 242.23, remain effective and apply to this rule for §§ _____.23–_____.25. Therefore, all definitions located at 50 CFR 100.4 and 36 CFR 242.4 apply to regulations found in this subpart.

Navigable Waters

At this time, Federal subsistence management program regulations apply to all non-navigable waters located on public lands and to navigable waters located on the public lands identified at 50 CFR 100.3(b) and 36 CFR 242.3(b) of the Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C (57 FR 22940–22964) published May 29, 1992. Nothing in these regulations is intended to enlarge or diminish authorities of the Departments to manage submerged lands, title to which is held by the United States government.

The Board recognizes Judge Holland’s order granting preliminary relief to the plaintiffs in the case of the *Native Village of Quinhagak et al. v. United States of America et al.* Therefore, to the extent that these regulations would continue any existing restrictions on the taking of rainbow trout by the residents of Quinhagak and Goodnews Bay in the Kanektok, Arolik, and Goodnews Rivers, those regulations will not be enforced pending completion of proceedings in that case. However, in light of the continuation of the proceedings in the consolidated “Katie John” litigation, 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, Alaska has been divided into ten subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council (Regional Council). The Regional Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Alaska public lands. The Regional Council members represent varied

geographical, cultural, and user diversity within each region.

The Regional Councils have had a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, the Council Chairs, or their designated representatives, presented their Council's recommendations at the Board meeting in May 1999.

Summary of Changes

Section _____.24 (Customary and traditional use determinations) was originally published in the **Federal Register** (57 FR 22940) on May 29, 1992. Since that time, the Board has made a number of Customary and Traditional Use Determinations at the request of effected subsistence users. Those modifications, along with some administrative corrections, were published in the **Federal Register** (59 FR 27462, published May 27, 1994; 59 FR 51855, published October 13, 1994; 60 FR 10317, published February 24, 1995; 61 FR 39698, published July 30, 1996; 62 FR 29016, published May 29, 1997; 63 FR 35332, published June 29, 1998; and 63 FR 46148, published August 28, 1998.) During its May 3—May 5, 1999, meeting, the Board made additional determinations in addition to various annual season and harvest limit changes. The public has had extensive opportunity to review and comment on all changes. Additional details on the recent Board modifications are contained in the section on Analysis of Proposals Adopted by the Board.

Section _____.25 (Subpart D) regulations are subject to an annual cycle and require development of an entire new rule each year. Proposed Subpart D regulations for the 1999–2000 seasons and harvest limits, and methods and means were published on August 17, 1998, in the **Federal Register** (63 FR 43990–44032). A 60-day comment period providing for public review of the proposed rule and calling for proposals was advertised by mail, radio, and newspaper. During that period the Regional Councils met and, in addition to other Regional Council business, received suggestions for proposals from the public. Overall, the Board received a total of 63 proposals for change to Customary and Traditional Use Determinations or to Subpart D. Subsequent to the 60-day review period, the Board prepared a booklet describing the proposals and distributed it to the public. The public had an additional 30 days in which to comment on the proposals for changes to the regulations. The ten Regional Councils met again, received public comments, and formulated their recommendations to

the Board on proposals for their respective regions. Four of the proposals were withdrawn from consideration and a request for review of the Kenai Peninsula nonrural determinations was included for deliberation at the May Board meeting. These final regulations reflect Board review and consideration of Regional Council recommendations and public comments submitted to the Board.

Section _____.26 (Subsistence taking of fish) and Section _____.27 (Subsistence taking of shellfish) were last published on May 29, 1997, (62 FR 29016). Due to litigation and petitions to the Secretaries of the Interior and Agriculture, both relating to extended jurisdiction to navigable waters, the fish and shellfish regulations are not revised, but rather, remain in effect through December 31, 1999.

Analysis of Proposals Rejected by the Board

The Board rejected 9 proposals and parts of 5 others based on recommendations from the respective Regional Council and additional factors.

The Board rejected six proposals requesting that customary and traditional use determinations be revised for bear or sheep. In each case, the cultural resource data did not substantiate the request or the Regional Council requested rejection because the proposal adversely impacted subsistence resource users.

Eight proposals requested establishing or expanding seasons for moose or closing Federal lands to nonsubsistence users. These proposals were rejected because for conservation reasons or because the moose population in the area could support both subsistence and non-subsistence harvest.

The Board also deferred action on 8 proposals in order to collect additional data, or allow communities or Regional Councils additional time to review the issues and provide additional information.

Analysis of Proposals Adopted by the Board

The Board adopted 37 proposals and parts of 5 others. Some of these proposals were adopted as submitted and others were adopted with modifications suggested by the respective Regional Council or developed during the Board's public deliberations.

All of the adopted proposals were recommended for adoption by at least one of the Regional Councils and were based on meeting customary and traditional uses, harvest practices, or protecting wildlife populations.

Detailed information relating to justification on each proposal may be found in the Board meeting transcripts, available for review at the Office of Subsistence Management at the address listed previously. Some additional changes are a result of Board actions occurring over the past year. Additional technical clarifications and removal of excess materials have been made which result in a more readable document.

Southeast Region

The Board acted on one proposal affecting residents of the Southeast Region resulting in no changes to the regulations found in § _____.24 and § _____.25.

Southcentral Region

The Board acted on 22 proposals affecting residents in the Southcentral Region resulting in the following changes to the regulations found in § _____.24 and § _____.25.

- Established a brown bear season in Units 11 and 13.
- Revised the customary and traditional use determination for caribou, sheep, moose, and goat in Unit 11.
- Revised the customary and traditional use determination for moose in Units 13 and 20.
- Extended the season for moose in Unit 11.
- Increased the harvest limit for coyotes and wolves in Units 11 and 12.

Kodiak/Aleutians Region

The Board acted on three proposals affecting residents in the Kodiak/Aleutians Region resulting in the following changes to the regulations found in § _____.24 and § _____.25.

- Revised the season for elk in Unit 8.
- Established a customary and traditional use determination for moose and brown bear in part of Unit 9.

Bristol Bay Region

The Board acted on 11 proposals affecting residents in the Bristol Bay Region resulting in the following changes to the regulations found in § _____.24 and § _____.25.

- Revised the customary and traditional use determination for brown bear in parts of Unit 9.
- Closed Federal lands to non-subsistence harvest and revised the seasons and harvest limits for caribou in part of Unit 9.
- Revised the customary and traditional use determination for caribou in Unit 17.
- Extended the season for moose in part of Unit 9.

Yukon-Kuskokwim Delta Region

The Board acted on one proposal affecting residents of the Yukon-Kuskokwim Delta Region resulting in no changes to the regulations found in § _____.24 and § _____.25.

Western Interior Region

The Board acted on four proposals affecting residents of the Western Interior Region resulting in the following change to the regulations found in § _____.24 and § _____.25.

- Revised the customary and traditional use determinations for moose in part of Unit 19.

Seward Peninsula Region

The Board acted on two proposals affecting residents of the Seward Peninsula Region resulting in the following change to the regulations found in § _____.24 and § _____.25.

- Continued a cooperative hunt program with the State for muskox in Unit 22.

Northwest Arctic Region

The Board acted on one proposal affecting residents of the Northwest Arctic Region resulting in the following change to the regulations found in § _____.24 and § _____.25.

- Continued a sheep hunting program for sheep and opened a portion of Federal lands in Units 23 and 26.

Eastern Interior Region

The Board acted on 13 proposals affecting residents of the Eastern Interior Region resulting in the following changes to the regulations found in § _____.24 and § _____.25.

- Revised the seasons and/or harvest limits for coyote, moose, lynx, beaver, and caribou in Units 12, 20, and 25 to align with existing State regulations.
- Revised the criteria for closing the caribou season in Units 20 and 25.
- Provided for the take of moose in a portion of Unit 25 for ceremonial use.
- Established a season for brown bear in Unit 25.

North Slope Region

The Board acted on one proposal affecting residents of the North Slope Region resulting in no changes to the regulations.

In addition, the Board adopted a policy for making individual customary and traditional use determinations provided for in 50 CFR 100.16(a) and 36 CFR 242.16(a). Under this policy, the Board will consider proposals for individual customary and traditional use determinations only for National

Park and Monument lands from those persons living in resident zone communities (see 36 CFR 13.43) or those holding a Section 13.44 subsistence use permit (see 36 CFR 13.44). The Board will consider such proposals only during the annual proposal cycle. Proposals for individual customary and traditional use determinations will not be considered through the Special Action process. In making an individual customary and traditional use determination, the Board will use the same criteria it uses for making decisions for communities and areas (found at 50 CFR 100.16(b) and 36 CFR 242.16(b)). Persons granted a positive individual customary and traditional use determination will be notified in writing by the Board. The U.S. Fish and Wildlife Service and the Superintendent of the identified National Park or Monument will maintain a list of qualified individuals. The Board will continue to make customary and traditional use determinations for National Preserve lands on an area or community basis.

The Board finds that additional public notice under the Administrative Procedure Act (APA) for this final rule are unnecessary, and contrary to the public interest. The Board has provided extensive opportunity for public input and involvement over and above standard APA requirements, including participation in multiple Regional Council meetings, additional public review and comment on all proposals for regulatory change, and opportunity for additional public comment during the Board meeting prior to deliberation. Additionally, an administrative mechanism exists (and has been used by the public) to request reconsideration of the Board's decision on any particular proposal for regulatory change. Over the eight years the Program has been operating, there has been no benefit to the public demonstrated by delaying the effective date of the regulations. A lapse in regulatory control could seriously affect the continued viability of wildlife populations, adversely impact future subsistence opportunities for rural Alaskans, and would generally fail to serve the overall public interest. Therefore, the Board finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive the public notice prior to publication of this rule. The Board finds good cause under 5 U.S.C. 553(d)(3) to make this rule effective July 1, 1999.

Conformance with Statutory and Regulatory Authorities*National Environmental Policy Act Compliance*

A Draft Environmental Impact Statement (DEIS) that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. That document described the major issues associated with Federal subsistence management as identified through public meetings, written comments and staff analysis and examined the environmental consequences of the four alternatives. Proposed regulations (Subparts A, B, and C) that would implement the preferred alternative were included in the DEIS as an appendix. The DEIS and the proposed administrative regulations presented a framework for an annual regulatory cycle regarding subsistence hunting and fishing regulations (Subpart D). The Final Environmental Impact Statement (FEIS) was published on February 28, 1992.

Based on the public comment received, the analysis contained in the FEIS, and the recommendations of the Federal Subsistence Board and the Department of the Interior's Subsistence Policy Group, it was the decision of the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, through the U.S. Department of Agriculture-Forest Service, to implement Alternative IV as identified in the DEIS and FEIS (Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD), signed April 6, 1992). The DEIS and the selected alternative in the FEIS defined the administrative framework of an annual regulatory cycle for subsistence hunting and fishing regulations. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C (57 FR 22940-22964, published May 29, 1992) implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations.

Compliance with Section 810 of ANILCA

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. A Section 810 analysis was completed as part of the FEIS process. The final Section 810 analysis

determination appeared in the April 6, 1992, ROD which concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting hunting and fishing regulations, may have some local impacts on subsistence uses, but it does not appear that the program may significantly restrict subsistence uses.

Paperwork Reduction Act

These rules contain information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995. They apply to the use of public lands in Alaska. The information collection requirements described below have been approved by OMB under 44 U.S.C. 3501 and have been assigned clearance number 1018-0075, which expires 5/31/2000.

The collection of information will be achieved 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. Additional information collection requirements may be imposed if Local Advisory Committees subject to the Federal Advisory Committee Act are established under Subpart B.

Other Requirements

This rule was not subject to OMB review under Executive Order 12866. Executive Order 12866 requires each

agency to write regulations that are easy to understand. We 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: USFWS, Office of Subsistence Management, Thomas H. Boyd, 1011 E. Tudor Road, Anchorage, Alaska 99503.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions. The Departments have determined that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

This rulemaking will impose no significant costs on small entities; the exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant positive economic effect on a number of small entities, such as ammunition, snowmachine, and gasoline dealers. The number of small entities affected is unknown; but, the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue preexisting uses of public lands indicates that they will not be significant.

In general, the resources harvested under this rule will be consumed by the local harvester and do not result in a dollar benefit to the economy. However, it is estimated that 2 million pounds of meat are harvested by the local subsistence users annually and, if given a dollar value of \$3.00 per pound, would equate to \$6 million State wide.

Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

The Service has determined and certifies pursuant to the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or state governments or private entities. The implementation of this rule is by Federal agencies and there is no cost involved to any state or local entities or tribal governments.

The Service has determined that these final regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

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 precludes the State from exercising management authority over wildlife resources on Federal lands.

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

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. Peggy Fox, Alaska State Office, Bureau of Land Management; Sandy Rabinowitch, Alaska Regional Office, National Park Service; Ida Hildebrand, Alaska Area Office, Bureau of Indian Affairs; and Ken Thompson, USDA-Forest Service provided additional guidance.

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 amends 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 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart C—Board Determinations

2. In Subpart C of 36 CFR part 242 and 50 CFR part 100, § _____.24 is revised to read as follows:

§ _____.24 Customary and traditional use determinations.

(a) The Federal Subsistence Board has determined that rural Alaska residents of the listed communities, areas, and individuals have customary and traditional use of the specified species on Federal public land in the specified areas. Persons granted individual customary and traditional use determinations will be notified in writing by the Board. The Fish &

Wildlife Service and the local NPS Superintendent will maintain the list of individuals having customary and traditional use on National Parks and Monuments. A copy of the list is available upon request. 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).
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.

Area	Species	Determination
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)	Brown Bear	Residents of Unit 9(C).
9(D)	Brown Bear	Residents of Units 9(D) and 10 (Unimak Island).
9(E)	Brown Bear	Residents of Chignik, Chignik Lagoon, Chignik Lake, Egegik, Ivanof Bay, Perryville, Pilot Point, Ugashik, 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	Residents of Cold Bay, False Pass, King Cove, Nelson Lagoon, and Sand Point.
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.	Brown Bear	Residents of Units 9(D) and 10 (Unimak Island).
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, Healy Lake, 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, Healy Lake, and Dot Lake.
11, remainder	Moose	Residents of Units 11, 13 (A)–(D), and residents of Chickaloon.
11, north of the Sanford River	Sheep	Residents of Unit 12 and the communities and areas of Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Glennallen, Gulkana, Healy Lake, 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).

Area	Species	Determination
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) and (D)	Moose	Residents of Unit 13 and the residents of Chickaloon.
13(B)	Moose	Residents of Units 13, 20(D) except Fort Greely, and the residents of Chickaloon.
13(C)	Moose	Residents of Units 12, 13 and the residents of Chickaloon, Healy Lake, 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.
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.

Area	Species	Determination
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 Akiak 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 Akiak 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.
Unit 17(A, that portion west of the Izaveieknik River, Upper Togiak Lake, Togiak Lake, and the main course of the Togiak River.	Caribou	Residents of Goodnews Bay, Platinum, Quinhagak, Eek, Tuntutuliak, and Napakiak.
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.
Unit 17(B), that portion of Togiak National Wildlife Refuge within Unit 17(B).	Caribou	Residents of Bethel, Goodnews Bay, Platinum, Quinhagak, Eek, Tuntutuliak, and Napakiak.
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, Tuntutuliak, 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.
Unit 19(B), west of the Kogrukluk River	Moose	Residents of Eek and Quinhagak.
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, Nenana, Nikolai, Tanana, Talida, and those domiciled 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 Diomed 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. Unit 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		Residents of Unit 23.
23	Moose	Residents of Unit 23 South of Kotzebue Sound and west of and including the Buckland River drainage.

Area	Species	Determination
23, south of Kotzebue Sound and west of and including the Buckland River drainage.	Muskox	Residents of Unit 23 east and north of the Buckland River drainage.
23, remainder	Muskox	Residents of Point Lay and Unit 23 north of the Arctic Circle.
23	Sheep	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
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).	
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)	Brown 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, Atkasuk, 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.
Kotzebue District	Salmon, sheefish, char	Residents of the Kotzebue District.
NORTON SOUND—PORT CLARENCE AREA	Salmon	Residents of the Norton Sound—Port Clarence Area.
YUKON AREA	Salmon	Residents of the Yukon Area, including the community of Stebbins.
	Yukon River Fall chum salmon.	Residents of the Yukon River drainage, including the communities of Stebbins, Scammon Bay, Hooper Bay, and Chevak.
	Freshwater fish species, including sheefish, whitefish, lamprey, burbot, sucker, grayling, pike, char, and blackfish.	Residents of the Yukon Area.
KUSKOKWIM AREA	Salmon	Residents of the Kuskokwim Area, except those persons residing on the United States military installation located on Cape Newenham, Sparevohn USAFB, and Tatalina USAFB.
	Rainbow trout	Residents of the communities of Quinhagak, Goodnews Bay, Kwethluk, Eek, Akiak, and Platinum.
	Pacific cod	Residents of the communities of Chevak, Newtok, Tununak, Toksook Bay, Nightmute, Chefornak, Kipnuk, Mekoryuk, Kwigillingok, Kongiganak, Eek, and Tuntutuliak.
Waters adjacent to the western-most tip of the Naskonant Peninsula and the terminus of the Ishowik River and around Nunivak Island.	Herring and herring roe	Residents within 20 miles of the coast between the westernmost tip of the Naskonant Peninsula and the terminus of the Ishowik River and on Nunivak Island.
BRISTOL BAY AREA—Nushagak District, including drainages flowing into the district.	Salmon	Residents of the Nushagak District and freshwater drainages flowing into the district.
Naknek-Kvichek District—Naknek River drainage	Salmon	Residents of the Naknek and Kvichak River drainages.
Naknek-Kvichek District—Iliamna-Lake Clark drainage ...	Salmon	Residents of the Iliamna-Lake Clark drainage.
Togiak District, including drainages flowing into the district.	Salmon and other freshwater finfish.	Residents of the Togiak District, freshwater drainages flowing into the district, and the community of Manokotak.
KODIAK AREA—except the Mainland District, 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.
KODIAK AREA—except the Semidi Island, the North Mainland, and the South Mainland Sections.	King crab	Residents of the Kodiak Island Borough except those residents on the Kodiak Coast Guard base.
COOK INLET AREA—Port Graham Subdistrict	Dolly Varden	Residents of Port Graham and English Bay.
Port Graham Subdistrict and Koyuktoik Subdistrict	Salmon	Residents of Port Graham and English Bay.
Tyonek Subdistrict	Salmon	Residents of the village of Tyonek.
PRINCE WILLIAM SOUND AREA—South-Western District and Green Island.	Salmon	Residents of the Southwestern District which is mainland waters from the outer point on the north shore of Granite Bay to Cape Fairfield, and Knight Island, Chenega Island, Bainbridge Island, Evans Island, Elrington Island, Latouche Island and adjacent islands.
PRINCE WILLIAM SOUND AREA—North of a line from Porcupine Point to Granite Point, and south of a line from Point Lowe to Tongue Point.	Salmon	Residents of the villages of Tatitlek and Ellamar.
YAKUTAT AREA—freshwater upstream from the terminus of streams and rivers of the Yakutat Area from the Doame River to the Tsiu River.	Salmon	Residents of the area east of Yakutat Bay, including the islands within Yakutat Bay, west of the Situk River drainage, and south of and including Knight Island.
Freshwater upstream from the terminus of streams and rivers of the Yakutat Area from the Doame River to Point Manby.	Dolly Varden char, steelhead trout, and smelt.	Residents of the area east of Yakutat Bay, including the islands within Yakutat Bay, west of the Situk River drainage, and south of and including Knight Island.
SOUTH-EASTERN ALASKA AREA—District 1—Section 1—E in waters of the Naha River and Roosevelt Lagoon.	Salmon and Dolly Varden char.	Residents of the City of Saxman.
District 1—Section 1—F in Boca de Quadra in waters of Sockeye Creek and Hugh Smith Lake within 500 yards of the terminus of Sockeye Creek.	Salmon and Dolly Varden char.	Residents of the City of Saxman.
District 2—north of the latitude of the northern-most tip of Chasina Point and west of a line from the northern-most tip of Chasina Point to the eastern-most tip of Grindall Island to the eastern-most tip of the Kasaan Peninsula.	Salmon and Dolly Varden char.	Residents of the City of Kasaan and in the drainage of the southeastern shore of the Kasaan Peninsula west of 132°20'W. long. and east of 132°25'W. long.

Area	Species	Determination
District 3—Section 3—A	Salmon and Dolly Varden char.	Residents of the townsite of Hydaburg.
District 3—Section 3—B in waters east of a line from Point Ildefonso to Tranquil Point.	Salmon, Dolly Varden char, and steelhead trout.	Residents of the City of Klawock and on Prince of Wales Island within the boundaries of the Klawock Heenya Corporation land holdings as they exist in January 1989, and those residents of the City of Craig and on Prince of Wales Island within the boundaries of the Shan Seet Corporation land holdings as they exist in January 1989.
District 3—Section 3—C in waters of Sarkar Lakes	Salmon, Dolly Varden char, and steelhead trout.	Residents of the City of Klawock and on Prince of Wales Island within the boundaries of the Klawock Heenya Corporation land holdings as they exist in January 1989, and those residents of the City of Craig and on Prince of Wales Island within the boundaries of the Shan Seet Corporation land holdings as they exist in January 1989.
District 5—north of a line from Point Barrie to Boulder Point.	Salmon and Dolly Varden char.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 9—Section 9—A	Salmon and Dolly Varden char.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 9—Section 9—B north of the latitude of Swain Point.	Salmon and Dolly Varden char.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 10—west of a line from Pinta Point to False Point Pybus.	Salmon and Dolly Varden char.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 12—south of a line from Fishery Point to south Passage Point and north of the latitude of Point Caution.	Salmon and Dolly Varden char.	Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134°30' W. long., including Killisnoo Island.
District 13—Section 13—A south of the latitude of Cape Edward.	Sockeye salmon	Residents of the City and Borough of Sitka in drainages which empty into Section 13—B north of the latitude of Dorothy Narrows.
District 13—Section 13—B north of the latitude of Redfish Cape.	Sockeye salmon	Residents of the City and Borough of Sitka in drainages which empty into Section 13—B north of the latitude of Dorothy Narrows.
District 13—Section 13—C	Sockeye salmon	Residents of the City and Borough of Sitka in drainages which empty into Section 13—B north of the latitude of Dorothy Narrows.
District 13—Section 13—C east of the longitude of Point Elizabeth.	Salmon and Dolly Varden char.	Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134°30' W. long., including Killisnoo Island.
District 14—Section 14—B and 14—C	Salmon, smelt and Dolly Varden char.	Residents of the City of Hoonah and in Chichagof Island drainages on the eastern shore of Port Frederick from Gartina Creek to Point Sophia.
District 15—Chilkat and Chilkoot Rivers	Salmon and smelt	Residents west of the Haines highway between Mile 20 and Mile 24 and east of the Chilkat River, but not elsewhere in Klukwan; and, those residents of other areas of the city and borough of Haines, excluding residents in the drainage of Excursion Inlet.

(b) [Reserved]

Subpart D—Subsistence Taking of Fish and Wildlife

3. In Subpart D of 36 CFR part 242 and 50 CFR part 100, § _____.25 is added effective July 1, 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-eighths (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 $\frac{7}{8}$ inch wide broadhead-tipped arrow at least 175 yards horizontally, and the arrow and broadhead together weigh at least one ounce (437.5 grains);

(xiv) Using bait for taking ungulates, bear, wolf, or wolverine; except, 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 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 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 Katzeihin 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, contact the appropriate Federal land management agency prior to taking or attempting to take game and provides to the appropriate Federal land managing agency the name of the decedent, the nature of the ceremony, the species and number to be taken, 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 Staunich 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. 21. 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.
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 of 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. The season will be closed by announcement of the Refuge Manager, Kodiak National Wildlife Refuge when the combined Federal/State harvest reaches 15% of the herd.		Sept. 1–Nov. 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.
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), that portion within the Alagnak River drainage—1 caribou	Aug. 1–Mar. 31.
Unit 9(C), remainder—1 bull by Federal registration permit or State Tier II permit. Federal public lands are closed to the taking of caribou except by residents of Units 9(C) and (E).	Aug. 1–Sept. 20.
Unit 9(B)—5 caribou; however, no more than 2 bulls may be taken from Oct. 1–Nov. 30	Nov. 15–Feb. 28.
Unit 9(D)—closed to all hunting of caribou	Aug. 1–Apr. 15.
Unit 9(E)—1 bull by Federal registration permit or State Tier II permit. Federal public lands are closed to the taking of caribou except by residents of Units 9(C) and (E).	No open season.
	Aug. 10–Sept. 20.
	Nov. 1–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–Jan. 15.
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–Jan. 20.
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:	
Unit 10—Unimak Island only	No open season.

Harvest limits	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.
Brown Bear: Unit 11—1 bear	Sept. 1–May 31.
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. 20–Sept. 20.
Coyote: 10 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: 10 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 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. 15–Aug. 28 season only bulls with spike/fork antlers may be taken. The November season is open by Federal registration permit only.	Aug. 15–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. 15–Aug. 28 season only bulls with spike/fork antlers may be taken.	Aug. 15–Aug. 28. Sept. 1–Sept. 30.
Unit 12—remainder—1 antlered bull; however during the Aug. 15–Aug. 28 season only bulls with spike/fork antlers may be taken.	Aug. 15–Aug. 28. Sept. 1–Sept. 15. Sept. 1–Apr. 30.
Coyote: 10 coyotes; however, no more than 2 coyotes may be taken before October 1	Sept. 1–Mar. 15.
Fox, Red (including Cross, Black and Silver Phases): 10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1.	
Hare (Snowshoe and Tundra): No limit	July–June 30.
Lynx: 2 lynx	Nov. 1–Mar. 15.
Wolf: 10 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 Canwell Glacier and Miller Creek to the Delta River;

(C) Except for access and transportation of harvested wildlife on

Sourdough and Haggard Creeks, Meiers Lake trails, or other trails designated by the Board, 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.
Brown Bear: 1 bear. Bears taken within Denali National Park must be sealed within 5 days of harvest. That portion within Denali National Park will be closed by announcement of the Superintendent after 4 bears have been harvested.	Aug. 10–May 31.
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 Management Area and Delta Controlled Use Area—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.
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 Kahiltina 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 Kahiltina River, east of the east bank of the Kahiltina River, and east of the Kahiltina 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.

Harvest limits	Open season
Trapping	
Beaver: 30 beaver per season	Nov. 10—Apr. 30.
Coyote: No limit	Nov. 10—Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10—Feb. 28.
Lynx: No limit	Dec. 15—Jan. 15.
Marten: No limit	Nov. 10—Jan. 31.
Mink and Weasel: No limit	Nov. 10—Jan. 31.
Muskrat: No limit	Nov. 10—June 10.
Otter: No limit	Nov. 10—Mar. 31.
Wolf: No limit	Nov. 10—Mar. 31.
Wolverine: No limit	Nov. 10—Feb. 28.

(17) *Unit 17.* (i) Unit 17 consists of drainages into Bristol Bay and the Bering Sea between Etolin Point and Cape Newenham, and all islands between these points including Hagemeister Island and the Walrus Islands:

(A) Unit 17(A) consists of the drainages between Cape Newenham and Cape Constantine, and Hagemeister Island and the Walrus Islands;

(B) Unit 17(B) consists of the Nushagak River drainage upstream from, and including the Mulchatna River drainage, and the Wood River

drainage upstream from the outlet of Lake Beverley;

(C) Unit 17(C) consists of the remainder of Unit 17.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Except for aircraft and boats and in 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 Wildlife 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.

Harvest limits	Open season
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.
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, you may use 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.
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.	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.	Sept. 1–Sept. 30.
Coyote: 2 coyotes	Winter season to be announced.
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–Apr. 30.
Hare (Snowshoe and Tundra): No limit	Sept. 1–Mar. 15.
Lynx: 2 lynx	July 1–June 30.
Wolf: 5 wolves	Nov. 10–Mar. 31.
Wolverine: 1 wolverine	Aug. 10–Apr. 30.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Sept. 1–Mar. 31.
	Aug. 10–Apr. 30.

Harvest limits	Open season
Ptarmigan (Rock, Willow, and White-tailed): 20 per day, 40 in possession	Aug. 10–May 30.
Trapping	
Beaver: No limit	Nov. 1–June 10.
Coyote: No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White Phase): No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases): No limit	Nov. 10–Mar. 31.
Lynx: No limit	Nov. 10–Mar. 31.
Marten: No limit	Nov. 10–Mar. 31.
Mink and Weasel: No limit	Nov. 10–Jan. 31.
Muskrat: No limit	Nov. 10–June 10.
Otter: No limit	Nov. 10–Mar. 31.
Wolf: No limit	Nov. 10–Mar. 31.
Wolverine: No limit	Nov. 10–Mar. 31.

(19) *Unit 19.* (i) Unit 19 consists of the Kuskokwim River drainage upstream from a straight line drawn between Lower Kalskag and Piamut:

(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 benchmark 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.
Unit 19(A)—south of the Kuskokwim River and Unit 19(B) (excluding rural Alaska residents of Lime Village)—5 caribou.	Nov. 1–Feb. 28.
Unit 19(C)—1 caribou	Aug. 1–Apr. 15.
Unit 19(D)—south and east of the Kuskokwim River and North Fork of the Kuskokwim River—1 caribou	Aug. 10–ct. 10.
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.	Nov. 1–Jan. 31.
	Aug. 10–Sept. 30.
	July 1–June 30.

Harvest limits	Open season
Sheep: 1 ram with 7/8 curl	Aug. 10–Sept. 20.
Moose:	
Unit 19—Rural Alaska residents of Lime Village only—no individual harvest limit, but a village harvest quota of 40 moose (including those taken under the State Tier II system); either sex. Reporting will be by a community reporting system.	July 1–June 30.
Unit 19(A)—that portion north of the Kuskokwim River upstream from, but not including the Kolmakof River drainage and south of the Kuskokwim River upstream from, but not including the Holokuk River drainage—1 moose; however, antlerless moose may be taken only during the Feb. 1–Feb. 10 season.	Sept. 1–Sept. 20. Nov. 20–Nov. 30. Jan. 1–Jan. 10. Feb. 1–Feb. 10.
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–ct. 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 $\frac{3}{32}$ 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 joint State/Federal registration permit only. The fall season will close when a combined State/Federal harvest of 55 bulls has been reached. The winter season will close when the combined fall and winter State/Federal harvest quota of 150 bulls for the Fortymile herd has been reached. The season closures will be announced by the Northern Field Office Manager, Bureau of Land Management after consultation with the National Park Service and Alaska Department of Fish and Game.	Aug. 10–Sept. 30. Nov. 15–Feb. 28.
Unit 20(F)—Tozitna River drainage—1 caribou; however, only bull caribou may be taken Aug. 10–Sept. 30	Aug. 10–Sept. 30. Nov. 26–Dec. 10. Mar. 1–Mar. 15.
Unit 20(F)—south of the Yukon River—1 caribou	Dec. 1–Dec. 31.
Remainder of Unit 20(F)—1 bull	Aug. 10–Sept. 30.
Moose:	
Unit 20(A)—1 antlered bull	Sept. 1–Sept. 20.
Unit 20(B)—that portion within the Minto Flats Management Area—1 bull by Federal registration permit only	Sept. 1–Sept. 20. Jan. 10–Feb. 28.
Unit 20(B)—remainder—1 antlered bull	Sept. 1–Sept. 20.

Harvest limits	Open season
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.
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:	
Units 20(A), 20(B), Unit 20(C), and 20(F)—No limit	Nov. 1–Apr. 15.
Units 20(D) and (E)—25 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 Solismunket 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 Units 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 Diomed 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 closed to hunting except by 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, Ruffed, and Sharp-tailed): 15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
Unit 22(A) and 22(B) east of and including the Niukluk River drainage—40 per day, 80 in possession	Aug. 10–Apr. 30.
Unit 22 Remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.

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;

(D) For the Baird and DeLong Mountain sheep hunts—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 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 years	Sept. 1–Oct. 10.
	Apr. 15–May 25.
Caribou: 15 caribou per day; however, cow caribou may not be taken May 16–June 30	July 1–June 30.
Sheep:	
Unit 23—south of Rabbit Creek, Kyak Creek and the Noatak River, and west of the Cutler and Redstone Rivers (Baird Mountains)—1 ram with full curl or larger horns by Federal registration permit. The Superintendent of the Western Arctic National Parklands may issue permits for the harvest of up to 20 full curl rams, based on a quota to be announced locally after the annual sheep population survey is completed. Federal public lands are closed to the taking of sheep except by Federally-qualified subsistence users.	Aug. 1–Sept. 30.
	The season will be closed when half of the quota has been harvested.
Unit 23—south of Rabbit Creek, Kyak Creek and the Noatak River, and west of the Cutler and Redstone Rivers (Baird Mountains)—1 ram with full curl or larger horns by Federal registration permit. The Superintendent of the Western Arctic National Parklands may issue permits for the harvest of up to 20 full curl rams, based on a quota to be announced locally after the annual sheep population survey is completed. Federal public lands are closed to the taking of sheep except by Federally-qualified subsistence users.	Oct. 1–Apr. 1.
	The season will be closed when the total quota of sheep has been harvested including those harvested during the Aug. 1–Sept. 30 season.

Harvest limits	Open season
Unit 23—north of Rabbit Creek, Kyak Creek and the Noatak River, and west of the Aniak River (DeLong Mountains)—1 ram with full curl or larger horns by Federal registration permit. The Superintendent of the Western Arctic National Parklands may issue permits for the harvest of up to 10 full curl rams in the DeLong Mountains, Units 23 and 26(A), based on a quota to be announced locally after the annual sheep population survey is completed.	Aug. 1–Sept. 30. The season will be closed when half of the quota has been harvested in the DeLong Mountains.
Unit 23—north of Rabbit Creek, Kyak Creek and the Noatak River, and west of the Aniak River (DeLong Mountains)—1 ram with full curl or larger horns by Federal registration permit. The Superintendent of the Western Arctic National Parklands may issue permits for the harvest of up to 10 full curl rams in the DeLong Mountains, Units 23 and 26(A), based on a quota to be announced locally after the annual sheep population survey is completed.	Oct. 1–Apr. 1. The season will be closed when the total quota of sheep has been harvested in the DeLong Mountains including those harvested during the Aug. 1–Sept. 30 season.
Unit 23, remainder (Schwatzka Mountains)—1 ram with 7/8 curl horn or larger	Aug. 10–Sept. 20.
Unit 23, remainder (Schwatzka Mountains)—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.
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 Solismunket 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:	
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.

Harvest limits	Open season
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;

(C) The taking of bull moose outside the seasons provided in this part for food in memorial potlatches and traditional cultural events is authorized in Unit 25(D) west provided that:

(1) The person organizing the religious ceremony or cultural event contact the Refuge Manager, Yukon Flats National Wildlife Refuge prior to taking or attempting to take bull moose and provide to the Refuge Manager the name of the decedent, the nature of the ceremony or cultural event, number to be taken, the general area in which the taking will occur;

(2) Each person who takes a bull moose under this section must submit a written report to the Refuge Manager, Yukon Flats National Wildlife Refuge not more than 15 days after the harvest specifying the harvester's name and address, and the date(s) and location(s) of the taking(s);

(3) 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 Unit 25(D) west;

(4) Any moose taken under this provision counts against the annual quota of 30 bulls.

Harvest limits	Open season
Hunting	
Black Bear: 3 bears	July 1–June 30.
Brown Bear: Unit 25(D)—1 bear	July 1–June 30.
Caribou:	
Unit 25(C)—that portion south and east of the Steese Highway—1 bull by joint State/Federal registration permit only. The fall season will close when a combined State/Federal harvest of 30 bulls has been reached. The winter season will close when the combined fall and winter State/Federal harvest quota of 150 bulls for the Fortymile herd has been reached. The season closures will be announced by the Northern Field Office Manager, Bureau of Land Management after consultation with the National Park Service and Alaska Department of Fish and Game.	Aug. 10–Sept. 30. Nov. 15–Feb. 28.

Harvest limits	Open season
25(C)—that portion north and west of the Steese Highway—1 caribou; however, only bull caribou may be taken during the Aug. 10–Sept. 20 season. During the winter season, caribou may be taken only with a Federal registration permit. The winter season will be closed by announcement of the Northern Field Office, BLM, when the quota of 30 caribou has been taken.	Aug. 10–Sept. 20. Feb. 1–Mar. 31.
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. July 1–Apr. 30.
Unit 25(A), (B), and the remainder of Unit 25(D)—10 caribou	
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	
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 Federal 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):	
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)—No limit	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.

Harvest limits	Open season
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 of aircraft in any manner for moose hunting, including transportation of moose hunters or parts of moose from Aug. 1–Aug. 31 and from Jan. 1–Mar. 31 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;

(D) For the DeLong Mountain sheep hunts—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.
You may not transport more than 5 caribou per regulatory year 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.

Harvest limits	Open season
Unit 26(A)—that portion west of Howard Pass and the Etivluk River (DeLong Mountains)—1 ram with full curl or larger horns by Federal registration permit. The Superintendent of the Western Arctic National Parklands may issue permits for the harvest of up to 10 full curl rams in the DeLong Mountains, Units 23 and 26(A), based on a quota to be announced locally after the annual sheep population survey is completed.	Aug. 1–Sept. 30. The season will be closed when half of the quota has been harvested in the DeLong Mountains.
Unit 26(A)—that portion west of Howard Pass and the Etivluk River (DeLong Mountains)—1 ram with full curl or larger horns by Federal registration permit. The Superintendent of the Western Arctic National Parklands may issue permits for the harvest of up to 10 full curl rams in the DeLong Mountains, Units 23 and 26(A), based on a quota to be announced locally after the annual sheep population survey is completed.	The season will be closed when the total quota of sheep has been harvested in the DeLong Mountains including those harvested during the Aug. 1–Sept. 30 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)—3 sheep per regulatory year; the Aug. 10–Sept. 20 season is restricted to 1 ram with 7/8 curl horn or larger. A Federal registration permit is required for the Oct. 1–Apr. 30 season.	Aug. 10–Sept. 20 Oct. 1–Apr. 30.
Moose:	
Unit 26(A)—that portion of the Colville River drainage downstream from the mouth of the Anaktuvuk River—1 bull. Federal public lands are closed to the taking of moose by non-Federally qualified subsistence users.	Aug. 1–31.
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: June 9, 1999.

James A. Caplan,

Acting Regional Forester, USDA—Forest Service.

Dated: June 7, 1999.

Thomas H. Boyd,

Acting Chair, Federal Subsistence Board.

[FR Doc. 99–16409 Filed 6–30–99; 8:45 am]

BILLING CODE 3410–11–P; 4310–55–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018–AD68

Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, C, and D, Redefinition to Include Waters Subject to Subsistence Priority; Correction

AGENCY: Forest Service, Agriculture; and Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: This document corrects Sections 50 CFR 100.24 and 36 CFR 242.24 of the Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, C, and D, Redefinition to Include Waters Subject to Subsistence Priority that was published in the **Federal Register** of January 8, 1999, to include updated material which was inadvertently omitted. This document also corrects the effective dates for 36 CFR 242.26 and 242.27 and 50 CFR 100.26 and 100.27.

DATES: This correction to 36 CFR 242.24 and 50 CFR 100.24 is effective October 1, 1999. The effective dates for 36 CFR 242.26 and 242.27 and 50 CFR 100.26 and 100.27 are corrected to be October 1, 1999 through February 28, 2001.

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Thomas H. Boyd, (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: On January 8, 1999, the Secretaries of the Interior and Agriculture published a Final Rule in the **Federal Register** (64 FR 1276) that extended jurisdiction for providing subsistence priority to rural Alaskans for harvesting fish in waters

where there is a Federal reserved water right. In that document, an outdated version of Section _____.24(a)(1) was inadvertently used. The Federal Subsistence Board, which has been delegated authority to promulgate regulations in subparts C and D, has also corrected the wording of Section _____.24(a) introductory text. This document corrects Sections _____.24(a) introductory text and _____.24(a)(1).

Because this rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text is incorporated into 36 CFR Part 242 and 50 CFR Part 100.

Conformance with Statutory and Regulatory Authorities

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement (DEIS) that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. That document described the major issues associated with Federal subsistence management as identified through public meetings, written comments and staff analysis and examined the environmental consequences of the four alternatives. Proposed regulations (Subparts A, B, and C) that would implement the preferred alternative were included in the DEIS as an appendix. The DEIS and the proposed administrative regulations presented a framework for an annual regulatory cycle regarding subsistence hunting and fishing regulations (Subpart D). The Final Environmental Impact Statement (FEIS) was published on February 28, 1992.

Based on the public comment received, the analysis contained in the FEIS, and the recommendations of the Federal Subsistence Board and the Department of the Interior's Subsistence Policy Group, it was the decision of the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, through the U.S. Department of Agriculture-Forest Service, to implement Alternative IV as identified in the DEIS and FEIS (Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD), signed April 6, 1992). The DEIS and the selected alternative in the FEIS defined the administrative framework of an annual regulatory cycle for subsistence hunting and fishing regulations. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A,

B, and C (57 FR 22940–22964, published May 29, 1992) implemented the Federal Subsistence Management Program and included a framework for an annual cycle for subsistence hunting and fishing regulations.

An environmental assessment has been prepared on the expansion of Federal jurisdiction over fisheries and is available by contacting the office listed under "For Further Information Contact." The Secretary of the Interior with the concurrence of the Secretary of Agriculture has determined that the expansion of Federal jurisdiction does not constitute a major Federal action, significantly affecting the human environment and has, therefore, signed a Finding of No Significant Impact.

Compliance with Section 810 of ANILCA

A Section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. 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. 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.

During the environmental assessment process, an evaluation of the effects of this rule was also conducted in accordance with Section 810. This evaluation supports the Secretaries' determination that the Final Rule will not reach the "may significantly restrict" threshold for notice and hearings under ANILCA Section 810(a) for any subsistence resources or uses.

Paperwork Reduction Act

This rule contains information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995. It applies to the use of public lands in Alaska. The information collection requirements are a revision of the collection requirements already approved by OMB under 44 U.S.C. 3501 and have been assigned clearance number 1018–0075, which expires 5/31/2000. This revision was submitted to OMB for approval. A comment period was open on OMB

collection requirements and no comments were received.

Currently, information is being collected by the use of a Federal Subsistence Registration Permit and Designated Hunter Application. The information collected on these two permits establishes whether an applicant qualifies to participate in a Federal subsistence hunt on public land in Alaska and provides a report of harvest and the location of harvest. The collected information is necessary to determine harvest success, harvest location, and population health in order to make management decisions relative to the conservation of healthy wildlife populations. Additional harvest information is obtained from harvest reports submitted to the State of Alaska. The recordkeeping burden for this aspect of the program is negligible (one hour or less). This information is accessed via computer data base. The current overall 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 the existing rule is less than 5,000, yielding a total annual reporting and recordkeeping burden of 1,250 hours or less.

The collection of information under this Final Rule will be achieved through the use of a Federal Subsistence Registration Permit Application, which would be the same form as currently approved and used for the hunting program. This information will establish whether the applicant qualifies to participate in a Federal subsistence fishery 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 fisheries 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 fish populations. The annual burden of reporting and recordkeeping is estimated to average 0.50 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 10,000, yielding a total annual reporting and recordkeeping burden of 5,000 hours or less.

Direct comments on the burden estimate or any other aspect of this form

to: Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 224 ARLSQ, Washington, D.C. 20240; and the Office of Management and Budget, Paperwork Reduction Project (Subsistence), Washington, D.C. 20503. Additional information collection requirements may be imposed if Local Advisory Committees subject to the Federal Advisory Committee Act are established under Subpart B.

Additional information collection requirements may be imposed if local advisory committees subject to the Federal Advisory Committee Act are established under subpart B. Such requirements will be submitted to OMB for approval prior to their implementation.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We 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: USFWS, Office of Subsistence Management, Thomas H. Boyd, 1011 E. Tudor Road, Anchorage, Alaska 99503.

Other Requirements

This rule was not subject to OMB review under Executive Order 12866.

This rulemaking will impose no significant costs on small entities; this Final Rule does not restrict any existing sport or commercial fishery on the public lands and subsistence fisheries will continue at essentially the same levels as they presently occur. 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, fishing tackle, 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 to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, it is estimated that 24 million pounds of fish (including 8.3 million pounds of salmon) are harvested by subsistence users annually and, if given an estimated dollar value of \$3.00 per pound for salmon and \$0.58 per pound for other fish, would equate to about \$34 million in food value statewide.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions. The Departments have determined based on the above figures 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.

The Small Business Regulatory Enforcement Act (5 U.S.C. 801 *et seq.*) requires that before a rule can take effect, copies of the rule and other documents must be sent to the U.S. House and U.S. Senate and establishes a means for Congress to disapprove the rulemaking. The Departments have determined that this rulemaking is not a major rule under the Act, and thus the effective date of the rule is not additionally delayed unless Congress takes additional action.

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

The Secretaries have determined and certify pursuant to the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or state governments or private entities. 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 Secretaries have determined that these final 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 precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951) and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

Drafting information—William Knauer drafted this correction under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Peggy Fox, Alaska State Office, Bureau of Land Management; Sandy

Rabinowitch, Alaska Regional Office, National Park Service; Ida Hildebrand, Alaska Area Office, Bureau of Indian Affairs; and Ken Thompson, USDA-Forest Service provided additional guidance.

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 Departments correct FR Doc. 99-11 published at 64 FR 1276, January 8, 1999, as set forth below:

PART—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA [CORRECTED]

1. On page 1294, beginning in column 2, correct paragraphs (a) introductory

text and (a)(1) of 36 CFR 242.24 and 50 CFR 100.24, to read as follows:

§ 242.24 Customary and traditional use determinations.

(a) The Federal Subsistence Board has determined that rural Alaska residents of the listed communities, areas, and individuals have customary and traditional use of the specified species on Federal public land in the specified areas. Persons granted individual customary and traditional use determinations will be notified in writing by the Board. The Fish and Wildlife Service and the local NPS Superintendent will maintain the list of individuals having customary and traditional use on National Parks and Monuments. A copy of the list is available upon request. 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).

Area	Species	Determination
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).
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)	Brown Bear	Residents of Unit 9(C).
9(D)	Brown Bear	Residents of Units 9(D) and 10 (Unimak Island).
9(E)	Brown Bear	Residents of Chignik, Chignik Lagoon, Chignik Lake, Egegik, Ivanof Bay, Perryville, Pilot Point, Ugashik, 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	Residents of Cold Bay, False Pass, King Cove, Nelson Lagoon, and Sand Point.
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	Brown Bear	Residents of Units 9(D) and 10 (Unimak Island).
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, Healy Lake, and Dot Lake.
11, remainder	Caribou	Residents of Units 11 and 13 (A)—(D) and the residents of Chickaloon.

Area	Species	Determination
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, Healy Lake, and Dot Lake.
11, remainder	Moose	Residents of Units 11, 13 (A)–(D), and residents of Chickaloon.
11, north of the Sanford River	Sheep	Residents of Unit 12 and the communities and areas of Chistochina, Chitina, Copper Center, Dot Lake, Gakona, Glennallen, Gulkana, Healy Lake, 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) & (D)	Moose	Residents of Unit 13 and the residents of Chickaloon.
13(B)	Moose	Residents of Units 13, 20(D) except Fort Greely, and the residents of Chickaloon.
13(C)	Moose	Residents of Units 12, 13 and the residents of Chickaloon, Healy Lake, 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.

