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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 920

[Docket No. FV04–920–1 FR]

Kiwifruit Grown in California; Relaxation of Pack and Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises pack and container requirements currently prescribed for California kiwifruit under the California kiwifruit marketing order (order). The order regulates the handling of kiwifruit grown in California and is administered locally by the Kiwifruit Administrative Committee (committee). This rule adds a new size designation to the allowable size designations for packs of kiwifruit; revises the standard packaging requirements to require volume filled containers of kiwifruit designated by weight to hold 19.8-pounds (9-kilograms) net weight of kiwifruit, unless such containers hold less than 15 pounds or more than 35 pounds net weight of kiwifruit; requires the quantity statement to be indicated in terms of both ''count'' and ''size'' for all kiwifruit packed into cell compartments, cardboard fillers, or molded trays; and exempts all varieties of kiwifruit from the ''tightly packed'' standard pack requirement. This rule is expected to help handlers compete more effectively in the marketplace, better meet the needs of retailers, reduce handler packing costs, and to improve handler and grower returns.

EFFECTIVE DATE: September 9, 2004.

FOR FURTHER INFORMATION CONTACT: Terry Vawter, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 920 as amended (7 CFR part 920), regulating the handling of kiwifruit grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This final rule revises pack and container requirements currently prescribed for California kiwifruit under the order. This rule: (1) Adds a new size designation to the allowable size designations for packs of kiwifruit; (2) revises the standard packaging requirements to require volume filled containers of kiwifruit designated by weight to hold 19.8-pounds (9-kilograms) net weight of kiwifruit, unless such containers hold less than 15 pounds or more than 35 pounds net weight of kiwifruit; (3) requires the quantity statement to be indicated in terms of both ''count'' and ''size'' for all kiwifruit packed into cell compartments, cardboard fillers, or molded trays; and (4) exempts all varieties of kiwifruit from the ''tightly packed'' standard pack requirement.

The committee recommended these changes at its March 10, 2004 meeting. This rule is expected to help handlers compete more effectively in the marketplace, better meet the needs of retailers, and reduce packing costs. This rule is also expected to improve handler and grower returns.

Additional Numerical Count Size Designation

Under the terms of the order, fresh market shipments of kiwifruit grown in California are required to be inspected and meet grade, size, maturity, pack, and container requirements.

Section 920.52 authorizes the establishment of pack requirements. Section 920.302(a)(4) of the order's administrative rules and regulations specifies pack requirements for fresh shipments of California kiwifruit.

Section 920.302(a)(4)(ii)(B) provides that kiwifruit packed in individual consumer packages, bags, volume filled, or bulk containers, may not vary more than ½-inch in diameter for size designations 30 or larger.

Section 920.302(a)(4)(iii) contains a table commonly referred to as the ''Size Designation Chart.'' This chart specifies numerical count size designations and the maximum number of fruit per 8-pound sample for each numerical count size designation for fruit packed in individual consumer packages, bags, volume filled, or bulk containers.

In 1985, the committee recommended and the USDA approved establishment of the first numerical count size

designation chart by publishing a final rule in the **Federal Register** on September 9, 1985 (50 FR 36567). This regulation established size designation 49 defined as a maximum of 64 pieces of fruit in an 8-pound sample, as the minimum size. It also established four other size designations and required that kiwifruit packed in bags, volume filled, or bulk containers be ''fairly uniform in size.'' At that time, ''fairly uniform in size'' meant that size designation 30 or larger could not vary more than ½ inch in diameter, size designations 33 and 36 could not vary more than ⅜ of an inch, and size designations 39 and smaller could not vary more than ¼ inch in diameter. Diameter was defined to mean the greatest dimension measured at right angles to a line from stem to blossom end. Some tolerances were provided.

Over the years, numerical count size designations have been added, removed, and the maximum number of fruit per numerical count size designation has been revised to accommodate new packaging and changing market conditions. The committee recommended and the USDA approved revisions to the size designation chart by publishing the following interim and final rules in the **Federal Register:** August 16, 1993 (58 FR 43243); September 2, 1994 (59 FR 45617); September 3, 1998 (63 FR 46861); December 1, 1988 (53 FR 48513); July 29, 1999 (64 FR 41010); October 29, 2001 (66 FR 1413); March 14, 2002 (67 FR 11396); and August 22, 2002 (67 FR 54327).

In recent years, many California growers have increased the size of California kiwifruit through various cultural practices. During the 2003–2004 season, growers produced a crop with unusually large sizes. Handlers experienced difficulty staying within the size variation tolerance allowed for the largest size, size 20. Kiwifruit larger than size 20 had to be blended into the size 20 designation, as there was no larger size designation established for the 2003–04 season. This blending required handlers to take special care to stay within the size variation tolerance and reduced the uniformity of the pack size. Handlers also incurred additional costs in meeting the requirements.

Thus, the committee, at its March 10, 2004, meeting, unanimously recommended adding size designation 18, defined as a maximum of 25 pieces of fruit per 8-pound sample, to the size designation chart. This change provides handlers with a total of eleven numerical count size designations as follows:

SIZE DESIGNATION CHART

Column 1 size designation	Column 2 maximum number of fruit per 8 pound sample
18 *	25
20	27
23	30
25	32
27/28	35
30	39
33	43
36	46
39	49
42	53
45	55

* New size designation.

Additionally, for clarification, the title ''Size Designation Chart'' is added to the top of the chart.

The new size designation is expected to ease packing requirements, by allowing handlers to stay within size variances for larger sized fruit and is expected to improve handler and grower returns, as larger-sized fruit commands higher prices. This action does not affect import requirements.

Standardization of Packaging Requirement for Volume Filled Containers Designated by Net Weight

Section 920.52(a)(3) of the order authorizes the establishment of weight requirements for containers of California kiwifruit.

Section 920.302(a)(4) of the order's administrative rules and regulations outlines pack requirements for fresh shipments of California kiwifruit.

In a volume filled container, fairly uniform size kiwifruit are loosely packed without cell compartments, cardboard fillers, or molded trays. Handlers may ship volume filled containers marked with either the appropriate count (number of pieces of fruit) or net weight (total weight of pieces of fruit in the container). Handler shipments are based upon the preference of the receiver.

In 1994, the committee unanimously recommended and USDA established standard packaging for certain volume filled containers designated by weight, as published in the **Federal Register** on October 25, 1994 (59 FR 53563). At that time, 52 percent of the total crop was packed into volume filled containers. The percentage of the total crop packed into volume filled containers increased to 85 percent during the 2001–02 season.

In the 2001–02 season, imports from the Northern hemisphere (Greece, Italy, and France) totaled approximately 17 percent of the U.S. market share. The majority of imported kiwifruit was shipped in 19.8-pound (9-kilogram) volume filled containers; whereas the order limited California handlers to 22-pound (10-kilogram) net weight volume filled containers. With the 22-pound provisions, handlers could not meet buyer demands for other types of packaging.

In an effort to meet buyer demands for other types of packaging, the standardized packaging requirement of 22-pounds (10-kilograms) net weight for certain volume filled containers was suspended for the 2002–2003 and 2003–2004 seasons. These suspensions were implemented by an interim final rule published in the **Federal Register** on August 22, 2002 (67 FR 54327); a final rule published on November 21, 2002 (67 FR 76140); and another final rule published in the **Federal Register** on July 28, 2003 (68 FR 44191). The suspension published in the **Federal Register** on July 28, 2003 was in effect until July 31, 2004. Additionally, the final rule published in the **Federal Register** on July 28, 2003 (68 FR 44191) removed a pack requirement in § 920.302(a)(4)(iv) and paragraph (a)(4)(v) was redesignated as paragraph (a)(4)(iv).

However, during the 2002–2003 and 2003–2004 seasons, since handlers and retailers were not limited to a specific net weight for volume filled containers designated by weight, some confusion appeared in the marketplace. Without a specific net weight for volume filled containers, more than one net weight was packed by handlers.

In an effort to determine the best means of ensuring more orderly marketing, the committee conducted a survey of kiwifruit handlers and growers during the 2003–2004 season. The survey results clearly showed that the industry favored establishment of a standardized packaging requirement for volume filled containers of kiwifruit designated by weight to hold 19.8-pound (9-kilograms) net weight of kiwifruit, unless such containers hold less than 15 pounds or more than 35 pounds net weight of kiwifruit.

Accordingly, the committee, on March 10, 2004, unanimously recommended revising the standard packaging requirements for volume filled containers of kiwifruit designated by weight to hold 19.8-pounds (9-kilograms) net weight of kiwifruit, unless such containers hold less than 15 pounds or more than 35 pounds net weight of kiwifruit.

This recommended change is expected to allow the industry to compete more effectively in the marketplace with its foreign

competition, allow continued packing of the new variety of kiwifruit in 14-pound containers, and may improve grower returns. This action does not affect import requirements.

Container Marking Requirements

Section 920.52 authorizes the establishment of pack, and container requirements for California kiwifruit.

Section 920.303 of the order's administrative rules and regulations outlines specific container marking requirements for fresh shipments of California kiwifruit.

Section 920.303(c)(1) provides that the quantity statement shall be indicated in terms of count for kiwifruit packed in cell compartments, cardboard fillers, or molded trays, and the contents shall conform to the count.

