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Joan Killgore,

Acting Associate Director for Royalty Management.

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

RIN 1024-AB99

Glacier Bay National Park, AK; Commercial Fishing Regulations

AGENCY: National Park Service (NPS), Interior.

ACTION: Final rule.

SUMMARY: This final rule represents a major step towards a comprehensive resolution of commercial fishing issues in Glacier Bay National Park. In accordance with the provisions of Section 123 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY 1999 (Section 123), as amended, the rule establishes special regulations for commercial fishing in the marine waters of Glacier Bay National Park. The rule implements provisions in Section 123 by: closing specifically identified areas of non-wilderness waters in Glacier Bay proper and all wilderness waters within Glacier Bay National Park to commercial fishing; limiting commercial fishing in Glacier Bay proper to three specific commercial fisheries; establishing a "grandfathering" process to allow qualifying fishermen in the three authorized commercial fisheries to continue fishing in the remaining waters

of Glacier Bay proper under nontransferable lifetime permits; and, clarifying that the marine waters of Glacier Bay National Park outside of Glacier Bay proper will remain open to various existing commercial fisheries. Section 123 also directs that authorized commercial fisheries be managed in accordance with a cooperatively developed state/federal fisheries management plan. The cooperative state/federal fisheries management plan is being developed independent of this rule and will be announced at a later date.

DATES: This rule is effective on October 20, 1999, with the exception of paragraphs (a)(10)(i)-(iii) which take effect on January 1, 2000.

ADDRESSES: Tomie Lee, Superintendent, Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, Alaska 99826.

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FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Background

The background section in the re-proposed rule of August 2, 1999 (64 FR 41854), includes a comprehensive chronology of Glacier Bay's commercial fishing history that outlines the circumstances and events leading to this final rule. That information is unchanged and has continuing applicability. The National Park Service (NPS) wishes to note that numerous extensions to the public comment period on the 1997 proposed rule afforded the public a prior opportunity to comment on Section 123 (see *e.g.*, 63 FR 68655, December 11, 1998; 64 FR 1573, January 11, 1999). The re-proposed rule was published, in part, to fulfill the requirement of Section 123, as amended by Pub. L. 106-31 (May 21, 1999), which directed the Secretary of the Interior to re-publish the rule and provide an opportunity for the public to comment for not less than 45 days.

To comply with Section 123, the rule, in part, amends the general regulatory prohibition on commercial fishing activities in units of the National Park System, and authorizes various existing commercial fisheries to continue in most marine waters of Glacier Bay National Park subject to a cooperatively developed state/federal fisheries management plan.

The other provisions of the rule also conform to the requirements of Section 123. The rule limits commercial

fisheries in Glacier Bay proper to pot and ring net fishing for Tanner crab, longlining for halibut, and trolling for salmon. The rule describes eligibility criteria that allow certain fishermen with a sufficient, recent, reoccurring history of participation in Glacier Bay proper fisheries to continue fishing in Glacier Bay proper for their lifetimes. The final rule adopts October 1, 2000, as the deadline to apply for a lifetime permit. Beginning October 1, 2000, a lifetime permit is needed in order to fish in Glacier Bay proper. To qualify, fishermen must be able to document that they have fished in Glacier Bay proper in one of the three authorized commercial fisheries as follows: For the halibut fishery, 2 years of participation are required in Glacier Bay proper during the 7-year period, 1992 through 1998. For the salmon and Tanner crab fisheries, 3 years of participation are required in Glacier Bay proper during the 10-year period, 1989 through 1998. The 7-year qualifying period for halibut is based, in large part, on the establishment of a statistical sub-area for Glacier Bay proper in 1992. Use of this qualifying period specific to this sub-area will assist fishermen in documenting, and NPS in identifying, a history of fishing within Glacier Bay proper. A 10-year qualifying period is used for the Tanner crab and salmon fisheries. These qualifying periods (of 7 and 10 years, respectively) are intended to provide a better opportunity for fishermen with a variable but reoccurring history of participation in these fisheries, in Glacier Bay proper, to qualify for the lifetime access permits. Essentially, these criteria require fishermen to have fished in Glacier Bay proper for approximately 30% of the years during the 7 and 10-year base periods to qualify for lifetime access to an authorized fishery.

The rule also describes the application requirements and procedures for fishermen to follow to apply for a lifetime access permit for an authorized fishery in Glacier Bay proper. The rule requires that applicants: demonstrate that they hold a valid state limited entry commercial fishing permit, and for halibut an International Pacific Halibut Commission quota share, for the fishery in Glacier Bay proper; provide a sworn and notarized affidavit attesting to their history and participation in the fishery within Glacier Bay proper; and, provide other documentation that corroborates their participation in the fishery in Glacier Bay proper during the qualifying years. The rule requires applicants to

provide two types of corroborating documentation readily available from the State of Alaska: permit histories; and, landing reports. The permit history documents the length of time an applicant has been a permit holder in a fishery, and the landing report documents the time and location of the applicant's fishery landings. The application requirements for a lifetime commercial fishing access permit in Glacier Bay (*i.e.*, a copy of the valid permit(s) and quota share(s), affidavit, permit history and landing report) are less demanding than that typically required by the State of Alaska or National Marine Fisheries Service (for halibut) for similar limited entry programs. The rule encourages applicants to submit other forms of corroborating documentation—for example, vessel logbooks or affidavits from other fishermen or processors—to assist in the establishment of their history of participation in a particular fishery in Glacier Bay proper.

NPS recognizes the limitations of landing report data based on fish tickets. Although Alaska statute requires accurate reporting of fish harvest information by statistical area, fishermen often lump together catches from Glacier Bay proper and Icy Strait statistical areas, and report them as Icy Strait landings on their fish tickets. Moreover, no statistical reporting area exists for salmon that is specific to Glacier Bay proper. Because of this, for the salmon fishery, NPS will consider landing reports from District 114 (all of Icy Strait from Cross Sound to the Lynn Canal, including Glacier, Dundas and Taylor Bays and Excursion Inlet) as indirect evidence of participation in the fishery in Glacier Bay proper; this indirect evidence, however, must be supported by additional documentation that supports applicants' declaration of Glacier Bay proper salmon landings (such as affidavits from crewmembers, other fishermen, processors or logbooks or other corroborating documentation). Salmon fishermen who can document more than incidental use of District 114 should submit that documentation as it may bolster other evidence of their landings from the Glacier Bay proper fishery.