Area	Species	Determination
13	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
13	Grouse (Spruce, Blue, Ruffed & Sharp tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 & 23.
13	Ptarmigan (rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 & 23.
Unit 14(B) and (C)	Brown Bear	No Federal subsistence priority.
14	Goat	No Federal subsistence priority.
14	Moose	No Federal subsistence priority.
14(A) and (C)	Sheep	No Federal subsistence priority.
Unit 15(C)	Black Bear	Resident of Port Graham and Namwalek 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 Nanwale,
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.
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 resident 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.
Unit 17(A), that portion west of the Izaveieknik River, Upper Togiak Lake, Togiak Lake, and the main course of the Togiak River.	Caribou	Residents of Goodnews Bay, Platinum, Quinhagak, Eek, Tuntutuliak, and Napakiak.
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.
Unit 17(B), that portion of Togiak National Wildlife Refuge within Unit 17(B).	Caribou	Residents of Bethel, Goodnews Bay, Platinum, Quinhagak, Eek, Tuntutuliak, and Napakiak.
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.

Area	Species	Determination
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	Craibou (Kilbuck caribou herd only).	INTERIM DETERMINATION BY FEDERAL SUBSISTENCE BOARD (12/18/91): residents of Tuluksak, Akiak, Akiachak, Kwethluk, Bethel, Oscarville, Napaskiak, Napakiak, Kasigluk, Atmanthluak, Nunapitchuk, Tuntutliak, Eek, Quinhagak, Goodnews Bay, Platinum, Togiak, and Twin Hills.
18, north of the Yukon River	Caribou (except Kilbuck caribou herd).	Residents of Alakanuk, Andreafsky, Chevak, Emmonak, Hooper Bay, Kotlik, Kwethluk, Marshall, Mountain Village, Pilot Station, Pitka's Point, Russian Mission, St. Marys, St. Michael, Scammon Bay, Sheldon Point, and Stebbins.
18, remainder	Caribou (except Kilbuck caribou herd).	Residents of Kwethluk.
18, that portion to 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.
Unit 19(B), west of the Kogrukluk River	Moose	Residents of Eek and Quinhagak.
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, Nenana, Nikolai, Tanana, Talida, and those domiciled 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.

Area	Species	Determination
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.
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 Diomed 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.

Area	Species	Determination
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.
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 United 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 25(D).
25(D)	Brown 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.

Area	Species	Determination
26	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.

* * * * *

Dated: June 9, 1999.
James A. Caplan,
Acting Regional Forester, UDSA-Forest Service.

Dated: June 7, 1999.
Thomas H. Boyd,
Acting Chair, Federal Subsistence Board.
[FR Doc. 99–16410 Filed 6–30–99; 8:45 am]
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**Federal
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Thursday
July 1, 1999

Part IV

**Federal
Communications
Commission**

47 CFR Part 1

**Assessment and Collection of Regulatory
Fees for Fiscal Year 1999; Final Rule**

**FEDERAL COMMUNICATIONS
COMMISSION****47 CFR Part 1****[MD Docket No. 98–200; FCC 99–146]****Assessment and Collection of
Regulatory Fees for Fiscal Year 1999****AGENCY:** Federal Communications
Commission.**ACTION:** Final rule.**SUMMARY:** The Commission has revised
its Schedule of Regulatory Fees in order

to recover the amount of regulatory fees that Congress has required it to collect for fiscal year 1999. Section 9 of the Communications Act of 1934, as amended, provides for the annual assessment and collection of regulatory fees. For fiscal year 1999 sections 9(b)(2) and (3) provide for annual “Mandatory Adjustments” and “Permitted Amendments” to the Schedule of Regulatory Fees. These revisions will further the National Performance Review goals of reinventing Government by requiring beneficiaries of

Commission services to pay for such services.

EFFECTIVE DATE: September 10, 1999.

FOR FURTHER INFORMATION CONTACT:
Terry Johnson, Office of Managing
Director at (202) 418–0445 or Roland
Helvajian, Office of Managing Director
at (202) 418–0444.

SUPPLEMENTARY INFORMATION:

Adopted: June 11, 1999; Released: June
18, 1999

By the Commission.

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I. Introduction

1. By this *Report and Order*, the
Commission concludes a proceeding to
revise its Schedule of Regulatory Fees in

order to collect the amount of regulatory

fees that Congress has required it to
collect for Fiscal Year (FY) 1999.¹

¹ *Assessment and Collection of Regulatory Fees
for Fiscal Year 1999*, FCC 98–298, released

2. Congress has required that we collect \$172,523,000 through regulatory fees in order to recover the costs of our enforcement, policy and rulemaking, international and user information activities for FY 1999.² This amount is \$10,000,000 or approximately 6% more than the amount that Congress designated for recovery through regulatory fees for FY 1998.³ Thus, we are revising our fees in order to collect the increased amount that Congress has required for us to collect. Additionally, we are amending the Schedule in order to simplify and streamline it.⁴

3. In revising our fees, we adjusted the payment units and revenue requirement for each service subject to a fee, consistent with sections 159(b) (2) and (3). In addition, we are making changes to the fees pursuant to public interest considerations. The current Schedule of Regulatory Fees is set forth in §§ 1.1152 through 1.1156 of the Commission's rules.⁵

II. Background

4. Section 9(a) of the Communications Act of 1934, as amended, authorizes the Commission to assess and collect annual regulatory fees to recover the costs, as determined annually by Congress, that it incurs in carrying out enforcement, policy and rulemaking, international, and user information activities.⁶ See Attachment G for a description of these activities. In our *FY 1994 Fee Order*,⁷ we adopted the Schedule of Regulatory Fees that Congress established, and we prescribed rules to govern payment of the fees, as required by Congress.⁸ Subsequently, we modified the fee Schedule to increase the fees in accordance with the amounts Congress required us to collect in each succeeding fiscal year. We also amended the rules governing our regulatory fee program based upon our experience administering the program in prior years.⁹

5. As noted above, for FY 1994 we adopted the Schedule of Regulatory Fees established in section 9(g) of the Act. For fiscal years after FY 1994, however, sections 9(b) (2) and (3), respectively, provide for "Mandatory

Adjustments" and "Permitted Amendments" to the Schedule of Regulatory Fees.¹⁰ Section 9(b)(2), entitled "Mandatory Adjustments," requires that we revise the Schedule of Regulatory Fees whenever Congress changes the amount that we are to recover through regulatory fees.¹¹

6. Section 9(b)(3), entitled "Permitted Amendments," requires that we determine annually whether additional adjustments to the fees are warranted, taking into account factors that are reasonably related to the payer of the fee and factors that are in the public interest. In making these amendments, we are to "add, delete, or reclassify services in the Schedule to reflect additions, deletions or changes in the nature of its services."¹²

7. Section 9(i) requires that we develop accounting systems necessary to adjust our fees pursuant to subsection b(3), and for other purposes.¹³ For FY 1997, we relied for the first time on cost accounting data to identify our regulatory costs and to develop our FY 1997 fees based upon these costs. Also, for FY 1997, we limited the increase in the amount of the fee for any service, so that we can phase in our reliance on cost-based fees for those services, whose revenue requirement would be more than 25 percent above the revenue requirement which would have resulted from the "mandatory adjustments" to the FY 1997 fees without incorporation of these costs. This methodology, which we continued to utilize for FY 1998, enabled us to develop regulatory fees which we believed to be more reflective of our costs of regulation, and allowed us to make revisions to our fees based on the fullest extent possible, and consistent with the public interest, on the actual costs of regulating those services subject to a fee. Finally, section 9(b)(4)(B) requires that we notify Congress of any permitted amendments 90 days before those amendments go into effect.¹⁴

III. Discussion

A. Summary of FY 1999 Fee Methodology

8. As noted above, Congress has required that the Commission recover \$172,523,000 for FY 1999 through the collection of regulatory fees, representing the costs applicable to our enforcement, policy and rulemaking, international, and user information

activities.¹⁵ This fact is the overriding principle that determines how the fee schedule is adjusted. Notwithstanding any considerations of benefit to the fee payer, it is a zero-sum mandate in which any adjustment downward must be met with a corresponding adjustment upward for all others to ensure collection of the aggregate amount mandated by Congress in its appropriation Act.

9. In developing our FY 1999 fee schedule, we first determined that we would continue to use the same general methodology for "Mandatory Adjustments" to the Fee Schedule as we used in developing fees for previous fiscal years. As required by section 9(b)(2), we estimated the number of payment units¹⁶ for FY 1999 in order to determine the aggregate amount of revenue we would collect without any revision to our FY 1998 fees. Next, we compared this revenue amount to the \$172,523,000 that Congress has required us to collect in FY 1999 and pro-rated the difference among all the existing fee categories.

10. Once we established our tentative FY 1999 fees, we evaluated proposals made by Commission staff concerning "Permitted Amendments" to the Fee Schedule and to our collection procedures. However, as stated in paragraph 8, any permitted amendment made affects all other feeable categories to ensure the total amount required will still be collected. These proposals are discussed in paragraphs 16–31 and are factored into our FY 1999 Schedule of Regulatory Fees, set forth in Attachment D.

11. It should be further noted that the requirement to derive fees based on the number of full-time equivalent number of employees is superseded by the cost accounting system developed pursuant to section 9(i) which is combined with the payroll and benefits system to incorporate that information. Non-employee contractual activities are not charged to feeable activities directly, but are factored into overhead. Also, the primary purpose of the cost accounting system is to support the making of permitted amendments, and it is not required to be used in developing the fee schedule.

12. Finally, we have incorporated, as Attachment F, proposed Guidance containing detailed descriptions of each fee category, information on the individual or entity responsible for

December 4, 1998, 63 FR 70090 (Dec. 18, 1998) (NOI), and FCC 99–44, released March 24, 1999, 64 FR 16661 (Apr. 6, 1999) (NPRM).

² Pub. L. 105–277 and 47 U.S.C. 159(a)(2).

³ *Assessment and Collection of Regulatory Fees for Fiscal Year 1998*, FCC 98–115, released June 16, 1998, 63 FR 35847 (Jul. 1, 1998).

⁴ 47 U.S.C. 159(b)(3).

⁵ 47 CFR 1.1152 through 1.1156.

⁶ 47 U.S.C. 159(a).

⁷ 59 FR 30984 (Jun. 16, 1994).

⁸ 47 U.S.C. 159(b), (f)(1).

⁹ 47 CFR 1.1151 *et seq.*

¹⁰ 47 U.S.C. 159(b)(2), (b)(3).

¹¹ 47 U.S.C. 159(b)(2).

¹² 47 U.S.C. 159(b)(3).

¹³ 47 U.S.C. 159(i).

¹⁴ 47 U.S.C. 159(b)(4)(B).

¹⁵ 47 U.S.C. 159(a).

¹⁶ Payment units are the number of subscribers, mobile units, pagers, cellular telephones, licenses, call signs, adjusted gross revenue dollars, etc. which represent the base volumes against which fee amounts are calculated.

paying a particular fee and other critical information designed to assist potential fee payers in determining the extent of their fee liability, if any, for FY 1999. In the following paragraphs, we describe in greater detail our methodology for establishing our FY 1999 regulatory fees.

B. Development of FY 1999 Fees

i. Adjustment of Payment Units

13. In calculating individual service regulatory fees for FY 1999, we adjusted the estimated payment units for each service because payment units for many services have changed substantially since we adopted our FY 1998 fees. We obtained our estimated payment units through a variety of means, including our licensee data bases, actual prior year payment records, and industry and trade group projections. Whenever possible, we verified these estimates from multiple sources to ensure the accuracy of these estimates. Attachment B provides a summary of how revised payment units were determined for each fee category.¹⁷

ii. Calculation of Revenue Requirements

14. We next multiplied the revised payment units for each service by the FY 1998 fees in each category to determine how much revenue we would collect without any change to the FY 1998 Schedule of Regulatory Fees. The amount of revenue which we would collect without changes to the Fee Schedule is approximately \$157.6 million. This amount is approximately \$14.9 million less than the amount the Commission is required to collect in FY 1999. We then adjusted the revenue requirements for each category on a proportional basis, consistent with Section 9(b)(2) of the Act, to obtain an estimate of the revenue requirements for each fee category so that the Commission could collect \$172,523,000 as required by Congress. Attachment C provides detailed calculations showing how we determined the revised revenue amounts to be raised for each service.

iii. Recalculation of Fees

15. Once we determined the amount of fee revenue that is necessary to collect from each class of licensee, we divided the revenue requirement by the

number of payment units (and by the license term, if applicable, for "small" fees) to obtain actual fee amounts for each fee category. These calculated fee amounts were then rounded in accordance with section 9(b)(3) of the Act. See Attachment C.

C. Changes to Fee Schedule

16. We examined the results of our calculations to determine if further adjustments of the fees and/or changes to payment procedures were warranted based upon the public interest and other criteria established in 47 U.S.C. 159(b)(3).¹⁸ As a result of this review, we are making the following "Permitted Amendments" to our Fee Schedule:

i. FY 1999 Fee Schedule Based on Mandatory Adjustments

17. The FY 1999 fee schedule is based on the "Mandatory Adjustments" as computed in Attachment C and in accordance with section 9(b)(2) of the Act. After the *Notice of Proposed Rulemaking (Assessment and Collection of Regulatory Fees for Fiscal Year 1999*, FCC 99-44, released March 24, 1999, 64 FR 16661 (Apr. 6, 1999) was issued, the staff determined that its original estimates of the number of payment units for Marine (Ship) should be reduced from 16,800 to 7,100 to reflect a reduction in renewal applications caused by the transition from five-year to ten-year license terms. Likewise, the number of payment units for Aviation (Aircraft) is being reduced from 4,800 to 4,500.

ii. Reduction of the FM Construction Permit Fee

18. In the original Congressional fee schedule, the FM Construction Permit fee was set at \$500 (five times the AM Construction Permit fee of \$100). In succeeding years' schedules, nearly the same relationship has prevailed as evidenced by the calculated FM Construction Permit fee for FY 1999 of \$1,250 (compared to the calculated AM Construction Permit fee for FY 1999 of \$260). While the Commission's regulatory costs in processing FM Construction Permit fees are higher than its costs for AM Construction Permit fees, several parties have expressed concern that the FM Construction Permit fee is nevertheless disproportionately high particularly in less populated areas.

19. In the *Notice of Proposed Rulemaking (NPRM)*, we sought comment on a staff proposal to make a

permitted amendment to the schedule of regulatory fees for FY 1999 reducing the FM Construction Permit fee to three times the AM Construction Permit fee. The Commission did not receive comments on the proposal to reduce the FM Construction Permit regulatory fee, and is adopting the proposal herein.

iii. Redesignation of Small SMR Systems as CMRS Messaging

20. In the NOI,¹⁹ we solicited comment on whether the Commercial Mobile Radio Services ("CMRS") fee categories should be revised to reflect types of service or usage. In FY 1998, the demarcation of fee categories was based on the authorized bandwidth, rather than the nature of the service offered. CMRS licensees authorized to operate on broadband spectrum were classified within the CMRS Mobile Services fee category, while CMRS licensees authorized to operate on narrowband spectrum were classified within the CMRS Messaging fee category. In this context, several parties, including BellSouth Wireless Data, the Paging Network ("PageNet"), and ARDIS Company (Ardis) urge the Commission to reclassify the 900 MHz Specialized Mobile Radio Service ("SMR") systems for regulatory fee purposes. Specifically, the commenters assert that SMR systems used for mobile data services are similar to and compete with CMRS messaging services, and accordingly, should be classified as such for section 9 purposes. The Council of Independent Communications Suppliers ("CICS") and the American Mobile Telecommunications Association, Inc. ("AMTA") further maintain that all "traditional" SMR are similarly situated to messaging services in terms of the limited amount of spectrum utilized and the limited nature of the services offered, and thus recommend the reclassification of all traditional SMR services.

21. We are persuaded by the comments that the SMR service is similar to the CMRS Messaging service, that the SMR service should be accorded similar treatment with respect to regulatory fee requirements, and thus that reclassification is warranted. Accordingly, we are revising our designation of services contained in the CMRS Messaging fee category. For FY 1999, the CMRS Messaging fee category will also include all SMR systems authorized for operation with less than 10 MHz bandwidth.

¹⁷ It is important to also note that Congress' required revenue increase in regulatory fee payments of approximately six percent in FY 1999 will not fall equally on all payers because payment units have changed in several services. When the number of payment units in a service increase from one year to another, fees do not have to rise as much as they would if payment units had decreased or remained stable. Declining payment units have the opposite effect on fees.

¹⁸ In FY 1997 and FY 1998 we limited increases to 25%. For FY 1999, none of the proposed fee increases exceed 25%.

¹⁹ See FY 1999 NOI at paragraph 9.

iv. Other Comments Regarding Adjustments to CMRS

22. In the NOI,²⁰ we specifically asked commenters to provide proposals to establish models, or direct us to available sources of data, that estimate the number of payment units (number of subscribers) in the CMRS service to enable us to calculate fees that more accurately reflect the regulatory costs associated with this service. The Cellular Telecommunications Industry Association (CTIA) takes issue with the Commission's methodology and projections. CTIA argues that section 9(i) of the Communications Act of 1934 ("Act"), as amended, "requires that [the Commission] develop accounting systems necessary to adjust [its] fees pursuant to changes in the costs of regulation of various services that are subject to a fee."²¹ Instead, they argue further, the Commission has adopted a more complicated, and ultimately unreliable, approach described in detail in the Notice.²² CTIA argues that the Notice prescribes fees that raise an additional 6 percent above FY 1998, but that the proposed increase to CMRS Mobile services is over 10 percent. CTIA argues that this approach is wrong because it bases fees on growth in a particular sector of the industry instead of on the costs of regulating that sector, and it uses a figure that underestimates the number of wireless subscribers. We disagree and believe our actions are proper and consistent with the Act. As described above, the Commission began by estimating the number of units²³ for FY 1999 for each industry and multiplying that figure by each industry's FY 1998 per unit charge. The amount which resulted was \$157.6 million, \$14.9 million less than required by Congress.²⁴ To collect the difference, the Commission "then adjusted the revenue requirements for each category on a proportional basis."²⁵ In other words, each communications sector's proportional contribution percentage was multiplied by the anticipated shortfall, and the result was added to that sector's total revenue requirement for FY 1999. Finally, the total revenue requirement was divided by the total

number of estimated units to determine the per unit fee for each category.²⁶

23. Section 9(i) states that "(t)he Commission shall develop accounting systems necessary to making the adjustments authorized by subsection (b)(3)." Subsection (b)(3) states that "(i)n addition to the adjustments required by paragraph (2), the Commission shall, by regulation, amend the Schedule of Regulatory Fees if the Commission determines that the Schedule requires an amendment to comply with the requirements of paragraph (1)(A)." Paragraph (2) refers to paragraph (b)(2) which requires that "the Commission shall, by rule, revise the Schedule of Regulatory Fees by proportionate increases or decreases to reflect, in accordance with paragraph (1)(B), changes in the amount appropriated for the performance of the activities described in subsection (a) for such fiscal year." Subsection (b)(2)(A) requires the adjustments to be made in accordance with the "increases or decreases in the number of licensees or units subject to payment of such fees." Subsection (b)(2)(B) requires that the fees be "established at amounts that will result in collection of an aggregate amount of fees pursuant to this section that can reasonably be expected to equal the aggregate amount of fees that are required to be collected by appropriations Acts pursuant to paragraph (1)(B)."

24. Given the provisions as a whole, the statute requires that, first and foremost, we must attempt to collect the aggregate amount that Congress requires in the appropriation Act, i.e. \$172,523,000 for FY 1999. To achieve this, we must first adjust our estimates of payment units and apply proportionate shares of the shortfall to all fee categories until the \$172,523,000 total is reached. At this point, we have the option of making permitted amendments, *if we determine that it is required*. Bearing in mind that any reduction in the fee obligations for any fee category must result in additional increases in the fee obligations imposed on all other fee categories to insure full collection of the \$173,523,000, we (with one minor exception, namely FM Construction Permits) did not propose such amendments, and use of the cost accounting system to support such adjustments was not necessary. Finally, our cost accounting system has been previously explained in great detail in our FY 1996 and FY 1997 proceedings. It is the language of the Act in section (b)(2) which establishes the relationship between the number of payment units

and the costs we must recover for our regulatory activities. Nothing in CTIA's argument convinces us that we erred in our methodology.

25. CTIA also argues that we have seriously underestimated the number of CMRS units. It states that it "is confident that the number of CMRS mobile services units has risen dramatically over last year—enough to result in a substantial decrease in per unit charges."²⁷ CTIA states that the "correct number for FY 1999 is 69,209,000 units, not the 55,540,000 units the Commission has estimated."²⁸ In its comments, AirTouch also argues that our estimate is too low.

26. In determining its estimates of the number of payment units, the Commission consults several sources, if available. We have found that there are often large disparities in the estimates provided by various industry associations. These differences may be due to the differences in purposes for which the data is gathered, sampling methods used, etc. It should be further noted that our experience with industry estimates in prior years has resulted in high levels of underpayment in the CMRS category. Given the fact that we are required by the statute to collect "an amount that can reasonably be expected to equal the amount appropriated * * *" we have proposed to establish estimates that more closely match the number of units for which payments have been received. With regard to the CMRS sector, the following chart shows the number of subscriber payment units estimated and the actual number based on fee payments per year.

	CMRS mobile	CMRS messaging
FY 1995 ESTIMATE	23,400,000	19,600,000
FY 1995 ACTUAL	22,959,273	12,189,094
FY 1996 ESTIMATE	30,000,000	24,500,000
FY 1996 ACTUAL	24,560,543	18,810,299
FY 1997 ESTIMATE	51,472,190	48,900,000
FY 1997 ACTUAL	43,553,534	31,047,469
FY 1998 ESTIMATE	55,540,000	39,592,000
FY 1998 ACTUAL	54,730,365	34,373,200

Given the data before us, while recognizing it is a conservative increase over the 1998 actual figure, we continue to believe our estimate for 1999 is

²⁰ See FY 1999 NOI at paragraph 9.

²¹ CTIA comments at p. 2.

²² CTIA comments at p. 2.

²³ "Payment units are the number of subscribers, mobile units, pagers, cellular telephones, licenses, call signs, adjusted gross revenue dollars, etc. which represent the base volumes against which fee amounts are calculated." Notice at paragraph 9, n.16. For the purpose of these Comments, the term "subscribers" is used interchangeably with "units."

²⁴ CTIA comments at p. 2.

²⁵ CTIA comments at p. 2-3.

²⁶ CTIA comments at p. 3.

²⁷ CTIA comments at p. 5.

²⁸ CTIA comments at p. 5.

reasonable, especially in light of our reclassification of small SMR systems.

v. Re-Activation of Interactive Video Data Services Fee (Now 218–219 MHz Service)

27. When the *NPRM* was being developed, it was thought that there would be no interactive video data service (IVDS) applications received in FY 1999. No new assignments are available and most previous authorizations were granted for a ten-year license term (none of which expire in FY 1999). After release of the *NPRM*, it was discovered that there are 513 IVDS licenses that were issued with five-year expiration dates that will come up for renewal in FY 1999. Therefore, we are re-activating the regulatory fee for IVDS (now 218–219 MHz Service) and have calculated it to be \$13 on an annual basis. The entire regulatory fee will be \$65 for a five-year term.

D. Other Issues Raised by Commenters

28. On November 10, 1998, the Commission adopted a *Notice of Inquiry* in this proceeding seeking comments on five specific issues.²⁹ Briefly, the issues for which comments were sought included: (1) Clarification of the Commercial Mobile Radio Services (“CMRS”) fee categories and demarcation of which types of services or usage to include in each category;³⁰ (2) determination of the appropriate basis for assessing regulatory fees on geostationary orbit space stations (“GSOs”); (3) determination of the appropriate method of assessing our regulatory costs associated with non-geostationary orbit space station systems (“NGSOs”) to licensees which have launched satellites or to all NGSO licensees; (4) whether we should base revenues for interstate telephone service providers on the Universal Services Fund’s end user methodology rather than the Telecommunication Relay Services Fund’s adjusted gross revenue methodology; and (5) whether we should create a “new services” category in our cost accounting system in which costs associated with development of new services, regardless of the service, would be proportionately assessed to all feeable categories rather than assessed to existing licensees in the same service category. In the interest of expediting the *NPRM*, we deferred analysis of the comments and replies received pursuant

to the *NOI* for inclusion in this final *Report and Order*.

29. In addition to the comments which support the changes we are adopting in this *Report and Order*, commenters expressed other views which we intend to address here. These issues cover comments and reply comments received on both the *NOI* and the *NPRM*.

i. Interstate Telephone Service Providers

30. In the *NOI*,³¹ we solicited comment on BellSouth Corporation’s (BellSouth) proposal to change the methodology used to assess fees upon interstate telephone service providers. Specifically, BellSouth proposed that the regulatory fees imposed upon interstate telephone service providers be based on their end user revenues (i.e., the same contribution base used for the Universal Fund), instead of the current methodology, which is based on their proportionate share of industry net revenues (i.e., the same contribution base used for the TRS Fund). BellSouth contended that its proposal is “more competitively neutral,” given that the current methodology favors interexchange carriers (“IXCs”) by virtue of the fact that they are able to deduct payments made to the underlying carriers. The end user methodology was opposed by MCI WorldCom, Inc. (MCI WorldCom), which claimed that this methodology effectively would shift regulatory costs from the local exchange carriers (“LECs”) to the “highly competitive, price sensitive” IXCs (which unlike LECs cannot recover their costs through regulated rates) and, as such, would not be competitively neutral. BellSouth supported the end user methodology, but recommended that the Commission defer consideration on the appropriate methodology until it concludes the pending rulemaking (CC Docket No. 98–171, *In the Matter of 1998 Biennial Regulatory Review—Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms*), which is examining, among other things, both TRS and Universal Fund support mechanisms.³² We believe that properly calculated, the end result should be relatively equivalent regardless of whether the fee is based on gross revenues less expenses paid to the

underlying carriers or end user revenues.

31. We are unpersuaded by MCI WorldCom, Inc.’s contention that the end-user telecommunications revenue method is not competitively neutral simply because it will attribute a greater portion of direct contributions to IXCs.³³ As support for its proposal that the Commission utilize a net telecommunications revenue basis for NANP and TRS, MCI correctly observes that the portion of contributions paid by IXCs will likely increase, as compared to that paid directly by local service providers, under an end-user telecommunications revenue basis, primarily because toll carriers, including IXCs, will contribute based on the revenues they collect from their end users to pay incumbent LECs’ access charges. As described above, however, the end-user basis meets our two prong test for competitive neutrality, as set out in the LNP Cost Recovery Order.³⁴ The fact that carriers—whether IXCs or incumbent LECs—providing interstate toll services to end users may bear a slightly higher portion of contributions does not alter that analysis, because, even assuming that MCI’s projections are correct, this change would not give one service provider an appreciable, incremental cost advantage when competing for a particular subscriber.

32. Further, we believe that MCI’s analysis of the purported burden shift falls short. We do not believe that this change in revenue basis will significantly favor one segment of the industry over another. To the extent that direct contributions are shifted, we note that IXCs would incur those costs attributable to access revenues under both a net telecommunications revenue basis and an end-user telecommunications revenue basis.³⁵ For example, contributions to the TRS mechanism under the current gross telecommunications revenue basis are treated as exogenous costs under price cap regulation, meaning that the overwhelming majority of these costs are passed through to toll carriers under

³³ See MCI Reply Comments at 4.

³⁴ See LNP Cost Recovery Order, paragraph 106–107.

³⁵ See Telecommunications Relay Services and the Americans with Disabilities Act of 1990, Second Order on Reconsideration and Fourth Report and Order, FCC 93–463, Docket No. 90–571, 9 FCC Rcd 1637 (rel. Sept. 29, 1993) (clarifying that TRS Fund contributions may be treated as exogenous costs under price cap regulation). To this end, we believe that AT&T suggestion concerning price cap reductions would be more appropriately considered in access charge proceedings. See CFR section 69.1. See also LNP Cost Recovery Order, paragraph 109 (suggesting that incumbent LECs would like pass on shared costs of number portability to IXCs through exogenous treatment in their access rates).

²⁹ 63 FR 70090 (Dec. 18, 1998).

³⁰ In this regard we specifically requested additional comments on a proposal raised by BellSouth Wireless in its Petitions for Reconsideration of the FY 1997 and FY 1998 Rulemakings, that the Commission reclassify 900 MHz SMR Service into the CMRS Message Service.

³¹ See FY 1999 *NOI* at paragraph 15.

³² FCC 98–233, released September 25, 1998, 63 FR 54090 (Oct. 8, 1998).

either methodology.³⁶ As the Commission concluded in the LNP Cost Recovery Order, because the end-user telecommunications revenue basis reaches the same result, but without the inefficiency and added complication of the pass-through step, we prefer the end-user telecommunications revenue basis.³⁷ In any event, we agree with BellSouth that any decision on the appropriate methodology should be deferred until the conclusion of the pending rulemaking proceeding.

ii. New Services Fee Category

33. In the *NOI* we sought comments on establishing a new services fee category. The regulatory costs associated with the policy and rulemaking to establish new and emerging technologies and services were to be charged to the new services activity. The costs attributed to the new services category were then to be distributed proportionally to *all* other feeable activities, and would not be borne by a specific, established service.

34. GE American Communications, Inc. (GE) argues in support of establishing a new services fee category on the basis that until an authorization is granted, licensees are unknown and it would be unfair to attribute the costs to existing licensees. BellSouth, Personal Communications Industry Association (PCIA), and Lockheed Martin, on the other hand, disagree that it would be appropriate to charge costs to licensees in other unrelated service categories in the form of overhead when it is clear that they derive no benefit from the regulatory activity. Indeed, as BellSouth points out, under section 9(a)(1), the Commission shall assess and collect regulatory fees for rulemaking proceedings, which would include the costs associated with the introduction of new services. However, section 9(b)(1)(A) provides that the fees assessed must be adjusted "to take into account factors that are reasonably related to the payor of the fee." BellSouth thus asserts that an "across-the-board" new service fee category would not comply with section 9(b)(1)(A), because it would impose fees on payers who are not benefited by the introduction of the new service.

35. We are not persuaded that creation of a new services category is appropriate at this time. Further, this concept presents technical and policy problems with respect to our current cost accounting system which cannot be resolved for FY 1999 fee collections. Data is not available in its present form

and costs cannot be reallocated as would be necessary to implement a new services fee category now. We are in the planning stages for rewriting the software for our cost accounting system, and this issue will become part of those discussions.

iii. COMSAT and Non-U.S. Licensees

36. PanAmSat and GE American Communications argue that we should impose fees on COMSAT Corporation (COMSAT) to recover the Signatory and other expenses created by COMSAT. Loral Space & Communications states that because COMSAT competes with other U.S. satellite operators that are subject to regulatory fees, it is given a clear advantage over its competitors. Loral Space and Communications, therefore, contends that the Commission should impose fair and equitable fees on COMSAT. This issue has been considered and dismissed several times. In addition, GE, the Satellite Industry Association (SIA), and PanAmSat contend that the cost of regulation should be borne by all satellite service providers, which in light of the recent privatization of Inmarsat Limited, should include fair share payments from COMSAT and foreign-licensed satellite providers. Previously, because of the International Organization Immunities Act, COMSAT was exempt from paying regulatory fee payments for Inmarsat space stations. In its reply comments, COMSAT argues to the contrary that neither COMSAT, INTELSAT, nor Inmarsat are subject to Section 9 of the Communications Act of 1934, and neither Inmarsat nor its satellites are subject to Title III of the Act. In short, COMSAT argues that the FCC lacks jurisdiction in imposing space station or any new category of fees on COMSAT because "regulatory fees apply only to space stations directly licensed by the FCC under Title III of the Communications Act." Finally, SIA questions the estimate of 42.5 GSO space stations.

37. COMSAT has in the past and continues to be responsible for payment of regulatory fees for its licensed facilities. For example, in FY 1998, COMSAT paid regulatory fees for two geostationary space stations, 142 earth stations, and 53,957 international bearer circuits for a total of \$585,172. With respect to the estimate of 42.5 GSO space stations, based on the October 1, 1998 cut-off date, there are 43 satellites in operation. However, Columbia received a waiver for one-half the capacity for one of its satellites. The waiver was granted because Columbia established that, unlike other U.S. fixed satellite service licensees, it was under

contract with NASA, its satellite capacity was not entirely within its control, and its use was secondary to NASA's.³⁸ Therefore, the GSO fees was formulated based on 42.5 satellites.

38. The space station facilities owned by INTELSAT and Inmarsat are not licensed to COMSAT. COMSAT has been designated to represent the United States as its signatory agent. As COMSAT argues, the courts have ruled that we may not assess a fee upon COMSAT for its role in the administration of the INTELSAT and Inmarsat space stations. Moreover, commenters have argued that since Inmarsat space stations were converted "to a newly created private company, Inmarsat Limited (incorporated in the United Kingdom), COMSAT's exemption from payment in relation to the Inmarsat system should be eliminated. Legislation requiring INTELSAT to privatize is currently pending before Congress, and full privatization is not complete. At present, it is not clear who will hold the license after privatization. Therefore, COMSAT presently remains as the designated U.S. Signatory to INTELSAT. Regardless of COMSAT's interest in the INTELSAT satellites in question, they are not licensed under Title III and, therefore, not subject to regulatory fees.³⁹

39. It has also been suggested that non-U.S. licensed satellite service providers who operate in the U.S. should be assessed regulatory fees. Clearly, legislative history provides that only space stations licensed under Title III may be subject to regulatory fees. Although non-U.S.-licensed satellite operators do compete with U.S.-licensed satellite operators, they are not licensed under Title III. Therefore, we cannot include operators of non-U.S.-licensed satellite space stations among regulatory fee payers.

iv. Non-Common Carrier Bearer Circuits

40. The Satellite Industry Association ("SIA") maintains that the Commission should revisit whether it is authorized to assess international bearer circuit regulatory fees on non-common carrier satellite operators. According to SIA, because section 9 of the Communications Act specifies that carriers are required to pay international

³⁸ 1999 Westlaw 22920. In regarding Application of Columbia Communications Corporation, FCC 98-299 (January 22, 1999) (WESTLAW, FCOM-FCC library).

³⁹ *Assessment and Collection of Regulatory Fees for Fiscal Year 1995*, 60 FR 30004 (June 29, 1995) and *Assessment and Collection of Regulatory Fees for Fiscal Year 1997*, 62 FR 37408 (July 11, 1997); *COMSAT Corp v. Federal Communications Commission*, 114 F. 3d 223 (D.C. Cir. 1997).

³⁶ Id.

³⁷ See LNP Cost Recovery Order, paragraph 109.

bearer circuit fees, the Commission is only authorized to collect such fees from common carriers, not non-common carrier satellite operators. PanAmSat, in support of SIA, asserts that because non-common carrier bearer circuits are offered on a private basis and not subject to Title II regulations, they do not exact the same regulatory costs and should not be subject to the same regulatory fees as common carrier satellite operators.

41. In response to SIA's position that international bearer circuit regulatory fees be imposed only on common carriers, the Commission contends that SIA's argument is a matter of terminology. When section 9 was initially drafted, the fee schedule was divided along the lines of the existing bureaus and offices at the time. Since then, the Commission has undergone reorganizations and shifting of responsibilities for administering several services. When the original legislation was drafted, international bearer circuits were administered by the Common Carrier Bureau—thus in the Common Carrier Bureau section of the original schedule. With the creation of the International Bureau, international bearer circuits became the responsibility of the International Bureau. Moreover, justification for including non-common carrier circuits, which serve users internationally, was provided in previous years' proceedings.⁴⁰

v. Geostationary Orbit Space Stations ("GSOs")

42. In the NOI,⁴¹ we noted that the method of calculating and assessing the regulatory fees imposed on GSO licensees on a "per satellite basis" has been controversial and the subject of comments for several years. Therefore, we solicited comment on alternative methods for calculating and assessing GSOs regulatory fees. In this connection, we specifically requested commenters to "specify the data upon which we can base any alternative approach and the most feasible method for obtaining the data necessary to calculate fees".⁴² However, notwithstanding alternative methods for calculating regulatory fees, it is important to note that the percentage of increase in FY 1999 fees will not exactly match the overall Congressional increase of 6 percent. For most fee categories, the increase will be less than 10 percent, which is necessary to cover the costs of services that are exempt

from payment of regulatory fees. In our FY 1998 *Report and Order* at paragraph 51, we explained that the costs used to develop our fees were derived from our cost accounting system which separates application processing costs from regulatory costs. We find nothing in the arguments put forth by the Satellite Industry Association ("SIA") and GE American Communications ("GE") which persuade us that our methodology is incorrect.

43. PanAmSat, Loral and GE argue that the regulatory fees imposed on in-orbit GSOs bear scant relationship to the Commission's costs. Specifically, they argue that the Commission's costs are primarily incurred at the application stage, and are recovered through the substantial application fees imposed on GSO licensees. Because the Commission's oversight is very limited once the GSO space station is in orbit, they urge the Commission to re-examine the assessment of regulatory fees in this context to ensure that GSO licensees are not subsidizing other services.

44. The Commission incurs costs for satellite policy and rulemaking, enforcement and user information activities. As directed by Congress, these costs must be recovered through the collection of regulatory fees. In accordance with the provisions of Section 9, the Commission's overall goal is to recover all of the costs associated with satellite regulatory activities and to distribute these costs fairly amongst fee payers, taking into account factors reasonably related to the benefits provided by the payer, as well as "other factors we determine are necessary in the public interest."

vi. Non-Geostationary Orbit Space Stations ("NGSOs")

45. In our NOI,⁴³ we noted that Orbital Communications Corporation ("ORBCOMM") had submitted comments in our FY 1998 rulemaking proceeding, challenging the Commission's practice of requiring each NGSO licensee to pay regulatory fees upon commencement or certification of its first satellite's operation.⁴⁴ ORBCOMM contended that because all NGSOs licensees benefit from the Commission's policy, enforcement and information activities and services, they all should be required to pay regulatory fees, irrespective of whether they have launched their first satellite. Space Imaging L.P. (Space Imaging) suggests that the Commission should create a new regulatory fee category for small constellations of non-geostationary orbit

(NGSO) satellites. Further, Space Imaging recommends that the two categories be: (1) systems of up to five satellites and (2) systems of more than five satellites. Orbital Communications Corporation (ORBCOMM) argues that all NGSO systems authorized should pay regulatory fees regardless of whether or not there is at least one satellite launched and operational. L/Q Licensee, Inc. (LQL) and Globalstar LP (Globalstar) contend that a NGSO system is not operational until more than one satellite is capable of operating. LQL and Globalstar recommend that we delay requiring fee payment until the full constellation is completed, or that we establish a lower fee of 25% when only the first satellite becomes operational.

46. For the reasons stated above, we believe that the methodology for establishing the fee increase is reasonable. Regarding L/QL's and Globalstar's proposal to delay fee payments, we decline to adopt the proposal. We have previously dismissed the idea of waiting until the full constellation is completed because of the potentially lengthy time that it takes to construct the entire system.⁴⁵ The amount of revenue required for commercial viability will also vary from system to system, particularly since there is no standard time-frame to achieve commercial viability. Further, we are concerned that any attempt to establish a lower percentage fee will be fraught with endless discussion of what that percentage should be. The concept of establishing separate categories for small and large constellations may warrant consideration. However, further study is needed and more systems need to be operational before we can properly evaluate its appropriateness. For FY 1999, the fee payment criteria for NGSO systems will remain unchanged.

vii. Commercial Radio and Television

47. The National Association of Broadcasters (NAB) supports the Commission's use of allocating fees for AM and FM stations based on station class and population served by each station. According to NAB, it received fewer complaints in 1998 after the Commission revised its AM and FM station fee methodology. Although NAB acknowledges that the Commission's 1998 fee methodology is a noticeable improvement from 1997, NAB argues that stations located in suburban areas, but close to larger urban centers, are assessed a larger licensing fee simply

⁴⁰ See FY 1998 Report & Order at paragraphs 57–63.

⁴¹ See FY 1999 NOI at paragraph 10.

⁴² See FY 1999 NOI at paragraph 10.

⁴³ See FY 1999 NOI at paragraph 11.

⁴⁴ See FY 1998 Report & Order at paragraph 55.

⁴⁵ *Assessment and Collections of Regulatory Fees for Fiscal Year 1997*, 62 FR 37408 (July 11, 1997), at paragraph 75.

because they are located near larger advertising markets. For equitable reasons, NAB urges the Commission to entertain requests for partial fee waivers from stations that are located close to a larger listening audience.

48. Although NAB supports the Commission on its allocation of fees on an individual station basis, NAB disagrees with the Commission for increasing the broadcast industry's overall fees by 9.4 percent rather than by the 6% that Congress required the Commission to collect. NAB acknowledges that the increase is a congressional requirement, but feels that the 9.4% increase for the broadcast industry as a whole is far greater than what Congress required of the Commission, particularly since the number of payment units in the broadcast industry has increased from the previous year. Furthermore, NAB also argues that the Commission does not explain the basis of its costs in regulating the broadcast industry, except by showing that the number of FY 1999 estimated units were multiplied by the FY 1998 fee, and prorated among all existing fee categories. Hence, according to NAB, without these calculations, it is not easily apparent whether the cost of regulating the broadcast industry has actually increased or decreased, or whether the broadcast industry is bearing the costs of regulating other aspects of the communication industry. Finally, NAB also argues that the fruits of the Commission's streamlining efforts should be incorporated into the fee methodology, resulting in lower application and regulatory fees.

49. With respect to NAB's request that partial fee waivers be granted, the Commission's rules already provide for petitions for waivers. We will consider such requests on an individual basis and on the particular merits of the situation. Absent specific information to indicate whether a waiver is warranted, it would be inappropriate to guarantee results in favor of any group of broadcast licensees in general herein.

50. Although the overall regulatory fee increase is approximately 6%, factoring in costs for exempt entities, overhead, and changes due to increases or decreases in payment units could cause some shifting or cross-subsidization, which means that application of the required increase may not fall equally on every group of fee payers. Cost data from our cost accounting system was reviewed before making the decision not to apply the data across-the-board to all services as wholesale permitted amendments. The use of the cost data in implementing

this cost shifting proved too extreme and would have required significantly higher increases in several fee categories than the 9.4 percent that NAB questions. This occurs because the actual costs attributable to several other services would require fees that are as much as several thousand percent above what it would be reasonable and fair to charge. Also, a few services would have decreases in fees which would require adding more costs to other services in order to collect the amount that Congress requires us. Finally, as many other commenters, NAB argues that its industry is being streamlined or deregulated. Nearly all commenters have argued that deregulation has benefited one industry over another. However, ultimately, it does not change the fact that we must collect the full \$172.5 million proportionately from all payers.

viii. Fee Filing Software

51. The Walt Disney Company states that while the Commission prefers that payers of multiple fees file using FCC software, that software has been plagued with errors and released too near the payment deadline.

52. The Commission recognizes, and is striving to remedy, the problems associated with the software and the late release last year. We are planning to conduct beta testing and to release the "fee filer" user software in July 1999, well in advance of the filing deadline of mid-September. A Public Notice will be released including a detailed description of the software application. Anyone wishing to participate in the beta testing may contact Linwood Jenkins at (202) 418-1995.

53. Regulatees paying for more than 50 licenses may utilize the "fee filer" software, or complete the individual copies of the FCC Form 159 and 159C. The FCC Form 159 must be completed in its entirety. Improperly completing the FCC Form 159 and 159C will result in a delay in crediting your account. These are the only two acceptable methods of submission. The Commission will not accept any attachments listing call signs. Each call sign must be listed separately on the Form 159/159C in order to receive proper credit.

E. Procedures for Payment of Regulatory Fees

54. Generally, we will retain the procedures that we have established for the payment of regulatory fees. Section 9(f) requires that we permit "payment by installments in the case of fees in large amounts, and in the case of small amounts, shall require the payment of

the fee in advance for a number of years not to exceed the term of the license held by the payer." See 47 U.S.C. 159(f)(1). Consistent with section 9(f), we are again establishing three categories of fee payments, based upon the category of service for which the fee payment is due and the amount of the fee to be paid. The fee categories are (1) "standard" fees, (2) "large" fees, and (3) "small" fees.

i. Annual Payments of Standard Fees

55. As we have in the past, we are treating regulatory fee payments by certain licensees as "standard fees" which are those regulatory fees that are payable in full on an annual basis. Payers of standard fees are not required to make advance payments for their full license term and are not eligible for installment payments. All standard fees are payable in full on the date we establish for payment of fees in their respective regulatory fee category. The payment dates for each regulatory fee category will be announced either in this *Report and Order* terminating this proceeding or by public notice in the **Federal Register** pursuant to authority delegated to the Managing Director.

ii. Installment Payments for Large Fees

56. As we noted in the *NPRM*, time constraints will preclude an opportunity for installment payments. Due to statutory constraints concerning notification to Congress prior to actual collection of the fees, there will not be sufficient time for installment payments, and regulatees eligible to make installment payments will be required to pay these fees on the last date that fee payments may be submitted. The dates for a single payment will be announced either in this *Report and Order* terminating this proceeding or by public notice published in the **Federal Register** pursuant to authority delegated to the Managing Director.

iii. Advance Payments of Small Fees

57. As we have in the past, we are treating regulatory fee payments by certain licensees as "small" fees subject to advance payment consistent with the requirements of section 9(f)(2). Advance payments will be required from licensees of those services that we decided would be subject to advance payments in our FY 1994 *Report and Order*, and to those additional payers set forth herein.⁴⁶ Payers of advance fees

⁴⁶ Applicants for new, renewal and reinstatement licenses in the following services will be required to pay their regulatory fees in advance: Land Mobile Services, Microwave Services, Marine (Ship)

will submit the entire fee due for the full term of their licenses when filing their initial, renewal, or reinstatement application. Regulatees subject to a payment of small fees shall pay the amount due for the current fiscal year multiplied by the number of years in the term of their requested license. In the event that the required fee is adjusted following their payment of the fee, the payer would not be subject to the payment of a new fee until filing an application for renewal or reinstatement of the license. Thus, payment for the full license term must be made based upon the regulatory fee applicable at the time the application is filed. The effective date for payment of small fees established in this proceeding will be announced in this *Report and Order* terminating this proceeding or by public notice published in the **Federal Register** pursuant to authority delegated to the Managing Director.

iv. Minimum Fee Payment Liability

58. As we have in the past, we are establishing that regulatees whose total regulatory fee liability, including all categories of fees for which payment is due by an entity, amounts to less than \$10 will be exempted from fee payment in FY 1999.

v. Standard Fee Calculations and Payment Dates

59. As noted, the time for payment of standard fees and any installment payments will be announced in this *Report and Order* terminating this proceeding or will be published in the **Federal Register** pursuant to authority delegated to the Managing Director. For licensees, permittees and holders of other authorizations in the Common Carrier, Mass Media, and Cable Services, whose fees are not based on a subscriber, unit, or circuit count, fees must be paid for any authorization issued on or before October 1, 1998.⁴⁷

60. In the case of regulatees whose fees are based upon a subscriber, unit or

circuit count, the number of the regulatees' subscribers, units or circuits on *December 31, 1998*, will be used to calculate the fee payment.⁴⁸

vi. Improved Fee Collection Systems

61. The Commission is taking several steps to improve its fee collection program. Development of a new fee collections system is currently underway that will provide a single improved internal source of information for all of the Commission's financial transactions. In addition, we are establishing procedures that will require assignment of a unique identifier code to each entity doing business with the FCC to enable it to track payments and other transactions made by the entity, even when its name or ownership changes. These enhancements will assist the FCC in identifying all feeable entities and ensuring that proper payments are received and recorded accurately.

vii. Late or Insufficient Regulatory Fee Payment

62. As a reminder, in accordance with section 1.1164 of the Commission's Rules, regulatees will be subject to a 25 percent penalty for late or insufficient regulatory fee payment. All payments not received by the due date shall be assessed the penalty.