Historically, the industry and buyers have associated count (number of pieces of fruit) with fruit size designations (maximum number of pieces of fruit in an 8-pound sample). Molded trays were originally designed in the early 1980's to accommodate fruit of the corresponding size from the numerical count size designation chart. For example, count 36 trays (trays that held 36 pieces of fruit) would accommodate size designation 36 fruit.

As previously mentioned, numerous changes have been made to the size designation chart over the years. Other changes have included removal of the minimum tray weight requirements, published in the **Federal Register** on July 30, 2001 (66 FR 39270), and the addition of the new molded tray inserts with smaller cup sizes. Currently, handlers can pack five sizes of fruit (33, 36, 39, 42, and 45) into three tray counts (33, 36, and 39), with the tray weighing as little as 5 pounds. These differences may cause confusion in the marketplace, especially if buyers assume that count is equivalent to size.

Thus, the committee, at its March 10, 2004 meeting, recommended that both ''count'' and ''size'' be marked on containers with cell compartments, cardboard fillers, or molded trays. Under this recommendation, containers will be marked with the size of the fruit as specified in the size designation chart and the number of pieces of fruit in the box. For example, a tray marked with size designation 45 could hold 36 pieces of fruit. Retailers can clearly discern the number of pieces of fruit packed into the container and the size of that fruit. Of the eleven members present at that meeting, ten voted for this change, and one voted against it. The one member who voted against this recommendation believes that requiring both ''count'' and ''size'' to be marked on containers of California kiwifruit would impose additional inspection requirements on California handlers. This member believes that this recommendation would place the California handler at a disadvantage in competing against imported kiwifruit, as importers do not have to comply with container marking requirements.

In its deliberations, the committee discussed inspection requirements. Committee members mentioned that currently inspectors count the number of fruit in the container. Others mentioned that requiring the quantity statement to be indicated in terms of both ''count'' and ''size'' for all kiwifruit packed into cell compartments, cardboard fillers, or molded trays would require inspectors to also verify the size markings. An analysis of inspection costs indicates there would likely be an overall increase for the industry of 1.5 percent or about $2,529. Handlers in the industry contract with the USDA Inspection Service to perform either a block or an in-line inspection. Inspectors that perform in-line inspection inspect the fruit at the time of packing; whereas, block inspections occur after the fruit has been packed and prior to shipment. The additional costs would be incurred by handlers who use the block inspection method for their initial inspections, and those handlers who have fruit reinspected prior to shipment. The block inspection method is used for 13 percent of initial inspections and for all reinspections. In recent seasons, in-line inspections accounted for 87 percent of all initial inspections. Reinspections are required if fruit is restyled or repacked.

The committee believes that marking both ''count'' and ''size'' on containers eliminates possible confusion in the marketplace. This action does not affect import requirements.

Standard Pack ''Tightly Packed'' Requirement

Section 920.52(a)(2) of the order authorizes the establishment of grade standards.

Section 920.302(a)(1) of the order's administrative rules and regulations states the minimum grade shall be at least KAC No. 1 quality.

Section 920.302(b) defines the term KAC No. 1 quality as kiwifruit that meets the requirements of U.S. No. 1 grade as defined in 7 CFR 51.2335 through 51.2340 of the United States Standards for Grades of Kiwifruit (standards), except that the kiwifruit shall be ''not badly misshapen,'' and an additional 7 percent tolerance is provided for ''badly misshapen.'' In addition, the ''Hort16A'' variety of kiwifruit is exempt from the ''tightly packed'' standard as defined in § 51.2338(a) of the standards.

The standards define standard pack requirements, require containers to be well filled, and require the contents to be tightly packed, but not excessively or unnecessarily bruised by overfilling or oversizing for fruit packed in cell compartments, cardboard fillers, or molded trays. This is commonly referred to in the industry as the ''tight-fill'' requirement.

In 1990, these ''tight-fill'' provisions were established in § 920.302(b) to ensure that ''Hayward'' variety kiwifruit (the predominant kiwifruit variety produced in the production area) fit tightly into the tray-liner cups, as published in the **Federal Register** on October 18, 1990 (55 FR 42179). Some kiwifruit handlers believe that kiwifruit packed tightly into the cups of the tray-liners are less subject to movement, and, therefore, less damage.

A new kiwifruit cultivar, the *Actinidia chinensis* ''Hort16A,'' commonly referred to as ''gold'' kiwifruit, was recently introduced in California and is being sold commercially. The ''Hort16A'' variety is currently packed into a special shallow molded tray with a notch for the beak, which minimizes damage to the fruit. This variety, when packed in the shallow tray, may not meet the ''tightly packed'' requirement for standard pack under the standards. Therefore, on March 12, 2003, the committee unanimously recommended, and USDA subsequently approved, an exemption for all ''gold'' kiwifruit varieties from the order's ''tightly filled'' requirement. This exemption was implemented through a final rule published in the **Federal Register** on July 28, 2003 (68 FR 44191).

During the last several years, the value of the ''tight-fill'' requirement has decreased due to manufacturer changes in the shape and cuts of the molded trays.

Thus, the committee, at its March 10, 2004, meeting, recommended eliminating the ''tight-fill'' requirement. The majority of the committee members agreed that the tight-fill requirement is no longer necessary, as they believe handlers would continue to pack fruit that tightly fits into the cup of the molded tray to prevent damage to the fruit and to meet buyer demands for uniformly-sized kiwifruit packs. Of the eleven members present, ten voted for this change. The one member voting against this recommendation preferred keeping the ''tight-fill'' requirement, because he believes that handlers would be disadvantaged in the market place by

loose packs. The committee discussed leaving the ''tight-fill'' requirement in place, but concluded that elimination of the ''tight-fill'' pack requirement would relax handler pack and inspection requirements, and increase handler and grower returns. This action does not affect import requirements.

Final Regulatory Flexibility Analysis

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

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

There are approximately 45 handlers of California kiwifruit subject to regulation under the marketing order and approximately 270 growers in the production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those whose annual receipts are less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $750,000. None of the 45 handlers subject to regulation have annual kiwifruit sales of at least $5,000,000. In addition, six growers subject to regulation have annual sales exceeding $750,000. Therefore, a majority of the kiwifruit handlers and growers may be classified as small entities.

This rule revises pack requirements prescribed under the California kiwifruit order. This rule: (1) Adds a new size designation to the allowable size designations for packs of kiwifruit; (2) revises the standard packaging requirements to require volume filled containers of kiwifruit designated by weight to hold 19.8-pounds (9-kilograms) net weight of kiwifruit, unless such containers hold less than 15 pounds or more than 35 pounds net weight of kiwifruit; (3) requires the quantity statement to be indicated in terms of ''count'' and ''size'' for kiwifruit packed in cell compartments, cardboard fillers, or molded trays; and (4) exempts all varieties of kiwifruit from the ''tightly packed'' standard pack requirement. The committee recommended these changes at its March 10, 2004, meeting. These changes are expected to help handlers compete more effectively in the marketplace, better meet the needs of retailers, and to improve grower returns.

Authority for these actions is provided in § 920.52 of the order.

Additional Numerical Count Size Designation

Under the terms of the order, fresh market shipments of kiwifruit grown in California are required to be inspected and meet grade, size, maturity, pack, and container requirements.

Section 920.302(a)(4) of the order's administrative rules and regulations specifies pack requirements for fresh shipments of California kiwifruit.

Section 920.302(a)(4)(ii)(B) provides that kiwifruit packed in individual consumer packages, bags, volume fill, or bulk containers, may not vary more than ½-inch in diameter for size designations 30 or larger.

Section 920.302(a)(4)(iii) contains a table commonly referred to as the ''Size Designation Chart.'' This chart specifies numerical count size designations and the maximum number of fruit per 8-pound sample for each numerical count size designation for fruit packed in individual consumer packages, bags, volume filled, or bulk containers.

In 1985, the committee recommended and the USDA approved establishment of the first numerical count size designations by publishing a final rule in the **Federal Register** on September 9, 1985 (50 FR 36567). This regulation established size designation 49 defined as a maximum of 64 pieces of fruit in an 8-pound sample, as the minimum size. It also established four other size designations and required that kiwifruit packed in bags, volume filled, or bulk containers be ''fairly uniform in size.'' At that time, ''fairly uniform in size'' meant that size designation 30 or larger could not vary more than ½ inch in diameter, size designations 33 and 36 could not vary more than ⅜ of an inch, and size designations 39 and smaller could not vary more than ¼ inch in diameter. ''Diameter'' was defined to mean the greatest dimension measured at right angles to a line from stem to blossom end; with some tolerances provided.

Over the years, numerical count size designations have been added, deleted, and the maximum number of fruit per numerical count size designation has been revised to accommodate new packaging and changing market conditions. The committee recommended and the USDA approved revisions to the size designation chart by publishing the following interim and final rules in the **Federal Register:** August 16, 1993 (58 FR 43243); September 2, 1994 (59 FR 45617); September 3, 1998 (63 FR 46861); December 1, 1988 (53 FR 48513); July 29, 1999 (64 FR 41010); October 29, 2001 (66 FR 1413); March 14, 2002 (67 FR 11396); and August 22, 2002 (67 FR 54327).

In recent years, many California growers have increased the size of California kiwifruit through various cultural practices. During the 2003–2004 season, growers produced a crop with unusually large sizes. Handlers experienced difficulty staying within the size variation tolerance allowed for the largest size, size designation 20. Kiwifruit larger than size 20 had to be blended into the size 20 designation, as there was no larger size designation established for the 2003–04 season. This blending requires handlers to take special care to stay within the size variation tolerance and reduces the uniformity of the pack size.