Both the halibut fishery (Regulatory Sub-area 184) and the Tanner crab fishery (Statistical areas 114–70 through 114–77) have reporting areas specific to Glacier Bay proper. Therefore, applicants who wish to rely on landing data from areas outside, but immediately adjacent to, Glacier Bay proper must submit convincing corroborating documentation (such as affidavits from crewmembers, other

fishermen, processors or log books) in addition to their personal affidavit that a portion of their catch was landed in Glacier Bay proper. Landing reports for halibut and Tanner crab must, at the very least, be from the reporting area immediately adjacent to Glacier Bay proper to be considered. In the case of halibut, this is Regulatory Sub-area 182; in the case of Tanner crab, this is Statistical area 114–23. These requirements are intended to address concerns regarding the difficulty of attributing harvest to Glacier Bay proper from landing reports, most particularly for the salmon troll fishery. NPS intends to work closely with the Alaska Commercial Fisheries Entry Commission, the National Marine Fisheries Service and other knowledgeable sources to identify permit owners who meet the eligibility criteria defined for the authorized commercial fisheries in Glacier Bay proper.

The rule also closes certain inlets and areas, in the upper reaches of Glacier Bay proper, to commercial fishing and limits certain other areas to winter season trolling for king salmon by qualifying fishermen. There are a number of species-specific closure dates in Section 123, and the effective date of paragraph (a)(10)(i)–(iii) is delayed until January 1, 2000, to comply with the statute. The rule reaffirms closure of all designated wilderness areas in Glacier Bay National Park to commercial fishing activities.

By authorizing existing commercial fisheries to continue in park waters outside of Glacier Bay proper, Section 123 and the rule permit fishing to continue where more than 80% of the commercial harvest (reported biomass) has historically occurred. Additional harvest will continue in most of Glacier Bay proper during the life tenancy period of qualifying fishermen, supporting fishermen and their communities for many years. Approximately 18% of the park's marine waters are closed to commercial fishing by Section 123 and this rule; these closed waters have historically accounted for less than 10% of the total commercial harvest in the park. Nothing in the rule is intended to modify or restrict non-commercial fishing activities otherwise authorized under federal and non-conflicting state fishing regulations, nor to affect legislatively authorized commercial fishing activities within Glacier Bay National Preserve.

Analysis of Public Comments

Due to the enactment of Section 123 (on October 21, 1998), NPS reopened and extended the comment period on

the 1997 proposed rule and the accompanying Environmental Assessment (63 FR 68665, December 11, 1998; 64 FR 1573, January 11, 1999). NPS also mailed a copy of the **Federal Register** Notice of extension to persons and organizations that had previously submitted comments and invited them to provide additional comments in light of the new legislation. The analysis of public comment section in the re-proposed rule of August 2, 1999 (64 FR 41854), includes a comprehensive analysis of 1,557 comments submitted in response to the proposed rule and the enactment of Section 123. That information has continuing applicability and supplements this analysis.

Overview of Public Comments

The public comment period on the re-proposed rule for commercial fishing in Glacier Bay National Park was open from August 2 to September 16, 1999, and specifically sought input on the re-proposed eligibility criteria and application requirements for lifetime permits for authorized fisheries in Glacier Bay proper. NPS received 96 written comments, in the form of surface mail, faxes and electronic mail. NPS reviewed and considered all public comments submitted on the re-proposed rule. A summary of substantive comments is outlined below.

Thirty-seven percent of the comments received specifically stated support for some form of commercial fishing phase out in Glacier Bay National Park. Twenty-two percent specifically stated support for the continuation of commercial fishing.

Of all the responses received, 59% specifically commented on the eligibility criteria for commercial fishing lifetime access permits. Among those, more than half (54%) supported less stringent eligibility criteria than that stated in the re-proposed rule. The remaining comments on eligibility (46%) supported the eligibility criteria as a minimum standard, including 30% who sought more stringent eligibility criteria. Comments ranged from suggestions for more relaxed criteria for lifetime permits, such as one year of fishing during the eligibility period, to calls for the stronger criteria as proposed in 1997.

Twenty-two percent of all respondents commented specifically on the application process for commercial fishing lifetime access permits. Of those, 67% supported a less stringent process than that stated in the re-proposed rule. Thirty-four percent supported the process, as the minimum standard that the NPS should set for application

approval, 20% of which sought a more stringent process.

General Comments

Collectively, there were a number of comments and objections concerning various parts of the rule that, in fact, are derived directly from the statute. For example, a number of commenters requested that public comment be extended. Section 123 established a publication date of September 30, 1999, and NPS has used its best efforts to publish on that date; that necessarily affects the timing and length of the latest public comment period. It should also be noted that NPS has been actively seeking public comment for several years (as summarized at 64 FR 41856-8, August 2, 1999). Section 123 also requires that a "sworn and notarized affidavit be submitted," not just licenses and fish tickets (landing receipts). Section 123 authorized lifetime permits for those holding "a valid commercial fishing permit" who otherwise qualify, not boat owners or deckhands. On this point, however, NPS notes that Section 123, as amended, provides \$23 million to compensate "fish processors, fishing vessel crewmembers, communities and others negatively affected by the restrictions on commercial fishing in Glacier Bay National Park." One commenter (who will certainly qualify for a lifetime permit) felt he was "singled-out" because, unlike most other limited entry permit holders, he likes to longline in the west arm of the bay above 58°50' N latitude. Numerous commenters stated that commercial fishing was inappropriate in Glacier Bay and other national parks. NPS has considered these comments, but NPS must follow the statute. NPS also received many comments on related subjects that were, however, outside of the limited scope of this rule.

Regulatory Flexibility Analysis

NPS received a number of comments on the initial regulatory flexibility analysis. Those comments are discussed below in the summary of the final regulatory flexibility analysis that NPS has prepared as required by 5 U.S.C. 604.

Rationale for the Qualifying Period

A number of commenters questioned whether NPS had done enough to explain the method used to determine the necessary number of years in a given base year period to qualify for lifetime access to fish under the rule. One commenter felt that the NPS effort to "mirror similar lengths of time that have been allowed in other state and federal limited entry programs" was misplaced

because "those programs were influenced by conservation concerns." Other commenters, however, cited conservation concerns and the Glacier Bay 1996 Vessel Management Plan regulations which limits the amount of motor vessel traffic allocated to park visitors (61 FR 27008, May 30, 1996), to push for a shorter, more stringent phase out of commercial fishing. In the 1997 proposed rule, NPS proposed a longer history of participation in each fishery to prevent what the Wilderness Society now critically points out is possible: that people who started fishing after the 1991 rulemaking proposed to phase out all commercial fishing in seven years would be eligible for grandfather status to fish in Glacier Bay. However, even in that proposal, NPS recognized the need for some flexibility to ensure fairness to fishermen with a variable but recurring history of participation in Glacier Bay fisheries. Ultimately, and with public comment sharply divided, NPS selected shorter requirements for participation in the fishery in the qualifying base year periods (3 years in a 10-year base for salmon and Tanner crab fisheries, and 2 years in a 7-year base for halibut fisheries) to meet that objective. As a result, fishermen are required to show they have fished in Glacier Bay proper for approximately 30% of the years during the 7 and 10-year base periods to qualify. Resolving the commercial fishing issue in Glacier Bay has been a long and contentious process (see 64 FR 41856-9, August 2, 1999). Section 123 now directs NPS to decide who qualifies for lifetime access and who does not; NPS has drawn the line where it thinks it is fair, recognizing that it will not please everyone.