F. Schedule of Regulatory Fees

63. The Commission's Schedule of Regulatory Fees for FY 1999 is contained in Attachment D of this *Report and Order*.

IV. Procedural Matters

A. Ordering Clause

64. Accordingly, it is ordered that the rule changes specified herein are adopted. It is further ordered that the rule changes made herein will become effective 60 days from the date of publication in the **Federal Register**, except that changes to the Schedule of Regulatory Fees made pursuant to

section 9(b)(3) of the Communications Act, and incorporating regulatory fees for FY 1999, will become effective September 10, 1999, which is 90 days from the date of notification to Congress. A Final Regulatory Flexibility Analysis (FRFA) has been performed and is found in Attachment A, and it is ordered that the Office of Public Affairs send this to Small Business Administration. Finally, it is ordered that this proceeding is *Terminated*.

B. Authority and Further Information

65. This action is taken pursuant to sections 4(i) and (j), 9, and 303(r) of the Communications Act of 1934, as amended,⁴⁹ 47 U.S.C. 154(i) and (j), 9, and 303(r).

66. Further information about this proceeding may be obtained by contacting the Fees Hotline at (202) 418-0192.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Communications common carriers, Radio, Telecommunications, Television.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

Rule Changes

For the reasons discussed in the preamble, part 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 303(r).

2. Sec. 1.1152 is revised to read as follows:

§ 1.1152 Schedule of annual regulatory fees and filing locations for wireless radio services.

Exclusive use services (per license)	Fee amount ¹	Address
1. Land Mobile (Above 470 MHz, Base Station and SMRS) (47 CFR, Part 90). (a) 800 MHz, New, Renewal, Reinstatement (FCC 600)	\$13.00	FCC, 800 MHz, P.O. Box 358130, Pittsburgh, PA 15251-5130.

Service, Marine (Coast) Service, Private Land Mobile (Other) Services, Aviation (Aircraft) Service, Aviation (Ground) Service, 218-219 MHz Service (previously IVDS), and General Mobile Radio Service (GMRS).

⁴⁷ Where a license or authorization is transferred or assigned after October 1, 1998, the fee shall be

paid by the licensee or holder of the authorization on the date that the payment is due.

⁴⁸ Cable system operators are to compute their subscribers as follows: Number of single family dwellings + number of individual households in multiple dwelling unit (apartments, condominiums, mobile home parks, etc.) paying at the basic subscriber rate + bulk rate customers + courtesy and

free service. Note: BulkRate Customers = Total annual bulk-rate charge divided by basic annual subscription rate for individual households. Cable system operators may base their count on "a typical day in the last full week" of December 1998, rather than on a count as of December 31, 1998.

⁴⁹ 47 U.S.C. 154(i)-(j), 159, & 303(r).

Exclusive use services (per license)	Fee amount ¹	Address
(b) 900 MHz, New, Renewal, Reinstatement (FCC 600)	13.00	FCC, 900 MHz, P.O. Box 358130, Pittsburgh, PA 15251-5130.
(c) 470-512,800,900, 220 MHz, 220 MHz Nationwide Renewal (FCC 574R, FCC 405A).	13.00	FCC, 470-512, P.O. Box 358245, Pittsburgh, PA 15251-5245.
(d) Correspondence Blanket Renewal (470-512,800,900,220 MHz) (Remittance Advice, Correspondence).	13.00	FCC, Corres., P.O. Box 358130, Pittsburgh, PA 15251-5130.
(e) 220 MHz, New, Renewal, Reinstatement (FCC 600)	13.00	FCC, 220 MHz, P.O. Box 358130, Pittsburgh, PA 15251-5130.
(f) 470-512 MHz New, Renewal, Reinstatement (FCC 600).	13.00	FCC, 470-512 P.O. Box 358130, Pittsburgh, PA 15251-5130.
(g) 220 MHz Nationwide, New, Renewal, Reinstatement (FCC 600).	13.00	FCC, Nationwide, P.O. Box 358130, Pittsburgh, PA 15251-5130.
2. Microwave (47 CFR Pt. 101):		
(a) Microwave, New, Renewal, Reinstatement (FCC 415)	13.00	FCC, Microwave, P.O. Box 358130, Pittsburgh, PA 15251-5130.
(b) Microwave, Renewal (FCC 402R)	13.00	FCC, Microwave, P.O. Box 358255, Pittsburgh, PA 15251-5255.
(c) Correspondence,s Blanket Renewal (Microwave) (Remittance Advice, Correspondence).	13.00	FCC, Corres., P.O. Box 358130, Pittsburgh, PA 15251-5130.
3. 218-219 MHz Service:		
(a) New, Renewal (FCC 574 or FCC 600)	13.00	FCC, 218-219 MHz Service, P.O. Box 358130, Pittsburgh, PA 15251-5130.
4. Shared Use Services:		
(a) Land Transportation (LT), New, Renewal, Reinstatement (FCC 600).	7.00	FCC, Land Trans., P.O. Box 358130, Pittsburgh, PA 15251-5130.
(b) Business (Bus.) New, Renewal, Reinstatement (FCC 600).	7.00	FCC, Business, P.O. Box 358130, Pittsburgh, PA 15251-5130.
(c) Other Industrial (OI), New, Renewal, Reinstatement (FCC 600).	7.00	FCC, Other Indus., P.O. Box 358130, Pittsburgh, PA 15251-5130.
(d) General Mobile Radio Service (GMRS), New, Renewal, Modifications (RM) (FCC 605).	7.00	FCC, GMRS P.O. Box 358130, Pittsburgh, PA 15251-5130.
(e) Business, Other Industrial, Land Transportation, Renewal (FCC 574R, FCC 405A).	7.00	FCC, Bus., OI, LT, P.O. Box 358245, Pittsburgh, PA 15251-5245.
(f) GMRS Renewal (RO) (FCC 605)	7.00	FCC,GMRS, P.O. Box 358245, Pittsburgh, PA 15251-5245.
(g) Ground, New, Renewal, Reinstatement (FCC 406)	7.00	FCC, Ground, P.O. Box 358130, Pittsburgh, PA 15251-5130.
(h) Coast, New, Renewal, Reinstatement (FCC 503)	7.00	FCC, Coast, P.O. Box 358130, Pittsburgh, PA 15251-5130.
(i) Ground, Renewal (FCC 452R)	7.00	FCC, Ground, P.O. Box 358270, Pittsburgh, PA 15251-5270.
(j) Coast, Renewal (FCC 452R)	7.00	FCC, Coast, P.O. Box 358270, Pittsburgh, PA 15251-5270.
(k) Ship, New, Renewal, Reinstatement (FCC 506)	7.00	FCC, Ship, P.O. Box 358130, Pittsburgh, PA 15251-5130.
(l) Aircraft, New, Renewal,Modification (RM), Reinstatement (FCC 605).	7.00	FCC, Aircraft, P.O. Box 358130 Pittsburgh, PA 15251-5130.
(m) Ship, Renewal (FCC 405B)	7.00	FCC, Ship, P.O. Box 358290, Pittsburgh, PA 15251-5290.
(n) Aircraft, Renewal (RO) (FCC 605)	7.00	FCC, Aircraft, P.O. Box 358245, Pittsburgh, PA 15251-5245.
(o) Correspondence, Blanket Renewal (Bus.,OI,LT) (Remittance Advice, Correspondence).	7.00	FCC, Corres. P.O. Box 358130, Pittsburgh, PA 15251-5130.
(p) Correspondence, Blanket Renewal (Ground) (Remittance Advice, Correspondence).	7.00	FCC, Corres., P.O. Box 358130, Pittsburgh, PA 15251-5130.
(q) Correspondence, Blanket Renewal (Coast) (Remittance Advice, Correspondence).	7.00	FCC, Corres., P.O. Box 358130, Pittsburgh, PA 15251-5130.
(r) Correspondence, Blanket Renewal (Ship) (Remittance Advice, Correspondence).	7.00	FCC, Corres., P.O. Box 358130, Pittsburgh, PA 15251-5130.
5. Amateur Vanity Call Signs	1.40	FCC, Amateur Vanity, P.O. Box 358924, Pittsburgh, PA 15251-5924.
6. CMRS Mobile Services, (per unit)	.32	FCC, Cellular, P.O. Box 358835, Pittsburgh, PA 15251-5835.
7. CMRS Messaging Services (per unit)	.04	FCC, Messaging, P.O. Box 358835, Pittsburgh, PA 15251-5835.

¹ Note that *small fees* are collected in advance for the entire license term. Therefore, the annual fee amount shown in this table must be multiplied by the 5-or 10-year license term, as appropriate, to arrive at the total amount of regulatory fees owed. It should be further noted that application fees may also apply as detailed in Section 1.1102 of this chapter.

3. Sec. 1.1153 is revised to read as follows:

§ 1.1153 Schedule of annual regulatory fees and filing locations for mass media services.

	Fee amount	Address
I. Radio [AM and FM] (47 CFR, Part 73)		
1. AM Class A:		
<=20,000 population	\$430	FCC, Radio, P.O. Box 358835, Pittsburgh, PA, 15251-5835.
20,001-50,000 population	825	
50,001-125,000 population	1,350	
125,001-400,000 population	2,000	
400,001-1,000,000 population	2,750	

	Fee amount	Address
>1,000,000 population	4,400	
2. AM Class B:		
<=20,000 population	325	
20,001–50,000 population	650	
50,001–125,000 population	875	
125,001–400,000 population	1,400	
400,001–1,000,000 population	2,250	
>1,000,000 population	3,600	
3. AM Class C:		
<=20,000 population	225	
20,001–50,000 population	325	
50,001–125,000 population	450	
125,001–400,000 population	675	
400,001–1,000,000 population	1,250	
>1,000,000 population	1,750	
4. AM Class D:		
<=20,000 population	275	
20,001–50,000 population	450	
50,001–125,000 population	675	
125,001–400,000 population	825	
400,001–1,000,000 population	1,500	
>1,000,000 population	2,250	
5. AM Construction Permit	260	
6. FM Classes A, B1 and C3:		
<=20,000 population	325	
20,001–50,000 population	650	
50,001–125,000 population	875	
125,001–400,000 population	1,400	
400,001–1,000,000 population	2,250	
>1,000,000 population	3,600	
7. FM Classes B, C, C1 and C2:		
<=20,000 population	430	
20,001–50,000 population	825	
50,001–125,000 population	1,350	
125,001–400,000 population	2,000	
400,001–1,000,000 population	2,750	
>1,000,000 population	4,400	
8. FM Construction Permits	780	
II. TV (47 CFR, Part 73) VHF Commercial:		
1. Markets 1 thru 10	41,225	FCC, TV Branch, P.O. Box 358835, Pittsburgh, PA, 15251–5835.
2. Markets 11 thru 25	34,325	
3. Markets 26 thru 50	23,475	
4. Markets 51 thru 100	13,150	
5. Remaining Markets	3,400	
6. Construction Permits	2,775	
III. TV (47 CFR, Part 73) UHF Commercial:		
1. Markets 1 thru 10	15,550	FCC, UHF Commercial, P.O. Box 358835, Pittsburgh, PA, 15251–5835.
2. Markets 11 thru 25	11,775	
3. Markets 26 thru 50	7,300	
4. Markets 51 thru 100	4,350	
5. Remaining Markets	1,175	
6. Construction Permits	2,900	
IV. TV (47 CFR, Part 73) Satellite UHF/VHF Commercial:		
1. All Markets	1,300	FCC Satellite TV, P.O. Box 358835 Pittsburgh, PA 15251–5835.
2. Construction Permits	460	
V. Low Power TV, TV/FM Translator, & TV/FM Booster (47 CFR, Part 74).	290	FCC, Low Power, P.O. Box 358835, Pittsburgh, PA 15251–5835.
VI. Broadcast Auxiliary	12	FCC, Auxiliary, P.O. Box 358835, Pittsburgh, PA 15251–5835.
VII. Multipoint Distribution	285	FCC, Multipoint, P.O. Box 358835, Pittsburgh, PA 15251–5835.

4. Sec. 1.1154 is revised to read as follows:

§ 1.1154 Schedule of annual regulatory charges and filing locations for common carrier services.

	Fee amount	Address
I. Radio Facilities:		
1. Microwave (Domestic Public Fixed)	\$13	FCC, Common Carrier, P.O. Box 358130, Pittsburgh, PA 15251–5130.
II. Carriers:		

	Fee amount	Address
1. Interstate Telephone Service Providers (per dollar contributed to TRS Fund).	.00121	FCC, Carriers, P.O. Box 358835, Pittsburgh, PA.

5. Sec. 1.1155 is revised to read as follows:

§ 1.1155 Schedule of regulatory fees and filing locations for cable television services.

	Fee amount	Address
1. Cable Antenna Relay Service	\$55	FCC, Cable, P.O. Box 358835, Pittsburgh, PA 15251-5835
2. Cable TV System (per subscriber)	.48	

6. Section 1.1156 is revised to read as follows:

§ 1.1156 Schedule of regulatory fees and filing locations for international services.

	Fee amount	Address
I. Radio Facilities:		
1. International (HF) Broadcast	\$520	FCC, International, P.O. Box 358835, Pittsburgh, PA 15251-5835.
2. International Public Fixed	410	FCC, International, P.O. Box 358835 Pittsburgh, PA 15251-5835.
II. Space Stations (Geostationary Orbit)	130,550	FCC, Space Stations, P.O. Box 358835, Pittsburgh, PA 15251-5835.
III. Space Stations (Non-Geostationary Orbit)	180,800	FCC, Space Stations, P.O. Box 358835, Pittsburgh, PA 15251-5835.
IV. Earth Stations Transmit/Receive and Transmit Only (per authorization or registration).	180	FCC, Earth Station, P.O. Box 358835, Pittsburgh, PA 15251-5835.
V. Carriers:		
1. International Bearer Circuits (per active 64KB circuit or equivalent).	7.00	FCC, International, P.O. Box 358835, Pittsburgh, PA 15251-5835.

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

Attachment A—Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (RFA),⁵⁰⁻⁵¹ an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking, In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 1999*, 64 FR 16661 (Apr. 6, 1999). The Commission sought written public comments on the proposals in its FY 1999 regulatory fees NPRM, including on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA, as amended (see 5 U.S.C. 604).

I. Need for, and Objectives of, the Rules

2. This rulemaking proceeding was initiated in order to collect regulatory fees in the amount of \$172,523,000, the amount that Congress has required the Commission to recover through the collection of regulatory fees in FY 1999. The Commission seeks to collect the necessary amount through its revised regulatory fees, as contained in the attached Schedule of Regulatory Fees, in the most efficient manner possible and without undue burden on the public.

II. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

3. None.

III. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

4. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.⁵² The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."⁵³ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.⁵⁴ A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).⁵⁵ A small organization is generally "any not-

for-profit enterprise which is independently owned and operated and is not dominant in its field."⁵⁶ Nationwide, as of 1992, there were approximately 275,801 small organizations.⁵⁷ "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000."⁵⁸ As of 1992, there were approximately 85,006 such jurisdictions in the United States.⁵⁹ This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000.⁶⁰ The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities. Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by the rules, herein adopted.

Cable Services for Systems

5. The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating \$11 million or less in

⁵² 5 U.S.C. 603(b)(3).

⁵³ *Id.* 601(6).

⁵⁴ 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**." 5 U.S.C. 601(3).

⁵⁵ Small Business Act, 15 U.S.C. 632 (1996).

⁵⁶ 5 U.S.C. 601(4).

⁵⁷ 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

⁵⁸ 5 U.S.C. 601(5).

⁵⁹ U.S. Dept. of Commerce, Bureau of the Census, "1992 Census of Governments."

⁶⁰ *Id.*

⁵⁰⁻⁵¹ 5 U.S.C. 603. The RFA, 5 U.S.C. 601 *et seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

revenue annually.⁶¹ This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau data from 1992, there were 1,788 total cable and other pay television services and 1,423 had less than \$11 million in revenue.⁶²

6. The Commission has developed its own definition of a small cable system operator for purposes of rate regulation. Under the Commission's rules, a "small cable company" is one serving fewer than 400,000 subscribers nationwide.⁶³ Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable system operators at the end of 1995.⁶⁴ Since then, some of those companies may have grown, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators.

7. The Communications Act also contains a definition of a small cable system operator, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000."⁶⁵ The Commission has determined that there are 64,000,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 617,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed \$250 million in the aggregate.⁶⁶ Based on available data, we find that the number of cable operators serving 617,000 subscribers or less totals 1,450.⁶⁷ We do not request nor do we collect information concerning whether cable system operators are affiliated with entities whose gross annual revenues exceed \$250,000,000,⁶⁸ and thus are unable at this time to estimate with greater precision the

number of cable system operators that would qualify as small cable operators under the definition in the Communications Act. It should be further noted that recent industry estimates project that there will be a total 64,000,000 subscribers, and we have based our fee revenue estimates on that figure.

8. Other Pay Services. Other pay television services are also classified under Standard Industrial Classification (SIC) 4841, which includes cable systems operators, closed circuit television services, direct broadcast satellite services (DBS),⁶⁹ multipoint distribution systems (MDS),⁷⁰ satellite master antenna systems (SMATV), and subscription television services.

Common Carrier Services and Related Entities

9. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the number of commercial wireless entities, appears to be data the Commission publishes in its *Trends in Telephone Service* report.⁷¹ According to data in the most recent report, there are 3,528 interstate carriers.⁷² These carriers include, *inter alia*, local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

10. The SBA has defined establishments engaged in providing "Radiotelephone Communications" and "Telephone Communications, Except Radiotelephone" to be small businesses when they have no more than 1,500 employees.⁷³ Below, we discuss the total estimated number of telephone companies falling within the two categories and the number of small businesses in each, and we then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

11. Although some affected incumbent local exchange carriers (ILECs) may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not independently owned and operated, and therefore by definition not "small entities" or "small business concerns" under the RFA. Accordingly, our use of the terms "small entities" and "small businesses" does not encompass small ILECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately

consider small ILECs within this analysis and use the term "small ILECs" to refer to any ILECs that arguably might be defined by the SBA as "small business concerns."⁷⁴

12. Total Number of Telephone Companies Affected. The U.S. Bureau of the Census ("Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.⁷⁵ This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, covered specialized mobile radio providers, and resellers. It seems certain that some of these 3,497 telephone service firms may not qualify as small entities or small ILECs because they are not "independently owned and operated."⁷⁶ For example, a reseller that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It is reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small ILECs that may be affected by the rules, herein adopted.

13. Wireline Carriers and Service Providers. The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992.⁷⁷ According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons.⁷⁸ All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small ILECs. We do not have data specifying the number of these carriers that are not independently owned and operated, and thus are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 2,295 small telephone communications companies other than radiotelephone companies are small entities

⁶¹ 13 CFR 121.201, SIC code 4841.

⁶² 1992 *Economic Census Industry and Enterprise Receipts Size Report*, Table 2D, SIC code 4841 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

⁶³ 47 CFR 76.901(e). The Commission developed this definition based on its determination that a small cable system operator is one with annual revenues of \$100 million or less. *Implementation of Sections of the 1992 Cable Act: Rate Regulation, Sixth Report and Order and Eleventh Order on Reconsideration*, 10 FCC Rcd 7393 (1995), 60 FR 10534 (Feb. 27, 1995).

⁶⁴ Paul Kagan Associates, Inc., *Cable TV Investor*, Feb. 29, 1996 (based on figures for Dec. 30, 1995).

⁶⁵ 47 U.S.C. 543(m)(2).

⁶⁶ *Id.* 76.1403(b).

⁶⁷ Paul Kagan Associates, Inc., *Cable TV Investor*, Feb. 29, 1996 (based on figures for Dec. 30, 1995).

⁶⁸ We do receive such information on a case-by-case basis only if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to section 76.1403(b) of the Commission's rules. See 47 CFR 76.1403(d).

⁶⁹ Direct Broadcast Services (DBS) are discussed with the international services, *infra*.

⁷⁰ Multipoint Distribution Services (MDS) are discussed with the mass media services, *infra*.

⁷¹ FCC, Common Carrier Bureau, Industry Analysis Division, *Trends in Telephone Service*, Table 19.3 (February 19, 1999).

⁷² *Id.*

⁷³ 13 CFR 121.201, Standard Industrial Classification (SIC) codes 4812 and 4813. See also Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual* (1987).

⁷⁴ 13 CFR 121.201, SIC code 4813. Since the time of the Commission's 1996 decision, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order*, 11 FCC Rcd 15499, 16144-45 (1996), 61 FR 45476 (Aug. 29, 1996), the Commission has consistently addressed in its regulatory flexibility analyses the impact of its rules on such ILECs.

⁷⁵ U.S. Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1-123 (1995) (1992 Census).

⁷⁶ See generally 15 U.S.C. 632(a)(1).

⁷⁷ 1992 Census, *supra*, at Firm Size 1-123.

⁷⁸ 13 CFR 121.201, SIC code 4813.

or small ILECs that may be affected by the rules, herein adopted.

14. Local Exchange Carriers. Neither the Commission nor the SBA has developed a definition for small providers of local exchange services (LECs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.⁷⁹ According to the most recent *Telecommunications Industry Revenue* data, 1,410 carriers reported that they were engaged in the provision of local exchange services.⁸⁰ We do not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,410 providers of local exchange service are small entities or small ILECs that may be affected by the rules, herein adopted.

15. Interexchange Carriers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.⁸¹ According to the most recent *Trends in Telephone Service* data, 151 carriers reported that they were engaged in the provision of interexchange services.⁸² We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 151 small entity IXCs that may be affected by the rules, herein adopted.

16. Competitive Access Providers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is for telephone communications companies other than except radiotelephone (wireless) companies.⁸³ According to the most recent *Trends in Telephone Service* data, 147 carriers reported that they were engaged in the provision of competitive local exchange services.⁸⁴ We do not have data specifying the number of these carriers that are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of CAPs that would

qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 147 small entity CAPs that may be affected by the rules, herein adopted.

17. Operator Service Providers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to providers of operator services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.⁸⁵ According to the most recent *Trends in Telephone Service* data, 32 carriers reported that they were engaged in the provision of operator services.⁸⁶ We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of operator service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 32 small entity operator service providers that may be affected by the rules, herein adopted.

18. Pay Telephone Operators. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to pay telephone operators. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.⁸⁷ According to the most recent *Trends in Telephone Service* data, 509 carriers reported that they were engaged in the provision of pay telephone services.⁸⁸ We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of pay telephone operators that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 509 small entity pay telephone operators that may be affected by the rules, herein adopted.

19. Resellers (including debit card providers). Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable SBA definition for a reseller is a telephone communications company other than radiotelephone (wireless) companies.⁸⁹ According to the most recent *Trends in Telephone Service* data, 358 reported that they were engaged in the resale of telephone service.⁹⁰ We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number

of resellers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 358 small entity resellers that may be affected by the rules, herein adopted.

20. 800 and 800-Like Service Subscribers.⁹¹ Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to 800 and 800-like service ("toll free") subscribers. The most reliable source of information regarding the number of these service subscribers appears to be data the Commission collects on the 800, 888, and 877 numbers in use.⁹² According to our most recent data, at the end of January 1999, the number of 800 numbers assigned was 7,692,955; the number of 888 numbers that had been assigned was 7,706,393; and the number of 877 numbers assigned was 1,946,538. We do not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll free subscribers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 7,692,955 small entity 800 subscribers, fewer than 7,706,393 small entity 888 subscribers, and fewer than 1,946,538 small entity 877 subscribers may be affected by the rules, herein adopted.

International Services

21. The Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC).⁹³ This definition provides that a small entity is expressed as one with \$11.0 million or less in annual receipts.⁹⁴ According to the Census Bureau, there were a total of 848 communications services providers, NEC, in operation in 1992, and a total of 775 had annual receipts of less than \$9.999 million.⁹⁵ The Census report does not provide more precise data.

22. International Broadcast Stations. Commission records show that there are 20 international broadcast station licensees. We do not request nor collect annual revenue information, and thus are unable to estimate the number of international broadcast licensees that would constitute a small business under the SBA definition. However, the Commission estimates that only six international broadcast stations are subject to regulatory fee payments.

⁷⁹ *Id.*

⁸⁰ *Trends in Telephone Service*, Table 19.3 (February 19, 1999).

⁸¹ 13 CFR 121.201, SIC code 4813.

⁸² *Trends in Telephone Service*, Table 19.3 (February 19, 1999).

⁸³ 13 CFR 121.201, SIC code 4813.

⁸⁴ *Trends in Telephone Service*, Table 19.3 (February 19, 1999).

⁸⁵ 13 CFR 121.201, SIC code 4813.

⁸⁶ *Trends in Telephone Service*, Table 19.3 (February 19, 1999).

⁸⁷ 13 CFR 121.201, SIC code 4813.

⁸⁸ *Trends in Telephone Service*, Table 19.3 (February 19, 1999).

⁸⁹ 13 CFR 121.201, SIC code 4813.

⁹⁰ *Trends in Telephone Service*, Table 19.3 (February 19, 1999).

⁹¹ We include all toll-free number subscribers in this category, including 888 numbers.

⁹² FCC, CCB Industry Analysis Division, *FCC Releases, Study on Telephone Trends*, Tbls. 21.2, 21.3 and 21.4 (February 19, 1999).

⁹³ An exception is the Direct Broadcast Satellite (DBS) Service, *infra*.

⁹⁴ 13 CFR 120.121, SIC code 4899.

⁹⁵ 1992 Economic Census Industry and Enterprise Receipts Size Report, Table 2D, SIC code 4899 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

23. International Public Fixed Radio (Public and Control Stations). There are 3 licensees in this service subject to payment of regulatory fees. We do not request nor collect annual revenue information, and thus are unable to estimate the number of international broadcast licensees that would constitute a small business under the SBA definition.

24. Fixed Satellite Transmit/Receive Earth Stations. Based on actual payments from FY 1998, there are approximately 3,100 earth station authorizations, a portion of which are Fixed Satellite Transmit/Receive Earth Stations. We do not request nor collect annual revenue information, and thus are unable to estimate the number of the earth stations that would constitute a small business under the SBA definition.

25. Fixed Satellite Small Transmit/Receive Earth Stations. There are 3,100 earth station authorizations, a portion of which are Fixed Satellite Small Transmit/Receive Earth Stations. We do not request nor collect annual revenue information, and thus are unable to estimate the number of fixed satellite transmit/receive earth stations that would constitute a small business under the SBA definition.

26. Fixed Satellite Very Small Aperture Terminal (VSAT) Systems. These stations operate on a primary basis, and frequency coordination with terrestrial microwave systems is not required. Thus, a single "blanket" application may be filed for a specified number of small antennas and one or more hub stations. The Commission has processed 377 applications. We do not request nor collect annual revenue information, and thus are unable to estimate the number of VSAT systems that would constitute a small business under the SBA definition.

27. Mobile Satellite Earth Stations. There are 11 licensees. We do not request nor collect annual revenue information, and thus are unable to estimate the number of mobile satellite earth stations that would constitute a small business under the SBA definition.

28. Radio Determination Satellite Earth Stations. There are four licensees. We do not request nor collect annual revenue information, and thus are unable to estimate the number of radio determination satellite earth stations that would constitute a small business under the SBA definition.

29. Space Stations (Geostationary). Commission records reveal that there are 43 Geostationary Space Station licensees. We do not request nor collect annual revenue information, and thus are unable to estimate the number of geostationary space stations that would constitute a small business under the SBA definition.

30. Space Stations (Non-Geostationary). There are 12 Non-Geostationary Space Station licensees, of which only two systems are operational. We do not request nor collect annual revenue information, and thus are unable to estimate the number of non-geostationary space stations that would constitute a small business under the SBA definition.

31. Direct Broadcast Satellites. Because DBS provides subscription services, DBS falls within the SBA-recognized definition of

"Cable and Other Pay Television Services."⁹⁶ This definition provides that a small entity is one with \$11.0 million or less in annual receipts.⁹⁷ As of December 1996, there were eight DBS licensees. However, the Commission does not collect annual revenue data for DBS and, therefore, is unable to ascertain the number of small DBS licensees that would be impacted by these proposed rules. Although DBS service requires a great investment of capital for operation, there are several new entrants in this field that may not yet have generated \$11 million in annual receipts, and therefore may be categorized as small businesses, if independently owned and operated.

Mass Media Services

32. Commercial Radio and Television Services. The proposed rules and policies will apply to television broadcasting licensees and radio broadcasting licensees.⁹⁸ The SBA defines a television broadcasting station that has \$10.5 million or less in annual receipts as a small business.⁹⁹ Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services.¹⁰⁰ Included in this industry are commercial, religious, educational, and other television stations.¹⁰¹ Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials.¹⁰² Separate establishments

⁹⁶ 13 CFR 120.121, SIC code 4841.

⁹⁷ 13 CFR 121.201, SIC code 4841.

⁹⁸ While we tentatively believe that the SBA's definition of "small business" greatly overstates the number of radio and television broadcast stations that are small businesses and is not suitable for purposes of determining the impact of the proposals on small television and radio stations, for purposes of this *Notice* we utilize the SBA's definition in determining the number of small businesses to which the proposed rules would apply. We reserve the right to adopt, in the future, a more suitable definition of "small business" as applied to radio and television broadcast stations or other entities subject to the proposed rules in this *Notice*, and to consider further the issue of the number of small entities that are radio and television broadcasters or other small media entities. See *Report and Order in MM Docket No. 93-48 (Children's Television Programming)*, 11 FCC Rcd 10660, 10737-38 (1996), 61 FR 43981 (Aug. 27, 1996), citing 5 U.S.C. 601(3).

⁹⁹ 13 CFR 121.201, SIC code 4833.

¹⁰⁰ Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *1992 Census of Transportation, Communications and Utilities, Establishment and Firm Size, Series UC92-S-1, Appendix A-9* (1995) (*1992 Census, Series UC92-S-1*).

¹⁰¹ *Id.*; see Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual* (1987), at 283, which describes "Television Broadcasting Stations" (SIC code 4833) as:

Establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational and other television stations. Also included here are establishments primarily engaged in television broadcasting and which produce taped television program materials.

¹⁰² *1992 Census, Series UC92-S-1*, at Appendix A-9.

primarily engaged in producing taped television program materials are classified under another SIC number.¹⁰³ There were 1,509 television stations operating in the nation in 1992.¹⁰⁴ That number has remained fairly constant as indicated by the approximately 1,564 operating television broadcasting stations in the nation as of December 31, 1997.¹⁰⁵ For 1992,¹⁰⁶ the number of television stations that produced less than \$10.0 million in revenue was 1,155 establishments.¹⁰⁷ Only commercial stations are subject to regulatory fees.

33. Additionally, the Small Business Administration defines a radio broadcasting station that has \$5 million or less in annual receipts as a small business.¹⁰⁸ A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public.¹⁰⁹ Included in this industry are commercial, religious, educational, and other radio stations.¹¹⁰ Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included.¹¹¹ However, radio stations which are separate establishments and are primarily engaged in producing radio program material are classified under another SIC number.¹¹² The 1992 Census indicates that 96 percent (5,861 of 6,127) radio station establishments produced less than \$5 million in revenue in 1992.¹¹³ Official Commission records indicate that 11,334 individual radio stations were operating in 1992.¹¹⁴ As of December 31, 1997, Commission records indicate that 12,270 radio stations were operating, of which 7,465 were FM stations.¹¹⁵ Only commercial stations are subject to regulatory fees.

34. Thus, the rules may affect approximately 1,558 full power television stations, approximately 1,200 of which are considered small businesses.¹¹⁶ Additionally,

¹⁰³ *Id.*, SIC code 7812 (Motion Picture and Video Tape Production); SIC code 7922 (Theatrical Producers and Miscellaneous Theatrical Services) (producers of live radio and television programs).

¹⁰⁴ FCC News Release No. 31327 (Jan. 13, 1993); *1992 Census, Series UC92-S-1*, at Appendix A-9.

¹⁰⁵ FCC News Release, "Broadcast Station Totals as of Dec. 31, 1997."

¹⁰⁶ A census to determine the estimated number of Communications establishments is performed every five years, in years ending with a "2" or "7." See *1992 Census, Series UC92-S-1*, at III.

¹⁰⁷ The amount of \$10 million was used to estimate the number of small business establishments because the relevant Census categories stopped at \$9,999,999 and began at \$10,000,000. No category for \$10.5 million existed. Thus, the number is as accurate as it is possible to calculate with the available information.

¹⁰⁸ 13 CFR 121.201, SIC code 4832.

¹⁰⁹ *1992 Census, Series UC92-S-1*, at Appendix A-9.

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ The Census Bureau counts radio stations located at the same facility as one establishment. Therefore, each co-located AM/FM combination counts as one establishment.

¹¹⁴ FCC News Release, No. 31327 (Jan. 13, 1993).

¹¹⁵ FCC News Release, "Broadcast Station Totals as of December 31, 1997."

¹¹⁶ We use the 77 percent figure of TV stations operating at less than \$10 million for 1992 and

the proposed rules will affect some 12,156 full power radio stations, approximately 11,670 of which are small businesses.¹¹⁷ These estimates may overstate the number of small entities because the revenue figures on which they are based do not include or aggregate revenues from non-television or non-radio affiliated companies. There are also 1,952 low power television stations (LPTV).¹¹⁸ Given the nature of this service, we will presume that all LPTV licensees qualify as small entities under the SBA definition.

Alternative Classification of Small Stations

35. An alternative way to classify small radio and television stations is by number of employees. The Commission currently applies a standard based on the number of employees in administering its Equal Employment Opportunity Rule (EEO) for broadcasting.¹¹⁹ Thus, radio or television stations with fewer than five full-time employees are exempted from certain EEO reporting and record keeping requirements.¹²⁰ We estimate that the total number of broadcast stations with 4 or fewer employees is approximately 4,239.¹²¹

apply it to the 1997 total of 1558 TV stations to arrive at 1,200 stations categorized as small businesses.

¹¹⁷ We use the 96% figure of radio station establishments with less than \$5 million revenue from the Census data and apply it to the 12,088 individual station count to arrive at 11,605 individual stations as small businesses.

¹¹⁸ FCC News Release, No. 7033 (Mar. 6, 1997).

¹¹⁹ The Commission's definition of a small broadcast station for purposes of applying its EEO rules was adopted prior to the requirement of approval by the SBA pursuant to section 3(a) of the Small Business Act, 15 U.S.C. 632(a), as amended by section 222 of the Small Business Credit and Business Opportunity Enhancement Act of 1992, Pub. L. 102-366, 222(b)(1), 106 Stat. 999 (1992), as further amended by the Small Business Administration Reauthorization and Amendments Act of 1994, Pub. L. 103-403, 301, 108 Stat. 4187 (1994). However, this definition was adopted after public notice and the opportunity for comment. See *Report and Order in Docket No. 18244*, 23 FCC 2d 430 (1970), 35 FR 8925 (Jun. 6, 1970).

¹²⁰ See, e.g., 47 CFR 73.3612 (Requirement to file annual employment reports on Form 395 applies to licensees with five or more full-time employees); *First Report and Order in Docket No. 21474* (Amendment of Broadcast Equal Employment Opportunity Rules and FCC Form 395), 70 FCC 2d 1466 (1979), 50 FR 50329 (Dec. 10, 1985). The Commission is currently considering how to decrease the administrative burdens imposed by the EEO rule on small stations while maintaining the effectiveness of our broadcast EEO enforcement. *Order and Notice of Proposed Rule Making in MM Docket No. 96-16* (Streamlining Broadcast EEO Rule and Policies, Vacating the EEO Forfeiture Policy Statement and Amending Section 1.80 of the Commission's Rules to Include EEO Forfeiture Guidelines), 11 FCC Rcd 5154 (1996), 61 FR 9964 (Mar. 12, 1996). One option under consideration is whether to define a small station for purposes of affording such relief as one with ten or fewer full-time employees.

¹²¹ Compilation of 1994 Broadcast Station Annual Employment Reports (FCC Form B), Equal Opportunity Employment Branch, Mass Media Bureau, FCC.

Auxiliary, Special Broadcast and Other Program Distribution Services

36. This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). The Commission has not developed a definition of small entities applicable to broadcast auxiliary licensees. Therefore, the applicable definitions of small entities are those, noted previously, under the SBA rules applicable to radio broadcasting stations and television broadcasting stations.¹²²

37. There are currently 2,720 FM translators and boosters, and 4,952 TV translators.¹²³ The FCC does not collect financial information on any broadcast facility, and the Department of Commerce does not collect financial information on these auxiliary broadcast facilities. We believe, however, that most, if not all, of these auxiliary facilities could be classified as small businesses by themselves. We also recognize that most translators and boosters are owned by a parent station which, in some cases, would be covered by the revenue definition of small business entity discussed above. These stations would likely have annual revenues that exceed the SBA maximum to be designated as a small business (either \$5 million for a radio station or \$10.5 million for a TV station). Furthermore, they do not meet the Small Business Act's definition of a "small business concern" because they are not independently owned and operated.¹²⁴

38. Multipoint Distribution Service (MDS). This service involves a variety of transmitters, which are used to relay programming to the home or office, similar to that provided by cable television systems.¹²⁵ In connection with the 1996 MDS auction, the Commission defined small businesses as entities that had annual average gross revenues for the three preceding years not in excess of \$40 million.¹²⁶ This definition of a small entity in the context of MDS auctions has been approved by the SBA.¹²⁷ These stations were licensed prior to implementation of Section 309(j) of the Communications Act of 1934, as amended.¹²⁸ Licenses for new MDS facilities are now awarded to auction winners in Basic Trading Areas (BTAs) and BTA-like areas.¹²⁹ The

¹²² 13 CFR 121.201, SIC code 4832.

¹²³ FCC News Release, *Broadcast Station Totals as of December 31, 1996*, No. 71831 (Jan. 21, 1997).

¹²⁴ 15 U.S.C. 632.

¹²⁵ For purposes of this item, MDS includes both the single channel Multipoint Distribution Service (MDS) and the Multichannel Multipoint Distribution Service (MMDS).

¹²⁶ 47 CFR 1.2110 (a)(1).

¹²⁷ *Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act—Competitive Bidding*, 10 FCC Rcd 9589 (1995), 60 FR 36524 (Jul. 17, 1995).

¹²⁸ 47 U.S.C. 309(j).

¹²⁹ *Id.* A Basic Trading Area (BTA) is the geographic area by which the Multipoint Distribution Service is licensed. See Rand McNally

MDS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 BTAs. Of the 67 auction winners, 61 meet the definition of a small business. There are 1,573 previously authorized and proposed MDS stations currently licensed. Thus, we conclude that there are 1,634 MDS providers that are small businesses as deemed by the SBA and the Commission's auction rules. It is estimated, however, that only 1,650 MDS licensees are subject to regulatory fees, and the number which are small businesses is unknown.

Wireless and Commercial Mobile Services

39. Cellular Licensees. Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons.¹³⁰ According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.¹³¹ Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. In addition, according to the most recent *Telecommunications Industry Revenue* data, 732 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services, which are placed together in the data.¹³² We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 732 small cellular service carriers that may be affected by the rules, herein adopted.

40. 220 MHz Radio Service—Phase I Licensees. The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone Communications companies. This definition provides that a small entity

1992 *Commercial Atlas and Marketing Guide*, 123rd Edition, pp. 36-39.

¹³⁰ 13 CFR 121.201, SIC code 4812.

¹³¹ 1992 *Census, Series UC92-S-1*, at Table 5, SIC code 4812.

¹³² *Trends in Telephone Service*, Table 19.3 (February 19, 1999).

is a radiotelephone company employing no more than 1,500 persons.¹³³ According to the Bureau of the Census, only 12 radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.¹³⁴ Therefore, if this general ratio continues in 1999 in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

41. 220 MHz Radio Service—Phase II Licensees. The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the 220 MHz *Third Report and Order*, we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.¹³⁵ We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years.¹³⁶ The SBA has approved these definitions.¹³⁷ An auction of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998.¹³⁸ Nine hundred and eight (908) licenses were auctioned in 3 different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Companies claiming small business status won: one of the Nationwide licenses, 67% of the Regional licenses, and 54% of the EA licenses. As of January 22, 1999, the Commission announced that it was prepared to grant 654 of the Phase II licenses won at auction.¹³⁹ A re-auction of the remaining, unsold licenses is likely to take place during calendar year 1999.

42. Private and Common Carrier Paging. The Commission has proposed a two-tier definition of small businesses in the context of auctioning licenses in the Common Carrier Paging and exclusive Private Carrier Paging services. Under the proposal, a small business will be defined as either (1) An entity that, together with its affiliates and controlling principals, has average gross

revenues for the three preceding years of not more than \$3 million, or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than \$15 million. Because the SBA has not yet approved this definition for paging services, we will utilize the SBA's definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons.¹⁴⁰ At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Telecommunications Industry Revenue* data, 137 carriers reported that they were engaged in the provision of either paging or "other mobile" services, which are placed together in the data.¹⁴¹ We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 137 small paging carriers that may be affected by the proposed rules, if adopted. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

43. Mobile Service Carriers. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to mobile service carriers, such as paging companies. As noted above in the section concerning paging service carriers, the closest applicable definition under the SBA rules is that for radiotelephone (wireless) companies,¹⁴² and the most recent *Telecommunications Industry Revenue* data shows that 23 carriers reported that they were engaged in the provision of SMR dispatching and "other mobile" services.¹⁴³ Consequently, we estimate that there are fewer than 23 small mobile service carriers that may be affected by the rules, herein adopted.

44. Broadband Personal Communications Service (PCS). The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of less than \$40 million in the three previous calendar years.¹⁴⁴ For Block F, an additional classification for "very small business" was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar

years.¹⁴⁵ These regulations defining "small entity" in the context of broadband PCS auctions have been approved by the SBA.¹⁴⁶ No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F.¹⁴⁷ Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small entity PCS providers as defined by the SBA and the Commission's auction rules.

45. Narrowband PCS. The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded by auction. Such auctions have not yet been scheduled, however. Given that nearly all radiotelephone companies have no more than 1,500 employees and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, we assume, for purposes of this IRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

46. Rural Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service.¹⁴⁸ A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS).¹⁴⁹ We will use the SBA's definition applicable to radiotelephone companies, i.e., an entity employing no more than 1,500 persons.¹⁵⁰ There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

47. Air-Ground Radiotelephone Service. The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service.¹⁵¹ Accordingly, we

¹³³ 13 CFR 121.201, Standard Industrial Classification (SIC) code 4812.

¹³⁴ U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC 92-S-1, Subject Series, Establishment and Firm Size, Table 5, Employment Size of Firms; 1992, SIC code 4812 (issued May 1995).

¹³⁵ 220 MHz Third Report and Order, 12 FCC Rcd 10943, 11068-70, at paras. 291-295 (1997).

¹³⁶ 220 MHz Third Report and Order, 12 FCC Rcd at 11068-69, para. 291.

¹³⁷ See Letter from A. Alvarez, Administrator, SBA, to D. Phytion, Chief, Wireless Telecommunications Bureau, FCC (Jan. 6, 1998).

¹³⁸ See generally Public Notice, "220 MHz Service Auction Closes," Report No. WT 98-36 (Wireless Telecom. Bur. Oct. 23, 1998).

¹³⁹ Public Notice, "FCC Announces It is Prepared to Grant 654 Phase II 220 MHz Licenses After Final Payment is Made," Report No. AUC-18-H, DA No. 99-229 (Wireless Telecom. Bur. Jan. 22, 1999).

¹⁴⁰ 13 CFR 121.201, SIC code 4812.

¹⁴¹ *Trends in Telephone Service*, Table 19.3 (February 19, 1999).

¹⁴² 13 CFR 121.201, SIC code 4812.

¹⁴³ *Trends in Telephone Service*, Table 19.3 (February 19, 1999).

¹⁴⁴ See *Amendment of Parts 20 and 24 of the Commission's Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, Report and Order*, FCC 96-278, WT Docket No. 96-59, paras. 57-60 (released Jun. 24, 1996), 61 FR 33859 (Jul. 1, 1996); see also 47 CFR 24.720(b).

¹⁴⁵ See *Amendment of Parts 20 and 24 of the Commission's Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, Report and Order*, FCC 96-278, WT Docket No. 96-59, para. 60 (1996), 61 FR 33859 (Jul. 1, 1996).

¹⁴⁶ See, e.g., Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93-253, *Fifth Report and Order*, 9 FCC Rcd 5532, 5581-84 (1994).

¹⁴⁷ FCC News, *Broadband PCS, D, E and F Block Auction Closes*, No. 71744 (released Jan. 14, 1997).

¹⁴⁸ The service is defined in 47 CFR 22.99.

¹⁴⁹ BETRS is defined in 47 CFR 22.757 and 22.759.

¹⁵⁰ 13 CFR 121.201, SIC code 4812.

¹⁵¹ The service is defined in 47 CFR 22.99.

will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons.¹⁵² There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA definition.

48. Specialized Mobile Radio (SMR). The Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to firms that had revenues of no more than \$15 million in each of the three previous calendar years.¹⁵³ In the context of 900 MHz SMR, this regulation defining "small entity" has been approved by the SBA; approval concerning 800 MHz SMR is being sought.

49. The proposed fees in the NPRM apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than \$15 million. One firm has over \$15 million in revenues. We assume, for purposes of this IRFA, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA.

50. For geographic area licenses in the 900 MHz SMR band, there are 60 who qualified as small entities. For the 800 MHz SMR's, 38 are small or very small entities.

51. Private Land Mobile Radio (PLMR). PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories. The Commission has not developed a definition of small entity specifically applicable to PLMR licensees due to the vast array of PLMR users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area.

52. The Commission is unable at this time to estimate the number of small businesses which could be impacted by the rules. However, the Commission's 1994 Annual Report on PLMRs¹⁵⁴ indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Because any entity engaged in a commercial activity is eligible to hold a PLMR license, the proposed rules in this context could potentially impact every small business in the United States.

53. Amateur Radio Service. We estimate that 6,800 applicants will apply for vanity call signs in FY 1999. All are presumed to be individuals. All other amateur licensees are exempt from payment of regulatory fees.

54. Aviation and Marine Radio Service. Small businesses in the aviation and marine

radio services use a marine very high frequency (VHF) radio, any type of emergency position indicating radio beacon (EPIRB) and/or radar, a VHF aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. Therefore, the applicable definition of small entity is the definition under the SBA rules for radiotelephone communications.¹⁵⁵

55. Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. Therefore, for purposes of our evaluations and conclusions in this IRFA, we estimate that there may be at least 712,000 potential licensees which are individuals or are small entities, as that term is defined by the SBA. We estimate, however, that only 11,600 will be subject to FY 1999 regulatory fees.

56. Fixed Microwave Services. Microwave services include common carrier,¹⁵⁶ private-operational fixed,¹⁵⁷ and broadcast auxiliary radio services.¹⁵⁸ At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this IRFA, we will utilize the SBA's definition applicable to radiotelephone companies—*i.e.*, an entity with no more than 1,500 persons.¹⁵⁹ We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

57. Public Safety Radio Services. Public Safety radio services include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services.¹⁶⁰ There are a total of

approximately 127,540 licensees within these services. Governmental entities as well as private businesses comprise the licensees for these services. As indicated *supra* in paragraph four of this IRFA, all governmental entities with populations of less than 50,000 fall within the definition of a small entity.¹⁶¹ All licensees in this category are exempt from the payment of regulatory fees.

58. Personal Radio Services. Personal radio services provide short-range, low power radio for personal communications, radio signalling, and business communications not provided for in other services. The services include the citizen's band (CB) radio service, general mobile radio service (GMRS), radio control radio service, and family radio service (FRS).¹⁶² Inasmuch as the CB, GMRS, and FRS licensees are individuals, no small business definition applies for these services. We are unable at this time to estimate the number of other licensees that would qualify as small under the SBA's definition; however, only GMRS licensees are subject to regulatory fees.