Thus, the committee, at its March 10, 2004, meeting, unanimously recommended adding size designation 18, defined as a maximum of 25 pieces of fruit per 8-pound sample, to the size designation chart. This change provides handlers with a total of eleven numerical count size designations as follows:

SIZE DESIGNATION CHART

Column 1 size designation	Column 2 maximum number of fruit per 8 pound sample
18 *	25
20	27
23	30
25	32
27/28	35
30	39
33	43
36	46
39	49
42	53
45	55

* New size designation.

Additionally, for clarification, the title ''Size Designation Chart'' will be added to the top of the chart.

The committee discussed alternatives to this change including not adding size 18 to the order's administrative rules and regulations, but concluded that this change provides an additional pack option to handlers and might help increase handler and grower returns. Almost 10 percent (over 4,000 tray equivalents) of the fruit packed as size 20 as of March 31, 2004, could have been packed as the new proposed size

18. Packing 4,000 tray equivalents (te) as size 18 could have increased grower returns approximately 5 cents per pound more than size 20 kiwifruit (4000 te × 7 pounds/te equals 28,000 pounds × $.05 FOB per pound equals $1,400). This change does not affect import requirements.

Standardization of Packaging Requirement for Volume Filled Containers Designated by Weight

Section 920.302(a)(4) of the order's administrative rules and regulations outlines pack requirements for fresh shipments of California kiwifruit.

In a volume filled container, fairly uniform size kiwifruit are loosely packed without cell compartments, cardboard fillers, or molded trays. Handlers may ship volume filled containers marked by either the appropriate count (number of pieces of fruit) or net weight (total weight of pieces of fruit in the container). Handler shipments are based upon the preference of the receiver.

In 1994, the committee unanimously recommended and USDA established standard packaging for certain volume filled containers designated by weight, as published in the **Federal Register** on October 25, 1994 (59 FR 53563). At that time, 52 percent of the total crop was packed into volume filled containers. The percentage of the total crop packed into volume filled containers increased to 85 percent during the 2001–02 season.

In 2001–02, imports from the Northern Hemisphere (Greece, Italy, and France) totaled approximately 17 percent of the U.S. market share. The majority of imported kiwifruit was shipped in 19.8-pound (9-kilogram) volume filled containers; whereas the order limited California handlers to 22-pound (10-kilogram) net weight volume filled containers. With the 22-pound provisions, handlers could not meet buyer demands for other types of packaging.

In an effort to meet buyer demands for other types of packaging, the standardized packaging requirement of 22-pounds (10-kilograms) net weight for certain volume filled containers was suspended for the 2002–2003 and 2003–2004 seasons. These suspensions were implemented by an interim final rule published in the **Federal Register** on August 22, 2002 (67 FR 54327); a final rule published on November 21, 2002 (67 FR 76140); and another final rule published in the **Federal Register** on July 28, 2003 (68 FR 44191). The suspension published in the **Federal Register** on July 28, 2003, was in effect until July 31, 2004. Additionally, the final rule published in the **Federal Register** on July 28, 2003 (68 FR 44191) removed a pack requirement in § 920.302 (a)(4)(iv) and paragraph (a)(4)(v) was redesignated as paragraph (a)(4)(iv). The provisions removed required containers to hold a quantity of kiwifruit equal to 3 times the size designation marked on the container. For example, if a container was marked as ''size 33,'' the container had to hold 99 pieces of fruit.

However, during the 2002–2003 and 2003–2004 seasons, since handlers were not limited to a specified net weight for volume fill containers, some confusion appeared in the market place. Without a specific net weight for volume filled containers, more than one net weight was packed by handlers.

In an effort to determine the best means of ensuring more orderly marketing, the committee conducted a survey of kiwifruit handlers and growers during the 2003–2004 season. The survey results clearly showed that the industry favored establishment of a standardized packaging requirement for volume filled containers of kiwifruit designated by weight of 19.8-pound (9-kilograms) net weight of kiwifruit, unless such containers hold less than 15 pounds or more than 35 pounds net weight of kiwifruit.

Thus, the committee, on March 10, 2004, unanimously recommended revising the standard packaging requirements for volume filled containers of kiwifruit designated by weight to hold 19.8-pounds (9-kilograms) net weight of kiwifruit, unless such containers hold less than 15 pounds or more than 35 pounds net weight of kiwifruit.

The committee discussed alternatives to the recommended change, including removing the standardized volume fill net weight requirement from the order's administrative rules and regulations but did not adopt this alternative, as it believes that a standardized volume fill is necessary to achieve orderly marketing of California kiwifruit.

The committee also discussed establishing a standard packing requirement that would require volume filled containers of kiwifruit designated by weight to hold 19.8-pounds (9 kilograms) net weight of kiwifruit, unless such containers hold less than 10-pounds or more than 35-pounds net weight of kiwifruit. The committee did not adopt this suggestion, as it believes that it is important to accommodate the ''Hort16A'' variety which is packed in a 14-pound volume filled container.

Finally, the committee discussed reinstating the 22-pound (10-kilogram) net weight standard packaging requirement for volume filled containers. The committee calculated that utilizing a 19.8-pound (9-kilo) net weight standard volume fill pack would increase the cost of packaging by 10 percent, generate approximately 10 percent more total volume filled boxes than the 22-pound standard; would increase the grower return by 20 percent, thereby offsetting the 10 percent increase in packaging costs; and would better serve the industry.

This recommended change will allow the industry to compete more effectively in the market place with its foreign competition, to continue packing the new variety of kiwifruit in 14-pound containers, and is expected to improve grower returns. This change does not affect import requirements.

Container Marking Requirements

Section 920.303 of the order's administrative rules and regulations outlines specific container marking requirements for fresh shipments of California kiwifruit.

Section 920.303(c)(1) provides that the quantity shall be indicated in terms of count for kiwifruit packed in cell compartments, cardboard fillers, or molded trays, and the contents shall conform to the count.

Historically, the industry and buyers have associated count (number of pieces of fruit) with fruit size designations (maximum number of pieces of fruit in an 8-pound sample). Molded trays were originally designed in the early 1980's to accommodate fruit of the corresponding size from the numerical count size designation chart. For example, count 36 trays (trays that held 36 pieces of fruit) would accommodate size designation 36 fruit.

As previously mentioned, numerous changes have been made to the size designation chart over the years. Other changes have included removal of the minimum tray weight requirements (66 FR 39270; July 30, 2001), and the addition of the new molded tray inserts with smaller cup sizes. Currently, handlers can pack five sizes of fruit (33, 36, 39, 42, and 45) into three tray counts (33, 36, and 39), with the tray weighing as little as 5 pounds. These differences may cause confusion in the market place, especially if buyers assume that count is equivalent to size.

Thus, committee at its March 10, 2004, meeting recommended that both ''count'' and ''size'' be marked on containers with cell compartments, cardboard fillers, or molded trays. The committee discussed several alternatives to this change. The first alternative considered was to reinstitute tray weights. The committee felt this

requirement would be too restrictive as it would dictate what size fruit had to be packed into a specific tray and that this might result in handlers having to repack kiwifruit that did not meet established minimum tray weight requirements. They were concerned that reinstituting minimum tray weights might result in increased handler costs.

The second alternative discussed by the committee was to regulate the size of the molded cup. However, the committee determined that regulating the size of the molded cup would not be feasible at this time and could result in higher packing costs.

Finally, the committee discussed not changing the container marking requirements to include both ''count'' and ''size'' for kiwifruit packed in cell compartments, cardboard fillers, or molded trays. However, the committee agreed that it was important to specify both ''count'' and ''size'' to ensure that fruit size was clearly specified. Under this recommendation, containers will be marked with the size of the fruit as specified in the size designation chart and the number of pieces of fruit in the box. For example, a tray marked with size designation 45 and could hold 36 pieces of fruit. Retailers will be able to clearly discern the number of pieces of fruit packed into the container and the size of that fruit. Of the eleven members present, ten voted for this change. The one member voting against this recommendation believes that requiring both ''count'' and ''size'' to be marked on containers of California kiwifruit would result in additional inspection requirements and increased inspection costs for California handlers. This member believes that this recommendation would place California handlers at a disadvantage in competing against imported kiwifruit, as importers do not have to comply with container marking requirements.

In its deliberations, the committee discussed inspection requirements. Committee members mentioned that currently inspectors count the number of fruit in the container. Others mentioned that requiring the quantity statement to be indicated in terms of both ''count'' and ''size'' for all kiwifruit packed into cell compartments, cardboard fillers, or molded trays would require inspectors to also verify the size markings.

An analysis of inspection costs indicates that there would likely be an overall increase for the industry of 1.5 percent or about $2,529. Handlers in the industry contract with the USDA Inspection Service to perform either a block or an in-line inspection. Inspectors that perform in-line inspection inspect the fruit at the time of packing, whereas, block inspections occur after the fruit has been packed, just prior to shipment. The additional costs would be incurred by handlers who use the block inspection method for their initial inspections, and those handlers who have fruit reinspected prior to shipment. The block inspection method is used for 13 percent of initial inspections and for all reinspections. In recent seasons, in-line inspections accounted for 87 percent of all initial inspections. Reinspections are required if fruit is restyled or repacked.

Additionally, the committee mentioned that the recommended change does not mandate that the ''count'' and the ''size'' be the same, as a tray marked with size designation 45 could still hold count 36 fruit and still weigh as little as 5 pounds.