Cooperative Development of the Management Plan

Several commenters questioned the role that NPS and the State of Alaska will play in the cooperatively developed management plan required by Section 123. The plan will guide the regulation of the existing authorized fisheries at Glacier Bay National Park. One commenter stated that it was an "oversimplification" for NPS to state that the State manages fisheries to maintain sustained yield. In response, NPS notes that the Alaska State Constitution states: "Fish * * * and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principal, subject to preference among beneficial uses." *Id.* at Article VIII, Section 4. Another commenter questioned what NPS considers as park values and purposes, and many commenters questioned how NPS

would protect the park's resources. After reviewing the re-proposed rule, NPS agrees that some clarification is necessary. Section 123 clearly states: "the management plan shall provide for commercial fishing in the marine waters within Glacier Bay National Park * * * and shall provide for the protection of park values and purposes. * * *" *Id.* Park values and purposes are identified in 16 U.S.C. 1, as amended, and are further defined by the enabling legislation and legislative history of Glacier Bay National Park. As a result, the cooperatively developed management plan must consider and respect the NPS mission in Glacier Bay National Park as defined and directed by Congress.

Section 123 also requires the management plan to prohibit any new or expanded fisheries, and provide for the opportunity for the study of marine resources. Therefore, a legislatively-mandated component of the cooperative management plan is the accommodation of scientific study. Section 123 does not require that all federal and federally-approved research within the park fall under the plan. The final rule also contains a provision that directs the superintendent to compile a list of existing fisheries and gear types used in the outer waters. NPS will work with the State, outer water fishermen and the public to cooperatively develop this list. However, should new or expanded fishing activities threaten park resources during development of the cooperative plan, the superintendent may implement an interim list.

Section 123 provides both a requirement and an opportunity for ongoing cooperation and collaboration between the State and federal government in the implementation of a jointly-developed fisheries management plan. NPS will work together with the State to provide the public with an opportunity to participate in the development of the cooperative management plan, independent of this rulemaking. NPS believes that the best long-term remedy for this jurisdictional issue is an effective State/federal cooperative relationship that: outlines and respects individual and collective agency roles and responsibilities; keeps lines of communication open; incorporates opportunities for public involvement in decision-making processes; and, ultimately, serves to implement the letter and spirit of the Section 123, as amended. NPS intends to devote its energies towards this goal.

1996 Vessel Management Plan (VMP) Regulations

A comment received from the Alaska Chapter of the Sierra Club stated that commercial fishing boats are not subject to the 1996 VMP regulations (36 CFR 13.65(b)). This assertion, however, is only partially correct; generally the VMP regulations apply to commercial fishing vessels. While commercial fishing vessels were exempted from the entry permit requirements of that rule by § 13.65(b)(2)(iii)(D), this rule will require such boats to obtain a National Park Service permit to enter the bay, from June 1 through August 31. The Sierra Club comment correctly pointed out that commercial fishing vessels were exempted from the restriction on operating within one-quarter nautical mile of a whale (§ 13.65(b)(3)(i)). This exemption was made due to the slow speeds and deliberate courses that commercial fishing vessels follow. However, the whale waters restrictions at § 13.65(b)(iv)(D)(1) apply unless a motor vessel (commercial or sport) is actually fishing (and not simply in transit). Seasonal motor vessel closures are specifically applicable (61 FR 27008, 27013, May 30, 1996).

NPS also notes that, regardless of whether an commercial fishing vessel operator possesses a commercial fishing lifetime access permit, the operator of a commercial fishing vessel can apply for a private vessel permit to enter Glacier Bay from June 1 through August 31, or visit Glacier Bay during the balance of the year, provided they follow the regulations that apply to private motor vessels and do not engage in commercial activities. Lifetime permittees are advised that the lifetime permit only allows access for commercial fishing; entering the park for other commercial purposes is prohibited, and entering Glacier Bay for recreation purposes (from June 1 through August 31) requires a private vessel permit. Commercial fishing vessels may, at any time, seek safe harbor in Glacier Bay National Park when faced with hazardous weather or sea conditions, mechanical problems, or other exigent circumstances.

Resource Violations

One commenter suggested that a commercial fishing lifetime access permit holder who commits a resource violation in the park should have his or her permit revoked. Although NPS believes that most people who will qualify for the permit will respect park resources and regulations, NPS will not hesitate to ask a court to impose access restrictions on a permit holder who is

convicted of serious or repeated offenses. NPS will also seek the State's support in including provisions to this effect in the cooperatively developed management plan. NPS believes that such action would be consistent with Congress' direction that the plan "shall provide for the protection of park values and purposes." Section 123(a)(1).

Boundaries and Maps

NPS will provide detailed maps and charts depicting non-wilderness and wilderness closures to every fisherman who receives a commercial fishing lifetime access permit for one of the three authorized Glacier Bay proper commercial fisheries. Others may contact the superintendent for a map of these closures.

Section by Section Analysis

The regulations in this section implement the statutory requirements of Section 123 of the Omnibus Emergency and Supplemental Appropriations Act for FY 1999 (Section 123) (Pub. L. 105-277), as amended by Section 501 of the 1999 Emergency Supplemental Appropriations Act (Pub. L. 106-31.) Where possible, the language used in this section of the regulations mirrors the language used in Section 123, as amended.

Section 13.65(a)(1) of the regulations provides definitions for the terms "commercial fishing" and "Glacier Bay" and "outer waters." The definition for "commercial fishing" is the same as used for the park's vessel regulations in § 13.65(b) of Title 36 of the Code of Federal Regulations (36 CFR). The terms "Glacier Bay" and "outer waters" are used in these regulations to describe marine water areas of the park that are to be regulated differently under requirements of Section 123. The definition for "Glacier Bay" mirrors the definition for "Glacier Bay Proper" that is provided in Section 123, and is also essentially the same as the definition used in 36 CFR 13.65(b)(1). The term "outer waters" is used to describe all of the marine waters of the park outside of Glacier Bay proper. This includes areas of Icy Straits, Cross Sound, and coastal areas on the Gulf of Alaska running from Cape Spencer to Sea Otter Creek, beyond Cape Fairweather.