59. Offshore Radiotelephone Service. This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico.¹⁶³ At present, there are approximately 55 licensees in this service. We are unable at this time to estimate the number of licensees that would qualify as small under the SBA's definition for radiotelephone communications.

enforcement through telephony (voice), telegraphy (code) and teletype and facsimile (printed material). The fire radio service includes 22,677 licensees comprised of private volunteer or professional fire companies as well as units under governmental control. The local government service that is presently comprised of 40,512 licensees that are state, county, or municipal entities that use the radio for official purposes not covered by other public safety services. There are 7,325 licensees within the forestry service which is comprised of licensees from state departments of conservation and private forest organizations who set up communications networks among fire lookout towers and ground crews. The 9,480 state and local governments are licensed to highway maintenance service provide emergency and routine communications to aid other public safety services to keep main roads safe for vehicular traffic. The 1,460 licensees in the Emergency Medical Radio Service (EMRS) use the 39 channels allocated to this service for emergency medical service communications related to the delivery of emergency medical treatment. 47 CFR 90.15–90.27. The 19,478 licensees in the special emergency service include medical services, rescue organizations, veterinarians, handicapped persons, disaster relief organizations, school buses, beach patrols, establishments in isolated areas, communications standby facilities, and emergency repair of public communications facilities. 47 CFR 90.33–90.55.

¹⁶¹ 5 U.S.C. 601(5).

¹⁶² Licensees in the Citizens Band (CB) Radio Service, General Mobile Radio Service (GMRS), Radio Control (R/C) Radio Service and Family Radio Service (FRS) are governed by Subpart D, Subpart A, Subpart C, and Subpart B, respectively, of part 95 of the Commission's Rules. 47 CFR 95.401–95.428; 95.1–95.181; 95.201–95.225; 47 CFR 95.191–95.194.

¹⁶³ This service is governed by subpart I of part 22 of the Commission's Rules. See 47 CFR 22.1001–22.1037.

¹⁵² 13 CFR 121.201, SIC code 4812.

¹⁵³ 47 CFR 90.814(b)(1).

¹⁵⁴ Federal Communications Commission, 60th Annual Report, Fiscal Year 1994, at 116.

¹⁵⁵ 13 CFR 121.201, SIC code 4812.

¹⁵⁶ 47 CFR 101 *et seq.* (formerly, part 21 of the Commission's Rules).

¹⁵⁷ Persons eligible under parts 80 and 90 of the Commission's rules can use Private Operational-Fixed Microwave services. See 47 CFR parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

¹⁵⁸ Auxiliary Microwave Service is governed by part 74 of Title 47 of the Commission's Rules. See 47 CFR 74 *et seq.* Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile TV pickups, which relay signals from a remote location back to the studio.

¹⁵⁹ 13 CFR 121.201, SIC 4812.

¹⁶⁰ With the exception of the special emergency service, these services are governed by Subpart B of part 90 of the Commission's Rules, 47 CFR 90.15–90.27. The police service includes 26,608 licensees that serve state, county, and municipal

60. Wireless Communications Services. This service can be used for fixed, mobile, radiolocation and digital audio broadcasting satellite uses. The Commission defined "small business" for the wireless communications services (WCS) auction as an entity with average gross revenues of \$40 million for each of the three preceding years, and a "very small business" as an entity with average gross revenues of \$15 million for each of the three preceding years. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees affected includes these eight entities.

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

61. With certain exceptions, the Commission's Schedule of Regulatory Fees applies to all Commission licensees and regulatees. Most licensees will be required to count the number of licenses or call signs authorized, complete and submit an FCC Form 159 ("FCC Remittance Advice"), and pay a regulatory fee based on the number of licenses or call signs.¹⁶⁴ Interstate telephone service providers must compute their annual regulatory fee based on their adjusted gross interstate revenue using information they already supply to the Commission in compliance with the Telecommunications Relay Service (TRS) Fund, and they must complete and submit the FCC Form 159. Compliance with the fee schedule will require some licensees to tabulate the number of units (e.g., cellular telephones, pagers, cable TV subscribers) they have in service, and complete and submit an FCC Form 159. Licensees ordinarily will keep a list of the number of units they have in

service as part of their normal business practices. No additional outside professional skills are required to complete the FCC Form 159, and it can be completed by the employees responsible for an entity's business records.

62. Each licensee must submit the FCC Form 159 to the Commission's lockbox bank after computing the number of units subject to the fee. As an option, licensees are permitted to file electronically or on computer diskette to minimize the burden of submitting multiple copies of the FCC Form 159. This latter, optional procedure may require additional technical skills. Applicants who pay small fees in advance supply fee information as part of their application or by attaching FCC Form 159, where applicable.

63. Licensees and regulatees are advised that failure to submit the required regulatory fee in a timely manner will subject the licensee or regulatee to a late payment fee of 25 percent in addition to the required fee.¹⁶⁵ Until payment is received, no new or pending applications will be processed, and existing authorizations may be subject to rescission.¹⁶⁶ Further, in accordance with the Debt Collection Improvement Act of 1996, federal agencies may bar a person or entity from obtaining a federal loan or loan insurance guarantee if that person or entity fails to pay a delinquent debt owed to any federal agency.¹⁶⁷ Thus, debts owed to the Commission may result in a person or entity being denied a federal loan or loan guarantee pending before another federal agency until such obligations are paid.¹⁶⁸

64. The Commission's rules currently provide for relief in exceptional circumstances. Persons or entities that believe they have been placed in the wrong regulatory fee category or are experiencing extraordinary and compelling financial hardship, upon a showing that such circumstances override the public interest in reimbursing the Commission for its regulatory costs, may request a waiver, reduction or deferment of payment of the regulatory fee.¹⁶⁹ However, timely submission of the required regulatory fee must accompany requests for waivers or reductions. This will avoid any late payment penalty if the request is denied. The fee will be refunded if the request is granted. In exceptional and compelling instances (where payment of the regulatory fee along with the waiver or reduction request could result in reduction of service to a community or other financial hardship to the licensee), the Commission will accept a petition to defer payment along with a waiver or reduction request.

V. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

65. *The Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY 1999*, Public Law 105-277 requires the

Commission to revise its Schedule of Regulatory Fees in order to recover the amount of regulatory fees that Congress, pursuant to Section 9(a) of the Communications Act, as amended, has required the Commission to collect for Fiscal Year (FY) 1999.¹⁷⁰ We have sought comment on the proposed methodology for implementing these statutory requirements and any other potential impact of these proposals on small business entities.

66. With the use of actual cost accounting data for computation of regulatory fees, we found that some fees which were very small in previous years would have increased dramatically. The methodology we are adopting in this *Report and Order* minimizes this impact by limiting the amount of increase and shifting costs to other services which, for the most part, are larger entities.

67. Several categories of licensees and regulatees are exempt from payment of regulatory fees. See, e.g., footnote 164, *supra*, and Attachment F of the *Report and Order*, *infra*.

Report to Small Business Administration: The Commission will send a copy of this *Report and Order*, including a copy of the Final Regulatory Flexibility Analysis (FRFA), to the Chief Counsel for Advocacy of the Small Business Administration.

Report to Congress: The Commission shall include a copy of this Final Regulatory Flexibility Analysis, along with the *Report and Order*, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of this FRFA and *Report and Order* (or summaries thereof) will also be published in the **Federal Register**.

Attachment B—Sources of Payment Unit Estimates for FY 1999

In order to calculate individual service fees for FY 1999, we adjusted FY 1998 payment units for each service to more accurately reflect expected FY 1999 payment liabilities. We obtained our updated estimates through a variety of means. For example, we used Commission licensee data bases, actual prior year payment records and industry and trade association projections when available. We tried to obtain verification for these estimates from multiple sources and, in all cases, we compared FY 1999 estimates with actual FY 1998 payment units to ensure that our revised estimates were reasonable. Where it made sense, we adjusted and/or rounded our final estimates to take into consideration the fact that certain variables that impact on the number of payment units cannot yet be estimated exactly. These include an unknown number of waivers and/or exemptions that may occur in FY 1999 and the fact that, in many services, the number of actual licensees or station operators fluctuates from time to time due to economic, technical or other reasons. Therefore, when we note, for example, that our estimated FY 1999 payment units are based on FY 1998 actual payment units, it does not necessarily mean that our FY 1999 projection is *exactly* the same number as FY 1998. It means that we have either rounded the FY 1999 number

¹⁶⁴ The following categories are exempt from the Commission's Schedule of Regulatory Fees: Amateur radio licensees (except applicants for vanity call signs) and operators in other non-licensed services (e.g., Personal Radio, part 15, ship and aircraft). Governments and non-profit (exempt under section 501(c) of the Internal Revenue Code) entities are exempt from payment of regulatory fees and need not submit payment. Non-commercial educational broadcast licensees are exempt from regulatory fees as are licensees of auxiliary broadcast services such as low power auxiliary stations, television auxiliary service stations, remote pickup stations and aural broadcast auxiliary stations where such licenses are used in conjunction with commonly owned non-commercial educational stations. Emergency Alert System licenses for auxiliary service facilities are also exempt as are instructional television fixed service licensees. Regulatory fees are automatically waived for the licensee of any translator station that: (1) is not licensed to, in whole or in part, and does not have common ownership with, the licensee of a commercial broadcast station; (2) does not derive income from advertising; and (3) is dependent on subscriptions or contributions from members of the community served for support. Receive only earth station permittees are exempt from payment of regulatory fees. A regulatee will be relieved of its fee payment requirement if its total fee due, including all categories of fees for which payment is due by the entity, amounts to less than \$10.

¹⁶⁵ 47 U.S.C. 1.1164(a).

¹⁶⁶ 47 U.S.C. 1.1164(c).

¹⁶⁷ Pub. L. 104-134, 110 Stat. 1321 (1996).

¹⁶⁸ 31 U.S.C. 7701(c)(2)(B).

¹⁶⁹ 47 U.S.C. 1.1166.

¹⁷⁰ 47 U.S.C. 159(a).

or adjusted it slightly to account for these variables.

Fee category	Sources of payment unit estimates
Land Mobile (All), Microwave, IVDS (now 218–219 MHz Serv.) ¹⁷¹ , Marine (Ship & Coast), Aviation (Aircraft & Ground), GMRS, Amateur Vanity Call Signs, Domestic Public Fixed.	Based on Wireless Telecommunications Bureau (WTB) projections of new applications and renewals taking into consideration existing Commission licensee data bases. Aviation (Aircraft) and Marine (Ship) estimates have been adjusted to take into consideration the licensing of portions of these services on a voluntary basis.
CMRS Mobile Services	Based on actual FY 1998 payment units adjusted to take into consideration industry estimates of growth between FY 1998 and FY 1999 and Wireless Telecommunications Bureau projections of new applications and average number of mobile units associated with each application.
CMRS Messaging Services	Based on industry estimates of the number of units in operation.
AM/FM Radio Stations	Based on actual FY 1998 payment units.
UHF/VHF Television Stations	Based on actual FY 1998 payment units.
AM/FM/TV Construction Permits	Based on actual FY 1998 payment units.
LPTV, Translators and Boosters	Based on actual FY 1998 payment units.
Auxiliaries	Based on actual FY 1998 payment units.
MDS/MMDS	Based on actual FY 1998 payment units.
Cable Antenna Relay Service (CARS)	Based on actual FY 1998 payment units.
Cable Television System Subscribers	Based on Cable Services Bureau and industry estimates of subscribership.
Interstate Telephone Service Providers	Based on actual FY 1998 interstate revenues associated with contributions to the Telecommunications Relay System (TRS) Fund, adjusted to take into consideration FY 1999 revenue growth in this industry as estimated by the Common Carrier Bureau.
Earth Stations	Based on actual FY 1998 payment units.
Space Stations (GSOs & NGSOs)	Based on International Bureau licensee data bases.
International Bearer Circuits	Based on International Bureau estimate.
International HF Broadcast Stations, International Public Fixed Radio Service.	Based on actual FY 1998 payment units.

¹⁷¹ After the *NPRM* was issued in this proceeding, the Wireless Telecommunications Bureau's staff advised that they anticipate receiving 513 renewal applications for IVDS in FY 1999. Therefore, there will be a regulatory fee in the 218–219 MHz Service (previously IVDS) category for FY 1999.

CALCULATION OF REVENUE REQUIREMENTS AND PRO-RATA FEES

Fee Category	FY 1999 Payment Units	(times) FY 1998 Fee	(times) Payment Years	(equals) Computed FY 1999 Revenue Requirement	Pro-Rated Revenue Requireme nt*	Rounded New FY 1999 Regulatory Fee	Expected FY 1999 Revenue
LM (220 MHz, >470 MHz-Base, SMRS)	5,800	12	5	348,000	381,799	13	377,000
Private Microwave	5,375	12	10	645,000	707,645	13	698,750
Domestic Public Fixed/Comc'l Microwave	1,000	12	10	120,000	131,655	13	130,000
218-219 MHz Service	513	(12 assumed)	5	30,780	33,769	13	33,345
Marine (Ship)	7,100	6	10	426,000	467,375	7	497,000
GMRS/Other LM	68,700	6	5	2,061,000	2,261,172	7	2,404,500
Aviation (Aircraft)	4,500	6	10	270,000	296,223	7	315,000
Marine (Coast)	1,400	6	5	42,000	46,079	7	49,000
Aviation (Ground)	1,600	6	5	48,000	52,662	7	56,000
Amateur Vanity Call Signs	6,800	6	10	88,400	96,986	1.43	96,732
AM/FM Radio	8,905	1,370	1	12,195,735	13,380,229	1,500	13,381,900
AM Construction Permits	75	235	1	17,625	19,337	260	19,500
FM Construction Permits	300	1,150	1	345,000	378,508	1,250	375,000
Satellite TV	109	1,175	1	128,075	140,514	1,300	141,700
Satellite TV Construction Permit	6	420	1	2,520	2,765	460	2,760
VHF Markets 1-10	42	37,575	1	1,578,150	1,731,426	41,225	1,731,450
VHF Markets 11-25	60	31,275	1	1,876,500	2,058,752	34,325	2,059,500
VHF Markets 26-50	70	21,400	1	1,498,000	1,643,491	23,475	1,643,250
VHF Markets 51-100	119	11,975	1	1,425,025	1,563,429	13,150	1,564,850
VHF Remaining Markets	205	3,100	1	635,500	697,222	3,400	697,000
VHF Construction Permits	15	2,525	1	37,875	41,554	2,775	41,625
UHF Markets 1-10	68	14,175	1	963,900	1,057,517	15,550	1,057,400
UHF Markets 11-25	67	10,725	1	718,575	788,366	11,775	788,925
UHF Markets 26-50	100	6,650	1	665,000	729,587	7,300	730,000
UHF Markets 51-100	150	3,975	1	596,250	654,160	4,350	652,500
UHF Remaining Markets	180	1,075	1	193,500	212,293	1,175	211,500
UHF Construction Permits	60	2,650	1	159,000	174,443	2,900	174,000
Auxiliaries	22,000	11	1	242,000	265,504	12	264,000
International HF Broadcast	5	475	1	2,375	2,606	520	2,600
LPTV/Translators/Boosters	2,020	265	1	535,300	587,290	290	585,800
CARS	1,687	50	1	84,350	92,542	55	92,785
Cable Systems	64,000,000	0.44	1	28,160,000	30,895,000	0.48	30,895,000
Interstate Telephone Service Providers	67,732,300,000	0.0011	1	74,505,530	81,741,773	0.00121	81,741,773
CMRS Mobile Services	55,540,000	0.29	1	16,106,600	17,670,931	0.32	17,670,931
CMRS Messaging Services	34,500,000	0.04	1	1,380,000	1,514,031	0.04	1,514,031
MDS/MMDS	1,650	260	1	429,000	470,666	285	470,250
International Circuits	465,000	6	1	2,790,000	3,060,975	7	3,255,000
International Public Fixed	3	375	1	1,125	1,234	410	1,230
Earth Stations	3,100	165	1	511,500	561,179	180	558,000
Space Stations (Geostationary)	42.5	119,000	1	5,057,500	5,548,702	130,550	5,548,375
Space Stations (Non-geostationary)	2	164,800	1	329,600	361,612	180,800	361,600
***** Total Estimated Revenue Collected				157,250,290	172,523,000		172,894,779
***** Total Revenue Requirement				172,523,000	172,523,000		172,523,000
Difference				(15,272,710)	0		371,779

* 1.097123573 factor applied

Fee Category	FY 1999 Payment Units	(times) FY 1998 Fee	(times) Payment Years	(equals) Computed FY 1999 Revenue Requirement	Pro-Rated Revenue Requirement*	Rounded New FY 1999 Regulatory Fee	Expected FY 1999 Revenue
UHF Markets 26-50	100	6,650	1	665,000	729,587	7,300	730,000
UHF Markets 51-100	150	3,975	1	596,250	654,160	4,350	652,500
UHF Remaining Markets	180	1,075	1	193,500	212,293	1,175	211,500
UHF Construction Permits	60	2,650	1	159,000	174,443	2,900	174,000
Auxiliaries	22,000	11	1	242,000	265,504	12	264,000
International HF Broadcast	5	475	1	2,375	2,606	520	2,600
LPTV/Translators/Boosters	2,020	265	1	535,300	587,290	290	585,800
CARS	1,687	50	1	84,350	92,542	55	92,785
Cable Systems	64,000,000	0.44	1	28,160,000	30,895,000	0.48	30,895,000
Interstate Telephone Service Providers	67,732,300,000	0.0011	1	74,505,530	81,741,773	0.00121	81,741,773
CMRS Mobile Services	55,540,000	0.29	1	16,106,600	17,670,931	0.32	17,670,931
CMRS Messaging Services	34,500,000	0.04	1	1,380,000	1,514,031	0.04	1,514,031
MDS/MMDS	1,650	260	1	429,000	470,666	285	470,250
International Circuits	465,000	6	1	2,790,000	3,060,975	7	3,255,000
International Public Fixed	3	375	1	1,125	1,234	410	1,230
Earth Stations	3,100	165	1	511,500	561,179	180	558,000
Space Stations (Geostationary)	42.5	119,000	1	5,057,500	5,548,702	130,550	5,548,375
Space Stations (Non-geostationary)	2	164,800	1	329,600	361,612	180,800	361,600
***** Total Estimated Revenue Collected				157,250,290	172,523,000		172,894,779
***** Total Revenue Requirement				172,523,000	172,523,000		172,523,000
Difference				(15,272,710)	0		371,779

* 1.097123573 factor applied

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**Attachment D—FY 1999 Schedule of
Regulatory Fees**

Fee category	Annual regulatory fee (U.S. \$'s)
PMRS (per license) (Formerly Land Mobile—Exclusive Use at 220–222 MHz, above 470 MHz, Base Station and SMRS) (47 CFR part 90)	13
Microwave (per license) (47 CFR part 101)	13
218–219 MHz Service (per license) (47 CFR part 95)	13
Marine (Ship) (per station) (47 CFR part 80)	7
Marine (Coast) (per license) (47 CFR part 80)	7
General Mobile Radio Service (per license) (47 CFR part 95)	7
Land Mobile (per license) (all stations not covered by PMRS and CMRS)	7
Aviation (Aircraft) (per station) (47 CFR part 87)	7
Aviation (Ground) (per license) (47 CFR part 87)	7
Amateur Vanity Call Signs (per call sign) (47 CFR part 97)	1.40
CMRS Mobile Services (per unit) (47 CFR parts 20, 22, 24, 80 and 90)	.32
CMRS Messaging Services (per unit) (47 CFR parts 20, 22 and 90)	.04
Multipoint Distribution Services (per call sign) (47 CFR part 21)	285
AM Radio Construction Permits	260
FM Radio Construction Permits	780
TV (47 CFR part 73) VHF Commercial:	
Markets 1–10	41,225
Markets 11–25	34,325
Markets 26–50	23,475
Markets 51–100	13,150
Remaining Markets	3,400
Construction Permits	2,775
TV (47 CFR part 73) UHF Commercial:	
Markets 1–10	15,550
Markets 11–25	11,775
Markets 26–50	7,300
Markets 51–100	4,350
Remaining Markets	1,175
Construction Permits	2,900
Satellite Television Stations (All Markets)	1,300
Construction Permits—Satellite Television Stations	460
Low Power TV, TV/FM Translators & Boosters (47 CFR part 74)	290
Broadcast Auxiliary (47 CFR part 74)	12
Cable Antenna Relay Service (47 CFR part 78)	55
Cable Television Systems (per subscriber) (47 CFR part 76)	.48
Interstate Telephone Service Providers (per revenue dollar)	121
Earth Stations (47 CFR part 25)	180
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes Direct Broadcast Satellite Service (per operational station) (47 CFR part 100)	130,550
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	180,800
International Bearer Circuits (per active 64KB circuit)	7
International Public Fixed (per call sign) (47 CFR part 23)	410
International (HF) Broadcast (47 CFR part 73)	520

RADIO STATION REGULATORY FEES

Population served	AM class A	AM class B	AM class C	AM class D	FM classes A, B1 & C3	FM classes B, C, C1 & C2
<=20,000	430	325	225	275	325	430
20,001–50,000	825	650	325	450	650	825
50,001–125,000	1,350	875	450	675	875	1,350
125,001–400,000	2,000	1,400	675	825	1,400	2,000
400,001–1,000,000	2,750	2,250	1,250	1,500	2,250	2,750
>1,000,000	4,400	3,600	1,750	2,250	3,600	4,400

**Attachment E—Comparison Between FY
1998, FY 1999 Proposed and FY 1999 Final
Regulatory Fees**

Fee category	Annual regulatory fee FY 1998	NPRM proposed fee FY 1999	Annual regulatory fee FY 1999
PMRS (per license) (Formerly Land Mobile—Exclusive Use at 220–222 Mhz, above 470 Mhz, Base Station and SMRS) (47 CFR part 90)	12	13	13

Fee category	Annual regulatory fee FY 1998	NPRM proposed fee FY 1999	Annual regulatory fee FY 1999
Microwave (per license) (47 CFR part 101)	12	13	13
218–219 MHz Service (per license) (47 CFR part 95)	(1)	(1)	13
Marine (Ship) (per station) (47 CFR part 80)	6	7	7
Marine (Coast) (per license) (47 CFR part 80)	6	7	7
General Mobile Radio Service (per license) (47 CFR part 95)	6	7	7
Land Mobile (per license) (all stations not covered by PMRS and CMRS) ..	6	7	7
Aviation (Aircraft) (per station) (47 CFR part 87)	6	7	7
Aviation (Ground) (per license) (47 CFR part 87)	6	7	7
Amateur Vanity Call Signs (per call sign) (47 CFR part 97)	1.30	1.42	1.40
CMRS Mobile Services (per unit) (47 CFR parts 20, 22, 24, 80 and 90)	.29	.32	.32
CMRS Messaging Services [formerly One Way Paging] (per unit) (47 CFR parts 20, 22, and 90)	.04	.04	.04
Multipoint Distribution Services (per call sign) (47 CFR part 21)	260	285	285
AM Construction Permits	235	255	260
FM Construction Permits	1,150	1,250	780
TV (47 CFR part 73) VHF Commercial:			
Markets 1–10	37,575	41,125	41,225
Markets 11–25	31,275	34,225	34,325
Markets 26–50	21,400	23,425	23,475
Markets 51–100	11,975	13,100	13,150
Remaining Markets	3,100	3,400	3,400
Construction Permits	2,525	2,775	2,775
TV (47 CFR part 73) UHF Commercial:			
Markets 1–10	14,175	15,500	15,550
Markets 11–25	10,725	11,725	11,775
Markets 26–50	6,650	7,275	7,300
Markets 51–100	3,975	4,350	4,350
Remaining Markets	1,075	1,175	1,175
Construction Permits	2,650	2,900	2,900
Satellite Television Stations (All Markets)	1,175	1,275	1,300
Construction Permits—Satellite Television Stations	420	460	460
Low Power TV, TV/FM Translators & Boosters (47 CFR part 74)	265	290	290
Broadcast Auxiliary (47 CFR part 74)	11	12	12
Cable Antenna Relay Service (47 CFR part 78)	50	55	55
Earth Stations (47 CFR part 25)	165	180	180
Cable Television Systems (per subscriber) (47 CFR part 76)	.44	.48	.48
Interstate Telephone Service Providers (per revenue dollar)	.0011	.0012	.00121
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes Direct Broadcast Satellite Service (per operational station) (47 CFR part 100)	119,000	130,225	130,550
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	164,800	180,325	180,800
International Bearer Circuits (per active 64KB circuit)	6	7	7
International Public Fixed (per call sign) (47 CFR part 23)	375	410	410
International (HF) Broadcast (47 CFR part 73)	475	520	520

¹ No fee.

Population served	AM class A	AM class B	AM class C	AM class D	FM classes A, B1 & C3	FM classes B, C, C1 & C2
<=20,000	400	300	200	250	300	400
20,001–50,000	750	600	300	400	600	750
50,001–125,000	1,250	800	400	600	800	1,250
125,001–400,000	1,750	1,250	600	750	1,250	1,750
400,001–1,000,000	2,500	2,000	1,000	1,250	2,000	2,500
>1,000,000	4,000	3,250	1,500	2,000	3,250	4,000

FY 1999 RADIO STATION REGULATORY FEES

Population served	AM class A	AM class B	AM class C	AM class D	FM classes A, B1 & C3	FM classes B, C, C1 & C2
<=20,000	430	325	225	275	325	430
20,001–50,000	825	650	325	450	650	825
50,001–125,000	1,350	875	450	675	875, 1,350	
125,001–400,000	2,000	1,400	675	825	1,400	2,000
400,001–1,000,000	2,750	2,250	1,250	1,500	2,250	2,750
>1,000,000	4,400	3,600	1,750	2,250	3,600	4,400

Attachment F—Detailed Guidance on Who Must Pay Regulatory Fees

1. The guidelines below provide an explanation of regulatory fee categories established by the Schedule of Regulatory Fees in section 9 (g) of the Communications Act,¹⁷² as modified in the instant *Report and Order*. Where regulatory fee categories need interpretation or clarification, we have relied on the legislative history of section 9, and our own experience in establishing and regulating the Schedule of Regulatory Fees for Fiscal Years (FY) 1994, 1995, 1996, 1997, and 1998 and the services subject to the fee schedule. The categories and amounts set out in the schedule have been modified to reflect changes in the number of payment units, additions and changes in the services subject to the fee requirement and the benefits derived from the Commission's regulatory activities, and to simplify the structure of the schedule. The schedule may be similarly modified or adjusted in future years to reflect changes in the Commission's budget and in the services regulated by the Commission.¹⁷³

2. *Exemptions.* Governments and nonprofit entities are exempt from paying regulatory fees and should not submit payment. A nonprofit entity may be asked to submit a current IRS Determination Letter documenting that it is exempt from taxes under section 501 of the Internal Revenue Code or the certification of a governmental authority attesting to its nonprofit status. The governmental exemption applies even where the government-owned or community-owned facility is in competition with a commercial operation. Other specific exemptions are discussed below in the descriptions of other particular service categories.

1. Private Wireless Radio Services

3. Two levels of statutory fees were established for the Private Wireless Radio Services—exclusive use services and shared use services. Thus, licensees who generally receive a higher quality communication channel due to exclusive or lightly shared frequency assignments will pay a higher fee than those who share marginal quality assignments. This dichotomy is consistent with the directive of section 9, that the regulatory fees reflect the benefits provided to the licensees.¹⁷⁴ In addition, because of the generally small amount of the fees assessed against Private Wireless Radio Service licensees, applicants for new licenses and reinstatements and for renewal of existing licenses are required to pay a regulatory fee covering the entire license term, with only a percentage of all licensees paying a regulatory fee in any one year. Applications for modification or assignment of existing authorizations do not require the payment of regulatory fees. The expiration date of those authorizations will reflect only the unexpired term of the underlying license rather than a new license term.

a. Exclusive use Services

4. *Private Mobile Radio Services (PMRS):* Regulatees in this category include those

authorized under part 90 of the Commission's Rules to provide limited access Wireless Radio service that allows high quality voice or digital communications between vehicles or to fixed stations to further the business activities of the licensee. These services, using the 220–222 MHz band and frequencies at 470 MHz and above, may be offered on a private carrier basis in the Specialized Mobile Radio Services (SMRS).¹⁷⁵ For FY 1999, PMRS licensees will pay a \$13 annual regulatory fee per license, payable for an entire five or ten year license term at the time of application for a new, renewal, or reinstatement license.¹⁷⁶ The total regulatory fee due is either \$65 for a license with a five year term or \$130 for a license with a 10 year term.

5. *Microwave Services:* These services include private and commercial microwave systems and private and commercial carrier systems authorized under part 101 of the Commission's Rules to provide telecommunications services between fixed points on a high quality channel of communications. Microwave systems are often used to relay data and to control railroad, pipeline, and utility equipment. Commercial systems typically are used for video or data transmission or distribution. For FY 1999, Microwave licensees will pay a \$13 annual regulatory fee per license, payable for an entire ten year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is \$130 for the ten year license term.

6. *Interactive Video Data Service (now 218–219 MHz Service):* The 218–219 MHz Service is a two-way, point-to-multi-point radio service allocated high quality channels of communications and authorized under part 95 of the Commission's Rules. The 218–219 MHz Service provides information, products, and services, and also the capability to obtain responses from subscribers in a specific service area. The 218–219 MHz Service is offered on a private carrier basis. The Commission anticipates receiving 513 renewal applications for the 218–219 MHz Service during FY 1999. Therefore, for FY 1999, the regulatory fee for 218–219 MHz Service licensees will be \$13 per renewal, payable for an entire five year term. The total regulatory fee due is \$65 for the five year license term.

b. Shared Use Services

7. *Marine (Ship) Service:* This service is a shipboard radio service authorized under part 80 of the Commission's Rules to provide telecommunications between watercraft or between watercraft and shore-based stations. Radio installations are required by domestic and international law for large passenger or cargo vessels. Radio equipment may be

¹⁷⁵ This category only applies to licensees of shared-use private 220–222 MHz and 470 MHz and above in the Specialized Mobile Radio (SMR) service who have elected not to change to the Commercial Mobile Radio Service (CMRS). Those who have elected to change to the CMRS are referred to paragraph 14 of this Attachment.

¹⁷⁶ Although this fee category includes licenses with ten-year terms, the estimated volume of ten-year license applications in FY 1999 is less than one-tenth of one percent and, therefore, is statistically insignificant.

voluntarily installed on smaller vessels, such as recreational boats. The Telecommunications Act of 1996 gave the Commission the authority to license certain ship stations by rule rather than by individual license. The Commission exercises that authority. Thus, private boat operators sailing entirely within domestic U.S. waters and who are not otherwise required by treaty or agreement to carry a radio, are no longer required to hold a marine license, and they will not be required to pay a regulatory fee. For FY 1999, parties required to be licensed and those choosing to be licensed for Marine (Ship) Stations will pay a \$7 annual regulatory fee per station, payable for an entire ten-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is \$70 for the ten year license term.

8. *Marine (Coast) Service:* This service includes land-based stations in the maritime services, authorized under part 80 of the Commission's Rules, to provide communications services to ships and other watercraft in coastal and inland waterways. For FY 1999, licensees of Marine (Coast) Stations will pay a \$7 annual regulatory fee per call sign, payable for the entire five-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is \$35 per call sign for the five-year license term.

9. *Private Land Mobile (Other) Services:* These services include Land Mobile Radio Services operating under parts 90 and 95 of the Commission's Rules. Services in this category provide one- or two-way communications between vehicles, persons or fixed stations on a shared basis and include radiolocation services, industrial radio services, and land transportation radio services. For FY 1999, licensees of services in this category will pay a \$7 annual regulatory fee per call sign, payable for an entire five-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is \$35 for the five-year license term.

10. *Aviation (Aircraft) Service:* These services include stations authorized to provide communications between aircraft and between aircraft and ground stations and include frequencies used to communicate with air traffic control facilities pursuant to part 87 of the Commission's Rules. The Telecommunications Act of 1996 gave the Commission the authority to license certain aircraft radio stations by rule rather than by individual license. The commission exercises that authority. Thus, private aircraft operators flying entirely within domestic U.S. airspace and who are not otherwise required by treaty or agreement to carry a radio are no longer required to hold an aircraft license, and they will not be required to pay a regulatory fee. For FY 1999, parties required to be licensed and those choosing to be licensed for Aviation (Aircraft) Stations will pay a \$7 annual regulatory fee per station, payable for the entire ten-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee due is \$70 per station for the ten-year license term.

11. *Aviation (Ground) Service:* This service includes stations authorized to provide

¹⁷² 47 U.S.C. 159(g)

¹⁷³ 47 U.S.C. 159(b)(2), (3).

¹⁷⁴ 47 U.S.C. 159(b)(1)(A).

ground-based communications to aircraft for weather or landing information, or for logistical support pursuant to part 87 of the Commission's Rules. Certain ground-based stations which only serve itinerant traffic, i.e., possess no actual units on which to assess a fee, are exempt from payment of regulatory fees. For FY 1999, licensees of Aviation (Ground) Stations will pay a \$7 annual regulatory fee per license, payable for the entire five-year license term at the time of application for a new, renewal, or reinstatement license. The total regulatory fee is \$35 per call sign for the five-year license term.

12. *General Mobile Radio Service (GMRS)*: These services include Land Mobile Radio licensees providing personal and limited business communications between vehicles or to fixed stations for short-range, two-way communications pursuant to part 95 of the Commission's Rules. For FY 1999, GMRS licensees will pay a \$7 annual regulatory fee per license, payable for an entire five-year license term at the time of application for a new, renewal or reinstatement license. The total regulatory fee due is \$35 per license for the five-year license term.

c. *Amateur Radio Vanity Call Signs*

13. *Amateur Vanity Call Signs*: This category covers voluntary requests for specific call signs in the Amateur Radio Service authorized under part 97 of the Commission's Rules. Applicants for Amateur Vanity Call-Signs will continue to pay a \$1.30 annual regulatory fee per call sign, as prescribed in the FY 1998 fee schedule, payable for an entire ten-year license term at the time of application for a vanity call sign until the FY 1999 fee schedule becomes effective. The total regulatory fee due would be \$13 per license for the ten-year license term.¹⁷⁷ For FY 1999, Amateur Vanity Call Sign applicants will pay a \$1.40 annual regulatory fee per call sign, payable for an entire ten-year term at the time of application for a new, renewal or reinstatement license. The total regulatory fee due is \$14.00 per call sign for the ten-year license term.

d. *Commercial Wireless Radio Services*

14. *Commercial Mobile Radio Services (CMRS) Mobile Services*: The Commercial Mobile Radio Service (CMRS) is an "umbrella" descriptive term attributed to various existing broadband services authorized to provide interconnected mobile radio services for profit to the public, or to

such classes of eligible users as to be effectively available to a substantial portion of the public. CMRS Mobile Services include certain licensees which formerly were licensed as part of the Private Radio Services (e.g., Specialized Mobile Radio Services) and others formerly licensed as part of the Common Carrier Radio Services (e.g., Public Mobile Services and Cellular Radio Service). While specific rules pertaining to each covered service remain in separate parts 22, 24, 27, 80 and 90, general rules for CMRS are contained in part 20. CMRS Mobile Services will include: Specialized Mobile Radio Services (part 90);¹⁷⁸ Broadband Personal Communications Services (part 24), Public Coast Stations (part 80); Public Mobile Radio (Cellular, 800 MHz Air-Ground Radiotelephone, and Offshore Radio Services) (part 22); and Wireless Communications Service (part 27). Each licensee in this group will pay an annual regulatory fee for each mobile or cellular unit (mobile or telephone number), assigned to its customers, including resellers of its services. For FY 1999, the regulatory fee is \$.32 per unit.

15. *Commercial Mobile Radio Services (CMRS) Messaging Services*: The Commercial Mobile Radio Service (CMRS) is an "umbrella" descriptive term attributed to various existing narrowband services authorized to provide interconnected mobile radio services for profit to the public, or to such classes of eligible users as to be effectively available to a substantial portion of the public. CMRS Messaging Services include certain licensees which formerly were licensed as part of the Private Radio Services (e.g., Private Paging and Radiotelephone Service), licensees formerly licensed as part of the Common Carrier Radio Services (e.g., Public Mobile One-Way Paging), licensees of Narrowband Personal Communications Service (PCS) (e.g., one-way and two-way paging), and 220–222 MHz Band and Interconnected Business Radio Service. In addition, for FY 1999, this category will also include small SMR systems authorized for use of less than 10 MHz of bandwidth. While specific rules pertaining to each covered service remain in separate parts 22, 24 and 90, general rules for CMRS are contained in part 20. Each licensee in the CMRS Messaging Services will pay an annual regulatory fee for each unit (pager, telephone number, or mobile) assigned to its customers, including resellers of its services. For FY 1999, the regulatory fee is \$.04 per unit.

16. Finally, we are reiterating our definition of CMRS payment units to make it clear that fees are assessable on each PCS or cellular telephone and each one-way or two-way pager capable of receiving or transmitting information, whether or not the unit is "active" on the "as-of" date for payment of these fees. The unit becomes "feeable" if the end user or assignee of the unit has possession of the unit and the unit is capable of transmitting or receiving voice or non-voice messages or data and the unit is either owned and operated by the licensee of the CMRS system or a reseller, or the end user of a unit has a contractual agreement for the provision of a CMRS service from a licensee of a CMRS system or a reseller of a CMRS service. The responsible payer of the regulatory fee is the CMRS licensee. For example, John Doe purchases a pager and contractually obtains paging services from Paging Licensee X. Paging Licensee X is responsible for paying the applicable regulatory fee for this unit. Likewise, Cellular Licensee Y donates cellular phones to a high school and the high school either pays for or obtains free cellular service from Cellular Licensee Y. In this situation, Cellular Licensee Y is responsible for paying the applicable regulatory fees for these units.

2. *Mass Media Services*

17. The regulatory fees for the Mass Media fee category apply to broadcast licensees and permittees. Noncommercial Educational Broadcasters are exempt from regulatory fees.

a. *Commercial Radio*

18. These categories include licensed Commercial AM (Classes A, B, C, and D) and FM (Classes A, B, B1, C, C1, C2, and C3) Radio Stations operating under part 73 of the Commission's Rules.¹⁷⁹ We have combined class of station and city grade contour population data to formulate a schedule of radio fees which differentiate between stations based on class of station and population served. In general, higher class stations and stations in metropolitan areas will pay higher fees than lower class stations and stations located in rural areas. The specific fee that a station must pay is determined by where it ranks after weighting its fee requirement (determined by class of station) with its population. The regulatory fee classifications for Radio Stations for FY 1999 are as follows:

FY 1999 RADIO STATION REGULATORY FEES

Population served	AM class A	AM class B	AM class C	AM class D	FM classes A, B1 & C3	FM classes B, C, C1 & C2
<=20,000	430	325	225	275	325	430
20,001–50,000	825	650	325	450	650	825

¹⁷⁷ Section 9(h) exempts "amateur radio operator licenses under part 97 of the Commission's rules (47 CFR part 97)" from the requirement. However, section 9(g)'s fee schedule explicitly includes "Amateur vanity call signs" as a category subject to the payment of a regulatory fee.

¹⁷⁸ This category does not include licensees of private shared-use 220 MHz and 470 MHz and

above in the Specialized Mobile Radio (SMR) service who have elected to remain non-commercial. Those who have elected not to change to the Commercial Mobile Radio Service (CMRS) are referred to paragraph 4 of this Attachment.

¹⁷⁹ The Commission acknowledges that certain stations operating in Puerto Rico and Guam have been assigned a higher level station class than

would be expected if the station were located on the mainland. Although this results in a higher regulatory fee, we believe that the increased interference protection associated with the higher station class is necessary and justifies the fee.

FY 1999 RADIO STATION REGULATORY FEES—Continued

Population served	AM class A	AM class B	AM class C	AM class D	FM classes A, B1 & C3	FM classes B, C, C1 & C2
50,001–125,000	1,350	875	450	675	875	1,350
125,001–400,000	2,000	1,400	675	825	1,400	2,000
400,001–1,000,000	2,750	2,250	1,250	1,500	2,250	2,750
>1,000,000	4,400	3,600	1,750	2,250	3,600	4,400

19. Licensees may determine the appropriate fee payment by referring to a list which will be provided as an attachment to the final *Report and Order* in this proceeding. This same information will be available on the FCC's Internet world wide web site (<http://www.fcc.gov>) by calling the FCC's National Call Center (1-888-225-5322), and may be included in the Public Notices mailed to each licensee for which we have a current address on file.

Note: Non-receipt of a public notice does not relieve a licensee of its obligation to submit its regulatory fee payment.

b. Construction Permits—Commercial AM Radio

20. This category includes holders of permits to construct new Commercial AM Stations. For FY 1999, permittees will pay a fee of \$260 for each permit held. Upon issuance of an operating license, this fee would no longer be applicable and licensees would be required to pay the applicable fee for the designated group within which the station appears.

c. Construction Permits—Commercial FM Radio

21. This category includes holders of permits to construct new Commercial FM Stations. For FY 1999, permittees will pay a fee of \$780 for each permit held. Upon issuance of an operating license, this fee would no longer be applicable. Instead, licensees would pay a regulatory fee based upon the designated group within which the station appears.

d. Commercial Television Stations

22. This category includes licensed Commercial VHF and UHF Television Stations covered under part 73 of the Commission's Rules, except commonly owned Television Satellite Stations, addressed separately below. Markets are Nielsen Designated Market Areas (DMA) as listed in the *Television & Cable Factbook*, Stations Volume No. 67, 1999 Edition, Warren Publishing, Inc. The fees for each category of station are as follows:

VHF Markets 1–10	\$41,225
VHF Markets 11–25	34,325
VHF Markets 26–50	23,475
VHF Markets 51–100	13,150
VHF Remaining Markets	3,400
UHF Markets 1–10	15,550
UHF Markets 11–25	11,775
UHF Markets 26–50	7,300
UHF Markets 51–100	4,350
UHF Remaining Markets	1,175

e. Commercial Television Satellite Stations

23. Commonly owned Television Satellite Stations in any market (authorized pursuant to Note 5 of § 73.3555 of the Commission's Rules) that retransmit programming of the primary station are assessed a fee of \$1,300 annually. Those stations designated as Television Satellite Stations in the 1999 Edition of the *Television and Cable Factbook* are subject to the fee applicable to Television Satellite Stations. All other television licensees are subject to the regulatory fee payment required for their class of station and market.

f. Construction Permits—Commercial VHF Television Stations

24. This category includes holders of permits to construct new Commercial VHF Television Stations. For FY 1999, VHF permittees will pay an annual regulatory fee of \$2,775. Upon issuance of an operating license, this fee would no longer be applicable. Instead, licensees would pay a fee based upon the designated market of the station.

g. Construction Permits—Commercial UHF Television Stations

25. This category includes holders of permits to construct new UHF Television Stations. For FY 1999, UHF Television permittees will pay an annual regulatory fee of \$2,900. Upon issuance of an operating license, this fee would no longer be applicable. Instead, licensees would pay a fee based upon the designated market of the station.

h. Construction Permits—Satellite Television Stations

26. The fee for UHF and VHF Television Satellite Station construction permits for FY 1999 is \$460. An individual regulatory fee payment is to be made for each Television Satellite Station construction permit held.

i. Low Power Television, FM Translator and Booster Stations, TV Translator and Booster Stations

27. This category includes Low Power UHF/VHF Television stations operating under part 74 of the Commission's Rules with a transmitter power output limited to 1 kW for a UHF facility and, generally, 0.01 kW for a VHF facility. Low Power Television (LPTV) stations may retransmit the programs and signals of a TV Broadcast Station, originate programming, and/or operate as a subscription service. This category also includes translators and boosters operating under part 74 which rebroadcast the signals of full service stations on a frequency different from the parent station (translators) or on the same frequency (boosters). The

stations in this category are secondary to full service stations in terms of frequency priority. We have also received requests for waivers of the regulatory fees from operators of community based Translators. These Translators are generally not affiliated with commercial broadcasters, are nonprofit, non-profitable, or only marginally profitable, serve small rural communities, and are supported financially by the residents of the communities served. We are aware of the difficulties these Translators have in paying even minimal regulatory fees, and we have addressed those concerns in the ruling on reconsideration of the FY 1994 *Report and Order*. Community-based Translators are exempt from regulatory fees. For FY 1999, licensees in low power television, FM translator and booster, and TV translator and booster category will pay a regulatory fee of \$290 for each license held.

j. Broadcast Auxiliary Stations

28. This category includes licensees of remote pickup stations (either base or mobile) and associated accessory equipment authorized pursuant to a single license, Aural Broadcast Auxiliary Stations (Studio Transmitter Link and Inter-City Relay) and Television Broadcast Auxiliary Stations (TV Pickup, TV Studio Transmitter Link, TV Relay) authorized under part 74 of the Commission's Rules. Auxiliary Stations are generally associated with a particular television or radio broadcast station or cable television system. This category does not include translators and boosters (see paragraph 26 *infra*). For FY 1999, licensees of Commercial Auxiliary Stations will pay a \$12 annual regulatory fee on a per call sign basis.

k. Multipoint Distribution Service

29. This category includes Multipoint Distribution Service (MDS), Local Multipoint Distribution (LMDS), and Multichannel Multipoint Distribution Service (MMDS), authorized under part 21 of the Commission's Rules to use microwave frequencies for video and data distribution within the United States. For FY 1999, MDS, LMDS, and MMDS stations will pay an annual regulatory fee of \$285 per call sign.

3. Cable Services

a. Cable Television Systems

30. This category includes operators of Cable Television Systems, providing or distributing programming or other services to subscribers under part 76 of the Commission's Rules. For FY 1999, Cable Systems will pay a regulatory fee of \$.48 per

subscriber.¹⁸⁰ Payments for Cable Systems are to be made on a per subscriber basis as of December 31, 1998. Cable Systems should determine their subscriber numbers by calculating the number of single family dwellings, the number of individual households in multiple dwelling units, *e.g.*, apartments, condominiums, mobile home parks, etc., paying at the basic subscriber rate, the number of bulk rate customers, and the number of courtesy or fee customers. In order to determine the number of bulk rate subscribers, a system should divide its bulk rate charge by the annual subscription rate for individual households. See FY 1994 *Report and Order*, Appendix B at paragraph 31.

b. Cable Antenna Relay Service

31. This category includes Cable Antenna Relay Service (CARS) stations used to transmit television and related audio signals, signals of AM and FM Broadcast Stations, and cablecasting from the point of reception to a terminal point from where the signals are distributed to the public by a Cable Television System. For FY 1999, licensees will pay an annual regulatory fee of \$55 per CARS license.

4. Common Carrier Services

a. Commercial Microwave (Domestic Public Fixed Radio Service)

32. This category includes licensees in the Point-to-Point Microwave Radio Service, Local Television Transmission Radio Service, and Digital Electronic Message Service, authorized under part 101 of the Commission's Rules to use microwave frequencies for video and data distribution within the United States. These services are now included in the Microwave category (see paragraph 5 *infra*).

b. Interstate Telephone Service Providers

33. This category includes Inter-Exchange Carriers (IXCs), Local Exchange Carriers (LECs), Competitive Access Providers (CAPs), domestic and international carriers that provide operator services, Wide Area Telephone Service (WATS), 800, 900, telex, telegraph, video, other switched, interstate access, special access, and alternative access services either by using their own facilities or by reselling facilities and services of other carriers or telephone carrier holding companies, and companies other than traditional local telephone companies that provide interstate access services to long distance carriers and other customers. This category also includes pre-paid calling card providers. These common carriers, including resellers, must submit fee payments based upon their proportionate share of gross interstate revenues using the methodology that we have adopted for calculating contributions to the TRS fund.¹⁸¹ In order to avoid imposing any double payment burden on resellers, we will permit carriers to subtract from their gross interstate revenues,

as reported to NECA in connection with their TRS contribution, any payments made to underlying common carriers for telecommunications facilities and services, including payments for interstate access service, that are sold in the form of interstate service. For this purpose, resold telecommunications facilities and services are only intended to include payments that correspond to revenues that will be included by another carrier reporting interstate revenue. For FY 1999, carriers must multiply their adjusted gross revenue figure (gross revenue reduced by the total amount of their payments to underlying common carriers for telecommunications facilities or services) by the factor 0.00121 to determine the appropriate fee for this category of service. Regulatees may want to use the following worksheet to determine their fee payment:

	Total	Interstate
(1) Revenue reported in TRS Fund worksheets		
(2) Less: Access charges paid		
(3) Less: Other telecommunications facilities and services taken for resale		
(4) Adjusted revenues (1) minus (2) minus (3)		
(5) Fee factor		0.00121
(6) Fee due (4) times (5)		

5. International Services

a. Earth Stations

34. Very Small Aperture Terminal (VSAT) Earth Stations, equivalent C-Band Earth Stations and antennas, and earth station systems comprised of very small aperture terminals operate in the 12 and 14 GHz bands and provide a variety of communications services to other stations in the network. VSAT systems consist of a network of technically-identical small Fixed-Satellite Earth Stations which often include a larger hub station. VSAT Earth Stations and C-Band Equivalent Earth Stations are authorized pursuant to part 25 of the Commission's Rules. *Mobile Satellite Earth Stations*, operating pursuant to part 25 of the Commission's Rules under blanket licenses for mobile antennas (transceivers), are smaller than one meter and provide voice or data communications, including position location information for mobile platforms such as cars, buses, or trucks.¹⁸² *Fixed-Satellite Transmit/Receive and Transmit-Only Earth Station antennas*, authorized or registered under part 25 of the Commission's

Rules, are operated by private and public carriers to provide telephone, television, data, and other forms of communications. Included in this category are telemetry, tracking and control (TT&C) earth stations, and earth station uplinks. For FY 1999, licensees of VSATs, Mobile Satellite Earth Stations, and Fixed-Satellite Transmit/Receive and Transmit-Only Earth Stations will pay a fee of \$180 per authorization or registration *as well as a separate fee of \$180 for each associated Hub Station*.