This change is expected to eliminate any confusion in the marketplace and does not affect import requirements.

Standard Pack ''Tightly Packed'' Requirement

Section 920.302(a)(1) of the order's administrative rules and regulations states the minimum grade shall be at least KAC No. 1 quality.

Section 920.302(b) defines the term KAC No. 1 quality as kiwifruit that meets the requirements of U.S. No. 1 grade as defined in 7 CFR 51.2335 through 51.2340 of the standards, except that the kiwifruit shall be ''not badly misshapen'' and an additional 7 percent tolerance is provided for badly misshapen fruit and except that the ''Hort16A'' variety of kiwifruit is exempt from the ''tightly packed'' standard as defined in § 51.2338(a) of the standards.

The standards define standard pack requirements, require containers to be well filled, and require the contents to be tightly packed, but not excessively or unnecessarily bruised by overfilling or oversizing for fruit packed in cell compartments, cardboard fillers, or molded trays. This is commonly referred to in the industry as the ''tight-fill'' requirement.

These ''tight-fill'' provisions were established under the order to ensure that the ''Hayward'' variety (the predominant kiwifruit variety produced in the production area) fits tightly into the tray-liner cups (55 FR 42179, October 18, 1990). Some kiwifruit handlers believe that kiwifruit packed tightly into the cups of the tray-liners are less subject to movement and therefore less damage.

A new kiwifruit cultivar, the *Actinidia chinensis* ''Hort16A,'' commonly referred to as ''gold'' kiwifruit, was recently introduced in California and is being harvested and sold commercially. To minimize damage, the ''Hort16A'' variety is packed into a special shallow molded tray with a notch for the beak. The ''Hort16A'' kiwifruit, when packed in this shallow tray, may not meet the ''tightly packed'' requirement for standard pack under the standards. Therefore, on March 12, 2003, the committee unanimously recommended an exemption for all ''gold'' kiwifruit varieties from the order's ''tightly packed'' requirement. This recommendation was implemented by USDA through a final rule published in the **Federal Register** on July 28, 2003 (68 FR 44191).

During the last several years, the value of the ''tight-fill'' requirement has decreased due to manufacturer changes in the shape and cuts of the molded trays.

Thus, the committee, at its March 10, 2004, meeting, recommended that the ''tight-fill'' requirement be eliminated. The majority of the committee members agreed that the tight-fill requirement is no longer necessary, as they believe handlers would continue to pack fruit that is tightly fit into the cup of the molded tray to prevent damage to the fruit and to meet buyer demands for uniform sized kiwifruit packs. Of the eleven members present, ten voted for this change. The one member voting against this recommendation preferred keeping the ''tight-fill'' requirement, because he believes that handlers would be disadvantaged in the market place by loose packs.

The committee discussed leaving the ''tight-fill'' requirement in place, but concluded that handlers would continue to pack fruit that is tightly fit into the cup of the molded tray to prevent damage to the fruit and to meet buyer demands for uniform sized kiwifruit packs without the ''tight-fill'' pack requirement. This revision relaxes handler pack and inspection requirements, and may increase handler and grower returns. This revision does not impact import regulations, as pack and container requirements are not regulated under import regulations.

This final rule relaxes pack and container requirements under the kiwifruit order. Accordingly, these actions will not impose any additional reporting or recordkeeping requirements on either small or large kiwifruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors.

As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule. However, as previously stated, California kiwifruit must meet the ''tight-fill'' requirements, as specified in the standards (7 CFR 51.2335 through 51.2340) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627).

In addition, the committee's meeting was widely publicized throughout the kiwifruit industry and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all committee meetings, the March 12, 2003, meeting, was a public meeting and all entities, both large and small, were able to express their views on these issues. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses, as requested in the proposed rule.

A proposed rule concerning this action was published in the **Federal Register** on July 28, 2004 (69 FR 44975). Copies of the rule were provided to all committee members and kiwifruit handlers. The rule was also made available through the Internet by USDA and the Office of the Federal Register. A 15-day comment period, which ended on August 12, 2004, was provided to allow interested persons to respond to the proposal. No comments were received; and, thus, no changes will be made to the rule as proposed.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

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

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because shipments of 2004 crop kiwifruit are expected to begin in early September and these changes should be effective by that time. Moreover, prompt implementation will provide handlers time to plan accordingly.

List of Subjects in 7 CFR Part 920

Kiwifruit, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 920 is amended as follows:

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 920 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 920.302 [Amended]

■ 2. In § 920.302, paragraphs (a)(4)(iii), (a)(4)(iv), and (b) are revised to read as follows:

§ 920.302 Grade, size, pack, and container regulations.

(a) * * *

(4) * * *

(iii) When kiwifruit is packed in individual consumer packages, bags, volume fill or bulk containers, the following table specifying the size designation and maximum number of fruit per 8-pound sample is to be used:

SIZE DESIGNATION CHART

Column 1 size designation	Column 2 maximum number of fruit per 8 pound sample
18	25
20	27
23	30
25	32
27/28	35
30	39
33	43
36	46
39	49
42	53
45	55

(iv) All volume fill containers of kiwifruit designated by weight shall hold 19.8-pounds (9-kilograms) net weight of kiwifruit unless such containers hold less than 15 pounds or more than 35 pounds net weight of kiwifruit.

(b) *Definitions.* The term *KAC No. 1 quality* means kiwifruit that meets the requirements of the U.S. No. 1 grade as defined in the United States Standards for Grades of Kiwifruit (7 CFR 51.2335 through 51.2340) except that the kiwifruit shall be ''not badly misshapen,'' and an additional tolerance of 7 percent is provided for kiwifruit that is ''badly misshapen,'' and except that all varieties of kiwifruit are exempt from the ''tightly packed'' standard as defined in § 51.2338(a) of the U.S. Standards for Grades of Kiwifruit. The terms *fairly uniform in size and diameter* mean the same as defined in the U.S. Standards for Grades of Kiwifruit.

* * * * *

■ 3. In § 920.303, paragraph (c)(1) is revised to read as follows:

§ 920.303 Container marking regulations.

* * * * *

(c) * * *

(1) The quantity shall be indicated in terms of count and size for kiwifruit packed in cell compartments, cardboard fillers, or molded trays, and the contents shall conform to the count.

* * * * *

Dated: September 2, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04–20415 Filed 9–7–04; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 924

[Docket No. FV04–924–1 FR]

Fresh Prunes Grown in Designated Counties in Washington and in Umatilla County, OR; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate established for the Washington-Oregon Fresh Prune Marketing Committee (Committee) for the 2004–2005 and subsequent fiscal periods from $1.50 to $1.75 per ton of prunes handled. The Committee locally administers the marketing order which regulates the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon. Authorization to assess prune handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began April 1 and ends March 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: September 9, 2004.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW., Third Avenue,

Suite 385, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440; or George J. Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 924 (7 CFR 924), regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Washington-Oregon prune handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable prunes beginning April 1, 2004, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule increases the assessment rate established for the Committee for the 2004–2005 and subsequent fiscal periods from $1.50 to $1.75 per ton of prunes handled.

The order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers in designated counties in Washington and in Umatilla County, Oregon. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate was formulated and discussed at a public meeting, thus all directly affected persons had an opportunity to participate and provide input.

For the 2003–2004 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate of $1.50 per ton of fresh prunes handled. This assessment rate continues in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on May 25, 2004, and unanimously recommended 2004–2005 expenditures of $7,454 and an increased assessment rate of $1.75 per ton of prunes. In comparison, last year's budgeted expenditures were $7,411. The assessment rate of $1.75 is $0.25 higher than the rate currently in effect. The Committee recommended the higher assessment rate to cover budgeted expenses and to maintain its monetary reserve at a satisfactory level.

The major expenditures recommended by the Committee for the 2004–2005 fiscal period include $3,928 for employee salaries, $576 for rent and maintenance, $500 for Committee travel, and $475 for the annual financial audit. These budgeted expenses are the same as those approved for the 2003–2004 fiscal period.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Washington-Oregon prunes. Applying the $1.75 per ton assessment rate to the Committee's 4,500 ton crop estimate should provide $7,875 in assessment income. Thus, income derived from handler assessments should be adequate to cover the recommended $7,454 budget for 2004–2005. Funds in the reserve ($4,900 as of March 31, 2004), will be kept within the maximum permitted by the order of approximately one fiscal period's operational expenses (§ 924.42.)

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although the assessment rate will be in effect for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate the Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2004–2005 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

Final Regulatory Flexibility Analysis

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

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

There are approximately 215 producers of fresh prunes in the regulated production area and approximately 10 handlers subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on the total number of producers (215), the most recent three-

year average fresh prune production of 4,359 tons (from Committee records), and the most recent three-year average producer price of $303 per ton as reported by the National Agricultural Statistics Service, the average annual revenue from the sale of fresh prunes is approximately $6,143 per producer. In addition, based on Committee records and 2003 f.o.b. prices ranging from $8.50 to $9.50 per 30-pound container as reported by the AMS Market News Service, the entire Washington-Oregon fresh prune industry handles less than $5,000,000 worth of prunes. In view of the foregoing, the majority of Washington-Oregon fresh prune producers and handlers may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 2004–2005 and subsequent fiscal periods from $1.50 to $1.75 per ton for prunes. The Committee unanimously recommended 2004–2005 expenditures of $7,454 and the $1.75 per ton assessment rate. The assessment rate of $1.75 is $0.25 higher than the 2003–2004 rate. With an estimated 2004–2005 prune crop of 4,500 tons, the $1.75 rate should provide the Committee with $7,875 in assessment income and be adequate to cover budgeted expenses. The Committee recommended the higher assessment rate to help ensure that budgeted expenses are covered and that its monetary reserve will not have to be used. Funds in the reserve ($4,900 as of March 31, 2004), will be kept within the maximum permitted by the order of approximately one fiscal period's operational expenses (§ 924.42).