Section 13.65(a)(2) of the regulations provides authorization for commercial fishing to continue in the non-wilderness marine waters of the park, as specifically provided for by Section 123, as amended. In addition to Glacier Bay, park waters that are affected by Section 123 include all of the "outer waters" of the park outside of Glacier Bay. This authorization for commercial fishing

supercedes the general regulatory prohibition on commercial fishing in the park found at 36 CFR 2.3(d)(4). The authorization, however, does not supercede other NPS regulations or exempt commercial fishermen or their vessels from any other generally applicable park regulations. Commercial fishing activities are to be conducted and managed in concert with park purposes and values. Paragraph (i) reflects the Section 123 requirement that the State of Alaska and the Secretary of the Interior cooperatively develop a fisheries management plan to guide the regulation of commercial fisheries in the park that will: reflect the requirements of Section 123, other applicable federal and state laws, and international treaties; serve to protect park values and purposes; prohibit new or expanded commercial fisheries; and, provide opportunity for the study of marine resources. Paragraph (ii) clarifies that waters designated as wilderness are closed to commercial fishing and related commercial activities. Paragraph (iii) has been added to address the Section 123 prohibition on any new or expanded fisheries and provides a mechanism for future implementation of that prohibition. Paragraph (iv) informs the public that maps and charts of the affected waters available from the superintendent.

Section 13.65(a)(3) of the regulation implements Section 123 requirements that the commercial fisheries in Glacier Bay are limited to longlining for halibut, pot or ring net fishing for Tanner crab, and trolling for salmon. These are the only commercial fisheries authorized to continue in Glacier Bay. Paragraph (ii) limits participation in the authorized commercial fisheries in Glacier Bay to individuals who have a non-transferable commercial fishing lifetime access permit issued by the superintendent. The requirement for this lifetime access permit will not go into effect until October 1, 2000. The delayed implementation date (the re-proposed rule would have adopted January 1, 2000, as the implementation date) is intended to allow sufficient time for fishermen to apply for, and receive, their access permits before the permit requirement takes effect. Fishermen are strongly advised to apply well before the October 1, 2000, deadline to ensure that their application is processed and approved by that date. This section also makes clear that the permits are non-transferable—reflecting the language and requirements of Section 123. However, if a temporary emergency transfer of a permit is approved by the Commercial Fisheries Entry

Commission (CFEC) due to illness or disability of a temporary, unexpected and unforeseen nature, NPS will also consider issuing a temporary lifetime access permit transfer for the period (generally, one year or less). In response to public comment, paragraph (iii) has been added to better protect park resources. This paragraph also provides a mechanism for future implementation of the cooperatively developed management plan.

Section 13.65(a)(4) of this regulation restates the Section 123 requirement that an applicant must possess a valid State limited entry commercial fishing permit for the district or statistical area encompassing Glacier Bay, for each fishery for which a lifetime access permit is being sought. Paragraph (ii) outlines the specific eligibility requirements that must be met to obtain a lifetime access permit for an authorized fishery in Glacier Bay. An applicant must have participated as a limited entry permit holder for the minimum number of years in the established base years period, and in the district or statistical area encompassing Glacier Bay, for each authorized fishery, for each fishery for which a lifetime access permit is being sought. These eligibility criteria have undergone a Regulatory Flexibility Act analysis, and have been determined to meet the goals of this regulation, while seeking to minimize impacts to commercial fishermen and other affected small businesses to the extent consistent with Section 123, as amended. A 12-month application period to obtain a lifetime access permit is described; conclusion of the eligibility determinations by October 1, 2000, may be important to ensure completion of the \$23 million compensation program authorized by Congress in the 1999 amendment to Section 123. Section 13.65(a)(5) outlines the specific type of documentation that an applicant must provide to the superintendent to obtain a lifetime access permit. Section 123 requires fishermen to provide a sworn and notarized personal affidavit attesting to their history of participation as a limited entry permit holder within Glacier Bay, during the qualifying period, for each fishery for which a lifetime access permit is being sought. NPS will provide a simple affidavit form to applicants upon request. Section 123 also requires applicants to provide other documentation that corroborates their history of participation in the fishery, and a copy of their current State of Alaska limited entry permit (and in the case of halibut, an International Pacific Halibut Commission quota share) that is

valid for the area that includes Glacier Bay for each fishery for which a lifetime access permit is sought. Licensing and landing histories—two types of readily available corroborating documentation—are required by this regulation. A certified printout of an applicant's licensing history in a fishery is available at no charge from the CFEC. The licensing history corroborates participation in the fishery during the qualifying years. Landing reports, documenting an applicant's harvest activities in a specific commercial fishery by year and location, are available at no charge from the Alaska Department of Fish and Game (ADFG). A form is required from ADFG to obtain this information. NPS is aware of the limitations of some landing data. There is, for example, no separate statistical reporting unit for Glacier Bay for salmon trolling. Accordingly, the superintendent will consider salmon landing reports for District 114 as indirect evidence of participation in the Glacier Bay fishery, provided that such reports are supported by additional corroborating documentation of Glacier Bay landings. For the halibut and Tanner crab fisheries, because specific reporting areas are described for Glacier Bay, the superintendent may consider landing data from a unit or area immediately adjacent to Glacier Bay when additional and convincing corroborating documentation of landings in Glacier Bay is included. Landing reports must be for the reporting area immediately adjacent to Glacier Bay to be considered.

Section 13.65(a)(6) establishes October 1, 2000, as the deadline to apply for a commercial fishing lifetime access permit. This section also publishes the address where applications must be sent. Fishermen are strongly advised to apply well before the October 1, 2000, deadline to ensure their application is processed and approved by that date.

Section 13.65(a)(7) clarifies that the superintendent will make a written determination and provide a copy to the applicant. Applicants will be afforded an opportunity to provide additional information, if it is required. NPS anticipates that it could take 45 days or more to process and respond to an application, depending on the volume and completeness of the applications received. For this reason, applicants are strongly advised to apply well before the October 1, 2000, deadline, or at least 45 days in advance of anticipated fishing activities in Glacier Bay if that date is sooner.

Subsection 13.65(a)(8) describes the appeal procedures for an applicant to

follow if the superintendent finds the applicant to be ineligible. These procedures are similar to those in place for other NPS permit programs in Alaska.