35. *Receive-only earth stations*. For FY 1999, there is no regulatory fee for receive-only earth stations.

b. Space Stations (Geostationary Orbit)

36. Geostationary Orbit (also referred to as Geosynchronous) Space Stations are domestic and international satellites positioned in orbit to remain approximately fixed relative to the earth. Most are authorized under part 25 of the Commission's Rules to provide communications between satellites and earth stations on a common carrier and/or private carrier basis. In addition, this category includes Direct Broadcast Satellite (DBS) Service which includes space stations authorized under part 100 of the Commission's rules to transmit or re-transmit signals for direct reception by the general public encompassing both individual and community reception. For FY 1999, entities authorized to operate geostationary space stations (including DBS satellites) will be assessed an annual regulatory fee of \$130,550 per operational station in orbit. Payment is required for any geostationary satellite that has been launched and tested and is authorized to provide service.

c. Space Stations (Non-Geostationary Orbit)

37. Non-Geostationary Orbit Systems (such as Low Earth Orbit (LEO) Systems) are space stations that orbit the earth in non-geosynchronous orbit. They are authorized under part 25 of the Commission's rules to provide communications between satellites and earth stations on a common carrier and/or private carrier basis. For FY 1999, entities authorized to operate Non-Geostationary Orbit Systems (NGSOs) will be assessed an annual regulatory fee of \$180,800 per operational system in orbit. Payment is required for any NGSO System that has one or more operational satellites operational. In our FY 1997 *Report and Order* at paragraph 75 we retained our requirement that licensees of LEOs pay the LEO regulatory fee upon their certification of operation of a single satellite pursuant to section 25.120(d). We require payment of this fee following commencement of operations of a system's first satellite to insure that we recover our regulatory costs related to LEO systems from licensees of these systems as early as possible so that other regulatees are not burdened with these costs any longer than necessary. Because section 25.120(d) has significant implications beyond regulatory fees (such as whether the entire planned cluster is operational in accordance with the terms and conditions of the license) we are clarifying our current definition of an operational LEO satellite to prevent misinterpretation of our intent as follows:

¹⁸⁰ Cable systems are to pay their regulatory fees on a per subscriber basis rather than per 1,000 subscribers as set forth in the statutory fee schedule. See FY 1994 *Report and Order* at paragraph 100.

¹⁸¹ See *Telecommunications Relay Services*, 8 FCC Rcd 5300 (1993), 58 FR 39671 (Jul. 26, 1993).

¹⁸² Mobile earth stations are hand-held or vehicle-based units capable of operation while the operator or vehicle is in motion. In contrast, transportable units are moved to a fixed location and operate in a stationary (fixed) mode. Both are assessed the same regulatory fee for FY 1999.

Licensees of Non-Geostationary Satellite Systems (such as LEOs) are assessed a regulatory fee upon the commencement of operation of a system's first satellite as reported annually pursuant to sections 25.142(c), 25.143(e), 25.145(g), or upon certification of operation of a single satellite pursuant to section 25.120(d).

d. International Bearer Circuits

38. Regulatory fees for International Bearer Circuits are to be paid by facilities-based common carriers (either domestic or international) activating the circuit in any transmission facility for the provision of service to an end user or resale carrier. Payment of the fee for bearer circuits by non-common carrier submarine cable operators is required for circuits sold on an indefeasible right of use (IRU) basis or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. *Compare* FY 1994 *Report and Order* at 5367. Payment of the international bearer circuit fee is also required by non-common carrier satellite operators for circuits sold or leased to any customer, including themselves or their affiliates, other than an international common carrier authorized by the Commission to provide U.S. international common carrier services. The fee is based upon active 64 kbps circuits, or equivalent circuits. Under this formulation, 64 kbps circuits or their equivalent will be assessed a fee. Equivalent circuits include the 64 kbps circuit equivalent of larger bit stream circuits. For example, the 64 kbps circuit equivalent of a 2.048 Mbps circuit is 30 64 kbps circuits. Analog circuits such as 3 and 4 kHz circuits used for international service are also included as 64 kbps circuits. However, circuits derived from 64 kbps circuits by the use of digital circuit multiplication systems are not equivalent 64 kbps circuits. Such circuits are not subject to fees. Only the 64 kbps circuit from which they have been derived will be subject to payment of a fee. For FY 1999, the regulatory fee is \$7.00 for each active 64 kbps circuit or equivalent. For analog television channels we will assess fees as follows:

Analog television channel	No. of equivalent 64 kbps circuits size in MHz
36	630
24	288
18	240

e. International Public Fixed

39. This fee category includes common carriers authorized under part 23 of the Commission's Rules to provide radio communications between the United States and a foreign point via microwave or HF troposcatter systems, other than satellites and satellite earth stations, but not including service between the United States and Mexico, and the United States and Canada, using frequencies above 72 MHz. For FY 1999, International Public Fixed Radio

Service licensees will pay a \$410 annual regulatory fee per call sign.

f. International (HF) Broadcast

40. This category covers International Broadcast Stations licensed under part 73 of the Commission's Rules to operate on frequencies in the 5,950 kHz to 26,100 kHz range to provide service to the general public in foreign countries. For FY 1999, International HF Broadcast Stations will pay an annual regulatory fee of \$520 per station license.

Attachment G—Description of FCC Activities

Authorization of Service: The authorization or licensing of radio stations, telecommunications equipment, and radio operators, as well as the authorization of common carrier and other services and facilities. Includes policy direction, program development, legal services, and executive direction, as well as support services associated with authorization activities.¹⁸³

Policy and Rulemaking: Formal inquiries, rulemaking proceedings to establish or amend the Commission's rules and regulations, action on petitions for rulemaking, and requests for rule interpretations or waivers; economic studies and analyses; spectrum planning, modeling, propagation-interference analyses, and allocation; and development of equipment standards. Includes policy direction, program development, legal services, and executive direction, as well as support services associated with policy and rulemaking activities.

Enforcement: Enforcement of the Commission's rules, regulations and authorizations, including investigations, inspections, compliance monitoring, and sanctions of all types. Also includes the receipt and disposition of formal and informal complaints regarding common carrier rates and services, the review and acceptance/rejection of carrier tariffs, and the review, prescription and audit of carrier accounting practices. Includes policy direction, program development, legal services, and executive direction, as well as support services associated with enforcement activities.

Public Information Services: The publication and dissemination of Commission decisions and actions, and related activities; public reference and library services; the duplication and dissemination of Commission records and databases; the receipt and disposition of public inquiries; consumer, small business, and public assistance; and public affairs and media relations. Includes policy direction, program development, legal services, and executive direction, as well as support services associated with public information activities.

¹⁸³ Although Authorization of Service is described in this exhibit, it is *not* one of the activities included as a feeable activity for regulatory fee purposes pursuant to section 9(a)(1) of the Act. 47 U.S.C. 159(a)(1).

Attachment H—Factors, Measurements and Calculations That Go Into Determining Station Signal Contours and Associated Population Coverages

AM Stations

Specific information on each day tower, including field ratio, phasing, spacing and orientation was retrieved, as well as the theoretical pattern RMS figure (mV/m @ 1 km) for the antenna system. The standard, or modified standard if pertinent, horizontal plane radiation pattern was calculated using techniques and methods specified in sections 73.150 and 73.152 of the Commission's rules.¹⁸⁴ Radiation values were calculated for each of 72 radials around the transmitter site (every 5 degrees of azimuth). Next, estimated soil conductivity data was retrieved from a database representing the information in FCC Figure M3. Using the calculated horizontal radiation values, and the retrieved soil conductivity data, the distance to the city grade (5 mV/m) contour was predicted for each of the 72 radials. The resulting distance to city grade contours were used to form a geographical polygon. Population counting was accomplished by determining which 1990 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted city grade coverage area.

FM Stations

The maximum of the horizontal and vertical HAAT (m) and ERP (kW) was used. Where the antenna HAMS L was available, it was used in lieu of the overall HAAT figure to calculate specific HAAT figures for each of 72 radials under study. Any available directional pattern information was applied as well, to produce a radial-specific ERP figure. The HAAT and ERP figures were used in conjunction with the propagation curves specified in section 73.313 of the Commission's rules to predict the distance to the city grade (70 dBuV/m or 3.17 mV/m) contour for each of the 72 radials.¹⁸⁵ The resulting distance to city grade contours were used to form a geographical polygon. Population counting was accomplished by determining which 1990 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted city grade coverage area. Attachment I

Parties Filing Comments on the Notice of Inquiry

MCI WorldCom, Inc.
BellSouth Corporation
Paging Network, Inc.
American Mobile Telecommunications Association, Inc.
Small Business in Telecommunications
ARDIS Company
Personal Communications Industry Association
Industrial Telecommunications Association, Inc.
GE American Communications, Inc.

¹⁸⁴ 47 U.S.C. 73.150 and 73.152.

¹⁸⁵ 47 U.S.C. 73.313.

Space Imaging L.P.
Lockheed Martin Corporation
PanAmSat Corporation
Orbital Communications Corporation
L/Q Licensee, Inc.

Parties Filing Reply Comments on the Notice of Inquiry

BellSouth Corporation (Late Filed)
L/Q Licensee, Inc.
GE American Communications, Inc.
COMSAT Corporation
Loral Space & Communications Ltd.

Parties Filing Comments on the Notice of Proposed Rule Making

Rural Telecommunications Group (Oral Ex Parte)
Council of Independent Communications Suppliers
Satellite Industry Association
AirTouch Communications, Inc.
Cellular Telecommunications Industry Association
National Association of Broadcasters
Walt Disney Company
PanAmSat Corporation
GE American Communications, Inc.
BellSouth Corporation

Parties Filing Reply Comments on the Notice of Proposed Rule Making

PrimeCo Personal Communications, L.P.
GE American Communications, Inc.
COMSAT Corporation
Blooston, Mordkofsky, Jackson & Dickens
American Mobile Telecommunications Association, Inc. (also filed Oral Ex Parte)

Attachment J—AM and FM Radio Regulatory Fees

The List of regulatory fees is available from the FCC Public Reference Room, CY-AT57, 445 12th St. SW, Washington DC 20554.

[FR Doc. 99-16584 Filed 6-30-99; 8:45 am]

BILLING CODE 6712-01-P

Federal Register

Thursday
July 1, 1999

Part V

**Department of the
Treasury**

Fiscal Service

**Companies Holding Certificates of
Authority as Acceptable Sureties on
Federal Bonds and As Acceptable
Reinsuring Companies; Notice**

4810-35

DEPARTMENT OF THE TREASURY

FISCAL SERVICE

(Dept. Circular 570; 1999 Revision)

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE SURETIES ON
FEDERAL BONDS AND AS ACCEPTABLE REINSURING COMPANIES

Effective July 1, 1999

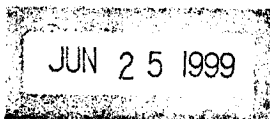
This Circular is published annually, solely for the information of Federal bond-approving officers and persons required to give bonds to the United States. Copies of the Circular and interim changes may be obtained directly from the Government Printing Office (202) 512-1800. (Interim changes are published in the FEDERAL REGISTER as they occur.) Other information pertinent to Federal sureties may be obtained from the U.S. Department of the Treasury, Financial Management Service, Surety Bond Branch, 3700 East West Highway, Room 6A04, Hyattsville, MD 20782, Telephone (202) 874-6850 or Fax (202) 874-9978.

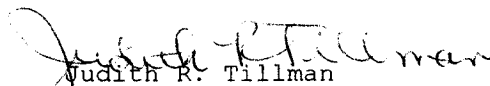
The most current list of Treasury authorized companies is always available through the Internet at <http://www.fms.treas.gov/c570/index.html>. In addition, applicable laws and regulations are also available at the same site.

Please note that the underwriting limitation published herein is on a per bond basis but this does not limit the amount of a bond that a company can write. Companies are allowed to write bonds with a penal sum over their underwriting limitation as long as they protect the excess amount with reinsurance, coinsurance or other methods as specified at 31 CFR 223.10-11. Please refer to footnote (b) at the end of this publication.

The following companies have complied with the law and the regulations of the U.S. Department of the Treasury. Those listed in the front of this Circular are acceptable as sureties and reinsurers on Federal bonds under Title 31 of the United States Code, Sections 9304 to 9308 [See Note (a)]. Those listed in the back are acceptable only as reinsurers on Federal bonds under 31 CFR 223.3(b) [See Note (e)].

If we can be of any assistance, please feel free to contact the Surety Bond Branch at (202) 874-6850.




Judith R. Tillman
Acting Assistant Commissioner
Financial Operations
Financial Management Service

IMPORTANT INFORMATION IS CONTAINED IN THE NOTES AT THE END OF
THIS CIRCULAR. PLEASE READ THE NOTES CAREFULLY.

Acadia Insurance Company

BUSINESS ADDRESS: P.O. BOX 9010, Westbrook, ME 04098-5010. PHONE: (207) 772-4300. UNDERWRITING LIMITATION \$: \$4,385,000. SURETY LICENSES AL AK: CT, DE, ME, MD, MA, NH, NY, PA, RI, VT. INCORPORATED IN: Maine.

Acceptance Insurance Company

BUSINESS ADDRESS: 222 South 15th Street, Suite 600 North, Omaha, NE 68102-1616. PHONE: (402) 344-8800. UNDERWRITING LIMITATION \$: \$5,297,000. SURETY LICENSES AL AK: AL, AZ, AR, CO, GA, IL, IN, IA, KY, ME, MI, NE, ND, OH, TN, VA, WI. INCORPORATED IN: Nebraska.

ACCREDITED SURETY AND CASUALTY COMPANY, INC.

BUSINESS ADDRESS: P.O. Box 568529, Orlando, FL 32856-8529. PHONE: (407) 841-8500. UNDERWRITING LIMITATION \$: \$842,000. SURETY LICENSES AL AK: AL, CA, CT, DE, FL, GA, ID, IN, IA, KS, LA, MD, MN, MS, MO, MT, NE, NV, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, TX, VA, WA, WY. INCORPORATED IN: Florida.

ACSTAR INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 2350, New Britain, CT 06050-2350. PHONE: (860) 224-2000. UNDERWRITING LIMITATION \$: \$1,453,000. SURETY LICENSES AL AK: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Aegis Security Insurance Company

BUSINESS ADDRESS: P.O. Box 3153, Harrisburg, PA 17105. PHONE: (717) 657-9671. UNDERWRITING LIMITATION \$: \$1,407,000. SURETY LICENSES AL AK: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Affiliated FM Insurance Company

BUSINESS ADDRESS: Allendale Park, P.O. Box 7500, Johnston, RI 02919-0500. PHONE: (401) 275-3000. UNDERWRITING LIMITATION \$: \$2,786,000. SURETY LICENSES AL AK: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

ALL AMERICA INSURANCE COMPANY

BUSINESS ADDRESS: 800 South Washington Street, Van Wert, OH 45891. PHONE: (419) 238-1010. UNDERWRITING LIMITATION \$: \$3,150,000. SURETY LICENSES AL AK: AZ, CA, CT, GA, IL, IN, IA, KY, MA, MI, NV, NJ, NY, NC, OH, OK, TN, TX, VA. INCORPORATED IN: Ohio.

Allegheny Casualty Company

BUSINESS ADDRESS: P.O. Box 1116, Meadville, PA 16335-7116. PHONE: (814) 336-2521. UNDERWRITING LIMITATION \$: \$1,237,000. SURETY LICENSES AL AK: CA, DC, FL, ID, IL, IN, LA, MD, MI, MS, MO, MT, NV, NJ, NC, OH, OK, PA, SC, SD, TN, TX, WA, WI. INCORPORATED IN: Pennsylvania.

Allendale Mutual Insurance Company

BUSINESS ADDRESS: Allendale Park, P.O. Box 7500, Johnston, RI 02919-0500. PHONE: (401) 275-3000. UNDERWRITING LIMITATION \$: \$114,720,000. SURETY LICENSES AL AK: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

ALLSTATE INSURANCE COMPANY

BUSINESS ADDRESS: 3075 Sanders Rd. Ste. H1A, Northbrook, IL 60062-7127. PHONE: (847) 402-5000. UNDERWRITING LIMITATION \$: \$1,119,510,000. SURETY LICENSES AL AK: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

AMCO Insurance Company

BUSINESS ADDRESS: 701 Fifth Avenue, Des Moines, IA 50391-2007. PHONE: (515) 280-4211. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$5,727,000. SURETY LICENSES $\frac{\$}{\$}$: AZ, CA, CO, DC, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NM, ND, OH, OR, SD, TN, TX, UT, WA, WI, WY. INCORPORATED IN: Iowa.

American Alliance Insurance Company $\frac{1}{1}$

BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (513) 369-5000. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$997,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

AMERICAN ALTERNATIVE INSURANCE CORPORATION

BUSINESS ADDRESS: 555 College Road East - P.O. Box 5241, Princeton, NJ 08543. PHONE: (609) 243-4200. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$8,832,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

AMERICAN AND FOREIGN INSURANCE COMPANY

BUSINESS ADDRESS: 9300 Arrowpoint Blvd., P. O. Box 1000, Charlotte, NC 28201-1000. PHONE: (704) 522-2000. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$8,890,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

American Automobile Insurance Company

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$4,843,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA

BUSINESS ADDRESS: 11222 Quail Roost Drive, Miami, FL 33157. PHONE: (305) 253-2244. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$14,571,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Florida.

American Casualty Company of Reading, Pennsylvania

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$44,972,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

AMERICAN CONTRACTORS INDEMNITY COMPANY $\frac{2}{2}$

BUSINESS ADDRESS: 9841 Airport Blvd., 9th Floor, Los Angeles, CA 90045. PHONE: (310) 649-0990. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$711,000. SURETY LICENSES $\frac{\$}{\$}$: CA, FL, GA, NV, NM, OH, OK, TN, TX. INCORPORATED IN: California.

American Economy Insurance Company

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$50,546,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Fire and Casualty Company

BUSINESS ADDRESS: 136 North Third Street, Hamilton, OH 45025. PHONE: (513) 867-3000. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$11,453,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AR, CO, DC, FL, GA, KS, KY, LA, MD, MS, NC, SC, TN, TX, VA. INCORPORATED IN: Ohio.

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American Guarantee and Liability Insurance Company

BUSINESS ADDRESS: 1400 American Lane, Schaumburg, IL 60196-1056. PHONE: (847) 605-6000. UNDERWRITING LIMITATION \$: \$29,394,000. SURETY LICENSES AL: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Home Assurance Company

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION \$: \$276,003,000. SURETY LICENSES AL: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Insurance Company (The)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (402) 346-6000. UNDERWRITING LIMITATION \$: \$36,132,000. SURETY LICENSES AL: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

AMERICAN INTERNATIONAL INSURANCE COMPANY OF PUERTO RICO

BUSINESS ADDRESS: P.O. Box 10181, San Juan, PR 00908. PHONE: (787) 767-6400. UNDERWRITING LIMITATION \$: \$4,179,000. SURETY LICENSES PR: PR. INCORPORATED IN: Puerto Rico.

American International Pacific Insurance Company

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION \$: \$2,235,000. SURETY LICENSES AK: AK, CO, CT, DC, IA, ME, MD, MA, MS, MT, NE, NH, ND, RI, SD, UT, VT, WV, WY. INCORPORATED IN: Colorado.

American Interstate Insurance Company

BUSINESS ADDRESS: 2301 Highway 190 West, DeRidder, LA 70634-6005. PHONE: (800) 256-9052. UNDERWRITING LIMITATION \$: \$4,533,000. SURETY LICENSES AL: AL, AK, AR, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, VI, WA, WI, WY. INCORPORATED IN: Louisiana.

American Manufacturers Mutual Insurance Company

BUSINESS ADDRESS: 1 Kemper Drive, Long Grove, IL 60049-0001. PHONE: (847) 320-2000. UNDERWRITING LIMITATION \$: \$25,514,000. SURETY LICENSES AL: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

American Motorists Insurance Company

BUSINESS ADDRESS: 1 Kemper Drive, Long Grove, IL 60049-0001. PHONE: (847) 320-2000. UNDERWRITING LIMITATION \$: \$39,305,000. SURETY LICENSES AL: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

American National Fire Insurance Company

BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (513) 369-5000. UNDERWRITING LIMITATION \$: \$2,703,000. SURETY LICENSES AL: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Re-Insurance Company

BUSINESS ADDRESS: 555 College Road East, P.O. Box 5241, Princeton, NJ 08543. PHONE: (609) 243-4200. UNDERWRITING LIMITATION \$: \$248,807,000. SURETY LICENSES AL: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

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AMERICAN RELIABLE INSURANCE COMPANY

BUSINESS ADDRESS: 8655 East Via De Ventura, Scottsdale, AZ 85258. PHONE: (602) 483-8666. UNDERWRITING LIMITATION $\frac{b}{c}$: \$3,668,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

American Safety Casualty Insurance Company

BUSINESS ADDRESS: 1845 The Exchange, Suite 200, Atlanta, GA 30339. PHONE: (770) 916-1908. UNDERWRITING LIMITATION $\frac{b}{c}$: \$805,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

American States Insurance Company

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$146,408,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Surety Company

BUSINESS ADDRESS: 3901 West 86th Street, Suite 450, Indianapolis, IN 46268-0932. PHONE: (317) 875-8700. UNDERWRITING LIMITATION $\frac{b}{c}$: \$521,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, CA, FL, HI, ID, IN, KS, LA, MD, MS, MO, NE, NV, ND, OH, PA, SD, TN, TX, UT. INCORPORATED IN: California.

Amwest Surety Insurance Company

BUSINESS ADDRESS: 5230 Las Virgenes Road, Calabasas, CA 91302. PHONE: (818) 871-2000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$2,914,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

Antilles Insurance Company

BUSINESS ADDRESS: P.O. Box 9023507, San Juan, PR 00902-3507. PHONE: (787) 721-4900. UNDERWRITING LIMITATION $\frac{b}{c}$: \$2,420,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: PR. INCORPORATED IN: Puerto Rico.

Arkwright Mutual Insurance Company

BUSINESS ADDRESS: 225 Wyman Street, P.O. Box 9198, Waltham, MA 02254-9198. PHONE: (781) 890-9300. UNDERWRITING LIMITATION $\frac{b}{c}$: \$91,653,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Associated Indemnity Corporation

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$3,769,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

ATLANTIC ALLIANCE FIDELITY AND SURETY COMPANY

BUSINESS ADDRESS: 100 Dobbs Lane, Suite 204, Cherry Hill, NJ 08034. PHONE: (609) 795-5575. UNDERWRITING LIMITATION $\frac{b}{c}$: \$436,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, CT, DE, DC, FL, GA, IL, IN, KS, KY, MD, MA, MN, MO, NJ, NY, NC, OK, PA, TN, TX. INCORPORATED IN: New Jersey.

Atlantic Mutual Insurance Company

BUSINESS ADDRESS: 100 Wall Street, New York, NY 10005. PHONE: (212) 943-1800. UNDERWRITING LIMITATION $\frac{b}{c}$: \$55,966,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

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ATLAS ASSURANCE COMPANY OF AMERICA

BUSINESS ADDRESS: 61 Broadway, New York, NY 10006. PHONE: (212) 208-4100.
UNDERWRITING LIMITATION $\frac{b}{c}$: \$36,415,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: AK, AZ, AR, CA, CO, DE, GA, ID, IL, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OR, PA, RI, SD, TN, TX, UT, VT, VA, WA, WV, WY.
INCORPORATED IN: New York.

Auto-Owners Insurance Company

BUSINESS ADDRESS: P.O. Box 30660, Lansing, MI 48909-8160. PHONE: (517) 323-1200. UNDERWRITING LIMITATION $\frac{b}{c}$: \$239,660,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: AL, AZ, CO, FL, GA, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NM, NC, ND, OH, OR, SC, SD, TN, TX, UT, VA, WA, WI. INCORPORATED IN: Michigan.

AXA GLOBAL RISKS US INSURANCE COMPANY

BUSINESS ADDRESS: 199 Water Street, New York, NY 10038. PHONE: (212) 412-0700.
UNDERWRITING LIMITATION $\frac{b}{c}$: \$8,533,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: AK, AZ, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

BANKERS INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 15707, St. Petersburg, FL 33733-5707. PHONE: (727) 823-4000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$3,772,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: AL, AZ, AR, CA, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, PA, SC, SD, TN, TX, UT, VA, WA, WV, WY.
INCORPORATED IN: Florida.

BITUMINOUS CASUALTY CORPORATION

BUSINESS ADDRESS: 320 - 18th Street, Rock Island, IL 61201-8744. PHONE: (309) 786-5401 x-268. UNDERWRITING LIMITATION $\frac{b}{c}$: \$16,560,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

BOND SAFEGUARD INSURANCE COMPANY

BUSINESS ADDRESS: 1919 S. Highland Ave., Bldg. A, Suite 300, Lombard, IL 60148. PHONE: (630) 495-9380. UNDERWRITING LIMITATION $\frac{b}{c}$: \$487,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: IL, IN, KS, MO, NC, OK, TN, TX. INCORPORATED IN: Illinois.

Buckeye Union Insurance Company (The)

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000.
UNDERWRITING LIMITATION $\frac{b}{c}$: \$17,776,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: AK, DC, FL, IL, IN, IA, KS, KY, MD, MI, MO, NY, OH, PA, RI, SD, VA, WV. INCORPORATED IN: Ohio.

Capital City Insurance Company, Inc.

BUSINESS ADDRESS: P.O. Box 212157, Columbia, SC 29221. PHONE: (803) 781-7118.
UNDERWRITING LIMITATION $\frac{b}{c}$: \$1,693,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: AL, AR, GA, LA, MS, NC, OK, PA, SC, TN, TX, VA, WV. INCORPORATED IN: S. Carolina.

Capitol Indemnity Corporation

BUSINESS ADDRESS: P.O. Box 5900, Madison, WI 53705-0900. PHONE: (608) 231-4450. UNDERWRITING LIMITATION $\frac{b}{c}$: \$10,290,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: AL, AZ, AR, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Wisconsin.

Carolina Casualty Insurance Company

BUSINESS ADDRESS: P.O. Box 2575, Jacksonville, FL 32256. PHONE: (904) 363-0900. UNDERWRITING LIMITATION $\frac{b}{c}$: \$5,415,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

Centennial Insurance Company

BUSINESS ADDRESS: 100 Wall Street, New York, NY 10005. PHONE: (212) 943-1800.
UNDERWRITING LIMITATION $\frac{b}{c}$: \$14,550,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

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CENTRAL MUTUAL INSURANCE COMPANY

BUSINESS ADDRESS: 800 South Washington Street, Van Wert, OH 45891. PHONE: (419) 238-1010. UNDERWRITING LIMITATION $\frac{b}{l}$: \$14,635,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: AZ, CA, CT, DE, GA, IL, IN, IA, KY, MA, MI, NV, NH, NJ, NM, NY, NC, OH, OK, PA, TN, TX, VT, VA, WV. INCORPORATED IN: Ohio.

CENTURY SURETY COMPANY

BUSINESS ADDRESS: P.O. Box 163340, Columbus, OH 43216-3340. PHONE: (614) 895-2000. UNDERWRITING LIMITATION $\frac{b}{l}$: \$1,550,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: AZ, IN, OH, WV, WI. INCORPORATED IN: Ohio.

Chartwell Reinsurance Company

BUSINESS ADDRESS: Four Stamford Plaza, P.O. Box 120043, Stamford, CT 06912-0043. PHONE: (203) 705-2500. UNDERWRITING LIMITATION $\frac{b}{l}$: \$11,453,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: AL, AK, AZ, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, KS, KY, MD, MI, MN, MS, MT, NE, NV, NM, NY, NC, ND, OH, PA, TN, TX, UT, WA, WV, WI. INCORPORATED IN: Minnesota.

Chatham Reinsurance Corporation

BUSINESS ADDRESS: 100 Campus Drive, Florham Park, NJ 07932-1006. PHONE: (973) 443-0443. UNDERWRITING LIMITATION $\frac{b}{l}$: \$2,977,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: AL, AK, AZ, AR, CA, CO, DC, HI, ID, IL, IN, IA, KY, MD, MA, MN, MS, NE, NV, NJ, NY, OK, OR, PA, SC, SD, TX, UT, WA, WI. INCORPORATED IN: California.

CHRYSLER INSURANCE COMPANY

BUSINESS ADDRESS: CIMS:465-20-85, P.O. Box 5168, Southfield, MI 48086-5168. PHONE: (248) 948-3443. UNDERWRITING LIMITATION $\frac{b}{l}$: \$19,026,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

CHUBB INDEMNITY INSURANCE COMPANY

BUSINESS ADDRESS: 55 Water Street, New York, NY 10041. PHONE: (212) 612-4000. UNDERWRITING LIMITATION $\frac{b}{l}$: \$1,678,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, MT, NE, NV, NJ, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Cincinnati Casualty Company (The)

BUSINESS ADDRESS: P.O. Box 145496, Cincinnati, OH 45250-5496. PHONE: (513) 870-2000. UNDERWRITING LIMITATION $\frac{b}{l}$: \$18,432,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: AL, AZ, AR, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Cincinnati Insurance Company (The)

BUSINESS ADDRESS: P.O. Box 145496, Cincinnati, OH 45250-5496. PHONE: (513) 870-2000. UNDERWRITING LIMITATION $\frac{b}{l}$: \$277,406,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

COLONIAL AMERICAN CASUALTY AND SURETY COMPANY

BUSINESS ADDRESS: 300 Saint Paul Place, Baltimore, MD 21202. PHONE: (410) 539-0800. UNDERWRITING LIMITATION $\frac{b}{l}$: \$1,973,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Maryland.

COLONIAL SURETY COMPANY

BUSINESS ADDRESS: 50 Chestnut Ridge Road, Montvale, NJ 07645. PHONE: (201) 573-8788. UNDERWRITING LIMITATION $\frac{b}{l}$: \$322,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: AL, AK, AR, CA, CT, DE, DC, FL, KS, MD, MA, MT, NE, NJ, NM, NY, ND, OR, PA, SD, TX, UT, WV, WY. INCORPORATED IN: Pennsylvania.

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Columbia Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 618, Columbia, MO 65202. PHONE: (573) 474-6193.
UNDERWRITING LIMITATION 2: \$6,095,000. SURETY LICENSES 2: AL, AZ, AR, CO,
GA, ID, IL, IN, IA, KS, KY, LA, MN, MS, MO, MT, NE, NM, ND, OK, SD, TN, TX,
VA, WA, WV, WY. INCORPORATED IN: Missouri.

Commercial Casualty Insurance Company of Georgia

BUSINESS ADDRESS: 160 Technology Parkway, Norcross, GA 30092. PHONE: (770)
729-8101. UNDERWRITING LIMITATION 2: \$1,223,000. SURETY LICENSES 2: CA, FL,
GA, IN, LA, NC, SC, WA. INCORPORATED IN: Georgia.

Commercial Insurance Company of Newark, New Jersey

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000.
UNDERWRITING LIMITATION 2: \$3,603,000. SURETY LICENSES 2: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI,
MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD,
TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

Commercial Union Insurance Company

BUSINESS ADDRESS: One Beacon Street, Boston, MA 02108-3100. PHONE: (617) 725-
6000. UNDERWRITING LIMITATION 2: \$33,428,000. SURETY LICENSES 2: AL, AK,
AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA,
ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR,
PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN:
Massachusetts.

CONNECTICUT INDEMNITY COMPANY (THE)

BUSINESS ADDRESS: P.O. Box 420, Hartford, CT 06141. PHONE: (860) 674-6600.
UNDERWRITING LIMITATION 2: \$5,148,000. SURETY LICENSES 2: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI,
MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD,
TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Connecticut Surety Company (The)

BUSINESS ADDRESS: City Place II, 185 Asylum Street, Hartford, CT 06103-3403.
PHONE: (860) 527-6732. UNDERWRITING LIMITATION 2: \$600,000. SURETY LICENSES 2:
2: AK, AZ, AR, CA, CT, DE, DC, FL, GA, IN, IA, KY, LA, MD, MA, MO, MT, NE, NV,
NJ, NY, ND, OR, PA, SC, SD, TX, UT, WA. INCORPORATED IN: Connecticut.

Consolidated Insurance Company

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (317) 581-6400.
UNDERWRITING LIMITATION 2: \$3,054,000. SURETY LICENSES 2: IL, IN, IA, KY,
MI, OH, TN, WA, WI. INCORPORATED IN: Indiana.

Continental Casualty Company

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000.
UNDERWRITING LIMITATION 2: \$433,585,000. SURETY LICENSES 2: AL, AK, AZ, AR,
CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI,
MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC,
SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Continental Insurance Company (The)

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000.
UNDERWRITING LIMITATION 2: \$20,736,000. SURETY LICENSES 2: AL, AK, AS, AZ,
AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD,
MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR,
RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New
Hampshire.

Continental Western Insurance Company

BUSINESS ADDRESS: P.O. Box 1594, Des Moines, IA 50306. PHONE: (515) 278-3000.
UNDERWRITING LIMITATION 2: \$5,414,000. SURETY LICENSES 2: AZ, AR, CO, ID,
IL, IN, IA, KS, KY, ME, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD,
TN, TX, UT, WA, WV, WI, WY. INCORPORATED IN: Iowa.

CONTRACTORS BONDING AND INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 9271, Seattle, WA 98109-0271. PHONE: (206) 622-7053. UNDERWRITING LIMITATION $\frac{b}{c}$: \$2,113,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MT, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

Cooperativa de Seguros Multiples de Puerto Rico

BUSINESS ADDRESS: G.P.O. Box 363846, San Juan, PR 00936-3846. PHONE: (787) 758-8585. UNDERWRITING LIMITATION $\frac{b}{c}$: \$9,559,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: PR. INCORPORATED IN: Puerto Rico.

CREDIT GENERAL INSURANCE COMPANY

BUSINESS ADDRESS: 3201 Enterprise Parkway - Suite 310, Beachwood, OH 44122. PHONE: (216) 831-7500. UNDERWRITING LIMITATION $\frac{b}{c}$: \$3,034,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

CUMBERLAND CASUALTY & SURETY COMPANY

BUSINESS ADDRESS: 4311 West Waters Ave. #401, Tampa, FL 33614. PHONE: (813) 885-2112. UNDERWRITING LIMITATION $\frac{b}{c}$: \$455,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AR, DE, DC, FL, GA, GU, ID, IN, KS, KY, LA, MD, MA, MO, MT, NE, NV, ND, OR, PA, SC, SD, TN, TX, WA, WV, WY. INCORPORATED IN: Florida.

CUMIS INSURANCE SOCIETY, INC.

BUSINESS ADDRESS: Post Office Box 1084, Madison, WI 53701. PHONE: (608) 238-5851. UNDERWRITING LIMITATION $\frac{b}{c}$: \$34,681,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

DAIRYLAND INSURANCE COMPANY

BUSINESS ADDRESS: 1800 North Point Drive, Stevens Point, WI 54481. PHONE: (715) 346-6000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$24,969,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK, AZ, AR, CA, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

DEVELOPERS INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 19725, Irvine, CA 92613. PHONE: (949) 263-3300. UNDERWRITING LIMITATION $\frac{b}{c}$: \$606,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AK, AZ, CA, HI, ID, IN, NV, NC, OR, SC, UT, VA, WA. INCORPORATED IN: California.

Developers Surety and Indemnity Company

BUSINESS ADDRESS: P.O. Box 19725, Irvine, CA 92613. PHONE: (949) 263-3300. UNDERWRITING LIMITATION $\frac{b}{c}$: \$563,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AZ, CO, DC, ID, IL, IN, IA, KS, MD, MN, MO, MT, NE, NM, ND, OK, OR, SC, SD, UT, WI, WY. INCORPORATED IN: Iowa.

DIAMOND STATE INSURANCE COMPANY

BUSINESS ADDRESS: Three Bala Plaza East, Suite 300, Bala Cynwyd, PA 19004. PHONE: (610) 664-1500. UNDERWRITING LIMITATION $\frac{b}{c}$: \$4,475,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Indiana.

ECONOMY FIRE & CASUALTY COMPANY

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION $\frac{b}{c}$: \$24,780,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AR, CA, CO, FL, ID, IL, IN, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, PA, SD, UT, WV, WI, WY. INCORPORATED IN: Illinois.

Empire Fire and Marine Insurance Company

BUSINESS ADDRESS: 13810 FNB Parkway, Omaha, NE 68154-5202. PHONE: (402) 963-5000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$8,579,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

EMPLOYERS INSURANCE OF WAUSAU A Mutual Company

BUSINESS ADDRESS: P.O. Box 8017, Wausau, WI 54402-8017. PHONE: (715) 845-5211. UNDERWRITING LIMITATION $\frac{b}{c}$: \$43,762,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Employers Mutual Casualty Company

BUSINESS ADDRESS: P.O. Box 712, Des Moines, IA 50303-0712. PHONE: (515) 280-2511. UNDERWRITING LIMITATION $\frac{b}{c}$: \$54,275,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Employers Reinsurance Corporation

BUSINESS ADDRESS: P.O. Box 2991, Overland Park, KS 66201-1391. PHONE: (913) 676-5200. UNDERWRITING LIMITATION $\frac{b}{c}$: \$391,513,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Erie Insurance Company

BUSINESS ADDRESS: 100 Erie Insurance Place, Erie, PA 16530. PHONE: (814) 870-2000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$6,805,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: DC, IL, IN, KY, MD, NY, NC, OH, PA, TN, VA, WV. INCORPORATED IN: Pennsylvania.

Everest Reinsurance Company

BUSINESS ADDRESS: P.O. Box 830, Liberty Corner, NJ 07938-0830. PHONE: (908) 604-3000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$72,050,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Delaware.

Evergreen National Indemnity Company

BUSINESS ADDRESS: P.O. Box 18295, Columbus, OH 43218. PHONE: (614) 895-1773. UNDERWRITING LIMITATION $\frac{b}{c}$: \$1,316,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: AL, AK, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, WA, WI, WY. INCORPORATED IN: Ohio.

Excelsior Insurance Company

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (603) 352-3221. UNDERWRITING LIMITATION $\frac{b}{c}$: \$3,417,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: CT, DE, DC, FL, GA, IN, KY, MD, MA, NH, NJ, NY, NC, PA, VT, VA. INCORPORATED IN: New Hampshire.

Executive Risk Indemnity Inc.

BUSINESS ADDRESS: 82 Hopmeadow Street, P.O. Box 2002, Simsbury, CT 06070-7683. PHONE: (860) 408-2000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$30,585,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: AL, AK, AZ, AR, CA, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

EXPLORER INSURANCE COMPANY (THE)

BUSINESS ADDRESS: P.O. Box 85563, San Diego, CA 92186-5563. PHONE: (858) 350-2400. UNDERWRITING LIMITATION $\frac{b}{c}$: \$2,512,000. SURETY LICENSES $\frac{a}{c}$ $\frac{a}{c}$: AZ, CA, FL, HI, ID, IL, IA, MT, NV, NM, OR, PA, TX, UT, WA. INCORPORATED IN: Arizona.

FAR WEST INSURANCE COMPANY

BUSINESS ADDRESS: 5230 Las Virgenes Road, Calabasas, CA 91302. PHONE: (818) 871-2000. UNDERWRITING LIMITATION bc: \$756,000. SURETY LICENSES al ak: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

Farmers Alliance Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 1401, McPherson, KS 67460. PHONE: (316) 241-2200. UNDERWRITING LIMITATION bc: \$6,812,000. SURETY LICENSES al ak: AZ, CO, ID, IN, IA, KS, MN, MO, MT, NM, ND, OK, SD, TX. INCORPORATED IN: Kansas.

Farmington Casualty Company

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION bc: \$19,057,000. SURETY LICENSES al ak: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Farmland Mutual Insurance Company

BUSINESS ADDRESS: 1963 Bell Avenue, Des Moines, IA 50315-1030. PHONE: (515) 245-8800. UNDERWRITING LIMITATION bc: \$7,571,000. SURETY LICENSES al ak: AL, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NV, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Federal Insurance Company

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-2000. UNDERWRITING LIMITATION bc: \$278,822,000. SURETY LICENSES al ak: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Indiana.

FEDERATED MUTUAL INSURANCE COMPANY

BUSINESS ADDRESS: 121 East Park Square, Owatonna, MN 55060. PHONE: (507) 455-5200. UNDERWRITING LIMITATION bc: \$89,022,000. SURETY LICENSES al ak: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Fidelity and Casualty Company of New York (The)

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION bc: \$18,109,000. SURETY LICENSES al ak: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Fidelity and Deposit Company of Maryland

BUSINESS ADDRESS: 300 Saint Paul Place, Baltimore, MD 21202. PHONE: (410) 539-0800. UNDERWRITING LIMITATION bc: \$39,686,000. SURETY LICENSES al ak: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

FIDELITY AND GUARANTY INSURANCE COMPANY

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION bc: \$1,220,000. SURETY LICENSES al ak: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Fidelity and Guaranty Insurance Underwriters, Inc.

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION bc: \$3,192,000. SURETY LICENSES al ak: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Financial Pacific Insurance Company

BUSINESS ADDRESS: P.O. Box 292220, Sacramento, CA 95829-2220. PHONE: (916) 630-5000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$2,027,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AZ, AR, CA, ID, KS, MO, MT, NE, NV, ND, OR, SD, UT. INCORPORATED IN: California.

Fireman's Fund Insurance Company

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$230,629,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: California.

Firemen's Insurance Company of Newark, New Jersey

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$17,433,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

First Community Insurance Company

BUSINESS ADDRESS: 360 Central Avenue, St. Petersburg, FL 33701. PHONE: (727) 823-4000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$827,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AZ, AR, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

First Excess and Reinsurance Corporation

BUSINESS ADDRESS: P. O. Box 29164, Overland Park, KS 66201-9164. PHONE: (913) 676-5520. UNDERWRITING LIMITATION $\frac{b}{c}$: \$37,253,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AK, AZ, CA, CT, DC, GA, ID, IL, IN, IA, KS, KY, MI, MS, MO, MT, NE, NM, NY, OH, OK, SD, TN, TX, WA, WV, WI. INCORPORATED IN: Missouri.

FIRST FINANCIAL INSURANCE COMPANY

BUSINESS ADDRESS: 238 International Road, Burlington, NC 27215. PHONE: (336) 586-2500. UNDERWRITING LIMITATION $\frac{b}{c}$: \$8,573,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK, AZ, AR, CA, CO, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MI, MN, MO, MT, NE, NV, NM, NY, ND, OH, OR, RI, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

First Insurance Company of Hawaii, Ltd.

BUSINESS ADDRESS: P.O. Box 2866, Honolulu, HI 96803. PHONE: (808) 527-7777. UNDERWRITING LIMITATION $\frac{b}{c}$: \$12,031,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: GU, HI. INCORPORATED IN: Hawaii.

First Liberty Insurance Corporation (The)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500. UNDERWRITING LIMITATION $\frac{b}{c}$: \$1,507,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

First National Insurance Company of America

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$7,399,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

FRONTIER INSURANCE COMPANY

BUSINESS ADDRESS: 195 Lake Louise Marie Road, Rock Hill, NY 12775-8000. PHONE: (914) 796-2100. UNDERWRITING LIMITATION $\frac{b}{c}$: \$4,876,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

See Footnotes/Notes at end of Circular

Frontier Pacific Insurance Company

BUSINESS ADDRESS: 4250 Executive Square, Suite 200, La Jolla, CA 92037. PHONE: (619) 642-5000. UNDERWRITING LIMITATION $\frac{b}{l}$: \$3,492,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: CA, NV, NY. INCORPORATED IN: California.

GE Reinsurance Corporation $\frac{3}{l}$

BUSINESS ADDRESS: 1 Kemper Drive, Long Grove, IL 60049-0015. PHONE: (847) 320-2600. UNDERWRITING LIMITATION $\frac{b}{l}$: \$18,287,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: AL, AZ, CA, DE, DC, GA, ID, IL, IN, IA, KY, MI, MN, MS, NE, NV, NM, OK, OR, PA, RI, TX, UT, WA, WI. INCORPORATED IN: Illinois.

GENERAL ACCIDENT INSURANCE COMPANY OF AMERICA

BUSINESS ADDRESS: One Beacon Street, Boston, MA 02108-3100. PHONE: (617) 725-6000. UNDERWRITING LIMITATION $\frac{b}{l}$: \$131,739,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

General Insurance Company of America

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION $\frac{b}{l}$: \$68,279,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Washington.

General Reinsurance Corporation

BUSINESS ADDRESS: 695 East Main Street, Stamford, CT 06904-2349. PHONE: (203) 328-5000. UNDERWRITING LIMITATION $\frac{b}{l}$: \$459,653,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Global Surety & Insurance Co.

BUSINESS ADDRESS: 3555 Farnam Street, Omaha, NE 68131. PHONE: (402) 271-2840. UNDERWRITING LIMITATION $\frac{b}{l}$: \$1,938,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: AZ, CA, CO, NE. INCORPORATED IN: Nebraska.

GLOBE INDEMNITY COMPANY

BUSINESS ADDRESS: 9300 Arrowpoint Blvd., P.O. Box 1000, Charlotte, NC 28201-1000. PHONE: (704) 522-2000. UNDERWRITING LIMITATION $\frac{b}{l}$: \$32,699,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Grain Dealers Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 1747, Indianapolis, IN 46206. PHONE: (317) 923-2453. UNDERWRITING LIMITATION $\frac{b}{l}$: \$2,377,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: AZ, AR, CO, GA, IL, IN, IA, KS, KY, LA, MN, MS, MO, NE, NV, NM, NC, ND, OH, OK, OR, SD, TN, TX, VA, WA, WI, WY. INCORPORATED IN: Indiana.

GRANITE RE, INC.

BUSINESS ADDRESS: P.O. Box 20683, Oklahoma City, OK 73156. PHONE: (405) 516-5100. UNDERWRITING LIMITATION $\frac{b}{l}$: \$202,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: AR, KS, MN, ND, OK, SD. INCORPORATED IN: Oklahoma.