The major expenditures recommended by the Committee for the 2004–2005 fiscal period include $3,928 for employee salaries, $576 for rent and maintenance, $500 for Committee travel, and $475 for the annual financial audit. These budgeted expenses are the same as those approved for the 2003–2004 fiscal period.

The Committee discussed alternatives to this rule, including alternative expenditure levels. Lower assessment rates were considered, but not recommended because they would not have generated the income necessary to administer the program with an adequate reserve.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the producer price for the 2004–2005 season could range from about $273 per ton to about $351 per ton. Therefore, the estimated assessment revenue for the 2004–2005 fiscal period as a percentage of total producer revenue could range between 0.50 and 0.64 percent.

This action increases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs are offset by the benefits derived by the operation of the order. In addition, the Committee's meeting was widely publicized throughout the Washington-Oregon fresh prune industry and all interested persons were invited to attend and participate in the Committee's deliberations on all issues. Like all Committee meetings, the May 25, 2004, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule imposes no additional reporting or recordkeeping requirements on either small or large Washington-Oregon fresh prune handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

A proposed rule concerning this action was published in the **Federal Register** on July 19, 2004 (69 FR 42899). Copies of the proposed rule were also mailed or sent via facsimile to Committee members. Finally, the proposal was made available through the Internet by USDA and the Office of the Federal Register. A 15-day comment period ending August 3, 2004, was provided for interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ama.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

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

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because handlers are already receiving 2004 crop fresh prunes from growers. The 2004–2005 fiscal period began on April 1, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable Washington-Oregon fresh prunes handled during such fiscal period. The Committee needs to have sufficient funds to pay for expenses which are incurred on a continuous basis. Further, handlers are aware of this action which was unanimously recommended by the Committee at a public meeting. Also, a 15-day comment period was provided for in the proposed rule, and no comments were received.

List of Subjects in 7 CFR Part 924

Plums, Prunes, Marketing agreements, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 924 is amended as follows:

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON

■ 1. The authority citation for 7 CFR part 924 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 924.236 is revised to read as follows:

§ 924.236 Assessment rate.

On or after April 1, 2004, an assessment rate of $1.75 per ton is established for the Washington-Oregon Fresh Prune Marketing Committee.

Dated: September 1, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04–20273 Filed 9–7–04; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–345–AD; Amendment 39–13789; AD 2004–18–11]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–14, DC–9–15, and DC–9–15F Airplanes; and Model DC–9–20, DC–9–30, DC–9–40, and DC–9–50 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–14, DC–9–15, and DC–9–15F airplanes; and Model DC–9–20, DC–9–30, DC–9–40, and DC–9–50 series airplanes. This amendment requires, among other actions, performing repetitive inspections for cracking of the counterbore of the two lower mounting holes and the lower forward edge of the outboard idler hinge fitting of the left and right wing flap at station Xw=333.148, and replacing the flap idler hinge fitting with a new or serviceable part. This action is necessary to prevent failure of the outboard idler hinge fitting of the left and right wing flap at station Xw=333.148 due to fatigue cracking, which could result in a deflected flap that may cause asymmetric lift and consequent reduced controllability and structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective October 13, 2004.

The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of October 13, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5324; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–14, DC–9–15, and DC–9–15F airplanes; and Model DC–9–20, DC–9–30, DC–9–40, and DC–9–50 series airplanes; was published in the **Federal Register** on January 29, 2004 (69 FR 4259). That action proposed to require, among other actions, performing repetitive inspections for cracking of the counterbore of the two lower mounting holes and the lower forward edge of the outboard idler hinge fitting of the left and right wing flap at station Xw=333.148, and replacing the flap idler hinge fitting with a new or serviceable part.

Comments

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

Support for Proposed Rule

One commenter supports the proposed rule.

Request To Revise Cost Estimates

The other commenter, an operator, requests that we revise the cost estimates listed in the proposed rule. The commenter states that the inspection, based on similar inspections it is currently conducting for another AD, will take four work hours per airplane (two work hours per fitting, two fittings per airplane) instead of the two work hours estimated in the proposed rule. The commenter points out that Boeing Service Bulletin DC9–57–225 (referenced as the appropriate source of service information in the proposed rule) specifies 2.7 work hours per fitting, 5.4 work hours per airplane. The commenter further states that the proposed rule does not include the cost of replacement parts required at each inspection interval, at the cost of $1,122.20 per airplane (for Group 1 airplanes within its fleet). Therefore, the commenter declares that the proposed inspection will actually cost $1,365 per airplane, per inspection cycle for Group 1 airplanes, and $667 per airplane, per inspection cycle for Group 2 airplanes—not $130 per airplane, per inspection cycle, as proposed.

The commenter also states that the replacement will take nine work hours per fitting, instead of the two work hours estimated in the proposed rule. The commenter points out that Boeing Service Bulletin DC9–57–225 specifies 7.6 work hours per fitting for the replacement. Therefore, the commenter declares the proposed replacement will cost $6,005 per airplane for Group 1 airplanes, and $10,397 per airplane for Group 2 airplanes—instead of between $2,024 and $4,569 per airplane, as proposed.

We agree with part of the commenter's request. We have reviewed data provided by the airplane manufacturer and agree that replacement of some additional parts may be necessary during the required inspection and replacement. We do not agree, however, with the cost provided by the commenter for those parts. We have revised the cost information below to include the costs of those additional parts, based on the information provided to us by the airplane manufacturer.

We do not agree to revise the work hour estimate for the inspection or replacement. The commenter supplied no data to support its estimate of nine work hours for the replacement. The referenced service bulletin specifies two work hours per fitting for the replacement, which corresponds with the cost information below. We acknowledge that the referenced service bulletin specifies 2.7 work hours per fitting for the inspection—not two (one work hour per fitting, two fittings per airplane) as proposed. However, that figure includes costs for actions associated with access and close up. The cost information below describes only the direct costs of those specific actions required by this AD. We recognize that, in doing the actions required by an AD, operators may incur incidental costs in addition to the direct costs. As explained in the proposed rule, the cost analysis in AD rulemaking actions typically does not include incidental costs such as the time required to gain access and close up, time necessary for planning, or time necessitated by other administrative actions. Those incidental costs, which may vary significantly among operators, are almost impossible to calculate. We have not changed the work-hour estimates in this final rule.

Conclusion

After careful review of the available data, including the comments noted above, we have determined that air safety and the public interest require the adoption of the rule with the change previously described. We have determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 708 airplanes of the affected design in the worldwide fleet. We estimate that 411 airplanes of U.S. registry will be affected by this AD, that it will take

approximately 2 work hours per airplane to accomplish the required inspection, and that the average labor rate is $65 per work hour. The cost of certain parts required to be replaced during this inspection will be between $212 and $585 per airplane. Based on these figures, the cost impact of the required inspection on U.S. operators is estimated to be between $140,562 and $293,865, or between $342 and $715 per airplane, per inspection cycle.

We estimate that it will take approximately 2 work hours per fitting to accomplish the required replacement, and that the average labor rate is $65 per work hour. The cost of each required replacement fitting will be $1,894 per Group 1 airplane and $4,439 per Group 2 airplane. The cost of certain other parts required to be replaced during this replacement will be $292 per Group 1 airplane and $106 per Group 2 airplane. Based on these figures, the cost impact of the required replacement per fitting on U.S. operators is estimated to be between $951,876 and $1,921,425, or $2,316 per Group 1 airplane and $4,675 per Group 2 airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2004–18–11 McDonnell Douglas: Amendment 39–13789. Docket 2002–NM–345–AD.

Applicability: Model DC–9–14, DC–9–15, DC–9–15F, DC–9–21, DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–33F, DC–9–34, DC–9–34F, DC–9–32F (C–9A, C–9B), DC–9–41, and DC–9–51 airplanes; as listed in Boeing Service Bulletin DC9–57–225, dated December 10, 2002; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the outboard idler hinge fitting of the left and right wing flap at station Xw=333.148 due to fatigue cracking, which could result in a deflected flap that may cause asymmetric lift and consequent reduced controllability and structural integrity of the airplane, accomplish the following:

Inspections

(a) Prior to the accumulation of 40,000 total landing cycles on the outboard idler hinge fitting of the left and right wing flap at station Xw=333.148, or within 8,000 landing cycles on the fitting after the effective date of this AD, whichever occurs later: Do high frequency eddy current (HFEC) inspections for cracking of the counterbore of the two lower mounting holes and the lower forward edge of the flap idler hinge fitting at station Xw=333.148, in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC9–57–225, dated December 10, 2002. Although the service bulletin specifies to report inspection findings to the airplane manufacturer, this AD does not include that requirement.