Subsection 13.65(a)(9) makes clear that the lifetime access permits to the Glacier Bay proper commercial fisheries are renewable for the lifetime of an access permit holder, provided they continue to hold a valid commercial fishing permit and are otherwise eligible to participate in the fishery under federal and State laws. NPS expects to reissue the lifetime access permits on a five-year cycle. This will provide an opportunity for NPS to occasionally update the list of fishermen authorized to commercial fish in Glacier Bay. NPS will not charge a fee for these permits. Access permits will not be required for commercial fisheries authorized in the marine waters of the park outside Glacier Bay.

Section 13.65(a)(10), paragraphs (i)–(iii) describe several non-wilderness inlets within Glacier Bay that Section 123 closed to commercial fishing. The 1999 amendments to Section 123 delay implementation of these non-wilderness closures during the 1999 fishing season for the commercial halibut and salmon troll fisheries. The rule, therefore, delays the effective date of these three paragraphs until December 31, 1999, to accommodate the provisions of the Section 123 amendments. Wilderness areas, however, remained closed to all commercial fishing under the 1999 amendments, with no delay in implementation; these closures were put into effect by NPS on June 15, 1999. NPS will provide detailed maps and charts depicting these non-wilderness and wilderness closures to fisherman who receive a lifetime access permit for an authorized Glacier Bay proper commercial fishery. Paragraph (i) implements the closure of Tarr Inlet, Johns Hopkins Inlet, Reid Inlet, and Geike Inlet to all commercial fisheries. These closures include the entirety of each of these inlets, as depicted on the maps and charts available from the superintendent. Paragraph (ii) describes the general closure of the west arm of Glacier Bay to commercial fishing, with the exception of trolling for king salmon by authorized commercial salmon fishermen during the State's winter season troll fishery (as per Section 123). Paragraph (iii) describes the general closure of the east arm of Glacier Bay north of a line drawn across the mouth of the arm from Point Caroline through the southern point of Garforth Island to the east shore mainland, with a similar exception that allows authorized salmon fishermen to troll for king salmon

during the State's winter troll fishery "south of a line drawn across Muir Inlet at the southernmost point of Adams Inlet." Section 123(a)(4). This line is described in this subsection as 58°50'N latitude, a description more readily understood by commercial fishermen.

Drafting Information: The primary authors of this rule are Randy King, Chief Ranger, Mary Beth Moss, Chief of Resource Management, and Chad Soiseth, Aquatic Biologist, Glacier Bay National Park and Preserve; and Donald J. Barry, Assistant Secretary of the Interior for Fish and Wildlife and Parks. Other key contributors include Molly Ross, Special Assistant to the Assistant Secretary for Fish and Wildlife and Parks; Marvin Jensen and John Hiscock of the National Park Service. Paul Hunter, National Park Service Alaska Support Office; and Russel J. Wilson, Denali National Park and Preserve also contributed.

The regulatory language of the re-proposed rule has been converted to the question and answer format in accordance with the Department of the Interior, Office of Regulatory Affairs, policy on Plain Language. No substantive changes to the proposed language have been made.

Compliance with Other Laws

Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 601 *et seq.*, the NPS has determined that this rule will have a significant impact on a substantial number of small business entities. The NPS has summarized the final regulatory flexibility analysis on the expected impact of this rule on those small business entities as follows.

(1) This Rule is published in accordance with the provisions of Section 123 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY 1999 (Section 123), as amended. The rule establishes special regulations for commercial fishing in the marine waters of Glacier Bay National Park. The rule implements provisions in Section 123 by:

- Closing specifically identified areas of non-wilderness waters in Glacier Bay proper and all wilderness waters within Glacier Bay National Park to commercial fishing.

- Limiting commercial fishing in Glacier Bay proper to three specific commercial fisheries.

- Establishing a "grandfathering" process to allow qualifying fishermen in the three authorized commercial fisheries to continue fishing in the

remaining waters of Glacier Bay proper under nontransferable lifetime permits.

- Clarifying that the marine waters of Glacier Bay National Park outside of Glacier Bay proper will remain open to various existing commercial fisheries.

(2) The following is a summary of the comments relating to the initial Regulatory Flexibility Analysis and the NPS assessment and response.

Several commenters challenged the NPS analysis of the impact the rule would have on small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). One commentator specifically contended that NPS was incorrect in certifying that the rule did not have a significant economic impact on a substantial number of small entities, and should therefore have conducted the analysis required under the Regulatory Flexibility Act. NPS would like to point out that for the August 2, 1999 re-proposed rule it did not so certify, and that it did conduct the Regulatory Flexibility Analysis required under 5 U.S.C. 601 *et seq.*

Another commenter asked whether NPS took into account the effects which the rule would have on the value of assets, (e.g., vessels, fishing gear, permits). NPS stated in its economic analysis that it did not account for the effect of the rule on assets. NPS believes that any asset effects will be small for two reasons: (1) the market for used equipment is extensive and the effect of fishing restrictions in one venue (Glacier Bay) on market prices is minimal, and (2) there are opportunities for fishermen displaced to replace significant portions of lost revenues in other fishing venues. Further, Congress has appropriated funds to compensate for estimated economic losses. Since NPS and the State of Alaska have not yet developed the decision rules and eligibility criteria for dispensing these funds, the opportunity to identify effects that warrant compensation still exists.

Several commenters argued that the NPS's analysis was flawed, and in particular, that: the analysis did not meet the standards of 5 U.S.C. 601 *et seq.*; NPS did not reveal the details of its study design; and, NPS failed to use the best scientific data available. NPS consulted extensively with staff at the Small Business Administration regarding the design of the study, and was careful to comply with the standards of 5 U.S.C. 601 *et seq.*

Although NPS did not publish the State of Alaska's Commercial Fisheries Entry Commission (CFEC) data, nor the individual calculations made therefrom, it fully described the nature of these calculations and published the cumulative results. The NPS also used

the best scientific data available for its analysis.

A few commenters questioned NPS's finding that the rule is not a significant regulatory action for purposes of E.O. 12866 (Regulatory Planning and Review) and 2 U.S.C. 1501 *et seq.* (Unfunded Mandates Reform Act). In response, NPS notes that we have determined that the rule is significant under E.O. 12866 but not under 2 U.S.C. 1501. The NPS estimated that the present value of the income effects of the rule would be less than \$9.2 million. A present value of \$9.2 million is equivalent to \$276,000 annually, assuming a discount rate of 3% in perpetuity, or \$358,000 annually, if the full impact is absorbed over 50 years. NPS used the best scientific data available to arrive at this estimate, and made what it believed to be very conservative assumptions in conducting the analysis. As described in the economic analysis, NPS based its analysis on (1) data collected by the CFEC on harvest sizes and values, location of catch, and permittee participation by venue and (2) two studies conducted by Dr. Jeff Hartman, Alaska Department of Fish and Game. NPS has confidence in Dr. Hartman's analysis; it was carefully designed and executed and formed the basis of Congress's \$23 million appropriation for compensation.