Granite State Insurance Company

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION $\frac{b}{l}$: \$2,198,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: AL, AK, AZ, AR, CA, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Great American Insurance Company

BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (513) 369-5000. UNDERWRITING LIMITATION $\frac{b}{l}$: \$126,284,000. SURETY LICENSES $\frac{a}{l}$ $\frac{a}{l}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

See Footnotes/Notes at end of Circular

Great Northern Insurance Company

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615.
PHONE: (908) 903-2000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$14,323,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Greenwich Insurance Company

BUSINESS ADDRESS: One Greenwich Plaza, PO Box 2568, Greenwich, CT 06836-2568.
PHONE: (203) 622-5200. UNDERWRITING LIMITATION $\frac{b}{c}$: \$1,745,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Gulf Insurance Company

BUSINESS ADDRESS: P.O. Box 1771, Dallas, TX 75221-1771. PHONE: (972) 650-2800.
UNDERWRITING LIMITATION $\frac{b}{c}$: \$33,382,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Hanover Insurance Company (The)

BUSINESS ADDRESS: 100 North Parkway, Worcester, MA 01605. PHONE: (508) 853-7200. UNDERWRITING LIMITATION $\frac{b}{c}$: \$126,604,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

HARCO NATIONAL INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 68309, Schaumburg, IL 60168-0309. PHONE: (847) 734-4100. UNDERWRITING LIMITATION $\frac{b}{c}$: \$5,309,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Harleysville Mutual Insurance Company

BUSINESS ADDRESS: 355 Maple Avenue, Harleysville, PA 19438-2297. PHONE: (215) 256-5000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$44,972,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AR, CA, CO, DE, DC, GA, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, NJ, NM, NC, OH, OK, PA, SC, TN, TX, UT, VA, WV, WI. INCORPORATED IN: Pennsylvania.

Hartford Accident and Indemnity Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$568,606,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Casualty Insurance Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$29,684,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Fire Insurance Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$841,732,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Insurance Company of Illinois

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$38,212,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: IL, PA. INCORPORATED IN: Illinois.

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Hartford Insurance Company of the Midwest

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000.
UNDERWRITING LIMITATION $\frac{B}{L}$: \$6,956,000. SURETY LICENSES $\frac{A}{L}$: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Insurance Company of the Southeast

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000.
UNDERWRITING LIMITATION $\frac{B}{L}$: \$2,634,000. SURETY LICENSES $\frac{A}{L}$: CT, FL, GA, LA, PA. INCORPORATED IN: Florida.

Hartford Underwriters Insurance Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000.
UNDERWRITING LIMITATION $\frac{B}{L}$: \$20,641,000. SURETY LICENSES $\frac{A}{L}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Heritage Mutual Insurance Company ^{4/}

BUSINESS ADDRESS: 2800 South Taylor Drive, P.O. Box 58, Sheboygan, WI 53082-0058. PHONE: (920) 458-9131. UNDERWRITING LIMITATION $\frac{B}{L}$: \$17,832,000. SURETY LICENSES $\frac{A}{L}$: AL, AZ, AR, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, MI, MN, MS, NE, NV, ND, OH, OR, PA, SD, TN, TX, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Highlands Insurance Company

BUSINESS ADDRESS: 10370 Richmond Avenue, Houston, TX 77042-4123. PHONE: (713) 952-9555 x-8334. UNDERWRITING LIMITATION $\frac{B}{L}$: \$9,696,000. SURETY LICENSES $\frac{A}{L}$: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

Highlands Underwriters Insurance Company

BUSINESS ADDRESS: 10370 Richmond Avenue, Houston, TX 77042-4123. PHONE: (713) 952-9555 x-8334. UNDERWRITING LIMITATION $\frac{B}{L}$: \$2,517,000. SURETY LICENSES $\frac{A}{L}$: AL, AZ, AR, CA, FL, GA, LA, MS, NM, ND, OK, SD, TX. INCORPORATED IN: Texas.

ICI MUTUAL INSURANCE COMPANY

BUSINESS ADDRESS: 102 South Winooski Avenue, Burlington, VT 05402-0730. PHONE: (802) 863-0096. UNDERWRITING LIMITATION $\frac{B}{L}$: \$10,337,000. SURETY LICENSES $\frac{A}{L}$: VT. INCORPORATED IN: Vermont.

Indemnity Company of California

BUSINESS ADDRESS: P.O. Box 19725, Irvine, CA 92613. PHONE: (949) 263-3300.
UNDERWRITING LIMITATION $\frac{B}{L}$: \$837,000. SURETY LICENSES $\frac{A}{L}$: AK, AZ, CA, HI, ID, NV, OR, SC, UT, VA, WA. INCORPORATED IN: California.

Indemnity Insurance Company of North America

BUSINESS ADDRESS: 1601 Chestnut St., P.O. Box 7716, Philadelphia, PA 19192.
PHONE: (215) 761-1000. UNDERWRITING LIMITATION $\frac{B}{L}$: \$1,509,000. SURETY LICENSES $\frac{A}{L}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Independence Casualty and Surety Company

BUSINESS ADDRESS: P.O. Box 85563, San Diego, CA 92186-5563. PHONE: (858) 350-2400. UNDERWRITING LIMITATION $\frac{B}{L}$: \$1,643,000. SURETY LICENSES $\frac{A}{L}$: TX. INCORPORATED IN: Texas.

Indiana Insurance Company

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (317) 581-6400.
UNDERWRITING LIMITATION $\frac{B}{L}$: \$11,117,000. SURETY LICENSES $\frac{A}{L}$: FL, IL, IN, IA, KY, MI, NJ, OH, TN, WA, WI. INCORPORATED IN: Indiana.

Indiana Lumbermens Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 68600, Indianapolis, IN 46268-1168. PHONE: (800) 428-1441 x-710. UNDERWRITING LIMITATION bc: \$3,727,000. SURETY LICENSES al al: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Inland Insurance Company

BUSINESS ADDRESS: P.O. Box 80468, Lincoln, NE 68501. PHONE: (402) 435-4302. UNDERWRITING LIMITATION bc: \$8,199,000. SURETY LICENSES al al: AZ, CO, IA, KS, MN, MO, MT, NE, ND, OK, SD, WY. INCORPORATED IN: Nebraska.

Insurance Company of the State of Pennsylvania (The)

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION bc: \$65,110,000. SURETY LICENSES al al: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Insurance Company of the West

BUSINESS ADDRESS: P.O. Box 85563, San Diego, CA 92186-5563. PHONE: (858) 350-2400. UNDERWRITING LIMITATION bc: \$19,329,000. SURETY LICENSES al al: AL, AK, AZ, AR, CA, CO, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Insurance Corporation of New York (The)

BUSINESS ADDRESS: 500 North Broadway, Suite #155, Jericho, NY 11753. PHONE: (516) 822-9410. UNDERWRITING LIMITATION bc: \$9,113,000. SURETY LICENSES al al: AL, AK, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Insurors Indemnity Company

BUSINESS ADDRESS: P.O. Box 2683, Waco, TX 76702-2683. PHONE: (817) 750-8128. UNDERWRITING LIMITATION bc: \$228,000. SURETY LICENSES al al: TX. INCORPORATED IN: Texas.

INTEGRAND ASSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 70128, San Juan, PR 00936-8128. PHONE: (787) 781-0707 x-269. UNDERWRITING LIMITATION bc: \$3,137,000. SURETY LICENSES al al: PR, VI. INCORPORATED IN: Puerto Rico.

Intercargo Insurance Company

BUSINESS ADDRESS: 1450 East American Lane, 20th Floor, Schaumburg, IL 60173. PHONE: (847) 517-2990. UNDERWRITING LIMITATION bc: \$2,890,000. SURETY LICENSES al al: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

International Business & Mercantile REassurance Company

BUSINESS ADDRESS: 307 North Michigan Avenue, Chicago, IL 60601. PHONE: (312) 346-8100. UNDERWRITING LIMITATION bc: \$7,732,000. SURETY LICENSES al al: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

International Fidelity Insurance Company

BUSINESS ADDRESS: One Newark Center, 20th Floor, Newark, NJ 07102-5207. PHONE: (973) 624-7200 x-226. UNDERWRITING LIMITATION bc: \$3,859,000. SURETY LICENSES al al: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

ISLAND INSURANCE COMPANY, LIMITED

BUSINESS ADDRESS: P.O. Box 1520, Honolulu, HI 96806. PHONE: (808) 531-1311.
UNDERWRITING LIMITATION $\frac{b}{c}$: \$7,929,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: HI. INCORPORATED
IN: Hawaii.

John Deere Insurance Company

BUSINESS ADDRESS: 3400 80th Street, Moline, IL 61265-5886. PHONE: (800) 447-
0633. UNDERWRITING LIMITATION $\frac{b}{c}$: \$14,764,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK,
AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD,
MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI,
SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Kansas Bankers Surety Company (The)

BUSINESS ADDRESS: P. O. Box 1654, Topeka, KS 66601-1654. PHONE: (785) 228-
0000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$6,521,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AZ, AR, CO,
ID, IL, IN, IA, KS, KY, LA, ME, MI, MN, MS, MO, MT, NE, NM, ND, OK, SD, TN,
TX, WI, WY. INCORPORATED IN: Kansas.

KEMPER REINSURANCE COMPANY $\frac{3}{4}$ **Liberty Insurance Corporation**

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-
9500. UNDERWRITING LIMITATION $\frac{b}{c}$: \$16,676,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK,
AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD,
MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI,
SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Vermont.

LIBERTY MUTUAL FIRE INSURANCE COMPANY

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-
9500. UNDERWRITING LIMITATION $\frac{b}{c}$: \$61,087,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK,
AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD,
MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR,
RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN:
Massachusetts.

Liberty Mutual Insurance Company

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-
9500. UNDERWRITING LIMITATION $\frac{b}{c}$: \$420,366,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK,
AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD,
MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR,
RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN:
Massachusetts.

Lincoln General Insurance Company

BUSINESS ADDRESS: 3350 Whiteford Road, P.O. Box 3819, York, PA 17402-0137.
PHONE: (717) 757-0000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$1,007,000. SURETY LICENSES
 $\frac{a}{c}$ $\frac{d}{e}$: AL, AR, CO, DE, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO,
MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, UT, VA, WA, WV, WI,
WY. INCORPORATED IN: Pennsylvania.

LM Insurance Corporation

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-
9500. UNDERWRITING LIMITATION $\frac{b}{c}$: \$1,497,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK, AZ,
AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD,
MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI,
SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Lumbermens Mutual Casualty Company

BUSINESS ADDRESS: 1 Kemper Drive, Long Grove, IL 60049-0001. PHONE: (847) 320-
2000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$182,276,000. SURETY LICENSES $\frac{a}{c}$ $\frac{d}{e}$: AL, AK,
AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA,
ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR,
PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN:
Illinois.

Lyndon Property Insurance Company

BUSINESS ADDRESS: 520 Maryville Centre Drive, Ste 500, St. Louis, MO 63141-5814. PHONE: (314) 275-5200. UNDERWRITING LIMITATION $\frac{b}{c}$: \$3,044,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

MARKEL INSURANCE COMPANY

BUSINESS ADDRESS: Shand Morahan Plaza, Evanston, IL 60201. PHONE: (847) 866-2800. UNDERWRITING LIMITATION $\frac{b}{c}$: \$5,768,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Massachusetts Bay Insurance Company

BUSINESS ADDRESS: 100 North Parkway, Worcester, MA 01605. PHONE: (508) 853-7200. UNDERWRITING LIMITATION $\frac{b}{c}$: \$1,810,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AR, CA, CO, CT, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TN, TX, VT, VA, WA, WI. INCORPORATED IN: New Hampshire.

Merchants Bonding Company (Mutual)

BUSINESS ADDRESS: 2100 Fleur Drive, Des Moines, IA 50321-1158. PHONE: (515) 243-8171. UNDERWRITING LIMITATION $\frac{b}{c}$: \$2,328,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Michigan Millers Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 30060, Lansing, MI 48909-7560. PHONE: (517) 482-6211. UNDERWRITING LIMITATION $\frac{b}{c}$: \$7,796,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AZ, AR, CA, ID, IL, IN, IA, KS, KY, MI, MO, NE, NY, NC, OH, OK, PA, VA, WI. INCORPORATED IN: Michigan.

Michigan Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 2060, Farmington Hills, MI 48333-2060. PHONE: (248) 615-9000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$13,745,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AK, AZ, AR, CA, CO, CT, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

MID-CONTINENT CASUALTY COMPANY

BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587-7221 x-200. UNDERWRITING LIMITATION $\frac{b}{c}$: \$6,116,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AZ, AR, CO, IL, IN, IA, KS, LA, MN, MS, MO, MT, NE, NM, ND, OK, OR, SD, TN, TX, UT, WA, WY. INCORPORATED IN: Oklahoma.

Mid-State Surety Corporation

BUSINESS ADDRESS: 102 Kercheval, Grosse Pointe Farms, MI 48236. PHONE: (313) 886-2200. UNDERWRITING LIMITATION $\frac{b}{c}$: \$1,001,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AZ, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, NE, NJ, NY, ND, OH, PA, SC, SD, TN, UT, VT, VA, WV, WI, WY. INCORPORATED IN: Michigan.

MIDWESTERN INDEMNITY COMPANY (THE) $\frac{5}{c}$

BUSINESS ADDRESS: 6281 Tri-Ridge Boulevard, Loveland, OH 45140. PHONE: (513) 576-3200. UNDERWRITING LIMITATION $\frac{b}{c}$: \$2,068,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AR, CT, GA, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NJ, NY, NC, OH, OK, PA, SC, TN, VA, WV, WI. INCORPORATED IN: Ohio.

Millers Mutual Fire Insurance Company (The)

BUSINESS ADDRESS: P.O. Box 2269, Fort Worth, TX 76113-2269. PHONE: (817) 332-7761. UNDERWRITING LIMITATION $\frac{b}{c}$: \$8,826,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AZ, AR, CA, CO, DC, FL, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WI, WY. INCORPORATED IN: Texas.

Millers Mutual Insurance Association

BUSINESS ADDRESS: 111 East Fourth Street, P.O. Box 9006, Alton, IL 62002-9006.
PHONE: (618) 463-3636. UNDERWRITING LIMITATION $\frac{b}{l}$: \$2,939,000. SURETY LICENSES $\frac{a}{l}$ $\frac{e}{l}$: AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NM, NC, ND, OH, SD, TN, TX, WI. INCORPORATED IN: Illinois.

Minnesota Trust Company of Austin

BUSINESS ADDRESS: P. O. Box 463, Austin, MN 55912-0463. PHONE: (507) 437-3231.
UNDERWRITING LIMITATION $\frac{b}{l}$: \$166,000. SURETY LICENSES $\frac{a}{l}$ $\frac{e}{l}$: CO, MN, MT, ND, SD, UT. INCORPORATED IN: Minnesota.

Motors Insurance Corporation $\frac{6}{l}$

BUSINESS ADDRESS: 3044 West Grand Blvd., Detroit, MI 48202. PHONE: (313) 556-5000. UNDERWRITING LIMITATION $\frac{b}{l}$: \$105,033,000. SURETY LICENSES $\frac{a}{l}$ $\frac{e}{l}$: AL, AK, AZ, AR, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Mountbatten Surety Company, Inc. (The)

BUSINESS ADDRESS: 33 Rock Hill Road, Bala Cynwyd, PA 19004. PHONE: (610) 664-2259. UNDERWRITING LIMITATION $\frac{b}{l}$: \$1,054,000. SURETY LICENSES $\frac{a}{l}$ $\frac{e}{l}$: AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KY, MD, MI, MS, NJ, NY, NC, OH, PA, SC, TN, TX, VA. INCORPORATED IN: Pennsylvania.

MUTUAL SERVICE CASUALTY INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 64035, St. Paul, MN 55164-0035. PHONE: (651) 631-7000. UNDERWRITING LIMITATION $\frac{b}{l}$: \$4,167,000. SURETY LICENSES $\frac{a}{l}$ $\frac{e}{l}$: AL, AK, AZ, AR, CA, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

NAC Reinsurance Corporation

BUSINESS ADDRESS: One Greenwich Plaza, P.O. Box 2568, Greenwich, CT 06836-2568. PHONE: (203) 622-5200. UNDERWRITING LIMITATION $\frac{b}{l}$: \$71,169,000. SURETY LICENSES $\frac{a}{l}$ $\frac{e}{l}$: AL, AK, AZ, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

National American Insurance Company

BUSINESS ADDRESS: 1008 Manvel Avenue, Chandler, OK 74834. PHONE: (405) 258-0804. UNDERWRITING LIMITATION $\frac{b}{l}$: \$4,008,000. SURETY LICENSES $\frac{a}{l}$ $\frac{e}{l}$: AL, AK, AZ, AR, CA, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

National Fire Insurance Company of Hartford

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000.
UNDERWRITING LIMITATION $\frac{b}{l}$: \$77,666,000. SURETY LICENSES $\frac{a}{l}$ $\frac{e}{l}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

National Grange Mutual Insurance Company

BUSINESS ADDRESS: 55 West Street, Keene, NH 03431. PHONE: (603) 352-4000.
UNDERWRITING LIMITATION $\frac{b}{l}$: \$25,177,000. SURETY LICENSES $\frac{a}{l}$ $\frac{e}{l}$: CT, DE, DC, ME, MD, MA, MI, NH, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI. INCORPORATED IN: New Hampshire.

National Indemnity Company

BUSINESS ADDRESS: 3024 Harney Street, Omaha, NE 68131. PHONE: (402) 536-3000.
UNDERWRITING LIMITATION $\frac{b}{l}$: \$1,425,078,000. SURETY LICENSES $\frac{a}{l}$ $\frac{e}{l}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

NATIONAL REINSURANCE CORPORATION

BUSINESS ADDRESS: 695 East Main St., P.O. Box 10350, Stamford, CT 06904-2350.
PHONE: (203) 328-5000. UNDERWRITING LIMITATION $\leq$: \$33,517,000. SURETY LICENSES $\leq$ $\leq$: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

National Surety Corporation

BUSINESS ADDRESS: 233 South Wacker Drive, Suite 2000, Chicago, IL 60606-6308.
PHONE: (312) 441-5400. UNDERWRITING LIMITATION $\leq$: \$10,600,000. SURETY LICENSES $\leq$ $\leq$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

National Union Fire Insurance Company of Pittsburgh, PA

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000.
UNDERWRITING LIMITATION $\leq$: \$82,875,000. SURETY LICENSES $\leq$ $\leq$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

National-Ben Franklin Insurance Company of Illinois

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000.
UNDERWRITING LIMITATION $\leq$: \$6,609,000. SURETY LICENSES $\leq$ $\leq$: DC, FL, IL, IN, IA, KY, MD, MI, MN, NY, NC, ND, RI, SD, WI. INCORPORATED IN: Illinois.

Nationwide Mutual Insurance Company

BUSINESS ADDRESS: One Nationwide Plaza, Columbus, OH 43216. PHONE: (614) 249-7111. UNDERWRITING LIMITATION $\leq$: \$818,168,000. SURETY LICENSES $\leq$ $\leq$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Ohio.

NAVIGATORS INSURANCE COMPANY

BUSINESS ADDRESS: 123 William Street, New York, NY 10038-3871. PHONE: (212) 349-1600. UNDERWRITING LIMITATION $\leq$: \$8,428,000. SURETY LICENSES $\leq$ $\leq$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NV, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: New York.

Netherlands Insurance Company (The)

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (603) 352-3221.
UNDERWRITING LIMITATION $\leq$: \$2,371,000. SURETY LICENSES $\leq$ $\leq$: AZ, CA, CT, DC, GA, ID, IL, IN, IA, KY, ME, MD, MA, MI, NV, NH, NJ, NY, NC, OH, RI, SC, TN, UT, VT, VA, WA, WI. INCORPORATED IN: New Hampshire.

New Hampshire Insurance Company

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000.
UNDERWRITING LIMITATION $\leq$: \$38,806,000. SURETY LICENSES $\leq$ $\leq$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

NORTH AMERICAN SPECIALTY INSURANCE COMPANY

BUSINESS ADDRESS: 650 Elm Street, Manchester, NH 03101. PHONE: (603) 644-6600.
UNDERWRITING LIMITATION $\leq$: \$8,862,000. SURETY LICENSES $\leq$ $\leq$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

NORTHBROOK PROPERTY AND CASUALTY INSURANCE COMPANY

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION $\leq$: \$24,301,000. SURETY LICENSES $\leq$ $\leq$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

NORTHLAND INSURANCE COMPANY

BUSINESS ADDRESS: P. O. Box 64816, St. Paul, MN 55164-0816. PHONE: (612) 688-4100. UNDERWRITING LIMITATION $\frac{b}{c}$: \$14,442,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

NORTHWESTERN PACIFIC INDEMNITY COMPANY

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (503) 221-4240. UNDERWRITING LIMITATION $\frac{b}{c}$: \$2,897,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: CA, OR, TX, WA. INCORPORATED IN: Oregon.

NOVA Casualty Company

BUSINESS ADDRESS: 180 Oak Street, Buffalo, NY 14203-1610. PHONE: (716) 856-3722. UNDERWRITING LIMITATION $\frac{b}{c}$: \$811,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: DC, IN, IA, MS, NV, NY, ND. INCORPORATED IN: New York.

Ohio Casualty Insurance Company (The)

BUSINESS ADDRESS: 136 North Third Street, Hamilton, OH 45025. PHONE: (513) 867-3000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$102,711,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Ohio Farmers Insurance Company

BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251-5001. PHONE: (330) 887-0101. UNDERWRITING LIMITATION $\frac{b}{c}$: \$67,982,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Oklahoma Surety Company

BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587-7221. UNDERWRITING LIMITATION $\frac{b}{c}$: \$631,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AR, KS, LA, OK, TX. INCORPORATED IN: Oklahoma.

Old Republic Insurance Company

BUSINESS ADDRESS: P.O. Box 789, Greensburg, PA 15601-0789. PHONE: (724) 834-5000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$42,797,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Old Republic Surety Company

BUSINESS ADDRESS: P.O. Box 1635, Milwaukee, WI 53201. PHONE: (414) 797-2640. UNDERWRITING LIMITATION $\frac{b}{c}$: \$2,240,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, MD, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

ORISKA INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 400, Oriskany, NY 13424. PHONE: (315) 768-2726. UNDERWRITING LIMITATION $\frac{b}{c}$: \$331,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: NY, PA, TN. INCORPORATED IN: New York.

Pacific Employers Insurance Company

BUSINESS ADDRESS: 1601 Chestnut Street, Philadelphia, PA 19192. PHONE: (215) 761-1000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$2,474,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

See Footnotes/Notes at end of Circular

Pacific Indemnity Company

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615.
PHONE: (908) 903-2000. UNDERWRITING LIMITATION 2: \$54,575,000. SURETY LICENSES 2: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Pacific Insurance Company, Limited

BUSINESS ADDRESS: 150 Federal Street, Boston, MA 02110. PHONE: (617) 526-7600.
UNDERWRITING LIMITATION 2: \$30,879,000. SURETY LICENSES 2: CT, HI.
INCORPORATED IN: Connecticut.

PARTNER REINSURANCE COMPANY OF THE U.S.

BUSINESS ADDRESS: Two World Financial Ctr., 225 Liberty St., 42nd Fl., New York, NY 10281-1076. PHONE: (212) 416-5700. UNDERWRITING LIMITATION 2: \$26,378,000. SURETY LICENSES 2: AL, AZ, CA, CO, DC, GA, IL, IA, MS, NE, NV, NY, SD, TX. INCORPORATED IN: New York.

PARTNERRE INSURANCE COMPANY OF NEW YORK 7

BUSINESS ADDRESS: Two World Financial Ctr, 225 Liberty Street, 42nd Fl., New York, NY 10281-1076. PHONE: (212) 416-5700. UNDERWRITING LIMITATION 2: \$3,788,000. SURETY LICENSES 2: AL, AZ, CA, CO, DE, DC, IL, IN, IA, KS, KY, MD, MI, MN, MS, MT, NE, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TX, UT, VT, WA, WV, WI. INCORPORATED IN: New York.

Peerless Insurance Company

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (603) 352-3221.
UNDERWRITING LIMITATION 2: \$20,647,000. SURETY LICENSES 2: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Pekin Insurance Company

BUSINESS ADDRESS: 2505 Court Street, Pekin, IL 61558. PHONE: (309) 346-1161.
UNDERWRITING LIMITATION 2: \$5,636,000. SURETY LICENSES 2: IL, IN, IA, WI.
INCORPORATED IN: Illinois.

Penn Millers Insurance Company 8

BUSINESS ADDRESS: P. O. Box P, Wilkes-Barre, PA 18773-0016. PHONE: (570) 822-8111. UNDERWRITING LIMITATION 2: \$4,982,000. SURETY LICENSES 2: AL, AR, CT, DC, FL, GA, IL, IN, KS, KY, ME, MD, MA, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA. INCORPORATED IN: Pennsylvania.

Pennsylvania General Insurance Company

BUSINESS ADDRESS: One Beacon Street, Boston, MA 02108-3100. PHONE: (617) 725-6000. UNDERWRITING LIMITATION 2: \$18,569,000. SURETY LICENSES 2: AL, AZ, AR, CA, CO, CT, DE, DC, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NV, NH, NJ, NM, NY, NC, OH, OR, PA, RI, SC, TN, TX, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Pennsylvania Millers Mutual Insurance Company 8**Pennsylvania National Mutual Casualty Insurance Company**

BUSINESS ADDRESS: P.O. Box 2361, Harrisburg, PA 17105-2361. PHONE: (717) 234-4941. UNDERWRITING LIMITATION 2: \$14,138,000. SURETY LICENSES 2: AL, AK, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Pioneer General Insurance Company

BUSINESS ADDRESS: 6780 East Hampden Avenue, Denver, CO 80224. PHONE: (303) 758-8122. UNDERWRITING LIMITATION 2: \$189,000. SURETY LICENSES 2: CO.
INCORPORATED IN: Colorado.

See Footnotes/Notes at end of Circular

PLANET INDEMNITY COMPANY

BUSINESS ADDRESS: 216 Sixteenth Street, Suite 1300, Denver, CO 80202. PHONE: (303) 534-5300. UNDERWRITING LIMITATION \$: \$1,208,000. SURETY LICENSES AL: AL, CO, FL, GA, HI, ID, IL, KS, KY, MI, MS, ND, OH, OR, PA, SD, TX, WA, WV. INCORPORATED IN: Colorado.

PREFERRED NATIONAL INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 407003, Ft. Lauderdale, FL 33340-7003. PHONE: (954) 752-1222. UNDERWRITING LIMITATION \$: \$2,821,000. SURETY LICENSES AL: FL, IL. INCORPORATED IN: Florida.

Progressive Casualty Insurance Company

BUSINESS ADDRESS: 6300 Wilson Mills Road, W33, Mayfield Village, OH 44143-2182. PHONE: (440) 461-5000. UNDERWRITING LIMITATION \$: \$81,938,000. SURETY LICENSES AL: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

PROTECTION MUTUAL INSURANCE COMPANY

BUSINESS ADDRESS: 300 S. Northwest Highway, Park Ridge, IL 60068. PHONE: (847) 825-4474. UNDERWRITING LIMITATION \$: \$52,787,000. SURETY LICENSES AL: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Protective Insurance Company

BUSINESS ADDRESS: 1099 North Meridian Street, Indianapolis, IN 46204. PHONE: (317) 636-9800. UNDERWRITING LIMITATION \$: \$25,504,000. SURETY LICENSES AL: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Ranger Insurance Company

BUSINESS ADDRESS: P.O. Box 2807, Houston, TX 77252. PHONE: (713) 954-8100. UNDERWRITING LIMITATION \$: \$2,323,000. SURETY LICENSES AL: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Redland Insurance Company

BUSINESS ADDRESS: 222 South 15th Street, Suite 600 North, Omaha, NE 68102-1616. PHONE: (402) 344-8800. UNDERWRITING LIMITATION \$: \$8,215,000. SURETY LICENSES AL: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Reliance Insurance Company

BUSINESS ADDRESS: Compliance Department - Three Parkway, Philadelphia, PA 19102. PHONE: (215) 864-4000. UNDERWRITING LIMITATION \$: \$104,673,000. SURETY LICENSES AL: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Reliance Insurance Company of Illinois^{9/}

BUSINESS ADDRESS: Compliance Department - Three Parkway, Philadelphia, PA 19102. PHONE: (215) 864-4000. UNDERWRITING LIMITATION \$: \$4,865,000. SURETY LICENSES AL: IL. INCORPORATED IN: Illinois.

Reliance National Indemnity Company

BUSINESS ADDRESS: Compliance Department - Three Parkway, Philadelphia, PA 19102. PHONE: (215) 864-4000. UNDERWRITING LIMITATION \$: \$7,995,000. SURETY LICENSES AL: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

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Reliance Surety Company

BUSINESS ADDRESS: Compliance Department - Three Parkway, Philadelphia, PA 19102. PHONE: (215) 864-4000. UNDERWRITING LIMITATION $\frac{B}{L}$: \$2,244,000. SURETY LICENSES $\frac{A}{L}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Republic Western Insurance Company

BUSINESS ADDRESS: 2721 North Central Avenue, Phoenix, AZ 85004-1163. PHONE: (602) 263-6755. UNDERWRITING LIMITATION $\frac{B}{L}$: \$11,981,000. SURETY LICENSES $\frac{A}{L}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Arizona.

RLI Insurance Company

BUSINESS ADDRESS: 9025 N. Lindbergh Drive, Peoria, IL 61615. PHONE: (309) 692-1000. UNDERWRITING LIMITATION $\frac{B}{L}$: \$31,448,000. SURETY LICENSES $\frac{A}{L}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Royal Indemnity Company

BUSINESS ADDRESS: 9300 Arrowpoint Boulevard, P.O. Box 1000, Charlotte, NC 28201-1000. PHONE: (704) 522-2000. UNDERWRITING LIMITATION $\frac{B}{L}$: \$23,024,000. SURETY LICENSES $\frac{A}{L}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

ROYAL INSURANCE COMPANY OF AMERICA

BUSINESS ADDRESS: 1240 E. Diehl Rd., Ste 500, P. O. Box 3144, Naperville, IL 60566. PHONE: (630) 577-9200. UNDERWRITING LIMITATION $\frac{B}{L}$: \$53,278,000. SURETY LICENSES $\frac{A}{L}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

SAFECO Insurance Company of America

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION $\frac{B}{L}$: \$90,423,000. SURETY LICENSES $\frac{A}{L}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

SAFECO Insurance Company of Illinois

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION $\frac{B}{L}$: \$14,770,000. SURETY LICENSES $\frac{A}{L}$: AZ, CO, IL, KS, KY, MD, MI, MN, MS, NE, NM, OH, OR, PA, TN, TX, UT, WI, WY. INCORPORATED IN: Illinois.

SAFECO National Insurance Company

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION $\frac{B}{L}$: \$7,048,000. SURETY LICENSES $\frac{A}{L}$: CO, KY, MD, MO, NY, UT, WI, WY. INCORPORATED IN: Missouri.

Safeguard Insurance Company

BUSINESS ADDRESS: 9300 Arrowpoint Blvd., P. O. Box 1000, Charlotte, NC 28201-1000. PHONE: (704) 522-2000. UNDERWRITING LIMITATION $\frac{B}{L}$: \$12,430,000. SURETY LICENSES $\frac{A}{L}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

SCOR REINSURANCE COMPANY

BUSINESS ADDRESS: 2 World Trade Center, New York, NY 10048-2495. PHONE: (212) 390-5200. UNDERWRITING LIMITATION $\frac{B}{L}$: \$40,265,000. SURETY LICENSES $\frac{A}{L}$: AL, AK, AZ, CA, DE, DC, HI, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, TN, TX, UT, WA, WI. INCORPORATED IN: New York.

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Seaboard Surety Company

BUSINESS ADDRESS: 6225 Centennial Way, Baltimore, MD 21209. PHONE: (410) 205-3000. UNDERWRITING LIMITATION b/: \$15,353,000. SURETY LICENSES o/ u/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

SECURITY INSURANCE COMPANY OF HARTFORD

BUSINESS ADDRESS: P.O. Box 420, Hartford, CT 06141. PHONE: (860) 674-6600. UNDERWRITING LIMITATION b/: \$5,763,000. SURETY LICENSES o/ u/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Security National Insurance Company

BUSINESS ADDRESS: P.O. Box 655028, Dallas, TX 75265-5028. PHONE: (214) 360-8000. UNDERWRITING LIMITATION b/: \$1,659,000. SURETY LICENSES o/ u/: AL, AR, CA, CO, GA, ID, IL, IN, IA, KS, KY, LA, MS, MO, MT, NE, NM, OH, OK, OR, TN, TX, WA, WI, WY. INCORPORATED IN: Texas.

Select Insurance Company

BUSINESS ADDRESS: P.O. Box 1771, Dallas, TX 75221-1771. PHONE: (972) 650-2800. UNDERWRITING LIMITATION b/: \$4,141,000. SURETY LICENSES o/ u/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, MD, MI, MS, MO, MT, NE, NV, NM, NC, OH, OR, SC, SD, TN, TX, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

Selective Insurance Company of America

BUSINESS ADDRESS: Wantage Avenue, Branchville, NJ 07890. PHONE: (973) 948-3000. UNDERWRITING LIMITATION b/: \$24,281,000. SURETY LICENSES o/ u/: AL, DE, DC, GA, IL, IN, IA, MD, MI, MN, MS, MO, NJ, NY, NC, OH, PA, RI, SC, TX, VA, WI. INCORPORATED IN: New Jersey.

SENTINEL INSURANCE COMPANY, LTD.

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: \$2,122,000. SURETY LICENSES o/ u/: HI. INCORPORATED IN: Hawaii.

Sentry Insurance A Mutual Company

BUSINESS ADDRESS: 1800 North Point Drive, Stevens Point, WI 54481. PHONE: (715) 346-6000. UNDERWRITING LIMITATION b/: \$162,429,000. SURETY LICENSES o/ u/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

SERVICE INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 9729, Bradenton, FL 34206-9729. PHONE: (941) 746-4107. UNDERWRITING LIMITATION b/: \$658,000. SURETY LICENSES o/ u/: AL, FL, GA, NE, SC, TN. INCORPORATED IN: Florida.

Signet Star Reinsurance Company

BUSINESS ADDRESS: 100 Campus Drive, P.O. Box 853, Florham Park, NJ 07932-0853. PHONE: (973) 301-8000. UNDERWRITING LIMITATION b/: \$25,702,000. SURETY LICENSES o/ u/: AL, AK, AR, CA, CO, DE, DC, FL, ID, IL, IN, IA, KY, LA, MD, MI, MN, NE, NV, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, WA, WV, WI. INCORPORATED IN: Delaware.

SOREMA NORTH AMERICA REINSURANCE COMPANY

BUSINESS ADDRESS: 199 Water Street, New York, NY 10038-3526. PHONE: (212) 480-1900. UNDERWRITING LIMITATION b/: \$15,229,000. SURETY LICENSES o/ u/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

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St. Paul Fire and Marine Insurance Company

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$131,034,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

ST. PAUL GUARDIAN INSURANCE COMPANY

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$3,709,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

St. Paul Mercury Insurance Company

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$7,062,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Standard Fire Insurance Company (The)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$81,908,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Star Insurance Company

BUSINESS ADDRESS: 26600 Telegraph Road, Southfield, MI 48034. PHONE: (248) 358-1100. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$4,337,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

State Automobile Mutual Insurance Company

BUSINESS ADDRESS: 518 East Broad Street, Columbus, OH 43215-3976. PHONE: (614) 464-5000. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$69,117,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AZ, AR, CO, FL, GA, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NC, ND, OH, OK, PA, SC, SD, TN, VA, WV, WI, WY. INCORPORATED IN: Ohio.

State Farm Fire and Casualty Company

BUSINESS ADDRESS: One State Farm Plaza, Bloomington, IL 61710. PHONE: (309) 766-2311. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$452,668,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Statewide Insurance Company

BUSINESS ADDRESS: P.O. Box 799, Waukegan, IL 60079-0799. PHONE: (847) 662-0073. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$1,185,000. SURETY LICENSES $\frac{\$}{\$}$: AZ, AR, ID, IL, IN, IA, KS, KY, MN, MO, MT, NE, NV, NM, ND, OH, OR, PA, SC, SD, TN, UT, WA, WI, WY. INCORPORATED IN: Illinois.

Surety Company of the Pacific

BUSINESS ADDRESS: P.O. Box 10289, Van Nuys, CA 91410-0289. PHONE: (818) 609-9232. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$469,000. SURETY LICENSES $\frac{\$}{\$}$: CA. INCORPORATED IN: California.

Swiss Reinsurance America Corporation

BUSINESS ADDRESS: 175 King Street, Armonk, NY 10504. PHONE: (212) 907-8000. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$178,016,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI. INCORPORATED IN: New York.

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TEXAS PACIFIC INDEMNITY COMPANY

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615.
PHONE: (214) 754-0777. UNDERWRITING LIMITATION $\frac{b}{c}$: \$865,000. SURETY LICENSES $\frac{a}{c}$: AR, TX. INCORPORATED IN: Texas.

TIG Insurance Company

BUSINESS ADDRESS: P. O. Box 152870, Irving, TX 75015. PHONE: (972) 831-5000.
UNDERWRITING LIMITATION $\frac{b}{c}$: \$71,878,000. SURETY LICENSES $\frac{a}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

TIG Insurance Company of Michigan

BUSINESS ADDRESS: P.O. Box 152870, Irving, TX 75015. PHONE: (972) 831-5000.
UNDERWRITING LIMITATION $\frac{b}{c}$: \$2,020,000. SURETY LICENSES $\frac{a}{c}$: AR, ID, IN, MI, MN, NY, TX. INCORPORATED IN: Michigan.

TIG Premier Insurance Company

BUSINESS ADDRESS: P.O. Box 152870, Irving, TX 75015. PHONE: (972) 831-5000.
UNDERWRITING LIMITATION $\frac{b}{c}$: \$3,446,000. SURETY LICENSES $\frac{a}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: California.

TRANSATLANTIC REINSURANCE COMPANY

BUSINESS ADDRESS: 80 Pine Street, New York, NY 10005. PHONE: (212) 770-2000.
UNDERWRITING LIMITATION $\frac{b}{c}$: \$124,124,000. SURETY LICENSES $\frac{a}{c}$: AK, AZ, AR, CA, CO, DE, DC, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, NE, NV, NJ, NM, NY, OH, OK, PA, SD, UT, WA, WI. INCORPORATED IN: New York.

Travelers Casualty and Surety Company

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION $\frac{b}{c}$: \$216,862,000. SURETY LICENSES $\frac{a}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty and Surety Company of America

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION $\frac{b}{c}$: \$50,073,000. SURETY LICENSES $\frac{a}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty and Surety Company of Illinois

BUSINESS ADDRESS: 215 Shuman Boulevard, Naperville, IL 60563. PHONE: (860) 277-0111. UNDERWRITING LIMITATION $\frac{b}{c}$: \$34,532,000. SURETY LICENSES $\frac{a}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Travelers Indemnity Company (The)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION $\frac{b}{c}$: \$180,268,000. SURETY LICENSES $\frac{a}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Indemnity Company of Connecticut (The)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION $\frac{b}{c}$: \$24,670,000. SURETY LICENSES $\frac{a}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Tri-State Insurance Company of Minnesota

BUSINESS ADDRESS: One Roundwind Road, Luverne, MN 56156. PHONE: (507) 283-9561. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$524,000. SURETY LICENSES $\frac{\$}{\$}$: CO, IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, WI. INCORPORATED IN: Minnesota.

Trinity Universal Insurance Company

BUSINESS ADDRESS: P.O. Box 655028, Dallas, TX 75265-5028. PHONE: (214) 360-8000. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$49,941,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AZ, AR, CA, CO, GA, ID, IL, IN, IA, KS, KY, LA, MI, MS, MO, NM, OH, OK, TN, TX, WA, WI, WY. INCORPORATED IN: Texas.

Trinity Universal Insurance Company of Kansas, Inc.

BUSINESS ADDRESS: P.O. Box 655028, Dallas, TX 75265-5028. PHONE: (214) 360-8000. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$1,051,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AZ, AR, CO, GA, ID, IL, IN, IA, KS, KY, LA, MS, MO, MT, NE, NM, OH, OK, OR, TX, WA, WI, WY. INCORPORATED IN: Kansas.

Trumbull Insurance Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$2,663,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AK, AZ, AR, CO, CT, DE, DC, ID, IL, IN, IA, KY, ME, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, WY. INCORPORATED IN: Connecticut.

Twin City Fire Insurance Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$11,463,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

ULICO CASUALTY COMPANY

BUSINESS ADDRESS: 111 Massachusetts Avenue, NW, Washington, DC 20001. PHONE: (202) 682-0900. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$4,097,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Underwriters Indemnity Company

BUSINESS ADDRESS: 8 Greenway Plaza, Suite 400, Houston, TX 77046. PHONE: (713) 961-1300. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$360,000. SURETY LICENSES $\frac{\$}{\$}$: AL, AR, GA, HI, IL, IN, KS, KY, LA, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, WA, WV, WI, WY. INCORPORATED IN: Texas.

UNDERWRITERS REINSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 4030, Woodland Hills, CA 91365. PHONE: (818) 878-9500. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$30,184,000. SURETY LICENSES $\frac{\$}{\$}$: AZ, CA, CT, DE, DC, ID, IL, IN, IA, MI, MS, NE, NV, NH, NJ, NM, NY, OH, PA, PR, RI, SD, TX, UT, WI, WY. INCORPORATED IN: New Hampshire.

Union Insurance Company

BUSINESS ADDRESS: P.O. Box 80439, Lincoln, NE 68501-0439. PHONE: (402) 423-7688. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$820,000. SURETY LICENSES $\frac{\$}{\$}$: AR, CO, DC, ID, IA, KS, MD, MN, MS, MO, MT, NE, NC, ND, OK, SD, TN, TX, UT, VA, WA, WY. INCORPORATED IN: Nebraska.

United Capitol Insurance Company 10/

BUSINESS ADDRESS: 400 Perimeter Center Terrace, Suite 345, Atlanta, GA 30346. PHONE: (770) 677-0330. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$4,608,000. SURETY LICENSES $\frac{\$}{\$}$: AZ, IL, WI. INCORPORATED IN: Illinois.

United Coastal Insurance Company 11/

BUSINESS ADDRESS: 233 Main Street, P.O. Box 2350, New Britain, CT 06050-2350. PHONE: (860) 223-5000. UNDERWRITING LIMITATION $\frac{\$}{\$}$: \$3,029,000. SURETY LICENSES $\frac{\$}{\$}$: AZ. INCORPORATED IN: Arizona.

See Footnotes/Notes at end of Circular

United Fire & Casualty Company

BUSINESS ADDRESS: P.O. Box 73909, Cedar Rapids, IA 52407-3909. PHONE: (319) 399-5700. UNDERWRITING LIMITATION $\frac{b}{c}$: \$20,234,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AK, AZ, AR, CA, CO, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WV, WI, WY. INCORPORATED IN: Iowa.

UNITED NATIONAL INSURANCE COMPANY

BUSINESS ADDRESS: Three Bala Plaza East, Suite 300, Bala Cynwyd, PA 19004. PHONE: (610) 664-1500. UNDERWRITING LIMITATION $\frac{b}{c}$: \$12,767,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: PA. INCORPORATED IN: Pennsylvania.

United Pacific Insurance Company

BUSINESS ADDRESS: Compliance Department - Three Parkway, Philadelphia, PA 19102. PHONE: (215) 864-4000. UNDERWRITING LIMITATION $\frac{b}{c}$: \$5,298,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

United States Fidelity and Guaranty Company

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION $\frac{b}{c}$: \$73,974,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

UNITED STATES FIRE INSURANCE COMPANY

BUSINESS ADDRESS: 305 Madison Avenue, Morristown, NJ 07960. PHONE: (973) 490-6600. UNDERWRITING LIMITATION $\frac{b}{c}$: \$43,845,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

United States Surety Company

BUSINESS ADDRESS: P.O. Box 5605, Timonium, MD 21094. PHONE: (410) 453-9522. UNDERWRITING LIMITATION $\frac{b}{c}$: \$211,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: MD, PA. INCORPORATED IN: Maryland.

UNITED SURETY AND INDEMNITY COMPANY

BUSINESS ADDRESS: P.O. Box 2111, San Juan, PR 00922-2111. PHONE: (809) 273-1818. UNDERWRITING LIMITATION $\frac{b}{c}$: \$2,136,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: PR. INCORPORATED IN: Puerto Rico.

UNIVERSAL BONDING INSURANCE COMPANY

BUSINESS ADDRESS: 518 Stuyvesant Avenue, Lyndhurst, NJ 07071. PHONE: (201) 438-7223. UNDERWRITING LIMITATION $\frac{b}{c}$: \$1,259,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: NJ, NY, PA. INCORPORATED IN: New Jersey.

UNIVERSAL INSURANCE COMPANY

BUSINESS ADDRESS: G.P.O. Box 71338, San Juan, PR 00936. PHONE: (787) 793-7202. UNDERWRITING LIMITATION $\frac{b}{c}$: \$3,345,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: PR. INCORPORATED IN: Puerto Rico.

Universal Surety Company

BUSINESS ADDRESS: P.O. Box 80468, Lincoln, NE 68501. PHONE: (402) 435-4302. UNDERWRITING LIMITATION $\frac{b}{c}$: \$3,679,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AZ, AR, CO, ID, IL, IA, KS, MI, MN, MO, MT, NE, NM, ND, OH, OK, OR, SD, UT, WA, WI, WY. INCORPORATED IN: Nebraska.

Universal Surety of America

BUSINESS ADDRESS: P.O. Box 1068, Houston, TX 77251-1068. PHONE: (713) 722-4600. UNDERWRITING LIMITATION $\frac{b}{c}$: \$1,673,000. SURETY LICENSES $\frac{a}{c}$ $\frac{b}{c}$: AL, AK, AR, CA, CO, DE, DC, FL, GA, ID, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

See Footnotes/Notes at end of Circular

UNIVERSAL UNDERWRITERS INSURANCE COMPANY 12/

BUSINESS ADDRESS: 7045 College Boulevard, Overland Park, KS 66211-1523. PHONE: (913) 339-1000. UNDERWRITING LIMITATION \$: \$55,551,000. SURETY LICENSES AL IL: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Kansas.

Utica Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 530, Utica, NY 13503-0530. PHONE: (315) 734-2000. UNDERWRITING LIMITATION \$: \$34,600,000. SURETY LICENSES AL IL: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

VAN TOL SURETY COMPANY, INCORPORATED

BUSINESS ADDRESS: 424 Fifth Street, Brookings, SD 57006. PHONE: (605) 692-6294. UNDERWRITING LIMITATION \$: \$256,000. SURETY LICENSES AL IL: SD. INCORPORATED IN: South Dakota.

Vigilant Insurance Company

BUSINESS ADDRESS: 55 Water Street, New York, NY 10041. PHONE: (212) 612-4000. UNDERWRITING LIMITATION \$: \$31,907,000. SURETY LICENSES AL IL: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Washington International Insurance Company

BUSINESS ADDRESS: 300 Park Boulevard, Suite 500, Itasca, IL 60143-2625. PHONE: (630) 227-4700. UNDERWRITING LIMITATION \$: \$2,355,000. SURETY LICENSES AL IL: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

West American Insurance Company

BUSINESS ADDRESS: 136 North Third Street, Hamilton, OH 45025. PHONE: (513) 867-3000. UNDERWRITING LIMITATION \$: \$76,400,000. SURETY LICENSES AL IL: AL, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Westchester Fire Insurance Company

BUSINESS ADDRESS: Six Concourse Parkway, Suite 2500, Atlanta, GA 30328-5346. PHONE: (678) 441-5000. UNDERWRITING LIMITATION \$: \$15,618,000. SURETY LICENSES AL IL: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Western Surety Company

BUSINESS ADDRESS: P.O. Box 5077, Sioux Falls, SD 57117-5077. PHONE: (605) 336-0850. UNDERWRITING LIMITATION \$: \$14,975,000. SURETY LICENSES AL IL: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Dakota.