Condition 1: No Crack Is Found

(b) If no crack is found during any inspection required by paragraph (a) of this AD, prior to further flight, install a new nut, plain washer, and pre-load indicating (PLI) washer in accordance with the Accomplishment Instructions of Boeing Service Bulletin DC9–57–225, dated December 10, 2002. Repeat the inspections required by paragraph (a) of this AD thereafter at intervals not to exceed 1,000 landings on the fitting until the replacement required by paragraph (e) of this AD is done.

Condition 2: Crack Is Found

(c) If any crack is found during any inspection required by this AD: Before further flight, replace the cracked flap idler hinge fitting with a new or serviceable fitting having a part number identified under the ''New Part Number'' column of the applicable table shown in paragraph 2.C.1. of the Material Information section of Boeing Service Bulletin DC9–57–225, dated December 10, 2002. Do the replacement in accordance with the Accomplishment Instructions of the service bulletin.

Reinstatement of Inspections

(d) Prior to the accumulation of 40,000 total landing cycles on any new or serviceable fitting, do the HFEC inspections required by paragraph (a) of this AD. Repeat the HFEC inspections thereafter at intervals not to exceed 1,000 landing cycles on the fitting until the replacement required by paragraph (e) of this AD is done.

Replacement

(e) Prior to the accumulation of 80,500 total landing cycles on the flap idler hinge fitting, replace the fitting with a new or serviceable fitting having a part number identified under the ''New Part Number'' column of the applicable table shown in paragraph 2.C.1. of the Material Information section of Boeing Service Bulletin DC9–57–225, dated December 10, 2002. Do the replacement in accordance with the Accomplishment Instructions of the service bulletin. Repeat the replacement thereafter at intervals not to exceed 80,500 total landing cycles on the fitting.

Alternative Methods of Compliance

(f) In accordance with 14 CFR 39.19, the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

Incorporation by Reference

(g) The actions shall be done in accordance with Boeing Service Bulletin DC9–57–225, excluding Appendix A, dated December 10, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–

0024); or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_ register/ code_of_ federal_regulations/ ibr_locations.html.*

Effective Date

(h) This amendment becomes effective on October 13, 2004.

Issued in Renton, Washington, on August 27, 2004.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–20208 Filed 9–7–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–90–AD; Amendment 39–13785; AD 2004–18–07]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ series airplanes, that currently requires identifying the part numbers of discharge valves and cabin pressure controllers, and related investigative and corrective actions if necessary. This amendment requires identifying the part number of an additional cabin pressure controller, and related investigative and corrective actions if necessary. The actions specified by this AD are intended to prevent the installation of incorrect pressurization discharge valves and cabin pressure controllers, which could subject the airframe to excess stress and adversely affect the airframe fatigue life. This action is intended to address the identified unsafe condition.

DATES: Effective October 13, 2004.

The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of October 13, 2004.

The incorporation by reference of a certain other publication listed in the regulations was approved previously by the Director of the Federal Register as of September 10, 2001 (66 FR 40864, August 6, 2001).

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/ federal_register/ code_of_federal_regulations/ ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2001–15–23, amendment 39–12358 (66 FR 40864, August 6, 2001), which is applicable to certain BAE Systems (Operations) Limited Model BAe 146 and Avro 146–RJ series airplanes, was published in the **Federal Register** on June 21, 2004 (69 FR 34312). The action proposed to continue to require identifying the part numbers of discharge valves and cabin pressure controllers, and related investigative and corrective actions if necessary. The action also proposed to require identifying the part number of an additional cabin pressure controller, and related investigative and corrective actions if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Explanation of Change Made to Final Rule

We inadvertently omitted a paragraph identifier in the proposed AD. We have revised this final rule to identify that paragraph as paragraph (d) of this AD, and have reidentified subsequent paragraphs accordingly.

Cost Impact

There are approximately 20 airplanes of U.S. registry that will be affected by this AD.

The actions that are currently required by AD 2001–15–23 and continued in this AD take approximately 3 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $3,900, or $195 per airplane.

The new actions that are required in this AD will take approximately 3 work hours to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the new requirements on U.S. operators is estimated to be $3,900, or $195 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules

Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing amendment 39–12358 (66 FR 40864, August 6, 2001), and by adding a new airworthiness directive (AD), amendment 39–13785, to read as follows:

2004–18–07 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Docket 2002–NM–90–AD. Supersedes AD 2001–15–23, Amendment 39–12358.

Applicability: Model BAe 146 and Avro 146–RJ series airplanes, certificated in any category, as listed in BAE Systems (Operations) Limited Inspection Service Bulletin ISB.21–155, dated February 15, 2002.

Compliance: Required as indicated, unless accomplished previously.

To prevent the installation of incorrect pressurization discharge valves and cabin pressure controllers, which could subject the airframe to excess stress and adversely affect the airframe fatigue life, accomplish the following:

Restatement of Certain Requirements of AD 2001–15–23

Part Identification

(a) As specified in paragraph (a)(1) or (a)(2) of this AD, as applicable: Identify the part numbers of the pressurization discharge valves and cabin pressure controllers to determine if any installed part is incorrect, as defined by and in accordance with BAe Systems (Operations) Limited Inspection Service Bulletin ISB.21–148, Revision 1, dated February 6, 2001; or BAE Systems (Operations) Limited Inspection Service Bulletin ISB.21–155, dated February 15, 2002. As of the effective date of this AD, only BAE Systems (Operations) Limited Inspection Service Bulletin ISB.21–155 may be used.

(1) For airplanes post-Modification HCM50258A: Identify the part numbers within 30 days after September 10, 2001 (the effective date of AD 2001–15–23, amendment 39–12358); and, if any part is incorrect, limit the airplane ceiling to 31,000 feet until the incorrect part is replaced, as specified by paragraph (c) of this AD.

(2) For airplanes pre-Modification HCM50258A: Identify the part numbers within 6 months after September 10, 2001.

New Requirements of This AD

Part Identification

(b) For airplanes on which the requirements of BAe Systems (Operations) Limited Inspection Service Bulletin ISB.21–148, dated Revision 1, dated February 6, 2001, were accomplished: At the times specified in paragraph (b)(1) or (b)(2) of this AD, as applicable, identify the part number of the cabin pressure controller calibrated in inches of mercury to determine if any installed part is incorrect, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.21–155, dated February 15, 2002.

(1) For airplanes post-Modification HCM50258A: Identify the part numbers within 30 days after the effective date of this AD; and, if any part is incorrect, limit the airplane ceiling to 31,000 feet until the incorrect part is replaced as specified by paragraph (c) of this AD.

(2) For airplanes pre-Modification HCM50258A: Identify the part numbers within 6 months after the effective date of this AD.

Corrective Action

(c) For any incorrect part identified in accordance with paragraph (a) or (b) of this AD: Within 500 flight cycles after identification of the part number, replace the part with a new, correct part, in accordance with the Accomplishment Instructions of BAe Systems (Operations) Limited Inspection Service Bulletin ISB.21–148, Revision 1, dated February 6, 2001; or BAE Systems (Operations) Limited Inspection Service Bulletin ISB.21–155, dated February 15, 2002. As of the effective date of this AD, only BAE Systems (Operations) Limited Inspection Service Bulletin ISB.21–155 may be used.

(d) After installation of a correct part, prior to further flight, do a structural inspection and accomplish any applicable corrective actions, in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Civil Aviation Authority (CAA) (or its delegated agent).

Credit for Accomplishment of Previous Actions

(e) Accomplishment of the actions specified in this AD in accordance with BAe Systems (Operations) Limited Inspection Service Bulletin ISB.21–148, dated November 17, 2000, is acceptable for compliance with the corresponding actions required by this AD.

Submission of Inspection Results and Parts Not Required

(f) Although the service bulletins referenced in this AD specify to submit information to the airplane manufacturer, and to return certain parts to the part manufacturer, this AD does not include such a requirement.

Alternative Methods of Compliance

(g)(1) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, is authorized to approve alternative methods of compliance for this AD.

(2) Alternative methods of compliance, approved previously in accordance with AD 2001–15–23, amendment 39–12358, are approved as alternative methods of compliance with the applicable actions in this AD.

Incorporation by Reference

(h) Unless otherwise specified by this AD, the actions shall be done in accordance with BAE Systems (Operations) Limited Inspection Service Bulletin ISB.21–155, dated February 15, 2002; and BAe Systems (Operations) Limited Inspection Service Bulletin ISB.21–148, Revision 1, dated February 6, 2001; as applicable.

(1) The incorporation by reference of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.21–155, dated February 15, 2002, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of BAe Systems (Operations) Limited Inspection Service Bulletin ISB.21–148, Revision 1, dated February 6, 2001, was previously approved by the Director of the Federal Register as of September 10, 2001 (66 FR 40864, August 6, 2001).

(3) Copies may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Note 1: The subject of this AD is addressed in British airworthiness directive 004–02–2002.

Effective Date

(i) This amendment becomes effective on October 13, 2004.

Issued in Renton, Washington, on August 26, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–20206 Filed 9–7–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–246–AD; Amendment 39–13784; AD 2004–18–06]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–200, –200C, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737–200, –200C, –300, –400, and –500 series airplanes, that requires repetitive inspections to find fatigue cracking of certain upper and lower skin panels of the fuselage, and follow-on and corrective actions, if necessary. This amendment also includes terminating action for the repetitive inspections of certain modified or repaired areas only. This action is necessary to find and fix fatigue cracking of the skin panels, which could result in sudden fracture and failure of the skin panels of the fuselage, and consequent rapid decompression of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective October 13, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 13, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Suzanne Lucier, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6438; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 737–200, –200C, –300, –400, and –500 series airplanes was published in the **Federal Register** on June 18, 2003 (68 FR 36515). That action proposed to require repetitive inspections to find fatigue cracking of certain upper and lower skin panels of the fuselage, and follow-on and corrective actions, if necessary. That action also includes terminating action for the repetitive inspections of certain modified or repaired areas only.