No changes were made in the Final Rule as a result of the public comment detailed above. NPS notes, however, that the eligibility criteria adopted by this rule (as proposed in the re-proposed rule) are less stringent than the criteria originally proposed in the 1997 proposed rule. NPS chose the less stringent criteria because public comment and the initial regulatory flexibility analysis led NPS to conclude that the more stringent criteria would have adversely affected the economic well being of an unacceptably high number of fishermen as well as local communities.

(3) The rule will apply primarily to current holders of a valid limited-entry, commercial fishery permit for Tanner crab, halibut, and/or salmon troll fisheries that have fished within Glacier Bay proper or adjacent areas over the ten year period 1989-98. Because some permit holders may hold permits for multiple fisheries and because statistical reporting units for which permit holders report their catch align poorly with park boundaries or have changed configuration over time it is extremely difficult to estimate the number of permit holders impacted by the rule (*i.e.*, those displaced by, or not qualifying to continue fishing under, the

rule). Our best estimates, obtained from the CFEC, indicate that 40–50 Tanner crabbers, 80–220 halibut fishermen, 80–330 hand trollers and 100–380 power trollers would be displaced from Glacier Bay proper. Estimates for salmon trollers encompass both summer and winter fisheries openings for Statistical Area 114, which includes Cross Sound and Icy Strait in addition to Glacier Bay proper. The troll fishery in the Bay proper typically occurs during the winter opening and the number of affected entities is most likely closer to the lower estimate for this fishery. Other small entities which are likely to be affected by this final rule include: vessel owners who are not permit holders, crew members, seafood processing firms, seafood processing laborers, lost tax revenues to local government jurisdictions, and fishing support sector small entities in local communities (*i.e.*, chandlerys, fishing gear and hardware stores, fuel sales, grocery stores, boat mechanics, etc.). Fewer than 40 vessel owners who are not permit holders are currently estimated to be affected by this final rule, although the number of vessels that will continue to be leased by qualifying permit holders and will continue to participate in Glacier Bay proper fisheries is unknown. It is currently not possible to estimate the number of small entities in these other classes because many of the spatial and temporal parameters of projected affects are currently not well known.

(4) The projected reporting, record keeping and other compliance requirements are described in the rule. Section 13.65(a)(5) outlines the specific type of documentation that an applicant must provide to the superintendent to obtain a lifetime access permit. Section 123 requires fishermen to provide a sworn and notarized personal affidavit attesting to their history of participation as a limited permit holder within Glacier Bay, during the qualifying period, for each fishery for which a lifetime access permit is being sought. Section 123 also requires applicants to provide other documentation that corroborates their history of participation in the fishery, and a copy of their current State of Alaska limited entry permit (and in the case of halibut, an International Pacific Halibut Commission quota share) that is valid for the area that includes Glacier Bay for each fishery for which a lifetime access permit is sought. Licensing and landing histories—two types of readily available corroborating documentation—are required by this regulation. A certified printout of an applicant's licensing history in a fishery is available at no

charge from the CFEC. The licensing history corroborates participation in the fishery during the qualifying years. Landing reports, documenting an applicant's harvest activities in a specific commercial fishery by year and location, are available at no charge from the Alaska Department of Fish and Game (ADFG).

The classes of small entities which will be subject to the requirement are current limited entry permit holders for the Glacier Bay commercial halibut fishery who have participated as a permit holder in that fishery for at least two years during the period 1992–1998, and current limited entry permit holders for the Glacier Bay salmon or Tanner crab commercial fisheries who have participated as a permit holder in that fishery for at least three years during the period 1989–1998. No professional skills are necessary for preparation of the report or record. All necessary materials are available either from ADFG or the CFEC.

(5) NPS has and will continue to mitigate the significant economic impact on small entities impacted by this statute by the following actions:

- This rule adopts October 1, 2000 as the effective date of the Glacier Bay proper permit requirement, rather than the re-proposed rule date of January 1, 2000 to give applicants more time to collect the required documentation and apply for the permit.
- This rule selected the less stringent eligibility criteria for lifetime permits that was published in the re-proposed rule (two years in seven, and three years in ten) rather than the eligibility criteria that was originally proposed (six years in ten).
- NPS will administer, in a fair and timely manner, the mandated 23 million dollar compensation program, which will recompense small entities affected by the phase-out of commercial fishing in specified areas of Glacier Bay National Park.

Most aspects of the rule are direct requirements of Section 123. Section 123 also directed the Secretary of the Interior to determine the eligibility criteria for the Glacier Bay fishery. The eligibility criteria adopted by this rule (as proposed in the re-proposed rule) is less stringent than the criteria originally proposed in the 1997 proposed rule. NPS chose the less stringent criteria because public comment and the initial regulatory flexibility analysis led NPS to conclude that the more stringent criteria would have adversely affected the economic well being of an unacceptably high number of fishermen as well as local communities. The reasons for not selecting alternative criteria are

discussed extensively both above and in the re-proposed rule (64 FR 41854, 41860–63, August 2, 1999).

NPS has placed a copy of the final regulatory flexibility analysis on file in the Administrative Record at the address specified in the ADDRESSES section. Copies are available upon request.

Regulatory Planning and Review

This document is a significant rule and has been reviewed by the Office of Management and Budget under Executive Order 12866.

a. This rule will not have an annual economic effect of \$100 million or adversely affect an economic sector, productivity, the environment, or other units of government. Jobs in local Alaska communities will be lost and a Federally funded compensation program will mitigate the economic impacts on individuals and the communities. An economic analysis has been completed and is attached (See Regulatory Flexibility Act Section). With this rule we are establishing eligibility requirements and application procedures for obtaining a permit for lifetime access to three commercial fisheries authorized in Glacier Bay proper.

b. This rule will not create inconsistencies with other agencies' actions. Section 123 calls for the Secretary and the State of Alaska to cooperate in the development of a management plan to regulate these ongoing commercial fisheries. Certain inlets or areas of inlets of Glacier Bay proper are either closed to all commercial fishing, or limited to trolling by qualifying fishermen for king salmon during the winter season. Section 123 confirms the statutory prohibition on commercial fishing within the Park's designated wilderness areas, and authorizes compensation for qualifying Dungeness crab fishermen who had fished in designated wilderness waters of the Beardslee Islands and Dundas Bay.

c. This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This rule implements and establishes eligibility requirements and application procedures for obtaining a permit for lifetime access to three commercial fisheries authorized in Glacier Bay proper.

d. This rule raised novel legal or policy issues regarding the management of fisheries in Glacier Bay National Park.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under the Congressional review provisions of the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2)). This rule:

- a. does not have an effect on the economy of \$100 million or more, as demonstrated in the economic analysis;
- b. will not cause an increase in costs or prices for consumers, individual industries, Federal, State or local government entities, or geographic regions;
- c. does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises (See Regulatory Flexibility Act Section).