Westfield Insurance Company

BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251-5001. PHONE: (330) 887-0101. UNDERWRITING LIMITATION \$: \$34,454,000. SURETY LICENSES AL IL: AL, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Westfield National Insurance Company

BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251-5001. PHONE: (330) 887-0101. UNDERWRITING LIMITATION \$: \$9,323,000. SURETY LICENSES AL IL: CA, IA, OH. INCORPORATED IN: Ohio.

See Footnotes/Notes at end of Circular

Westport Insurance Corporation

BUSINESS ADDRESS: P.O. Box 2979, Overland Park, KS 66201-1379. PHONE: (913) 676-5270. UNDERWRITING LIMITATION \$: \$16,735,000. SURETY LICENSES AL: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

WINTERTHUR REINSURANCE CORPORATION OF AMERICA 7**Worcester Insurance Company**

BUSINESS ADDRESS: 120 Front Street, Ste 500, Worcester, MA 01608-1408. PHONE: (508) 751-8100. UNDERWRITING LIMITATION \$: \$10,194,000. SURETY LICENSES AL: CT, MA, MI, NH, NY, RI, VT. INCORPORATED IN: Massachusetts.

Zurich American Insurance Company

BUSINESS ADDRESS: 1400 American Lane, Schaumburg, IL 60196-1056. PHONE: (847) 605-6000. UNDERWRITING LIMITATION \$: \$117,782,000. SURETY LICENSES AL: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

**COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE
REINSURING COMPANIES UNDER SECTION 223.3(b) OF TREASURY
CIRCULAR NO. 297, REVISED SEPTEMBER 1, 1978 [See Note (e)]**

Charter Oak Fire Insurance Company (The) 13/

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION \$: \$15,726,000.

FOLKSAMERICA REINSURANCE COMPANY

BUSINESS ADDRESS: One Liberty Plaza, New York, NY 10006. PHONE: (212) 312-2500. UNDERWRITING LIMITATION \$: \$32,850,000.

Generali - U.S. Branch

BUSINESS ADDRESS: One Liberty Plaza, New York, NY 10006. PHONE: (212) 602-7600. UNDERWRITING LIMITATION \$: \$10,390,000.

Odyssey Reinsurance Corporation

BUSINESS ADDRESS: One Liberty Plaza, New York, NY 10006. PHONE: (212) 978-4700. UNDERWRITING LIMITATION \$: \$32,677,000.

Phoenix Insurance Company (The) 14/

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION \$: \$65,648,000.

RISK CAPITAL REINSURANCE COMPANY

BUSINESS ADDRESS: 20 Horseneck Lane, Greenwich, CT 06830. PHONE: (203) 862-4300. UNDERWRITING LIMITATION \$: \$35,870,000.

TRAVELERS INDEMNITY COMPANY OF AMERICA (THE) 15/

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION \$: \$10,487,000.

Travelers Indemnity Company of Illinois (The) 16/

BUSINESS ADDRESS: 215 Shuman Boulevard, Naperville, IL 60563. PHONE: (860) 277-0111. UNDERWRITING LIMITATION \$: \$7,248,000.

ZENITH INSURANCE COMPANY 17/

BUSINESS ADDRESS: 21255 Califa Street, Woodland Hills, CA 91367. PHONE: (818) 713-1000. UNDERWRITING LIMITATION \$: \$26,905,000.

FOOTNOTES

- 1 American Alliance Insurance Company changed its state of incorporation from Arizona to Ohio, effective 12/9/98.
- 2 AMERICAN CONTRACTORS INDEMNITY COMPANY is required by state law to conduct business in the state of Texas as TEXAS BONDING COMPANY, Assumed Name of AMERICAN CONTRACTORS INDEMNITY COMPANY.
- 3 KEMPER REINSURANCE COMPANY changed its name to GE Reinsurance Corporation, effective 2/3/99.
- 4 This Company's name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular.
- 5 This Company's name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular.
- 6 Motors Insurance Corporation changed its state of incorporation from New York to Michigan, effective 4/29/99.
- 7 WINTERTHUR REINSURANCE CORPORATION OF AMERICA changed its name to PARTNERRE INSURANCE COMPANY OF NEW YORK, effective 3/1/99.
- 8 Pennsylvania Millers Mutual Insurance Company changed its name to Penn Millers Insurance Company, effective 4/1/99.
- 9 Reliance Insurance Company of Illinois is an approved surplus lines carrier. Such approval by the State Insurance Department may indicate that the Company is authorized to write surety in a particular state, even though the Company is not licensed in the state. Questions related to this, may be directed to the appropriate State Insurance Department. Refer to the list of the Departments at the end of this publication.
- 10 United Capitol Insurance Company is an approved surplus lines carrier. Such approval by the State Insurance Department may indicate that the Company is authorized to write surety in a particular state, even though the Company is not licensed in the state. Questions related to this, may be directed to the appropriate State Insurance Department. Refer to the list of the Departments at the end of this publication.
- 11 United Coastal Insurance Company is an approved surplus lines carrier. Such approval by the State Insurance Department may indicate that the Company is authorized to write surety in a particular state, even though the Company is not licensed in the state. Questions related to this, may be directed to the appropriate State Insurance Department. Refer to the list of the Departments at the end of this publication.
- 12 UNIVERSAL UNDERWRITERS INSURANCE COMPANY changed its state of incorporation from Missouri to Kansas, effective 4/1/98.
- 13 The Charter Oak Fire Insurance Company's Treasury authority has changed from an acceptable surety on Federal bonds to an acceptable reinsurer on Federal bonds, effective 7/1/99.
- 14 The Phoenix Insurance Company's Treasury authority has changed from an acceptable surety on Federal bonds to an acceptable reinsurer on Federal bonds, effective 7/1/99.

Footnotes Continued on Next Page

FOOTNOTES (Continued)

- 15 THE TRAVELERS INDEMNITY COMPANY OF AMERICA's Treasury authority has changed from an acceptable surety on Federal bonds to an acceptable reinsurer on Federal bonds, effective 7/1/99.
- 16 The Travelers Indemnity Company of Illinois' Treasury authority has changed from an acceptable surety on Federal bonds to an acceptable reinsurer on Federal bonds, effective 7/1/99.
- 17 This Company's name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular. Do not hesitate to contact the Company to verify the authenticity of a bond.
- ZENITH INSURANCE COMPANY's Treasury authority has changed from an acceptable surety on Federal bonds to an acceptable reinsurer on Federal bonds, effective 7/1/99.

NOTES

- (a) All Certificates of Authority expire June 30, and are renewable July 1, annually. Companies holding Certificates of Authority as acceptable sureties on Federal bonds are also acceptable as reinsuring companies.
- (b) The Underwriting Limitations published herein are on a *per bond basis*. Treasury requirements do not limit the penal sum (face amount) of bonds which surety companies may provide. However, *when the penal sum exceeds a company's Underwriting Limitation, the excess must be protected by co-insurance, reinsurance, or other methods in accordance with Treasury Circular 297, Revised September 1, 1978 (31 CFR Section 223.10, Section 223.11).* Treasury refers to a *bond of this type as an Excess Risk*. When Excess Risks on bonds in favor of the United States are protected by reinsurance, such reinsurance is to be effected by use of a *Federal reinsurance form* to be filed with the bond or within 45 days thereafter. In protecting such excess risks, the underwriting limitation in force on the day in which the bond was provided will govern absolutely. For further assistance, contact the Surety Bond Branch at (202) 874-6850.
- (c) A surety company *must be licensed in the State or other area in which it provides a bond*, but need not be licensed in the State or other area in which the principal resides or where the contract is to be performed [28 Op. Atty. Gen. 127, Dec.24, 1909; 31 CFR Section 223.5 (b)]. The term "other area" includes the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands.

License information in this Circular is provided to the Treasury Department by the companies themselves. *For updated license information, you may contact the company directly or the applicable State Insurance Department.* Refer to the list of state insurance departments at the end of this publication. For further assistance, contact the Surety Bond Branch at (202) 874-6850.

Notes Continued on Next Page

NOTES (Continued)

- (d) FEDERAL PROCESS AGENTS: Treasury approved surety companies are required to appoint Federal process agents in accord with 31 U.S.C. 9306 and 31 CFR 224 in the following districts: Where the *principal resides*; where the *obligation is to be performed*; and in the *District of Columbia* where the bond is returnable or filed. No process agent is required in the State or other area where the company is incorporated (31 CFR Section 224.2). The name and address of a particular surety's process agent in a particular Federal Judicial District may be obtained from the Clerk of the U.S. District Court in that district. (The appointment documents are on file with the clerks.)
(NOTE: A surety company's underwriting agent who furnishes its bonds may or may not be its authorized process agent.)

SERVICE OF PROCESS: Process should be served on the Federal process agent appointed by a surety in a judicial district, except where the appointment of such agent is pending or during the absence of such agent from the district. Only in the event an agent has not been duly appointed, or the appointment is pending, or the agent is absent from the district, should process be served directly on the Clerk of the court pursuant to the provisions of 31 U.S.C. 9306.

- (e) Companies holding Certificates of Authority as acceptable reinsuring companies are acceptable only as reinsuring companies on Federal bonds.
- (f) Some companies may be approved *surplus lines carriers* in various states. Such approval may indicate that the company is *authorized to write surety in a particular state, even though the company is not licensed in the state*. Questions related to this may be directed to the appropriate State Insurance Department. Refer to the list of state insurance departments at the end of this publication.

<u>STATE INSURANCE DEPARTMENTS</u>	<u>TELEPHONE NO.</u>
Alabama, Montgomery.....	(334) 269-3550
Alaska, Juneau.....	(907) 465-2515
Arizona, Phoenix.....	(602) 912-8420
Arkansas, Little Rock	(501) 371-2600
California, Sacramento.....	(916) 492-3500
Colorado, Denver.....	(303) 894-7499
Connecticut, Hartford.....	(860) 297-3800
Delaware, Dover.....	(302) 739-4251
D. C., Washington.....	(202) 727-8000
Florida, Tallahassee.....	(850) 922-3100
Georgia, Atlanta.....	(404) 656-2056
Hawaii, Honolulu.....	(808) 586-2799
Idaho, Boise.....	(208) 334-2250
Illinois, Springfield.....	(217) 782-4515
Indiana, Indianapolis.....	(317) 232-2385
Iowa, Des Moines.....	(515) 281-5705
Kansas, Topeka.....	(785) 296-7801
Kentucky, Frankfort.....	(502) 564-3630
Louisiana, Baton Rouge.....	(225) 342-5900
Maine, Augusta.....	(207) 624-8475
Maryland, Baltimore.....	(410) 468-2090
Massachusetts, Boston.....	(617) 521-7794
Michigan, Lansing.....	(517) 373-9273
Minnesota, St. Paul.....	(651) 296-6848
Mississippi, Jackson.....	(601) 359-3569
Missouri, Jefferson City.....	(573) 751-4126
Montana, Helena.....	(406) 444-2040
Nebraska, Lincoln.....	(402) 471-2201
Nevada, Carson City.....	(775) 687-4270
New Hampshire, Concord.....	(603) 271-2261
New Jersey, Trenton.....	(609) 292-5360
New Mexico, Sante Fe.....	(505) 827-4500
New York, New York.....	(212) 480-6400
North Carolina, Raleigh.....	(919) 733-7349
North Dakota, Bismarck.....	(701) 328-2440
Ohio, Columbus.....	(614) 488-7924
Oklahoma, Oklahoma City.....	(405) 521-2828
Oregon, Salem.....	(503) 378-4281
Pennsylvania, Harrisburg.....	(717) 787-5173
Puerto Rico, Santurce.....	(787) 722-8686
Rhode Island, Providence.....	(401) 222-2223
South Carolina, Columbia.....	(803) 737-6160
South Dakota, Pierre.....	(605) 773-3563
Tennessee, Nashville.....	(615) 741-2241
Texas, Austin.....	(512) 463-6464
Utah, Salt Lake City.....	(801) 538-3800
Vermont, Montpelier.....	(802) 828-3301
Virginia, Richmond.....	(804) 371-9741
Virgin Islands, St. Thomas.....	(809) 773-6449
Washington, Olympia.....	(360) 753-7301
West Virginia, Charleston.....	(304) 558-3394
Wisconsin, Madison.....	(608) 266-0102
Wyoming, Cheyenne.....	(307) 777-7401

14 CFR Parts 21, 27, 29, and 91
Flight Plan Requirements for Helicopter
Operations Under Instrument Flight
Rules; Proposed Rule

Thursday
July 1, 1999

Part VI

**Department of
Transportation**

Federal Aviation Administration

14 CFR Parts 21, 27, 29, and 91
Flight Plan Requirements for Helicopter
Operations Under Instrument Flight
Rules; Proposed Rule

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 21, 27, 29, and 91**

[Docket No. FAA 98-4390; Notice No. 99-10]

RIN 2120-AG53

Flight Plan Requirements for Helicopter Operations Under Instrument Flight Rules

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: On September 2, 1998, the FAA proposed to change instrument flight rules (IFR) for helicopters by revising alternate airport weather planning requirements, weather minima necessary to designate an airport as an alternate on an IFR flight plan, and fuel requirements for helicopter flight into IFR conditions. The comment period closed on October 2, 1998. In response to concerns raised by commenters regarding discrepancies in the original proposal between flight plan information required for helicopters and airplanes, the use of weather minima necessary to designate an airport as an alternate on an IFR flight plan, and the inconsistent use of meteorological terminology, the FAA is revising the original proposal to include commenters' suggestions and correct inadvertent omissions.

DATES: Comments must be received on or before August 2, 1999.

ADDRESSES: Comments on this document should be delivered or mailed, in duplicate, to: U.S. Department of Transportation Dockets, Docket No. FAA-98-4390, 400 Seventh St., SW, Rm. Plaza 401, Washington, DC 20590. Comments may also be sent electronically to the following internet address: 9-NPRM-CMTS@faa.gov. Comments may be filed and examined in Room Plaza 401 between 10 a.m. and 5 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: William H. Wallace, General Aviation Commercial Division (AFS-804), Flight Standards Service, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591; telephone (202) 267-3771.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested persons are invited to participate in the making of the proposed action by submitting written

data, views, or arguments, as they may desire. Comments relating to the environmental, energy, economic, or federalism impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or notice number and be submitted in duplicate to the DOT Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking, will be filed in the docket. The docket is available for public inspection both before and after the comment closing date.

All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Comments filed late will be considered as far as possible without incurring expense or delay. The proposals contained in this document may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this document must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-98-4390." The postcard will be date-stamped and mailed to the commenter.

Availability of the SNPRM

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703-321-3339), the Government Printing Office (GPO)'s electronic bulletin board service (telephone: 202-512-1661), or the FAA's Aviation Rulemaking Advisory Committee bulletin board service (telephone: (800) 322-2722 or (202) 267-5948).

Internet users may reach the FAA's web page at <http://www.faa.gov/avr/arm/nprm/nprm.htm> or the GPO's web page at <http://www.access.gpo.gov/nara> for access to recently published rulemaking documents.

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Ave., SW, Washington DC 20591, or by calling (202) 267-9680. Communications must identify the notice number or docket number of this SNPRM.

Persons interested in being placed in the mailing list for future rulemaking

documents should request from the FAA's Office of Rulemaking a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

Background

On August 28, 1998, the FAA issued a Notice of Proposed Rulemaking (NPRM) which proposed to amend the general operating rules for helicopters by revising alternate airport weather planning requirements, weather minima necessary to designate an airport as an alternate on an IFR flight plan, and the fuel requirements for helicopter flight into IFR conditions (63 FR 46834; September 2, 1998). The NPRM also proposed to withdraw Special Federal Aviation Regulation (SFAR) No. 29-4, Limited IFR Operations of Rotorcraft. This SFAR provides operators with a means to conduct approved limited IFR operations in rotorcraft that are not otherwise certificated for IFR operations.

The FAA issued the proposal because flight planning requirements (including alternate airport weather minima) for helicopters and other aircraft are virtually identical even though their operating characteristics are substantially different. The only distinction between the flight planning requirements for helicopters and other aircraft is addressed in 14 CFR 91.167. That section specifies different requirements for the amount of fuel helicopters and other aircraft must carry after completing a flight to the first airport of intended landing.

Helicopters, however, fly shorter distances at slower airspeeds than most other aircraft, and they generally remain in the air for shorter periods between landings; therefore, a helicopter is less likely to fly into unanticipated, unknown, or unforecast weather. The relatively short duration of the typical helicopter flight means that the departure weather and the destination weather are likely to be within the same weather system. The original notice therefore proposed to revise the flight planning requirements for helicopter IFR operations to take into account the unique operating characteristics of these aircraft.

In general, commenters supported the provisions contained in the notice because the proposal not only recognized the unique operating characteristics of helicopters but also provided operators with an additional margin of safety by easing access of helicopters to the IFR system. Commenters also agreed that the proposal would provide qualitative

benefits by reducing noise on the ground and by increasing the ability of operators to more efficiently use helicopters. Some of the commenters, however, raised technical issues that were not addressed in the original notice. The FAA has therefore modified the original proposal in response to these comments and is issuing this SNPRM with a 30-day comment period.

Discussion of Comments and Changes to the Original Proposal

General

Thirty-nine comments were received on the NPRM, all of which were generally supportive of the proposal. Commenters praised the NPRM for its potential to enhance safety by facilitating the expansion of helicopter operations under IFR in marginal weather conditions, thereby reducing weather-related accidents. Commenters also stated that adoption of the proposal would enable operators to better utilize their IFR-equipped helicopters, transport clients more efficiently, and reduce noise on the ground. Seven commenters however stated that certain technical issues were not adequately addressed by the FAA in the proposal. These concerns are addressed in detail in the following discussion. In addition, since the FAA's economic analysis did not anticipate any cost of compliance or need for additional equipment or training, comments on both the quantitative and qualitative benefits of the proposal were favorable also.

Removal of SFAR No. 29-4

A number of commenters addressed the proposed removal of SFAR No. 29-4, Limited IFR Operations of Rotorcraft. One commenter stated that in the past, his company used the provisions of the SFAR to "prove IFR capabilities in a then non-IFR certified helicopter," and the company "does not want to lose this capability." Two other commenters stated that the FAA should retain the provisions of the SFAR for a period of time (for either a year or a "reasonable time") after the other provisions of the NPRM are implemented as a final rule. The commenters believe that this course of action would enable the FAA and industry to determine whether the SFAR is needed or has outlived its usefulness and then reconsider its removal. The FAA does not believe this action is necessary and is again proposing to remove the SFAR.

The SFAR was originally adopted to permit the FAA to collect operational data to study the feasibility of limited rotorcraft operations in IFR conditions. Since the adoption of the SFAR, the

FAA has addressed the issue of helicopter IFR operations and issued regulations that govern both the certification and operation of helicopters under IFR. These regulations are found in Appendix B—Airworthiness Criteria for Helicopter Instrument Flight, contained in both 14 CFR parts 27 and 29. Operational regulations permitting helicopters to engage in IFR operations are found in 14 CFR parts 91 and 135.

Paragraph 5 of SFAR 29-4 states that "new applications for limited IFR rotorcraft operations under SFAR No. 29 may be submitted for approval until, but not including the effective date of Amendment No. 1 of the Rotorcraft Regulatory Review Program. On and after the effective date of Amendment No. 1, all applicants for certification of IFR rotorcraft operations must comply with the applicable provisions of the Federal Aviation Regulations." The effective date of Amendment No. 1 was March 2, 1983. Concurrent with the effective date of Amendment No. 1, regulations establishing airworthiness criteria for helicopter instrument flight became effective. All new applicants for certification of helicopter IFR operations must now comply with the provisions of Appendix B of parts 27 or 29, as applicable, and part 91. Because the FAA has established certification criteria and operational limitations for helicopters engaged in IFR operations, the need to prove IFR capabilities in a non-IFR certified helicopter is no longer warranted. The changes made to the regulations since the promulgation of SFAR No. 29 therefore no longer make its provisions necessary.

Alternate Airport Weather Minima

Commenters stated that the notice did not provide alternate airport weather minima reductions for helicopters when airports that have non-standard alternate airport weather minima are used as alternate airports. Standard alternate airport weather minima are stated in current 14 CFR 91.169(c)(1)(i) and (ii), (i.e., for a precision approach procedure a ceiling of 600 feet and a visibility of 2 statute miles; for a nonprecision approach procedure, a ceiling of 800 feet and a visibility of 2 statute miles).

The commenters stated that helicopter operators should not be subject to the same restrictions imposed on operators of other types of aircraft by the use of nonstandard alternate minimums. The commenters noted that these restrictions are generally imposed to facilitate the conduct of circle-to-land operations. Due to the ability of helicopters to fly any available instrument approach,

regardless of wind direction, and to land at the approach threshold regardless of runway length by pivoting into the wind, if necessary, just before touchdown, the commenters asserted that helicopter operators should not be restricted by these non-standard alternate minimums. They further stated that helicopter operators therefore should be allowed to use lower-than-standard alternate weather minima, regardless of whether standard or nonstandard alternate airport weather minima are specified on part 97 approach plates.

The FAA agrees with these comments. Historically, the FAA has permitted helicopter operators to use procedures different from those permitted to be used by other aircraft. 14 CFR part 97 for example, allows helicopters to utilize "copter procedures" or other procedures prescribed in subpart C of that part, and to use the Category A minimum descent altitude (MDA) or decision height (DH). Part 97 also authorizes helicopter operators to reduce the required visibility minimum to one-half the published visibility minimum for Category A aircraft, but in no case may it be reduced to less than one-quarter mile or 1,200 feet runway visibility range (RVR).

Alternate airport weather minima are established using the ceiling and visibility requirements for circling approaches as a minimum. *The United States Standard for Terminal Instrument Procedures (TERPS)* (FAA Order 8260.3B), Chapter 11. Helicopter Procedures, paragraph 1100.a, "Identification of Inapplicable Criteria", states in part, "circling approach and high altitude penetration criteria do not apply to helicopter procedures." The FAA in fact does not evaluate pilots in the performance of circling approaches during evaluation for any rating or check involving the piloting of a helicopter. Additionally, the Instrument Rating Practical Test Standards (PTS) (FAA-S-8081-4C), published by the FAA to establish the standards for instrument rating certification practical tests for airplane, helicopter, and powered lift category and classes of aircraft indicates that the circling approach task is appropriate only to airplane and airship instrument proficiency checks and ratings.

Therefore, the FAA is proposing to change the language of § 91.169(c) to permit a helicopter operator to use an airport as an alternate airport provided the ceiling is at least 200 feet above, and the visibility is at least 1 mile above, the approach minima for the approach to be flown. This change would allow helicopters to use lower-than-standard

alternate airport minima regardless of the approach to be flown while eliminating the need to alter current approach plates.

Certain commenters proposed that the FAA specify separate alternate airport weather minima for precision and nonprecision approaches used by a helicopter operator. Specifically, a 400-foot ceiling and one mile visibility was proposed for precision approach procedures and a 600-foot ceiling and one mile visibility was proposed for nonprecision approach procedures.

The FAA, however, adopted the language specified in the proposal to ensure that alternate airport approach minima are above actual approach minima in those situations where actual approach minima may be above values commonly associated with precision and nonprecision approaches. The proposed changes would recognize the unique operating characteristics of helicopters and would remove the operational restrictions that occur by requiring helicopters to use alternate approach minima specified in current instrument approach procedures.

Special Instrument Approach Procedures

Current 14 CFR 91.167(b) states in part that, "paragraph (a)(2) of this section does not apply if—(1) Part 97 of this chapter prescribes a standard instrument approach procedure for the first airport of intended landing." Additionally, current 14 CFR 91.169(b) states in part that "Paragraph (a)(2) of this section does not apply if part 97 of this chapter prescribes a standard instrument approach procedure for the first airport of intended landing." Current regulatory language does not provide for the use of special instrument approach procedures in determining an aircraft operator's ability to meet alternate airport requirements. The proposal would permit all aircraft operators to use special instrument approach procedures in determining compliance with alternate airport requirements.

Special instrument approach procedures are not issued pursuant to 14 CFR part 97 but may be issued to an operator through inclusion in the operator's Operations Specifications or through a letter of authorization issued by the Administrator to a specific operator. These approach procedures are not published in part 97, but are developed under the authority of 14 CFR 91.175(a). The FAA has developed over 120 new helicopter non-precision Global Positioning System (GPS) instrument approaches to heliports since 1995, over 75% of them since

October 1997. The FAA has determined that these approaches are not standard instrument approach procedures but "special instrument approach procedures" which require additional aircrew training prior to their use. Therefore, to permit aircraft operators to use special instrument approach procedures to comply with alternate airport requirements, the FAA has revised the language contained in §§ 91.167(b)(1) and 91.169(b)(1), (c)(1), and (c)(2) of the original notice to permit the use of these special approaches when issued to an operator by the Administrator.

Weather Reports and Forecasts

Certain commenters noted the FAA's inaccurate use of the terms "weather forecasts" and "weather reports," and the inconsistency between the way the terms "weather reports and forecasts and weather conditions" and "weather reports and/or prevailing weather forecast" were used in the proposed narrative format and tabular format, respectively. The FAA agrees that the phrases were used inconsistently in the proposal and is therefore proposing use of the phrase "appropriate weather reports or weather forecasts, or a combination of them" in those instances where weather reports and weather forecasts are to be considered by an operator.

The proposed language reflects current usage of the terms "weather forecasts" and "weather reports" by meteorologists and aviation industry personnel. It also includes the term "appropriate" when referring to weather reports and weather forecasts to indicate that an operator should consider current weather reports and current and valid weather forecasts when determining if a flight requires an alternate airport. Use of the term "appropriate" is consistent with references to weather reports and forecasts in other operating rules. Its inclusion should eliminate any ambiguity and ensure conformity in determining those reports and forecasts that should be considered by an operator when designating an alternate airport. Use of the term "appropriate" is also consistent with the provisions of 14 CFR 91.103 which requires each pilot in command, before beginning a flight, to become familiar with all available information concerning that flight.

With regard to the use of weather forecasts, the FAA notes that although a weather forecast may be valid for a period as long as 24 hours, only the most current and valid weather forecast would be considered "appropriate." In some instances a current weather forecast may be issued, however it may

not be valid for the time period required to be considered by an operator when choosing an alternate airport. Such a report would not be considered "appropriate." Any superseded weather report is not considered current and its use in determining an alternate airport would not be considered appropriate.

The proposal also does not include the descriptive term "prevailing" with the phrase "weather forecasts" because "prevailing" is used to refer to actual weather conditions observed at a station and not to weather forecasts. Its use in the context of the original proposal was therefore improper and has been deleted.

Format of the Proposed Rule

In response to the FAA's request for specific comments on the comparative merits of displaying portions of §§ 91.167(b) and 91.169(b) and (c) in tabular or narrative format, seven commenters addressed this issue. Three commenters preferred the tabular format; two preferred the narrative; and two stated that either format was acceptable. Originally the FAA believed that the tabular format could be a method to make the regulations clearer, pursuant to a recommendation by the White House Commission on Aviation Safety and Security and the June 1, 1998 Presidential Memorandum, "Plain Language in Government Writing." Upon further consideration of the advantages and disadvantages of narrative and tabular formats, the FAA believes that the narrative format is preferable. Use of a narrative format is consistent with the format of other regulations in part 91 and does not cause a visual break in the flow of type on a page. This revised proposal is therefore in the all-narrative format.

Technical Corrections

In the original notice the FAA proposed distinct alternate airport weather minima for airplanes and helicopters. Aircraft other than airplanes and helicopters (e.g. airships) however may require access to the IFR system and require the need for an alternate airport. The FAA therefore has revised the original proposal to provide different alternate airport requirements for helicopters and for aircraft other than helicopters, as opposed to airplanes.

Paperwork Reduction Act

In accordance with the Paperwork Reduction of 1995 (44 U.S.C. 3507(d)), the FAA has determined that there are no requirements for information collection associated with this proposed rule.

Compatibility With ICAO Standards

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices (SARPs) to the maximum extent practicable. The FAA has reviewed corresponding ICAO SARP's and has identified the following differences with these proposed regulations.

The proposal would not prescribe that the weather at the airport of intended landing be at or above the operating minima at the estimated time of arrival. Paragraph 2.6.2.1 of ICAO Annex 6, Part III, International Operations-Helicopters, Section III, International General Aviation, Chapter 2. Flight Operations, requires that the heliport of intended landing meet operating minima at the estimated time of arrival. Current § 91.169 also does not specify minimum weather requirements for the airport of intended landing at the estimated time of arrival.

The proposal would require helicopter operators to evaluate weather conditions at the airport of intended landing from the estimated time of arrival until one hour after the estimated time of arrival when determining whether an alternate airport is required. Paragraph 2.6.2.2 of ICAO Annex 6, Part III, Section III, requires an operator to evaluate weather conditions at the heliport of intended landing from two hours before to two hours after the estimated time of arrival or from the actual time of departure to two hours after the estimated time of arrival. Current § 91.169 (b) requires an operator to evaluate weather conditions at the airport of intended landing from 1 hour before the estimated time of arrival until 1 hour after the estimated time of arrival. Proposed § 91.169 (b) would require an operator of a helicopter to evaluate weather conditions at the airport of intended landing from the estimated time of arrival until one hour after the estimated time of arrival.

Paragraph 2.7.1 of ICAO Annex 6, Part III, Section III, states that an alternate shall be required in an operator's flight plan unless the weather conditions specified in paragraph 2.6.2.2 of that section prevail or other specific conditions related to isolated heliports are met and a point of no return (PNR) determination is made, if applicable. The proposed weather conditions for the selection of an alternate differ from those specified in paragraph 2.6.2.2. and the proposal does not address isolated heliports and PNR determinations.

The FAA recognizes that certain provisions of the notice differ from ICAO SARPs, however the agency has set forth the proposal to recognize the unique operational characteristics of helicopters and to facilitate their entry into the IFR system. If the proposal is adopted the FAA intends to file these differences with ICAO.

Economic Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, OMB directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined this proposal is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and, therefore, is not subject to review by the Office of Management and Budget. This proposed rule is not considered significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11034, February 26, 1979). This proposed rule would not have a significant impact on a substantial number of small entities and would not constitute a barrier to international trade. The FAA invites the public to provide comments and supporting data on the assumptions made in this evaluation. All comments received will be considered in the final regulatory evaluation.

This section summarizes the FAA's economic and trade analyses, findings, and determinations in response to these requirements. The complete economic and trade analyses are contained in the docket (see **ADDRESSES** above).

Benefits

There are both quantifiable and non-quantifiable benefits that can be attributed to this SPNRM. Non-quantifiable benefits include the reduction in the level of aircraft noise experienced by individuals on the ground when helicopters fly at higher altitudes and cost savings associated with enhanced corporate flight operations. These benefits are difficult to accurately measure, and are discussed below under "A. Qualitative Benefits." Other benefits would be any reduction in the number of fatal and serious accidents that occur in marginal weather conditions. These benefits can

be estimated more readily, and are discussed below under "B. Quantitative Benefits."

A. Qualitative Benefits

During periods of marginal or inclement weather conditions, helicopter operators are often unable to utilize the IFR system because they are unable to meet the IFR flight plan requirements and criteria for specifying an alternate airport. When this occurs, helicopter operators often will fly under either VFR or Special VFR at lower altitudes. By flying at lower altitudes, third party costs (increased level of aircraft noise), are experienced by individuals on the ground.

All noise has the potential to annoy because of interference with speech, sleep, work, or other activities. However, aircraft noise is a function of aircraft altitude, and noise or sound energy can be reduced by increasing the flight altitude. Therefore, by providing helicopter operators with the opportunity to increase the altitude of a helicopter flight through increased access to the IFR system, the proposed rule will help to reduce the sound energy on the ground generated by that helicopter. For example, if a helicopter flying VFR at 250 ft above ground level (AGL) in marginal weather conditions is able to fly IFR at 4,000 ft AGL in the same marginal weather conditions, the sound energy is reduced by 24 dB, which represents a decrease to less than one-hundredth the level of sound intensity experienced by third parties on the ground.

Another benefit of this rule that is difficult to quantify is the reduction of the opportunity cost of idle executive and other management time. Due to the high level of concern many companies have regarding the safety of their senior executives, the safe operation of their corporate helicopters receives a high priority. As such, during periods of marginal or adverse weather conditions, many corporate helicopter operations are canceled rather than flown VFR under those conditions. Because helicopters provide prompt and effective transportation, a portion of the opportunity cost resulting from canceled operations can be measured by the lost productivity associated with the extra time involved by executives and other personnel using alternate forms of transportation, such as automobiles. By enabling more helicopter pilots to operate under IFR in marginal weather conditions, these opportunity costs could be avoided.

B. Quantitative Benefits

The quantitative benefits of this rulemaking are derived from a potential reduction in weather related accidents associated with helicopters operating under VFR or special VFR. The FAA believes that many weather related accidents of the type that in the past occurred under VFR can be prevented in the future by enhanced helicopter operator access into the IFR system. The FAA further believes that this proposed rule will result in increased safety and offer greater operational flexibility for helicopter operators. The FAA bases this belief largely on the U.S. Army's experience of no mishaps over the past 16 years associated with flight planning criteria similar to the FAA's proposed rule.

To estimate potential safety benefits, the FAA analyzed National Transportation Safety Board (NTSB) helicopter accident data, where weather was a cause or factor, for the 10-year period from 1988 to 1997. The most recent accidents that occurred in 1998 are still under review; therefore, because the data record is not complete, no data from 1998 is used in this analysis.

During the 10-year period studied, there were a total of 258 helicopter accidents where weather was a cause or factor of the accident. The total includes 182 accidents involving VFR flight without a flight plan filed, 73 accidents where a VFR flight plan was filed, and three accidents where an IFR flight plan was filed. The 182 accidents involving VFR flights is approximately 60 times greater than the three accidents that occurred under an IFR flight. In addition, the 73 accidents where VFR flight plans were filed is approximately 24 times greater than the three in IFR operation. When the 182 accidents are added to the 73 accidents, the result is a total of 255 accidents, which represents approximately 99 percent of all the accidents that occurred when weather was a cause or factor.

According to informal industry surveys, approximately 10 percent of all helicopter flights flown are performed under an IFR flight plan. To corroborate the results of the industry surveys, the FAA conducted a simple random sample of helicopter flight plans. The sample consisted of 104 randomly selected helicopter flight plans from the Southern Region. The results showed 33 helicopter flight plans were IFR and 71 were VFR. To approximate the proportion of VFR flights that occurred without a flight plan compared to the sample number of VFR flights, the FAA calculated the ratio of VFR flights without a flight plan to VFR flight plans

from the observed accident history. The FAA then multiplied that ratio by the number of VFR flight plans from the sample. The computation produced an estimate of 178 helicopter flights flown VFR without a flight plan during the time period to compare with the 33 flight plans of the sample.

Once an estimate of the number of VFR flights without a flight plan was determined (178), the FAA then added that to the number of sample VFR flight plans filed (71) and the sample IFR flight plans filed (33). That total (282) was divided into the number of IFR flight plans (33). This produced the estimated percentage of all helicopter flights flown IFR (11.7%), which is only 1.7 percent greater than the industry survey results of 10 percent.

The percent of IFR flights from the sample approximately equals the industry survey results. These comparable ratios provide some corroborative evidence that 10 percent of all helicopter operations are conducted under an IFR flight plan. As such, the number of accidents flying IFR would be expected to be approximately 10 percent of the total accidents, or 26 accidents. However, instead of 26 accidents only three accidents occurred under an IFR flight plan. Because the actual number of accidents (3) is approximately 12 percent of the expected number of accidents (26), this information suggests that IFR flight is safer than VFR flight when marginal weather conditions are present.

When the fatalities sustained during the study period flying with no flight plan (67) are added to the fatalities sustained flying with a VFR flight plan (64) the result is 131 fatal injuries. There were 10 fatal injuries sustained under an IFR flight plan. Similarly, when serious injuries sustained flying with no flight plan (46) are added to the serious injuries sustained flying with a VFR flight plan (41), the result is 87. There was one serious injury sustained in IFR flight.

In aggregate, the number of fatalities and serious injuries that occurred under VFR flight is significantly greater than those that occurred under an IFR flight plan. The FAA is aware that even though weather was a cause or contributing factor in all of these accidents, this rulemaking would not have prevented all of these accidents or injuries. However, the accident and injury data discussed previously suggest IFR flight is safer than VFR flight when marginal weather conditions are present.

Further research revealed that in 19 of the 255 accidents involving VFR flight, the pilot-in-command had instrument

ratings for helicopters, or for a combination of helicopters and airplanes. The FAA believes that with the revised weather minimums and the revised standard/nonstandard approach minima provided by the proposal, the pilots with instrument ratings could have taken advantage of positive air traffic control services (such as obstacle avoidance) and flown IFR. However, due to the uncertainty regarding the weather at the destination airports, the FAA recognizes that not all of these 19 accidents may have been avoided. Therefore, the FAA applied the same percentage described above regarding the expected and actual accidents under IFR ($3/26 \approx 12\%$) where weather was a cause or factor of the accident and determined that 3 of the 19 accidents ($19 \times 12\% \approx 3$) would not have been avoided due to this rulemaking.

There were a total of 16 serious injuries and 18 fatalities that were sustained in the 19 accidents involving VFR flight where the pilot-in-command had instrument ratings for helicopters, or for a combination of helicopters and airplanes. To determine the potential benefits that will result from this SNPRM, the FAA estimated the average costs associated with all the injuries and fatalities. A economic value of \$2.7 million and \$518,000 was applied to each human fatality and serious injury, respectively in accordance with current guidance provided by the Department of Transportation. This computation resulted in an estimate of approximately \$57 million in casualty costs. Also, the value of all of the destroyed aircraft was estimated to be \$8 million. If this rulemaking (the NPRM plus the SNPRM) helps prevent 88 percent of these injuries and fatalities that resulted from 19 accidents, the expected potential safety benefits evenly distributed over the next ten years will be approximately \$57 million (\$40 million, discounted).

Costs

As was the case with the preceding NPRM, this SNPRM would not impose any additional equipment, training, or other cost to the aviation industry. Therefore, the FAA believes there is no apparent compliance cost associated with this SNPRM. However, the FAA solicits comments regarding the plausibility and extent of the adverse impacts on operators from implementation of the proposed rule.

Comparison of Costs and Benefits

The proposed rule would not place any additional requirements on the aviation industry. Therefore, there are no compliance costs associated with the

proposed rule. Qualitative benefits from the proposed rule would come from reducing the level of aircraft noise experienced by individuals on the ground and from cost savings associated with reducing transportation time for corporate executives and other personnel.

The quantitative benefits come from a potential reduction in accidents by enabling more helicopter pilots to operate under IFR in marginal weather conditions. The regulatory evaluation for the original NPRM found that there were potential safety benefits of \$48 million (\$34 million, present value) in addition to the non-quantified benefits discussed above. In this regulatory evaluation of the original NPRM plus the SNPRM, the potential safety benefits over the next 10 years could be \$57 million or \$40 million, present value. Therefore, the FAA has determined both the original NPRM and this SNPRM are cost beneficial.

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposal or final rule would have a significant economic impact on a substantial number of entities. If the determination is that it would, the agency must prepare a regulatory flexibility analysis as described in the RFA. However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605 (b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This rule would impact entities regulated by part 91. The FAA has determined that there would be no compliance costs associated with this SNPRM, but in the NPRM published

September 2, 1998, the agency solicited comments from operators who felt they would be negatively impacted from implementation of the proposed rule. Only positive comments were received supporting the FAA's position that this proposed rulemaking would not place any additional requirements on the aviation industry. Therefore, the FAA believes that there are no compliance costs associated with the proposed rule. Accordingly, the Federal Aviation Administration certifies that this rule would not have a significant economic impact on a substantial number of small entities.

International Trade Impact Statement

The provisions of this proposed rule would have little or no impact on trade for U.S. firms doing business in foreign countries and foreign firms doing business in the United States.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), codified in 2 U.S.C 1501–1571, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed “significant intergovernmental mandate.” A “significant intergovernmental mandate” under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of \$100 million (adjusted annually for inflation) in any one year. Section 203 of the Act (2 U.S.C. 1533), which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This proposed rule does not contain any Federal intergovernmental or private sector mandate exceeds \$100 million in any one year.

Federalism Implications

The proposed regulations would not have substantial direct effects on the States, on the relationship between national Government and the States, or on the distribution of power and responsibilities among various levels of government. Thus, in accordance with Executive Order 12612, it is determined that such a regulation would not have federalism implications warranting the preparation of a Federalism Assessment.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental assessment or environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking action qualifies for a categorical exclusion.

List of Subjects

14 CFR Part 21

Aircraft, Aviation safety, Exports, Imports, Reporting and recordkeeping requirements.

14 CFR Part 27

Aircraft, Aviation safety.

14 CFR Part 29

Aircraft, Aviation safety.

14 CFR Part 91

Aircraft, Airports, Aviation safety.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend parts 21, 27, 29, and 91 of Chapter I, title 14, Code of Federal Regulations, as follows:

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

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

Authority: 42 U.S.C. 7572; 49 U.S.C. 106(g), 40105, 40113, 44701–44702, 44707, 44709, 44711, 44713, 44715, 45303.

SFAR No. 29–4 [Removed]

2. Remove Special Federal Aviation Regulation (SFAR) No. 29–4—Limited IFR Operations of Rotorcraft from part 21.

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

3. The authority citation for part 27 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

4. Remove the reference to SFAR No. 29–4.

**PART 29—AIRWORTHINESS
STANDARDS: TRANSPORT
CATEGORY ROTORCRAFT**

5. The authority citation for part 29 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

6. Remove the reference to SFAR No. 29–4.

**PART 91—GENERAL OPERATING AND
FLIGHT RULES**

7. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

SFAR No. 29–4 [Removed]

8. Remove Special Federal Aviation Regulation (SFAR) No. 29–4, Limited IFR Operations of Rotorcraft, from part 91.

9. Revise § 91.167 to read as follows:

§ 91.167 Fuel requirements for flight into IFR conditions.

(a) No person may operate a civil aircraft in IFR conditions unless it carries enough fuel (considering appropriate weather reports or weather forecasts, or a combination of them) to—

(1) Complete the flight to the first airport of intended landing;

(2) Except as provided in paragraph (b) of this section, fly from that airport to the alternate airport; and

(3) Fly after that for 45 minutes at normal cruising speed or, for helicopters, fly after that for 30 minutes at normal cruising speed.

(b) Paragraph (a)(2) of this section does not apply if:

(1) Part 97 of this chapter prescribes a standard instrument approach

procedure to, or a special instrument approach procedure has been issued by the Administrator to the operator for, the first airport of intended landing; and

(2) Appropriate weather reports or weather forecasts, or a combination of them, indicate the following:

(i) *For aircraft other than helicopters.* For at least 1 hour before and for 1 hour after the estimated time of arrival, the ceiling will be at least 2,000 feet above the airport elevation and the visibility will be at least 3 statute miles.

(ii) *For helicopters.* At the estimated time of arrival and for 1 hour after the estimated time of arrival, the ceiling will be at least 1,000 feet above the airport elevation, or at least 400 feet above the lowest applicable approach minima, whichever is higher, and the visibility will be at least 2 statute miles.

10. Revise § 91.169 (a), (b), and (c) to read as follows:

§ 91.169 IFR flight plan: Information required.

(a) *Information required.* Unless otherwise authorized by ATC, each person filing an IFR flight plan must include in it the following information:

(1) Information required under § 91.153 (a) of this part;

(2) Except as provided in paragraph (b) of this section, an alternate airport.

(b) Paragraph (a)(2) of this section does not apply if:

(1) Part 97 of this chapter prescribes a standard instrument approach procedure to, or a special instrument approach procedure has been issued by the Administrator to the operator for, the first airport of intended landing; and

(2) Appropriate weather reports or weather forecasts, or a combination of them, indicate the following:

(i) *For aircraft other than helicopters.* For at least 1 hour before and for 1 hour after the estimated time of arrival, the ceiling will be at least 2,000 feet above the airport elevation and the visibility will be at least 3 statute miles.

(ii) *For helicopters.* At the estimated time of arrival and for 1 hour after the estimated time of arrival, the ceiling will be at least 1,000 feet above the

airport elevation, or at least 400 feet above the lowest applicable approach minima, whichever is higher, and the visibility will be at least 2 statute miles.

(c) *IFR alternate airport weather minima.* Unless otherwise authorized by the Administrator, no person may include an alternate airport in an IFR flight plan unless appropriate weather reports or weather forecasts, or a combination of them, indicate that, at the estimated time of arrival at the alternate airport, the ceiling and visibility at that airport will be at or above the following weather minima:

(1) If an instrument approach procedure has been published in part 97 of this chapter, or a special instrument approach procedure has been issued by the Administrator to the operator, for that airport, the following minima:

(i) *For aircraft other than helicopters.* The alternate airport minima specified in that procedure, or if none are specified the following standard approach minima:

(A) *For a precision approach procedure.* Ceiling 600 feet and visibility 2 statute miles.

(B) *For a nonprecision approach procedure.* Ceiling 800 feet and visibility 2 statute miles.

(ii) *For helicopters:* Ceiling 200 feet above and visibility 1 statute mile above the approach minima for the approach to be flown, and

(2) If no instrument approach procedure has been published in part 97 of this chapter or no special instrument approach procedure has been issued by the Administrator to the operator, for the alternate airport, the ceiling and visibility minima are those allowing descent from the MEA, approach, and landing under basic VFR.

* * * * *

Issued in Washington, DC, on June 25, 1999.

Ava L. Mims,

Deputy Director, Flight Standards Service.

[FR Doc. 99–16794 Filed 6–28–99; 2:54 pm]

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1999
July 1, 1999

Thursday
July 1, 1999

Part VII

**Department of
Agriculture**

**Cooperative State Research, Education,
and Extension Service**

**Guidelines for State Plans of Work for
the Agricultural Research and Extension
Formula Funds; Notice**

DEPARTMENT OF AGRICULTURE**Cooperative State Research,
Education, and Extension Service****Guidelines for State Plans of Work for
the Agricultural Research and
Extension Formula Funds**

AGENCY: Cooperative State Research,
Education, and Extension Service,
USDA.

ACTION: Final notice.

SUMMARY: The Cooperative State Research, Education, and Extension Service (CSREES) is implementing the Guidelines for State Plans of Work for the Agricultural Research and Extension Formula Funds. These guidelines prescribe the procedures to be followed by the eligible institutions receiving Federal agricultural research and extension formula funds under the Hatch Act of 1887, as amended (7 U.S.C. 361a *et seq.*); sections 3(b)(1) and (c) of the Smith-Lever Act of 1914, as amended (7 U.S.C. 343 (b)(1) & (c)); and sections 1444 and 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3221 and 3222). The recipients of these funds are commonly referred to as the 1862 land-grant institutions and 1890 land-grant institutions, including Tuskegee University. This action also establishes the research and extension protocols used to evaluate the success of multistate, multi-institutional, and multidisciplinary research and extension activities, in addressing critical agricultural issues identified in the submitted plans of work.

FOR FURTHER INFORMATION CONTACT: Dr. George Cooper; Deputy Administrator, Partnerships; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Washington, D.C. 20250; at 202-720-5285 or 202-720-5369, 202-720-4924 (fax) or via electronic mail at bhewitt@reeusda.gov.

SUPPLEMENTARY INFORMATION: CSREES published a notice and request for comment on the Guidelines for State Plans of Work for the Agricultural Research and Extension Formula Funds in the **Federal Register** on April 19, 1999 (64 FR 19242-19248).

Background and Purpose

The Cooperative State Research, Education, and Extension Service (CSREES) is implementing the following Guidelines for State Plans of Work for the Agricultural Research and Extension Formula Funds in order to meet the

plan of work reporting requirements enacted in the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA), Public Law 105-185. The AREERA amendments added new and consistent plan of work requirements for agricultural research and extension formula funds provided under the Hatch Act of 1887 (7 U.S.C. 361a *et seq.*), the Smith-lever Act (7 U.S.C. 341 *et seq.*), and sections 1444 and 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA) (U.S.C. 3221 and 3222). The specific plan of work reporting requirements are outlined in the "Preface and Authority" section of the Guidelines.