Comments

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

Agreement With Proposed Rule

One commenter generally agrees with the proposed rule.

Request To Clarify Repetitive Eddy Current Inspections

Several commenters request clarification of the repetitive eddy current inspections required by paragraph (a) of the proposed rule. The commenters note that the proposed rule differs from the service bulletin in that the proposed rule requires both external detailed and eddy current inspections every 4,500 flight cycles, while the service bulletin only specifies to repeat the detailed inspections. One commenter asks if the repetitive eddy current inspections are mandatory. Another commenter points out that no explanation is given in the preamble of the proposed rule in the ''Differences'' paragraph. Because no technical reason is given for this change, the commenter believes the proposed rule's intent was not to include repetitive eddy current inspections that are beyond the scope of the service bulletin.

Another commenter, the manufacturer, agrees with the proposed rule that the eddy current inspections should be repetitive. The commenter states that because of recent upper row cracks found on a Model 737 series airplane with disbonded waffle doublers, it seems prudent to use the more sensitive eddy current inspection at repetitive intervals of 4,500 flight cycles. The commenter notes that only external detailed inspections were originally used because it was assumed that the tear straps were bonded and functioning to slow down the cracks until they could easily be detected using visual methods. The commenter states that in the case of a disbonded panel, it is unclear if the chem-mill type crack would slow down as it approaches the tear straps. The commenter believes that if it is assumed that tear straps do not slow the growth of the cracks, then the repetitive external detailed inspections every 4,500 flight cycles would allow more than two inspection opportunities to pass as cracks detectable by eddy current inspections become critical.

We agree with the request to clarify the repetitive eddy current inspections required by paragraph (a) of the final rule. Paragraph (a) of the proposed rule did specify repetitive external detailed and eddy current inspections but stated this as ''repeat the inspections.'' Because the service bulletin only specifies repetitive detailed inspections, we should have explained the difference in the ''Differences'' paragraph of the proposed rule for the reasons stated by the last commenter (*i.e.* because of the recent upper row cracks found on an airplane with disbonded waffle doublers). However the ''Differences'' paragraph of the proposed rule is not repeated in the final rule. We have clarified the repetitive eddy current inspections by revising paragraph (a) of the final rule to state, ''Repeat the external detailed and eddy current inspections * * *.''

Request To Revise Text To Describe the Area of Inspection

One commenter requests to revise the text in paragraph (a) of the proposed rule from ''crown area'' to ''crown area and other known areas of cracking.'' The commenter states that the inspections in Part 1 and Figure 1 of Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001 (referenced as the appropriate source of service information in the proposed rule), include areas of known cracking outside the crown. The commenter believes that since paragraph (a) of the proposed rule states to inspect only the ''crown area,'' then the areas of known cracking outside the crown as specified in the service bulletin may not get inspected. In addition, another commenter notes that it reported a crack at S12L on a Boeing Model 737–300 series airplane.

The FAA agrees with the commenter that the text to describe the area of inspection should be revised. While the heading of Part 1 of the service bulletin (like the proposed rule) makes reference only to the crown area, Part 1 includes inspections outside that area, as stated by the commenter. We proposed to require all of the actions specified in Part 1 and Figure 1 of the service bulletin. For the reasons stated by that

commenter, we have clarified paragraph (a) of the final rule to state, ''* * * crown area and other known areas of fuselage skin cracking, per Part 1 and Figure 1 * * *.'' This clarification does not expand the inspection locations specified in Part 1 and Figure 1.

Request To Reduce Inspection Area

One commenter requests reducing the area of the eddy current inspection required by paragraph (a) of the proposed rule from body station (BS) 360 to BS 1016 to the area BS 460 to BS 787. The commenter contends that the cracking reported in the upper crown at locations ranging from BS 480 to BS 777, per Boeing Service Bulletin 737–53A1210, Revision 1, does not warrant accomplishing both a visual and an eddy current inspection of areas BS 360 to BS 1016. The commenter recommends a visual inspection for areas BS 360 to BS 1016 and an eddy current inspection for areas BS 460 to BS 787.

We do not agree with the request to reduce the area of the eddy current inspection required by paragraph (a) of the final rule. Since the issuance of the service bulletin, we have received new reports of cracking. To address the identified unsafe condition, detailed and eddy current inspections are required by paragraph (a) of the final rule for areas BS 360 to BS 1016 identified in the service bulletin. No change is made to the final rule in this regard.

Request To Clarify Inspections of Chem-mill Areas

Two commenters request clarification of inspections for chem-mill areas covered by FAA-approved or accepted repairs other than external repair doublers that extend a minimum of three rows of fasteners above and below the chem-mill steps. One commenter, the manufacturer, requests that an inspection be added to the proposed rule for areas that are covered by external repair doublers that do not extend a minimum of three rows of fasteners above and below the chem-mill steps because paragraph (a) of the proposed rule does not address inspecting these areas. The commenter states that Boeing has developed a new internal inspection method for chem-mill cracks under the external repair doublers, as specified in Boeing 737 Non-Destructive Test (NDT) Manual, Part 6, Subject 53–30–20. The commenter contends that this inspection method can be used as a substitute for the external inspections with no change in the proposed compliance times. The commenter believes that chem-mill cracks under a repair doubler that do not extend beyond the chem-mill step are just as critical because three rows are required to carry failsafe loads. However, the commenter believes the cracks in this area are inspected less than cracks addressed by the proposed rule, and that it is likely repairs have been installed over undetected chem-mill cracks. The other commenter recommends that a general visual inspection of the repair for chem-milled areas covered by other FAA-approved or accepted repairs be added to the proposed rule, or that the areas be exempted from the inspections required by paragraphs (a) and (b) of the proposed rule.

We agree that inspections of the chem-mill areas should be clarified. Inspections are not required in areas that are spanned by an FAA-approved repair that has a minimum of 3 rows of fasteners above and below the chem-milled step. If an external doubler covers the chem-milled step, but does not span it by a minimum of 3 rows of fasteners above and below, operators must request an alternative method of compliance (AMOC) as required by section 39.17 of the Federal Aviation Regulations (14 CFR 39.17). In lieu of requesting an AMOC, one method of compliance with the inspection requirement of paragraphs (a) and (b) of this final rule is to inspect all chem-milled steps covered by the repair using internal nondestructive test (NDT) methods in accordance with Boeing 737 NDT Manual, Part 6, Subject 53–30–20. We have included new paragraph (i) of this final rule to provide inspection procedures, in lieu of requesting an AMOC, as one method of compliance with the requirements of paragraphs (a) and (b) of this final rule.

Request To Clarify Inspection Requirements in the Area of an Internal Doubler at the Emergency Door Surround Structure

One commenter requests that an inspection method be specified for the area of the internal doubler at the emergency exit surround structure as shown in Figure 5 of the service bulletin, or that the requirement to inspect this area be removed. The commenter notes that inspecting the area between BS 540 and BS 727 would require a different inspection procedure than the Boeing 737 NDT Manual, Part 6, Subject 53–30–18 or 53–30–19 procedures which are specified in Figure 5 of Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001.

We agree with the commenter that there should not be a requirement to inspect this area because the internal doubler that extends above S–10 stabilizes the skin in this area and eliminates this area as a cracking concern. However, there is not a need to clarify this in the final rule because the service bulletin does not specify to inspect this area. This area is shown with a dotted line in Figure 5 of the service bulletin and is excluded from the inspections in Figure 5. Therefore, no change to the final rule is necessary.

Request To Clarify Terminating Action for Repetitive Inspections

Two commenters request that the terminating action for the repetitive inspections required by paragraph (a) of the proposed rule be clarified. One commenter states that the proposed rule requires to ''Repeat the inspections at least every 4,500 flight cycles until paragraph (c) or (d)(1)(ii) of this AD has been done, as applicable.'' The commenter notes that paragraph (c) and (d)(1)(ii) of the proposed rule do not cover the joint cutout modification per paragraph (g) of AD 2002–07–08, amendment 39–12702 (67 FR 17917). The commenter contends that the lap joint repair per paragraph (g) of AD 2002–07–08 ends the repetitive inspections for those lap joints, and therefore, should be included as a terminating action in paragraph (a) of the proposed rule. The other commenter questions if the statement ''Installation of the lap joint repair * * * is considered acceptable for compliance with * * *'' in paragraph (d)(1) of the proposed AD ends the repetitive inspections per paragraph (a) of the proposed AD for those lap joints.

We agree with the commenters that we should clarify the terminating actions for the repetitive actions for the reasons stated by the first commenter. The lap joint modification (repair) is an alternate method of compliance for the repetitive requirements of paragraph (a) of the final rule. There is language in paragraph (d)(1) of the AD that does specify, ''Installation of the lap joint repair specified in paragraph (g) of AD 2002–07–08, amendment 39–12702, is considered acceptable for compliance with the corresponding action specified in this paragraph for the lap joint areas only.'' We have moved this language to paragraph (d)(1)(ii) of the final rule to clarify that modifications performed in accordance with paragraph (g) of AD 2002–07–08 are considered a terminating modification for the chem-mill step areas within the modified areas.