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*):

- a. This rule will not "significantly or uniquely" affect small governments. A Small Government Agency Plan is not required. This rule does not change the relationship between the NPS and small governments.
- b. The Department has determined and certifies pursuant to the Unfunded Mandates Reform Act that this rule will not impose a cost of \$100 million or more in any given year on local, State or tribal governments or private entities. (See Regulatory Flexibility Act Section.)

Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. No takings of personal property will occur as a result of this rule. Perceived takings due to job loss will be offset by the compensation program. This rule implements and establishes eligibility requirements and application procedures for obtaining a permit for lifetime access to three commercial fisheries authorized in Glacier Bay proper. (See Regulatory Flexibility Act Section.)

Federalism

In accordance with Executive Order 12612, the rule does not have significant Federalism effects. The primary effect of this rule is to implement eligibility requirements and application procedures for obtaining a permit for lifetime access to three commercial fisheries authorized in waters of Glacier Bay National Park.

Civil Justice Reform

The Department has determined that this rule meets the applicable standards provided in Section 3(a) and 3(b)(2) of

Executive Order 12988. The rule does not unduly burden the judicial system. NPS drafted this rule in plain language to provide clear standards and to ensure that the rule is easily understood. We consulted with the Department of the Interior's Office of the Solicitor during the drafting process.

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. The collection of information contained in section 13.65(a)(5)(iii) of this rule is for issuing a permit for lifetime access to three authorized commercial fisheries within Glacier Bay proper based upon sufficient historical participation. The information collected will be used to determine who qualifies for the issuance of a permit for lifetime access. It is necessary for someone to apply to obtain a permit.

Specifically, NPS needs the following information from an applicant to issue a permit for lifetime access to the salmon troll fishery, Tanner crab pot and ring net fishery, and halibut longline fishery authorized within Glacier Bay proper: (1) Full name, date of birth, mailing address and phone number. (2) A sworn and notarized personal affidavit attesting to the applicant's history of participation as a limited entry permit or license holder in one or more of the three authorized Glacier Bay fisheries during the qualifying years. (3) A copy of a current State or—in the case of halibut—International Pacific Halibut Commission commercial fishing permit card or license that is valid for the area including Glacier Bay proper. (4) Documentation of commercial landings within the statistical units or areas that include Glacier Bay proper during the qualifying period. (5) Any available corroborating information that can assist in a determination of eligibility for the lifetime access permits for the three authorized fisheries within Glacier Bay proper.

NPS has submitted the necessary documentation to the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, and received approval for the collection of this information for all areas covered by this rule under permit number 1024-0125.

The public reporting burden for the collection of this information is estimated to average less than two hours per response, including 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 the burden of these information collection requests, to Information Collection Officer, National Park Service, 800 North Capitol Street, Washington, DC 20001; and the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for Department of the Interior (1024-0125), Washington, DC 20503.

National Environmental Policy Act

In April 1998, NPS released a comprehensive Commercial Fishing Environmental Assessment (EA) that described and addressed the potential environmental impacts of the proposed action (the 1997 proposed rule) and four alternatives for managing commercial fishing activities in the marine waters of the park. On October 21, 1998 Section 123 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY 1999 (Section 123), was passed by Congress and signed into law. Congress passed Section 123 toward the end of what had already been an extended public involvement and comment period on the 1997 proposed rule and 1998 EA. Congress, in passing Section 123, clarified and limited the Secretary of the Interior's discretionary authority with respect to authorizing commercial fishing in Glacier Bay National Park. Section 123 required the Secretary to describe eligibility criteria for the lifetime access permits for Glacier Bay proper, closed certain named inlets and wilderness waters, and clarified that the outer marine waters of the park should remain open to existing fisheries under a cooperatively developed state/federal management plan. Based on the information in the EA a finding of no significant impact was determined and no environmental impact statement will be prepared.

Effective Date

In accordance with 5 U.S.C. (d)(3) this rule is effective October 20, 1999, with the exception of paragraphs (a)(10) (i)-(iii) which take effect on January 1, 2000. We find good cause to implement this regulation to meet the requirement mandated by Congress in Pub. L. 106-31 Sec. 501(e).

List of Subjects in 36 CFR Part 13

Alaska, National parks, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the National Park Service amends 36 CFR part 13 as follows:

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

1. The authority citation for part 13 is amended to read as follows:

Authority: 16 U.S.C. 1, 3, 462(k), 3101 *et seq.*; Sec. 13.65 also issued under 16 U.S.C. 1a-2(h), 20, 1361, 1531, 3197; Pub. L. 105-277, 112 Stat. 2681, October 21, 1998; Pub. L. 106-31, 113 Stat. 57, May 21, 1999.

2. Section 13.65 is amended by adding paragraph (a) and removing and reserving paragraphs (b)(5) and (b)(6) to read as follows:

§ 13.65 Glacier Bay National Park and Preserve.

(a) *Commercial fishing; authorizations, closures and restrictions.*

(1) *What terms do I need to know?*

(i) *Commercial fishing* means conducting fishing activities under the appropriate commercial fishing permits and licenses as required and defined by the State of Alaska.

(ii) *Glacier Bay* means all marine waters within Glacier Bay National Park, including coves and inlets, north of an imaginary line drawn from Point Gustavus to Point Carolus.

(iii) *Outer waters* means all of the non-wilderness marine waters of the park located outside of Glacier Bay.

(2) *Is commercial fishing authorized in the marine waters of Glacier Bay National Park?* Yes—Commercial fishing is authorized within the outer waters of the park and within the non-wilderness waters of Glacier Bay, subject to the provisions of this chapter.

(i) Commercial fishing shall be administered pursuant to A cooperatively developed State/federal park fisheries management plan, international conservation and management treaties, and existing federal and Non-conflicting State law. The management plan shall provide for the protection of park values and purposes, the prohibition on any new or expanded fisheries, and the opportunity to study marine resources.

(ii) Commercial fishing or conducting an associated buying or processing operation in wilderness waters is prohibited.

(iii) A new or expanded fishery is prohibited. The Superintendent shall compile a list of the existing fisheries and gear types used in the outer waters and follow the procedures in §§ 1.5 and 1.7 of this chapter to inform the public.

(iv) Maps and charts showing which marine areas of Glacier Bay are closed

to commercial fishing are available from the Superintendent.