These guidelines were developed by CSREES in consultation with the State partners at the 1862 land-grant institutions and the 1890 land-grant institutions, including Tuskegee University. Since the enactment of AREERA on June 23, 1998, the Agency has engaged in these consultations, under an exemption to the Federal Advisory Committee Act (7 U.S.C. 3124a(e)), with members of both the Federal and State partnership focusing on different aspects of the plan of work and requirements for the agricultural research and extension formula funds (i.e., stakeholder input, multistate and integrated activities), and has received input and comments from the 1862 and 1890 land-grant community to ensure that the Guidelines, while meeting the legal requirements of the legislation, address the issues and concerns of the recipients. The Proposed Guidelines were published in the **Federal Register** as a notice with a 30-day comment period on April 19, 1999, and these Final Guidelines reflect consideration by CSREES of the comments received.

The amendments to the Hatch and Smith-Lever Acts plan of work requirements made by section 202 of AREERA require the Secretary of Agriculture to develop protocols to evaluate the success of multistate, multi-institutional, and multidisciplinary research and extension activities, in addressing the critical agricultural issues identified in the plans of work. As part of the previous notice and request for comment, CSREES sought comment on these evaluation protocols, including four evaluation criteria. Comments received were considered in the final version of section II.C.3., "Evaluation of Multistate and Integrated Research and Extension Activities." CSREES will be using the Annual Reports of Accomplishments and Results to evaluate the success of multistate,

multi-institutional, and multidisciplinary activities, and joint research and extension activities, in addressing critical agricultural issues identified in the 5-Year Plans of Work. CSREES will be using the following evaluation criteria: (1) Did the planned program address the critical issues of strategic importance, including those identified by the stakeholders? (2) Did the planned program address the needs of under-served and under-represented populations of the State(s)? (3) Did the planned program describe the expected outcomes and impacts? and (4) Did the planned program result in improved program effectiveness and/or efficiency? This section also stipulates that these protocols be developed by CSREES in shared consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board. CSREES has developed these protocols in consultation with this Advisory Board.

The due date for submission of the 5-Year Plan of Work for the period covering October 1, 1999, through September 30, 2004, is July 15, 1999.

**Public Comments and Guideline
Changes in Response**

In the Notice of the Proposed Guidelines, CSREES invited comments on the Proposed Guidelines as well as comments on the protocols to evaluate success of the multistate, multi-institutional, and multidisciplinary research and extension activities, in addressing critical agricultural issues identified in the plans of work. Fourteen comments were received. Eleven were from deans, directors, or administrators of research and extension programs at the 1862 land-grant institutions and three were from organizations representing stakeholder groups and agricultural producers.

Positive Comments

Ten of the 14 comments focused on some of the positive aspects of the Proposed Guidelines such as flexibility, accountability, appreciation for engaging the State partner institutions in the development of the plan of work guidelines as well as the opportunity to comment on the Proposed Guidelines, meeting the intent of Congress and AREERA, focus of the plan of work process on outcomes and impacts, and efforts to integrate research and extension activities. Thirteen of the comments addressed issues requiring clarification resulting in minor revisions to the Proposed Guidelines. Some areas of concern included the evaluation of the success of multistate, multi-institutional, and multidisciplinary

research and extension activities, and joint research and extension activities, implementation of sections 105 and 204 of AREERA for multistate extension activities and integrated research and extension activities, definitions of "activities" and programs," the stakeholder input process, and the merit review and scientific peer review processes.

Seven out of 14 commenters appreciated the flexibility that both the plan of work process and the Proposed Guidelines provide as State programs have major differences due to geographic uniqueness and location specificity. Emphasizing the benefits of such flexibility, one commenter wrote: "The flexibility will result in the strengths of the State, regional, and national programs being contained in the annual reports and will manifest the strength of the Federal/State partnership in meeting the needs of consumers and producers."

Seven of the commenters expressed appreciation for either the opportunity CSREES afforded the partnership institutions to engage in the discussions about the process and approach to implementing the provisions of AREERA or the opportunity to comment on the Proposed Guidelines. Other positive comments noted that the Proposed Guidelines focused on accountability through reporting on outcomes and impacts, met the intent of Congress and AREERA, and made efforts to further integrate research and extension activities.

Evaluation Protocols and Criteria

Six commenters discussed the research and extension protocols for evaluating the success of multistate, multi-institutional, and multidisciplinary research and extension activities, in addressing the critical agricultural issues identified in the plans of work. CSREES proposed using the Annual Reports of Accomplishments and Results to evaluate the success of multistate, multi-institutional, and multidisciplinary activities, and joint research and extension activities, in addressing critical agricultural issues in the 5-Year Plans of Work. CSREES proposed using the following evaluation criteria: (1) Did the planned program address the critical issues of strategic importance, including those identified by the stakeholders? (2) Did the planned program address the needs of under-served populations of the State(s)? (3) Did the planned program prescribe the expected outcomes and impacts? and (4) Did the planned program result in improved effectiveness and /or

efficiency? Three of the evaluation commenters said that they looked forward to the public comment process on these evaluation protocols. However, they offered no comments on the process. The Proposed Guidelines that were published in the **Federal Register** on April 19, 1999, included the proposed evaluation protocols for these activities as well as the proposed evaluation criteria. Therefore, there will be no need for a future comment process as CSREES has already received comments on these proposed evaluation protocols.

The fourth commenter questioned the evaluation criteria for measuring the success of multistate, multi-institutional, and multidisciplinary research and extension activities, and joint research and extension activities, particularly evaluation criteria nos. 2 and 4. The commenter noted that no. 2 asks if the needs of the under-served populations were addressed by the planned program and that this question was not asked during the planning process (development of the 5-Year Plan of Work). The commenter suggested that this be included in the planning process.

In response, CSREES has revised the section on *targeted audiences* under "Planned Programs" to: "The *targeted audiences* identifies the set of stakeholders, customers, and/or consumers for which the program is intended. The 5-Year Plan of Work should address the institution's commitment to facilitating equality of service and ease of access to all research and extension programs and services and to meeting the needs of under-served and under-represented individuals, groups, and/or organizations."

The commenter also questioned evaluation criterion no. 4 which asks whether the planned program resulted in improved program effectiveness and/or efficiency. The commenter wanted to know how improvement in efficiency was to be measured, when the planning process focuses on effectiveness—impacts and outcomes.

CSREES has revised the section on *internal and external linkages* to clarify this issue under "Planned Programs" to: The *internal and external linkages* include activities identified as integrated, multidisciplinary, multi-institutional, and/or multistate. This component may also address any efforts made to identify and collaborate with other colleges and universities that have a unique capacity to address the identified agricultural issues within the State and the extent of current and emerging efforts (including regional

efforts) to work with those institutions. Within this planning component, discussion should be made regarding any efficiencies achieved through these external and internal linkages both in the use of resources and in the ability to solve critical agricultural issues."

The fifth commenter commended CSREES for specifically seeking comment on the development of protocols to evaluate the success in meeting the new directives concerning multistate, multi-institutional, and multidisciplinary" and integration." This commenter along with the sixth commenter on these evaluation protocols urged CSREES to include a strong stakeholder review and input process as an integral part of the review process for the 5-Year Plans of Work, for the Annual Reports of Accomplishments and Results, and for measuring the success of multistate, multi-institutional, and multidisciplinary research and extension activities and joint research and extension activities.

CSREES at this time does not plan to have stakeholders involved at the Federal level in the review of the 5-Year Plans of Work, the review of the Annual Reports of Accomplishments and Results, or the evaluation of the multistate, multi-institutional, and multidisciplinary research and extension activities, and joint research and extension activities, in addressing critical agricultural issues identified in the 5-Year Plans of Work. CSREES feels that the stakeholder input processes at the 1862 and 1890 land-grant institutions in the States will be the most effective protocol for stakeholders to provide input on these reviews and evaluations. See proposed stakeholder input rule, 64 FR 18534, April 14, 1999. However, CSREES does plan to make available through the CSREES homepage all the approved 5-Year Plans of Work and Annual Reports of Accomplishments and Results so that stakeholders may be provided an opportunity to review these documents in order to participate more fully in the stakeholder input processes in the States.

The sixth commenter felt that the Annual Report of Accomplishments and Results would not be an adequate vehicle for the evaluation of multistate and integrated research and extension activities. CSREES plans to use these reports, the 5-Year Plans of Work, and the four evaluation criteria stated in these Guidelines as the evaluation protocols and has consulted with the National Agricultural Research, Extension, Education, and Economics Advisory Board in both development

and adoption of these evaluation protocols. CSREES, however, plans to continue to dialogue with the 1862 and 1890 land-grant institutions on both the programmatic and administrative aspects of these activities as AREERA has placed significant emphasis on these types of activities.

Stakeholder Input Process

Two commenters discussed the stakeholder input process as it relates to the plan of work reporting requirements. Section 102(c) of AREERA requires the 1862 land-grant institutions, 1890 land-grant institutions, and 1994 land-grant institutions receiving agricultural research, education, and extension formula funds from CSREES to establish a process for stakeholder input on the uses of such funds. As mentioned in the **Federal Register** notice for the Proposed Guidelines on April 19, 1999, CSREES is in the process of promulgating separately regulations to implement these stakeholder input requirements. See proposed stakeholder input rule, 64 FR 18534, April 14, 1999. CSREES anticipates the final rule being published by July 31, 1999.

One of the commenters supported the decision of CSREES to provide the maximum flexibility to institutions in the way they report their stakeholder input in their plans of work. The other commenter focused on the definition of *seek stakeholder input*. The previous notice for these Guidelines defined *seek stakeholder input* "means an open and fair process which allows opportunities for individuals, groups, and organizations a voice in a process that treats all with dignity and respect." The commenter urged CSREES to adopt a new definition, building upon the concepts of "open and fair," "equality of service," and "ease of access" in the Final Guidelines, as follows: "Seek stakeholder input means an open, fair, transparent, accessible, inclusive, accountable, and comprehensive process which provides opportunities for diverse individuals, groups, and organizations, especially the traditionally under-served and under-represented, to have a voice in a process and one that treats all with dignity and respect."

CSREES has modified the definition of *seek stakeholder input* to "Seek stakeholder input means an open, fair, and accessible process by which individuals, groups, and organizations may have a voice and one that treats all with dignity and respect." However, although CSREES does encourage States to implement a stakeholder input process satisfying the above definition posed by the commenter, CSREES has

recognized in consultation with the State partners that each State has unique characteristics and should implement a stakeholder input process that best suits the needs of their State. CSREES has determined to use this modified definition of *seek stakeholder input* as the lowest acceptable threshold of stakeholder input process because CSREES wishes to maintain an environment in which States may quickly modify their stakeholder input processes to respond effectively to existing and emerging critical agricultural issues. Also, CSREES does not wish to place undue administrative burdens upon the States in meeting the stakeholder input requirement that potentially may interfere with the conduct and delivery of research and extension programs.

The above commenter made three additional comments about stakeholders. First, the commenter noted that while the definition for *under-served* is referenced once in the review criteria (C.2.), the definition for *under-represented* did not appear in the Proposed Guidelines. As the commenter had thought, this was an oversight and has been included in the review criteria. Second, this commenter thought we should address *under-served* and *under-represented* stakeholders in *target audiences* (B.1.c.5) under "Program Descriptions." As mentioned previously, we have revised this section to include these stakeholders. Third, the commenter urged CSREES to broaden the definition of *under-represented* to specifically include "small farm owners and operators." CSREES has revised the definition as suggested.

Research and Extension Cooperation

Five comments were received requesting clarification of the phrase, "The manner in which research and extension, including research and extension activities funded other than through formula funds, will cooperate to address the critical issues in the State, including the activities to be carried out separately, sequentially, or jointly" under "I. Preface and Authority." This is a specific requirement of the Hatch and Smith-Lever Acts and NARETPA as amended by sections 202 and 225 of AREERA. At a minimum, States should be reporting under "Program Descriptions" on those research and extension activities, supported with Federal formula funds (allocated by CSREES and identified as formula funds for the purposes of this 5-Year Plan of Work) and the associated required matching funds. States are required to discuss other funds only under planning component #,7 *allocated resources*,

when a research and/or extension program, supported by either Federal formula funds (allocated by CSREES and identified as formula funds for purposes of this 5-Year Plan of Work) or the associated required matching funds, is also receiving funds from other sources. All that is required is a brief statement about the funding sources and how these funds contribute to the conduct and delivery of the research and/or extension program(s).

Programs, Projects, and Activities

Three comments were received on the use of the terms: "programs," "projects," and "activities." All three commenters requested that the casual use of the terms "programs" in the Proposed Guidelines should be reconciled with section 103(d)(1) of AREERA which refers to "activities," not "programs" for peer review. To these commenters, this issue was critical as their institutions would want to peer review "projects", not collections of "projects" ("programs"). "Projects" historically has been recognized by the agricultural experiment station community in planning and assigning responsibility to agricultural experiment station staff and "programs" has been recognized by the cooperative extension services in their planning and assigning responsibility to extension staff. CSREES has determined that an "activity" is either a "project," "program," or a combination thereof; and that for the sake of plan of work reporting purposes, "planned programs" are collections of these research and extension activities, or research projects and extension programs. Accordingly, a definition of "activities" and "planned programs" has been added to the Final Guidelines.

Due Date

Two commenters thought that the due date of July 15, 1999, for the 5-Year Plan of Work is unreasonable considering the workload being imposed. The requirements of the 5-Year Plan of Work as described in the Proposed Guidelines very closely resemble the requirements imposed by the Hatch and Smith-Lever Acts as amended by sections 202 and 225 of AREERA for State Plans of Work and reflect the collaborative efforts of CSREES and the State partners in developing the proposed guidelines since the enactment of AREERA on June 23, 1998. CSREES needs to receive the 5-Year Plans of Work by July 15, 1999, in order to review and approve these 5-Year Plans of Work prior to October 1, 1999, in order to guarantee the timely release of first quarter FY 2000 formula funds.

Multistate and Integrated Activity Baselines

Five comments were received expressing concern about the implementation of the Hatch and Smith-Lever Act amendments, section 105 and 204 of AREERA, particularly the establishment of the FY 1997 baselines for multistate extension activities and integrated research and extension activities. CSREES has established a workgroup comprised of representatives from the fiscal and plan of work reporting staffs at the land-grant institutions, staff from the Office of Extramural Programs, and plan of work staff from the Partnerships Unit. These workgroup participants will be meeting 6/30–7/1/99 in Washington, D.C. to make recommendations for the guidelines on the implementation of sections 105 and 204 of AREERA. This group will be focusing on three areas: (1) How to “account” for multistate extension activities and integrated research and extension activities, (2) how to establish FY 1997 baselines for multistate extension activities and integrated research and extension activities, and (3) establishment of criteria for a reduction in the minimum percentage required to be expended for multistate extension activities and integrated research and extension activities. One of the goals of this workgroup will be developing guidelines that place the least amount of administrative and fiscal reporting burden on the States while meeting the intent of the AREERA legislation.

As mentioned in the notice of the Proposed Guidelines, CSREES will be issuing separate guidance on the implementation of these two sections of AREERA. CSREES anticipates issuing this guidance by July 31, 1999.

One commenter thought that the evidence (formal agreements, letters of memorandums, contracts or other instruments) required for documentation of multistate extension activities as indicated under section II.B.4.b, “Smith-Lever Multistate Extension,” was an onerous task that added no value to the work being done and created a negative value to the paperwork now being required. The commenter also felt that this onerous paperwork would motivate States to initiate minimal multistate efforts, rather than to increase them. CSREES can appreciate the amount of paperwork generated by section 105 of AREERA. However, this requirement only applies to the minimum percentage of Federal formula funds that must be expended on multistate activities. Multistate activities reported under the 5-Year Plan of Work

component #4 of the 5-Year Plan of Work for “Smith-Lever Multistate Extension” should be only those activities used to meet the requirements imposed by section 105 of AREERA. Additional multistate activities may be identified in overall program descriptions under planning component #4, *internal and external linkages*. In contrast to the commenter’s view that this requirement may discourage multistate extension activities, CSREES feels that this requirement may actually stimulate multistate activities in States and regions and in programs where they have not existed previously.

Another commenter was unclear whether regional and/or national efforts which maximize the resources in developing program curriculum and publications are recognized in the stated criteria for multistate activities and whether national networks (technology based) with States contributing human resources should be recognized as multistate program efforts. Assuming that participation in the above activities meets the criteria set forth in the Final Guidelines (that the State staff contribute towards the impacts of the program, collaborate towards the objectives, and are involved in the outcomes), the above activities, including technology-based networks, could be identified as multistate activities for the purposes of meeting the requirements of the Smith-Lever Act amendment in section 105 of AREERA.

One commenter requested, as part of his overall comments, a waiver from the Hatch and Smith-Lever Act requirements in section 204 of AREERA that require that States expend the lesser of 25 percent or twice the percentage of funds expended in FY 1997 on integrated research and extension activities. As mentioned previously, CSREES will be issuing separate guidance on the administrative and fiscal implementation of section 204 for integrated research and extension activities.

Three comments were received requesting clarification on section 204 and its applicability to the matching funds. Section 204 only applies to the Federal funds allocated. Section II.B.5, “Integrated Research and Extension Activities,” has been revised to clarify this point.

Education and Outreach Programs

One commenter questioned the requirement under “Planned Programs” for a description of the education and outreach programs (section II.B.1.c.8) that are already underway to convey the research results and efforts to encourage multicounty cooperation in

dissemination of research results. The commenter questioned the rationale of this requirement when calling for a forward looking plan and that the requirements were busy work that add zero value to the plan of work process.” Describing the “education and outreach programs already underway to convey available research results that are pertinent to a critical agricultural issue, including the efforts to encourage multicounty cooperation in the dissemination of research results” is a requirement for the plans of work under section 202(a)(1) of AREERA which amended section 4 of the Smith-Lever Act and under section 225(a)(1) of AREERA which amended section 1444(d) of NAREPTA. As noted in the Proposed Guidelines this planning component applies only to those 5-Year Plans of Work incorporating extension activities of the 1862 and/or 1890 land-grant institutions.

Annual Update

Three comments were received on the Annual Update to the 5-Year Plan of Work. All three commenters requested that CSREES consider a “roll-forward” time frame for a plan of work that has substantive change reflected in the annual update. In other words, the 5-year clock would start over from the date of the updated 5-Year Plan of Work. Commenters suggested this for two primary reasons: (1) Reduce the 5-year rush at the Federal level to review the 5-Year Plans of Work and (2) Potentially provide additional incentive at the State level to keep a refined plan in place as planned programs evolve to address emerging critical agricultural issues.

Although CSREES is appreciative of the concern from the State partners about the “rush” to review these 5-Year Plans of Work, CSREES is committed to a timely and meaningful review process. This was demonstrated when CSREES sent an email message to the State partners entitled “SPECIAL MESSAGE RE: POW” on May 12, 1999, regarding the criteria for review of the 5-Year Plans of Work, the evaluation protocols for these plans, and the anticipated timetable. CSREES has determined to keep the existing fixed 5-Year time frame for the plan of work process in place. By keeping all the 5-Year Plans of Work on the same 5-year cycle, both the evaluation of the Annual Reports of Accomplishments and Results against the current 5-Year Plans of Work and the Federal reporting requirements, including annual budget justifications and Government Performance Results Act (GPRA) reporting, will be accomplished more effectively and more

efficiently. In addition, these 5-Year Plans of Work will have been prepared based on the existing five national goals established in CSREES Strategic Plans and linked to the five national goals within the Research, Education, and Economics (REE) Mission Areas of the U.S. Department of Agriculture.

Merit and Peer Review

Four comments were received about the merit review and peer review processes. One commenter noted that the merit review process must be established prior to October 1, 1999, and requested clarification whether the plan of work itself needed to be merit reviewed. Section 103(e) of AREERA requires that effective October 1, 1999, to be eligible to obtain agricultural research or extension funds for an activity, each 1862 and 1890 institution shall: (1) Establish a process for the merit review of the activity; and (2) Review the activity in accordance with the process. Only the research projects supported with Hatch Multistate Research Funds are subject to a scientific peer review which will also satisfy the merit review requirement. CSREES has intended that the merit review process and/or scientific peer review process be in place by October 1, 1999, as required by the legislation, and that a description of the process(es) be provided in the 5-Year Plan of Work. Since the Final Guidelines requires reporting on planned programs which are collections of research activities or projects and/or extension activities or programs, the plan of work does not have to be merit reviewed, but the individual research projects or activities and/or the extension programs or activities have to be merit reviewed according to the established process at the land-grant institution. And in the case of Hatch Multistate Research projects, a scientific peer review is required in lieu of a merit review.

Two of the commenters also were concerned that by having these merit reviews and scientific peer reviews conducted by the institutions, the research projects or activities and/or extension programs or activities will be subject to a review process twice. Although it may appear that research and extension activities are being reviewed twice, the merit review and/or scientific peer review of research and extension activities conducted at the institutions and the review of the 5-Year Plans of Work are evaluated against different criteria and for different purposes. The merit review and/or scientific peer review process(es) are established by the land-grant institutions within the general

framework of these Guidelines and the 5-Year Plan of Work is an evaluation of the planned programs (which are collections of research and/or extension activities) against the criteria set forth in section II.C.2., "Review Criteria."

The fourth commenter on the program review processes expressed concern that their existing merit review and scientific review processes for both research and extension activities may result in Annual Updates to the 5-Year Plan of Work each year as they perform their reviews each year. Since the Final Guidelines require reporting on planned programs which are collections of research and/or extension activities, the results of annual merit reviews and scientific peer reviews may not result in substantive changes in the 5-Year Plans of Work that would require the submission of an Annual Update to the 5-Year Plan of Work.

Separate Extension and Research Administrative Structures

One commenter noted that their cooperative extension service and their agricultural experiment station are under separate administrative structures and that it may be difficult to have consistent reporting on joint research and extension efforts. They expressed concern that they may be penalized for not being completely aligned in their reporting when they submit two separate reports. These Final Guidelines provide as much flexibility as possible in the submission of the 5-Year Plans of Work, Annual Updates to the 5-Year Plans of Work, and Annual Reports of Results and Accomplishments in order to accommodate the needs of each State and its land-grant institutions.

Withholding of Funds

One commenter noted that the Proposed Guidelines lacked a procedure to "withhold formula funds" if the goals and objectives have not been met. CSREES has had established procedures for "withholding formula funds" when certain programmatic, administrative, and fiscal requirements are not met by the land-grant institutions. The land-grant institutions are notified and given ample opportunity to satisfy these requirements prior to the next quarterly allocation of funds. These procedures have worked well in the past; while the procedures help to ensure that requirements are met, the conduct and delivery of research and extension programs are neither interrupted nor jeopardized. As stated in section II.C.1, "Schedule," adherence to the Plan of Work schedule by the recipient institution is critical to assuring the timely allocation of funds by CSREES.

Annual Reports of Accomplishments and Results

One commenter thought that the submission date for the Annual Reports of Accomplishments and Results should be March or April, instead of December 31. CSREES can appreciate institutions' desire for more time to synthesize information from the previous calendar year's research and extension activities and therefore submit a more meaningful report; however, CSREES uses these reports in preparation of CSREES budget documents as well as for questions posed by congressional committees during the annual budget process. Consequently, CSREES has not changed the due dates for the Annual Reports of Accomplishments and Results.

Another commenter suggested that some form of web-based reporting mechanism be used in the Annual Report of Accomplishments and Results for reporting on multistate extension activities and integrated research and extension activities in order to simplify the process. As the system progresses through this 5-Year Plan of Work cycle, CSREES will consider this suggestion before the first Annual Reports of Accomplishments and Results are due.

Continuing Dialogue

The last and final comment concerned the importance of continuing the dialogue between the Federal and State Partners to ensure flexibility in both the Plan of Work and the reporting against the Plan of Work. CSREES intends to invite the State partners back within the next year to engage in discussions regarding the submission of the 5-Year Plan of Work as well as the review process conducted by CSREES.

Paperwork Reduction Act

Under the provisions of the Paperwork Reduction Act of 1995, as amended (44 U.S.C. Chapter 35), the collection of information requirements contained in these Final Guidelines have been reviewed and approved by OMB and given OMB Document No. 0524-0036. Under the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number.

The public reporting burden for this collection of information contained in these guidelines is estimated at 1349.44 hours per response for the 5-Year Plan of Work; 134.94 hours per response for the Annual Update to the 5-Year Plan of Work; and 1,366.67 hours per response for the Annual Report of Accomplishments and Results. This includes the time for reviewing

instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Agriculture, Clearance Officer, Office of the Chief Information Officer, Stop 7603, 1400 Independence Avenue, SW., Washington, DC 20250-7630, and to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503. These guidelines have no additional impact on any existing data collection burden.

Pursuant to the plan of work requirements enacted in the Agricultural Research, Extension, and Education Reform Act of 1998, the Cooperative State Research, Education, and Extension Service hereby is implementing the Guidelines for State Plans of Work for Agricultural Research and Extension Formula Funds as follows:

Guidelines for State Plans of Work for Agricultural Research and Extension Formula Funds

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I. Preface and Authority

Sections 202 and 225 of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA), Public Law 105-185, enacted amendments requiring all States and 1890 institutions receiving formula funds authorized under the Hatch Act of 1887, as amended (7 U.S.C. 361a *et seq.*), the Smith-Lever Act, as amended (7 U.S.C. 341 *et seq.*), and sections 1444 and 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA), as amended (7 U.S.C. 3221 and 3222), to prepare and submit to the Cooperative State Research, Education, and Extension Service (CSREES) a plan of work for the use of those funds.

While the requirement for the Hatch Act and Smith-Lever Act funds applies to the States, CSREES assumes that in most cases the function will be performed by the 1862 land-grant institution in the States. The only "eligible institutions" to receive formula funding under sections 1444 and 1445 of NARETPA are the 1890 land-grant institutions and Tuskegee University. Therefore, these guidelines refer throughout to "institutions" to include both the 1862 and 1890 land-grant institutions, including Tuskegee University.

Further, these guidelines require a plan of work that covers both research and extension. Although the District of Columbia receives extension funds under the District of Columbia Postsecondary Education Reorganization Act, Pub. L. 93-471, as opposed to the Smith-Lever Act, CSREES has determined that it should be subject to the plan of work requirements imposed under these guidelines except where expressly excluded.

All the requirements of AREERA with regard to agricultural research and extension formula funds were considered and were incorporated in these plan of work guidelines including descriptions of the following: (1) The critical short-term, intermediate, and long-term agricultural issues in the State and the current and planned research and extension programs and projects targeted to address the issues; (2) the process established to consult with stakeholders regarding the identification of critical agricultural issues in the State and the development of research and extension projects and programs targeted to address the issues; (3) the efforts made to identify and collaborate with other colleges and universities that have a unique capacity to address the

identified agricultural issues in the State and the extent of current and emerging efforts (including regional and multistate efforts) to work with those other institutions; (4) the manner in which research and extension, including research and extension activities funded other than through formula funds, will cooperate to address the critical issues in the State, including the activities to be carried out separately, sequentially, or jointly; and (5) For extension, the education and outreach programs already underway to convey available research results that are pertinent to a critical agricultural issue, including efforts to encourage multicounty cooperation in the dissemination of research information.

These guidelines also take into consideration the requirement in section 102(c) of AREERA for the 1862, 1890, and 1994 land-grant institutions receiving agricultural research, extension, and education formula funds to establish a process for receiving stakeholder input on the uses of such funds. This stakeholder input requirement, as it applies to research and extension at 1862 and 1890 land-grant institutions, has been incorporated as part of the plan of work process.

The requirement of section 103(e) of AREERA also is addressed in these plan of work guidelines. This section requires that the 1862, 1890, and 1994 land-grant institutions establish a merit review process, prior to October 1, 1999, in order to obtain agricultural research, extension, and education funds. For purposes of these guidelines applicable to formula funds, a merit review process must be established for extension programs funded under sections 3(b)(1) and (c) of the Smith-Lever Act and under section 1444 of NARETPA, and for research programs funded under sections 3(c)(1) and (2) of the Hatch Act (commonly referred to as Hatch Regular Formula Funds) and under section 1445 of NARETPA. Section 104 of AREERA amended the Hatch Act of 1887 also to stipulate that a scientific peer review process (that also would satisfy the requirements of a merit review process under section 103(e)) be established for research programs funded under section 3(c)(3) of the Hatch Act (commonly referred to as Hatch Multistate Research Funds). As previously stated, these program review processes must be established prior to October 1, 1999, in order for the institutions to obtain agricultural research and extension formula funds. Consequently, a description of the merit review and scientific peer review process has been included as a requirement in the submission of the 5-Year Plan of Work.

These plan of work guidelines also require reporting on the multistate and integrated research and extension programs. Section 104 of AREERA amended the Hatch Act of 1887 to redesignate the Hatch regional research funds as the Hatch Multistate Research Fund, specifying that these funds be used for cooperative research employing multidisciplinary approaches in which a State agricultural experiment station, working with another state agricultural experiment station, the Agricultural Research Service, or a college or university, cooperates to solve the problems that concern more than one State. Section 105 of AREERA amended the Smith-Lever Act to require that each institution receiving extension formula funds under sections 3(b) and (c) of the Smith-Lever Act expend for multistate activities in FY 2000 and thereafter a percentage that is at least equal to the lesser of 25 percent or twice the percentage of funds expended by the institution for multistate activities in FY 1997. Section 204 of AREERA amended both the Hatch and Smith-Lever Acts to require that each institution receiving agricultural research and extension formula funds under the Hatch Act and sections 3(b) and (c) of the Smith-Lever Act expend for integrated research and extension activities in FY 2000 and thereafter a percentage that is at least equal to the lesser of 25 percent or twice the percentage of funds expended by the institution for integrated research and extension activities in FY 1997. These sections also require that the institutions include in the plan of work a description of the manner in which they will meet these multistate and integrated requirements.

These applicable percentages apply to the Federal agricultural research and extension formula funds only. Federal formula funds that are used by the institution for a fiscal year for integrated activities may also be counted to satisfy the multistate activities requirement.

The multistate and integrated research and extension requirements do not apply to formula funds received by American Samoa, Guam, Micronesia, Northern Marianas, Puerto Rico, and the Virgin Islands. Since the Smith-Lever Act is not directly applicable, the multistate and integrated extension requirements do not apply to extension funds received by the District of Columbia, except to the extent it voluntarily complies.

The amendments made by sections 105 and 204 of AREERA also provide that the Secretary of Agriculture may reduce the minimum percentage required to be expended by the institution for multistate and integrated

activities in the case of hardship, infeasibility, or other similar circumstance beyond the control of the institution. CSREES will issue separate guidance on the establishment of the FY 1997 baseline percentages for multistate activities and integrated activities and on requests for reduction in the required minimum percentage.

Also included in these guidelines are instructions on how to report on the annual accomplishments and results of the planned programs contained in the 5-Year Plan of Work, information on the evaluation of accomplishments and results, and information on when and how to update the 5-Year Plan of Work if necessary.

II. Submission of the 5-Year Plan of Work

A. General

1. Planning Option

This document provides guidance for preparing the plan of work with preservation of institutional autonomy and programmatic flexibility within the Federal-State Partnership. The plan of work is a 5-year prospective plan that covers the period of fiscal year 2000 through 2004, with the option to submit annual updates to the 5-Year Plan of Work. The 5-Year Plans of Work may be prepared for an institution's individual functions (*i.e.*, research or extension activities), for an individual institution (including the planning of research and extension activities), or for state-wide activities (a 5-year research and/or extension plan of work for all the eligible institutions in a State). Each 5-Year Plan of Work must reflect the content of the program(s) funded by Federal agricultural research and extension formula funds and the required matching funds. This 5-Year Plan of Work must describe not only how the program(s) address critical short-term, intermediate, and long-term agricultural issues in a State, but how it relates to and is part of the broad national goals.

2. Period Covered

The 5-Year Plan of Work should cover the period from October 1, 1999, through September 30, 2004.

3. Projected Resources

The resources that are allocated for various planned programs in the 5-Year Plan of Work, in terms of human and fiscal measures, should be included and projected over the next five years. The baseline for the institution's or State's initial plan (for five years) should be the Federal agricultural research and extension formula funds for FY 1999

and the required matching funds. During the course of the 5-Year Plan of Work, if the baseline for the formula funds at the FY 1999 level changes by more than 10 percent in one year or by 20 percent or more cumulatively during the 5-year period, a revised 5-Year Plan of Work should be submitted as an annual update the following fiscal year.

4. Submission and Due Date

The 5-Year Plan of Work must be submitted by July 15, 1999, to the Partnerships Unit of the Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture. It is preferred that these 5-Year Plans of Work be submitted electronically to bhewitt@reeusda.gov in either WordPerfect file format, Microsoft Word file format, or ASCII file format. If this submission method is not available, an original and two copies of the 5-Year Plan of Work should be submitted to: Partnerships/POW; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Stop 2214; 1400 Independence Avenue, SW.; Washington, DC. 20250-2214.

5. Certification

The 5-Year Plan of Work must be signed by the 1862 Extension Director, 1862 Research Director, 1890 Extension Administrator, and/or 1890 Research Director, depending on the planning option chosen.

6. Definitions

For the purpose of implementing the Guidelines for State Plans of Work for Agricultural Research and Extension Formula Funds, the following definitions are applicable:

Activities means either research projects or extension programs.

Formula funds for the purposes of the plan of work guidelines means funding provided by formula to 1862 land-grant institutions under section 3 of the Hatch Act of 1887, as amended (7 U.S.C. 361a) and sections 3(b)(1) and (c) of the Smith-Lever Act, as amended (7 U.S.C. 343(b)(1) and (c)) and to the 1890 land-grant institutions under sections 1444 and 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3221 and 3222).

Formula funds for the purposes of stakeholder input means the funding by formula to the 1862 land-grant institutions and 1890 land-grant institutions covered by these plan of work guidelines as well as the formula funds provided under the McIntire-Stennis Cooperative Forestry Research Program (16 U.S.C. 582, *et seq.*), the

Animal Health and Disease Research Program (7 U.S.C. 3195), and the education payments made to the 1994 land-grant institutions under section 534(a) of Public Law 103-382 (7 U.S.C. 301 note).

Integrated or joint activities means jointly planned, funded, and interwoven activities between research and extension to solve problems. This includes the generation of knowledge and the transfer of information and technology.

Merit review means an evaluation whereby the quality and relevance to program goals are assessed.

Multi-institutional means two or more institutions within the same or different States or territories that will collaborate in the planning and implementation of programs.

Multistate means collaborative efforts that reflect the programs of institutions located in at least two or more States or territories.

Multi-disciplinary means efforts that represent research, education, and/or extension programs in which principal investigators or other collaborators from two or more disciplines or fields of specialization work together to accomplish specified objectives.

Outcome indicator means an assessment of the results of a program activity compared to its intended purpose.

Output indicator means a tabulation, calculation, or recording of activity of effort expressed in quantitative or qualitative manner which measures the products or services produced by the planned program.

Planned programs means collections of research projects or activities and/or extension programs or activities.

Program review means either a merit review or a scientific peer review.

Scientific peer review means an evaluation performed by experts with scientific knowledge and technical skills to conduct the proposed work

whereby the technical quality and relevance to program goals are assessed.

Seek stakeholder input means an open, fair, and accessible process by which individuals, groups, and organizations may have a voice, and one that treats all with dignity and respect.

Stakeholder is any person who has the opportunity to use or conduct agricultural research, extension, and education activities in the State.

Under-served means individuals, groups, and/or organizations whose needs have not been addressed in past programs.

Under-represented means individuals, groups, and/or organizations especially those who may not have participated fully including, but not limited to, women, racial and ethnic minorities, persons with disabilities, limited resource clients, and small farm owners and operators.

B. Components of the 5-Year Plan of Work

1. Planned Programs

a. National Goals. The 5-Year Plan of Work should be based on the five national goals established in the Cooperative State Research, Education, and Extension Service (CSREES) Agency Strategic Plans and linked to the five national goals within the Research, Education, and Economics (REE) Mission Area of the U.S. Department of Agriculture. These national goals were adopted by the National Agricultural Research, Extension, Education, and Economics Advisory Board. These goals were developed from stakeholder input in conjunction with existing Federal-State Partnerships. The body of the 5-Year Plan of Work narrative should focus on these goals and outcomes.

Currently the national goals are:

Goal 1: An agricultural system that is highly competitive in the global economy. Through research and education, empower the agricultural system with knowledge that will

improve competitiveness in domestic production, processing, and marketing.

Goal 2: A safe and secure food and fiber system. To ensure an adequate food and fiber supply and food safety through improved science based detection, surveillance, prevention, and education.

Goal 3: A healthy, well-nourished population. Through research and education on nutrition and development of more nutritious foods, enable people to make health promoting choices.

Goal 4: Greater harmony between agriculture and the environment. Enhance the quality of the environment through better understanding of and building on agriculture's and forestry's complex links with soil, water, air, and biotic resources.

Goal 5: Enhanced economic opportunity and quality of life for Americans. Empower people and communities, through research-based information and education, to address economic and social challenges facing our youth, families, and communities.

b. Format. As mentioned under the Planning Options section, an institution or State may opt to submit independent plans for the various units (e.g. 1862 research) or an integrated plan which includes all units in the institution or State.

Regardless of the option chosen, the 5-Year Plan of Work should be reported in the appropriate matrix format, each cell of which identifies planned programs that fall under one of the national program goals. If an integrated 5-Year Plan of Work is submitted, the various units within the entity for which the 5-Year Plan of Work has been developed (i.e., 1862 research, 1890 research, 1862 extension, 1890 extension) would appear on the vertical axis. Individual cells within the matrix would be used to summarize the State programs.

The following example illustrates the desired matrix.

	Goal 1	Goal 2	Goal 3	Goal 4	Goal 5
1862 Research					
1862 Extension					
1890 Research					
1890 Extension					

c. Program Descriptions. Program descriptions presented in a narrative form or in each cell of the matrix for a planned program will be related to one of the five national goals and should reflect the following planning components:

1. The *statement of issue* to be addressed. This component should discuss the critical agricultural issue within the State that was identified and being targeted by this planned program. This component may also reference the stakeholder input which identified the critical agricultural issue in the State

and the need for the targeted research and/or extension program.

2. The *performance goal(s)* is a target level of performance. The *output indicators* should reflect the tabulation, calculation, or recording of activity or effort expressed in quantitative or qualitative manner which measures the

products or services produced by the program. The *outcome indicators* should assess the results of a program activity compared to its intended goal.

3. The *key program component(s)* identify the major efforts included in the work to be conducted.

4. The *internal and external linkages* include activities identified as integrated, multidisciplinary, multi-institutional, and/or multistate. This component may also address any efforts made to identify and collaborate with other colleges and universities that have a unique capacity to address the identified agricultural issues within the State and the extent of current and emerging efforts (including regional efforts) to work with those institutions. Within this planning component, discussion should be made regarding the efficiencies achieved through these internal and external linkages both in the use of resources and/or in the ability to solve critical agricultural issues.

5. The *target audiences* identifies the set of stakeholders, customers, and/or consumers for which the program is intended. The 5-Year Plans of Work should address the institution's commitment to facilitating equality of service and ease of access to all research and extension programs and services and to meeting the needs of underserved and under-represented individuals, groups, and/or organizations.

6. The *program duration* should be expressed as short-term, intermediate (one to five years), or long-term (over five years).

7. The *allocated resources* (human and fiscal measures) must be described for each planned program. This component may not only include the amount of Federal agricultural research and/or extension formula funds and matching funds allocated to this planned program, but also the manner in which funds, other than formula funds, will be expended to address the critical issues being targeted by this planned program.

8. *Education and outreach programs* must be described that are already underway to convey the research results that are pertinent to the critical agricultural issue identified in the "Statement of Issue." Efforts to encourage multicounty cooperation in dissemination of research results should also be identified. This planning component applies only to those 5-Year Plans of Work incorporating extension activities of the 1862 and/or 1890 land-grant institutions.

2. Stakeholder Input Process

Section 102(c) of AREERA requires the 1862 land-grant institutions, 1890 land-grant institutions, and 1994 land-grant institutions receiving agricultural research, extension, and education formula funds from CSREES to establish a process for stakeholder input on the uses of such funds. CSREES is in the process of promulgating separately in the **Federal Register** regulations to implement this stakeholder input requirement.

As a component of the 5-Year Plan of Work, each institution must report on the actions taken to seek stakeholder input that encourages their participation and a brief statement of the process used by the institution to identify stakeholders and to collect input from them. This report will be required annually and may be submitted with the Annual Report of Accomplishments and Results. This component will satisfy the reporting requirements imposed by the separately promulgated regulations on stakeholder input. However, the above procedures are contingent upon the outcome of the Final Rule on Stakeholder Input Requirements for Recipients of Agricultural Research, Education, and Extension Formula Funds.

3. Program Review Process

a. Merit Review. Effective October 1, 1999, each 1862 land-grant institution and 1890 land-grant institution must establish a process for merit review in order to obtain agricultural research or extension formula funds.

b. Scientific Peer Review. A scientific peer review is required for all research funded under the Hatch Act of 1887 Multistate Research Fund. For such research, this scientific peer review will satisfy the merit review requirement specified above.

c. Reporting Requirement. As a component of the 5-year Plan of Work, each institution depending on the type of program review required will provide a description of the merit review process or scientific peer review process established at their institution. This description should include the process used in the selection of reviewers with expertise relevant to the effort and appropriate scientific and technical standards.

4. Multistate Research and Extension Activities

a. Hatch Multistate Research. Effective October 1, 1998, the Hatch Multistate Research Fund replaced the Hatch Regional Research Program. The Hatch Multistate Research Fund must be

used for research employing multidisciplinary approaches to solve research problems that concern more than one State. For such research, State agricultural experiment stations must partner with another experiment station, the Agricultural Research Service, or another college or university.

b. Smith-Lever Multistate Extension. Effective October 1, 1999, the cooperative extension programs at the 1862 land-grant institutions must expend up to 25 percent of their formula funds provided under sections 3(b)(1) and (c) of the Smith-Lever Act for activities in which two or more State extension services cooperate to solve problems that concern more than one State. As required by law, CSREES will work with each 1862 land-grant institution to identify the amount each institution expended for multistate extension activities for fiscal year (FY) 1997. For FY 2000 and thereafter, cooperative extension programs must commit two times their FY 1997 baseline percentage or 25 percent, whichever is less, for multistate activities. Institutions should describe the contributions of extension staff and programs toward impacts rather than to describe the programs. Each participating State or territory must be a collaborator towards objectives and involved in the outcomes. Evidence of the proposed collaboration must be provided in the 5-Year Plan of Work submitted by each State. This planning is documented through formal agreements, letters of memorandums, contracts, or other instruments that provide primary evidence that a multistate relationship exists.

c. Reporting Requirements. The 5-Year Plan of Work should include a description of the Multistate Research, where applicable, and Multistate Extension programs as specified above and these programs must be reported consistently across the units of an institution as well as with the 5-Year Plan of Work of the cooperating State(s) or State institutions.

5. Integrated Research and Extension Activities

Effective October 1, 1999, up to 25 percent of all funds provided under section 3 of the Hatch Act and under section 3(b)(1) and (c) of the Smith-Lever Act must be spent on activities that integrate cooperative research and extension. As required by law, CSREES will work with each 1862 land-grant institution to establish the institution's baseline for integrated research and extension activities for FY 1997. For FY 2000 and thereafter, 1862 land-grant institutions must commit twice the FY

1997 baseline percentage or 25 percent, whichever is less, for integrated activities. Integration may occur within the State or between units within two or more States. Integrated programming must be reported in the 5-Year Plan of Work and be reported consistently across the units of the institutions as well as with the 5-Year Plan of Work submitted by cooperating State(s). Federal formula funds used by a State for integrated activities may also be counted to satisfy the multistate research and the multistate extension activity requirements. The requirements of this section apply only to the Federal funds.

C. 5-Year Plan of Work Evaluation by CSREES

1. Schedule

All 5-Year Plans of Work will be evaluated by CSREES. The 5-Year Plans of Work will either be accepted by CSREES without change or returned to the institution, with clear and detailed recommendations for its modification. The submitting institution(s) will be notified by CSREES of its determination within 90 days (review to be completed in 60 days, communications to the institutions allowing a 30-day response) of receipt of the document. Adherence to the Plan of Work schedule by the recipient institution is critical to assuring the timely allocation of funds by CSREES. Five Year Plans of Work accepted by CSREES will remain in effect for five years and will be publicly available in a CSREES database. CSREES will notify all institutions of a need for a new 5-year plan of work two years prior to the plan's expiration on September 30.

2. Review Criteria

CSREES will evaluate the 5-Year Plans of Work to determine if they address agricultural issues of critical importance to the State; identify the alignment and realignment of programs to address those critical issues; identify the involvement of stakeholders in the planning process; give attention to under-served and under-represented

populations; indicate the level of Federal formula funds in proportion to all other funds at the director or administrator level; provide evidence of multistate, multi-institutional, and multidisciplinary and integrated activities; and identify the expected outcomes and impacts from the proposed 5-Year Plan of Work.

3. Evaluation of Multistate and Integrated Research and Extension Activities

CSREES will be using the Annual Reports of Accomplishments and Results to evaluate the success of multistate, multi-institutional, and multidisciplinary activities and joint research and extension activities, in addressing critical agricultural issues identified in the 5-Year Plans of Work. CSREES will be using the following evaluation criteria: (1) Did the planned program address the critical issues of strategic importance, including those identified by the stakeholders? (2) Did the planned program address the needs of under-served and under-represented populations of the State(s)? (3) Did the planned program describe the expected outcomes and impacts? and (4) Did the planned program result in improved program effectiveness and/or efficiency?

III. Annual Update of the 5-Year Plan of Work

A. Applicability

An annual update to the 5-Year Plan of Work is optional and is only required if: (1) There is a substantive change in planned programs; (2) if the change in Federal agricultural research and extension formula funding is 10 percent or greater in one year from the FY 1999 base year; or (3) if the cumulative change during the five year period is 20 percent or greater than the FY 1999 base year.

B. Reporting Requirement

If a revised 5-Year Plan of Work is required, or if the institution(s) chooses to submit an optional update to the 5-Year Plan of Work, it should be submitted at the beginning of the next plan of work cycle (July 1) to either the

same electronic mail address or regular mail address as listed for the submission of the 5-Year Plan of Work.

IV. Annual Report of Accomplishments and Results

1. Reporting Requirement

The 5-Year Plan of Work for a reporting unit, institution, or State should form the basis for annually reporting its accomplishments and results. This report will be due on or before December 31 each year with the first report being due on December 31, 2000, for FY 2000. This report should be submitted to either the same electronic mail address or regular mail address as listed for the submission of the 5-Year Plan of Work.

2. Format

This annual report should include the relevant information related to each component of the program in the matrix cells of the 5-Year Plan of Work. Accomplishments and results reporting should involve two parts. First, institutions should submit an annual set of impact statements linked to sources of funding. Strict attention to just the preceding year is not expected in all situations. Some impact statements may need to cover ten or more years of activity. Focus should be given to the benefits received by targeted end-users. Second, institutions should submit annual results statements based on the indicators of the outputs and outcomes for the activities undertaken the preceding year. These should be identified as short-term, intermediate, or long-term critical issues in the 5-Year Plan of Work. Attention should be given to highlighting multistate, multi-institutional, and multidisciplinary and integrated activities, as appropriate to the 5-Year Plan of Work.

Done at Washington, D.C., this 25 day of 1999.

I. Miley Gonzalez,

Under Secretary, Research, Education, and Economics.

[FR Doc. 99-16774 Filed 6-30-99; 8:45 am]

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At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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H.R. 435/P.L. 106-36

Miscellaneous Trade and Technical Corrections Act of 1999 (June 25, 1999; 113 Stat. 127)

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This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these

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When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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