(3) *What types of commercial fishing are authorized in Glacier Bay?* Three types of commercial fishing are authorized in Glacier Bay non-wilderness waters: longline fishing for halibut; pot and ring fishing for Tanner crab; and trolling for salmon.

(i) All other commercial fishing, or a buying or a processing operation not related to an authorized fishery is prohibited in Glacier Bay.

(ii) On October 1, 2000, each fishery will be limited to fishermen who qualify for a non-transferable commercial fishing lifetime access permit (see paragraph (a)(4) of this section). Commercial fishing without a permit issued by the superintendent, or other than in accordance with the terms and conditions of the permit, is prohibited.

(iii) The Superintendent shall include in a permit the terms and conditions that the superintendent deems necessary to protect park resources. Violating a term or condition of the permit is prohibited.

(4) *Who is eligible for a Glacier Bay commercial fishing lifetime access permit?* A Glacier Bay commercial fishing lifetime access permit will be issued by the superintendent to fishermen who have submitted documentation to the superintendent, on or before October 1, 2000, which demonstrates to the satisfaction of the superintendent that:

(i) They possess valid State limited entry commercial fishing permits for the district or statistical area encompassing Glacier Bay for each fishery for which a lifetime access permit is being sought; and,

(ii) They have participated as limited entry permit holders for the district or statistical area encompassing Glacier Bay for each fishery for which a lifetime access permit is being sought.

(A) For the Glacier Bay commercial halibut fishery, the Applicant must have participated as a permit holder for at least two years during the period 1992–1998.

(B) For the Glacier Bay salmon or Tanner crab commercial fisheries, the applicant must have participated as a permit holder for at least three years during the period 1989–1998.

(5) *What documentation is required to apply for a commercial fishing lifetime access permit?* The required documentation includes:

(i) The applicants full name, date of birth, mailing address and phone number;

(ii) A notarized affidavit, sworn by the applicant, attesting to his or her history of participation as a limited permit

holder in Glacier Bay, during the qualifying period, for each fishery for which a lifetime access permit is being sought;

(iii) A copy of the applicant's current State of Alaska limited entry permit and in the case of halibut an International Pacific Halibut Commission quota share, that is valid for the area that includes Glacier Bay, for each fishery for which a lifetime access permit is sought;

(iv) Proof of the applicant's permit and quota share history for the Glacier Bay fishery during the qualifying period;

(v) Documentation of commercial landings for the Glacier Bay fishery during the qualifying periods, i.e., within the statistical unit or area that includes Glacier Bay; for halibut, regulatory sub-area 184; for Tanner crab, statistical areas 114–70 through 114–77. For salmon, the superintendent will consider landing reports from District 114; however, the superintendent may require additional documentation that supports the applicant's declaration of Glacier Bay salmon landings. For halibut and Tanner crab, the superintendent may consider documented commercial landings from the unit or area immediately adjacent to Glacier Bay (in Icy Strait) if additional documentation supports the applicant's declaration that landings occurred in Glacier Bay.

(vi) Any additional corroborating documentation that might assist the superintendent in a timely determination of eligibility for the access permits.

(6) *Where should the documentation for a lifetime access permit be sent?* Before October 1, 2000, all required information (as listed in paragraph (a)(5) of this section) should be sent to: Superintendent, Attn: Access Permit Program, Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, Alaska 99826.

(7) *Who determines eligibility?* The superintendent will make a written determination of an applicant's eligibility for the lifetime access permit based on information provided. A copy of the determination will be mailed to the applicant. If additional information is required to make an eligibility determination, the applicant will be notified in writing of that need and be given an opportunity to provide it.

(8) *Is there an appeals process if a commercial fishing lifetime access permit application is denied?* Yes—If an applicant's request for an a commercial fishing lifetime access permit is denied, the superintendent will provide the applicant with the reasons for the denial in writing within 15 days of the

decision. The applicant may appeal to the Regional Director, Alaska Region, within 180 days. The appeal must substantiate the basis of the applicant's disagreement with the Superintendent's determination. The Regional Director (or his representative) will meet with the applicant to discuss the appeal within 30 days of receiving the appeal. Within 15 days of receipt of written materials and the meeting, if requested, the Regional Director will affirm, reverse, or modify the Superintendent's determination and explain the reasons for the decision in writing. A copy of the decision will be forwarded promptly to the applicant and will be the final agency action.

(9) *How often will commercial fishing lifetime access permit be renewed?* The superintendent will renew lifetime access permit at 5-year intervals for the lifetime of a permittee who continues to hold a valid State limited entry commercial fishing permit, and for halibut an International Pacific Halibut Commission quota share, and is otherwise eligible to participate in the fishery under federal and State law.

(10) *What other closures and restrictions apply to commercial fishermen and commercial fishing vessels?*

The following are prohibited:

(i) Commercial fishing in the waters of Geikie, Tarr, Johns Hopkins and Reid Inlets.

(ii) Commercial fishing in the waters of the west arm of Glacier Bay north of 58°50'N latitude, except commercial fishermen who have been authorized by the superintendent to troll for salmon may troll for king salmon during the period October 1 through April 30, in compliance with state commercial fishing regulations.

(iii) Commercial fishing in the east arm of Glacier Bay, north of an imaginary line running from Point Caroline through the southern point of Garforth Island and extending to the east side of Muir Inlet, except commercial fishermen who have been authorized by the superintendent to troll for salmon may troll for king salmon south of 58°50'N latitude during the period October 1 through April 30, in compliance with state commercial fishing regulations.

(b) * * *

(5) [Reserved]

(6) [Reserved]

* * * * *

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 99-27297 Filed 10-19-99; 8:45 am]

BILLING CODE 4310-70-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300935; FRL-6386-5]

RIN 2070-AB78

Pyriithiobac Sodium Salt; Time-Limited Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends the time-limited tolerance for residues of the herbicide pyriithiobac sodium salt (sodium 2-chloro-6-[(4,6-dimethoxypyrimidin-2-yl)thio]benzoate) in or on cottonseed at 0.02 parts per million (ppm). E.I. du Pont de Nemours and Co., Inc., requested this tolerance under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1966. The tolerance will expire on September 30, 2001.

DATES: This regulation is effective October 20, 1999. Objections and requests for hearings, identified by docket control number OPP-300935, must be received by EPA on or before December 20, 1999.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the "SUPPLEMENTARY INFORMATION." To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-300935 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Tompkins, Registration Division 7505C, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308-5697, e-mail: tompkins.james@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Cat-egories	NAICS	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under "FOR FURTHER INFORMATION CONTACT."

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "Federal Register--Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-300935. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.