Request To Add New Repair Option

One commenter requests that a new repair option be added to paragraph (d) of the proposed rule. Paragraph (d) of the proposed rule provides two options for repair if cracking is found. The commenter points out that general skin repairs have been added to Boeing 737 structural repair manuals, and that these repairs meet or exceed the requirements as stated in paragraph (d) of the proposed rule. The commenter suggests adding paragraph (d)(3) to the proposed rule stating, ''For cracking in any area within the limitations of 737–100/200 SRM 53–30–3 Figure 48 for –100's and –200 aircraft, 737–300 SRM 53–00–01 Figure 229 for –300 aircraft, 737–400 SRM 53–00–01 Figure 231 for –400 aircraft, and 737–500 SRM 53–00–01 Figure 229 for –500 aircraft, cracks can be repaired per these SRM figures as applicable. Accomplishment of these repairs ends the repetitive inspections required by paragraph (b) of this AD for the repaired area only.'' The commenter also suggests revising the first sentence of paragraph (d) of the proposed rule to state, ''* * * specified in paragraphs (d)(1), (d)(2), and (d)(3) of this AD, as applicable * * *.'' The commenter points out that these SRM repairs are being used extensively within the industry to repair skin damage, including chem-mill cracks.

We agree with the commenter that the new repair option should be added and concur with its justification. Accordingly, we have added paragraph (e) to the final rule as follows: ''For cracking in any area specified in paragraphs (d)(1) and (d)(2) of this AD within the limitations of Chapter 53, Subject 53–30–3, Figure 48 (for Model 737–100 and –200 series airplanes), of the Boeing 737–100 and –200 Structural Repair Manual (SRM); Chapter 53, Subject 53–00–01, Figure 229 (for Model 737–300 airplanes), of the Boeing 737–300 SRM; Chapter 53, Subject 53–00–01, Figure 231 (for Model 737–400 series airplanes), of the Boeing 737–400 SRM; and Chapter 53, Subject 53–00–01, Figure 229 (for Model 737–500 series airplanes), of the Boeing 737–500 SRM; repair cracks per the applicable SRM. Accomplishment of the applicable repair terminates the repetitive inspections required by paragraphs (a) and (b) of this AD for the repaired area only.'' We also revised paragraphs (a) and (b) of the final rule to include paragraph (e) of the final rule as an optional terminating action for the repaired area only. In addition, we revised paragraphs (d)(1) and (d)(2) of the final rule by adding paragraph (e) of the final rule as a repair option.

Request To Revise Repair Instructions

One commenter requests that the repair instructions in paragraph (d)(2) of the proposed rule be revised. The commenter notes that paragraph (d)(2) gives instructions to ''* * * repair per Part 2 of the Work Instructions of the service bulletin * * *,'' and the service bulletin specifies to ask Boeing for repair data. The commenter contends that an operator may interpret paragraph (d)(2) of the proposed rule as requiring them to contact Boeing for all repairs in the lower lobe and section 41. The commenter suggests revising paragraph (d)(2) of the proposed rule to state, ''For cracking of the lower lobe area and Section 41, repair per paragraph (d)(3) of this AD before further flight * * *.''

We disagree with the commenter to revise paragraph (d)(3) of the final rule per its suggested wording. As stated earlier, paragraph (d)(2) of the final rule has been revised by adding paragraph (e) of the final rule as an option to the repair of the cracking of the lower lobe and Section 41 done per Part 2 of the Work Instructions of the service bulletin. Operators should note that while the service bulletin does specify to contact Boeing for repair, paragraph (d) of the final rule requires operators to contact the FAA or a Designated Engineering Representative (DER) if the service bulletin specifies to contact Boeing for repair instructions. No change is made to the final rule in this regard.

Request To Add Inspection Requirement

One commenter requests that the external subsurface inspection of the chem-mill steps in adjacent bays per step 2 of Figure 18 of the service bulletin be added to paragraph (e)(2) of the proposed rule. The commenter notes that paragraph (e)(2) of the proposed rule requires an ''internal eddy current inspection of the skin, tear straps, and lap joint * * *'' The commenter states that, while this agrees with the service bulletin, the service bulletin also specifies an external subsurface inspection of the chem-mill steps in adjacent bays. The commenter points out that when the time-limited repair required by paragraph (e) of the proposed rule is accomplished at remote sites, it may not be possible to do an NDT inspection of the adjacent chem-mill steps. The commenter states that, often times in service, the bays adjacent to the cracked bay will also have cracks. The commenter also notes that inspection of the adjacent bays within 4,000 flight cycles after doing the repair is recommended by the service bulletin as a precautionary measure.

We agree with the commenter that the service bulletin also specifies external subsurface inspection of the chem-mill steps in adjacent bays. In our effort to describe the types of inspections referenced in Part 4 of the service bulletin, we inadvertently omitted the one mentioned by the commenter. We had no intention of deviating from the service bulletin. To clarify this intent, the final rule has been revised to track the precise wording of Part 4 of the service bulletin: ''Do inspections of the repaired area * * *.''

Request To Remove ''Tear Straps'' From Inspection Description

One commenter requests that the words ''tear straps'' be removed from paragraph (e)(2) of the proposed rule. The commenter notes that the internal inspection shown in Figure 18 of the service bulletin looks for cracks in the skin under the tear strap and does not look for cracks in the tear straps.

We agree with the commenter that the words ''tear straps'' be removed from paragraph (f)(2) of the final rule (specified as paragraph (e)(2) of the proposed rule). As stated previously, paragraph (f)(2) of the final rule (specified as paragraph (e)(2) of the proposed rule) has been changed to state, ''Do the inspections of the repaired area * * *.''

Request To Add Inspection for Disbonding To Terminate Repetitive Eddy Current Inspections

One commenter requests that an inspection for disbonding be added that would terminate the repetitive eddy current inspections required by paragraph (a) of the proposed rule. The commenter recommends that the inspection for disbonding specified in Boeing Service Bulletin 737–53–1179, Revision 2, dated October 25, 2001, be added as a terminating action for the repetitive eddy current inspections required by paragraph (a) of the proposed rule, and then only repetitive detailed inspections would be needed to ensure safety.

We agree that an inspection for disbonding should be added to terminate the repetitive eddy current inspections required by paragraph (a) of the final rule. The inspection for disbonding specified in Boeing Service Bulletin 737–53–1179, Revision 2, dated October 25, 2001, will verify the integrity of the doublers, and therefore, the repetitive eddy current inspections will no longer be required. The service bulletin is the source of service information for paragraphs (b) and (c) of

AD 2003–14–06, amendment 39–13225. That AD requires repetitive inspections for cracking of certain lap splices, and corrective action if necessary. We have added paragraph (g) to the final rule as follows: ''Accomplishment of paragraph (b) or (c), as applicable, of AD 2003–14–06, amendment 39–13225, terminates the repetitive eddy current inspections required by paragraph (a) of this AD; however the repetitive detailed inspections required by paragraph (a) of this AD are still required.''

Request To Exclude Appendix A From Service Bulletin References

Two commenters request that the phrase ''including Appendix A'' in paragraphs (a) through (e) of the proposed rule either be removed or changed to ''excluding Appendix A.'' One commenter notes that Appendix A of the service bulletin is an optional cost benefit analysis worksheet that is included in the service bulletin for the benefit of the operators if they elect to use it and that it has no effect on the repair, modification, or compliance instructions of the referenced service bulletin. The other commenter questions why Appendix A is mandatory and what operators should do with it if it is not excluded from the proposed rule.

We agree that Appendix A should be excluded from the service bulletin references for the reasons stated by the first commenter. We removed the wording ''including Appendix A'' from paragraphs (a) through (d) of the final rule and paragraph (f) of the final rule (specified as paragraph (e) of the proposed rule). We also removed the wording ''excluding Evaluation Form.''

Explanation of Editorial Changes

We have revised certain wording regarding the compliance times of the repetitive inspection requirements specified in paragraphs (a), (b), and (f)(1) (specified as paragraph (e)(1) of the proposed rule) of the final rule. Instead of specifying that the repetitive inspections be repeated ''at least every,'' as stated in paragraphs (a), (b), and (e)(1) of the proposed rule, this final rule specifies that the inspections be repeated ''at intervals not to exceed.''

Clarification of Type of Inspection

We have clarified one of the inspection requirements contained in the proposed rule. Whereas paragraph (f)(1) of the proposed rule specifies a general visual inspection, we have revised paragraph (f)(1) of the final rule to clarify that our intent is to require a detailed inspection, as specified in the service bulletin.

Conclusion

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

Changes to 14 CFR Part 39/Effect on the AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the NPRM regarding that material.

Change to Labor Rate Estimate

We have reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

Interim Action

This is considered to be interim action for Group 7 airplanes. Although the service bulletin described previously does not include the inspection of the crown area (upper lobe) for Group 7 airplanes, as specified in paragraph (a) of this final rule, the manufacturer has advised that it currently is developing a new service bulletin to address those airplanes. Once the FAA has reviewed and approved the service bulletin, we may consider additional rulemaking to mandate those inspections.

Cost Impact

There are approximately 2,200 airplanes of the affected design in the worldwide fleet. The FAA estimates that 903 airplanes of U.S. registry will be affected by this proposed AD.

It will take approximately 94 work hours per airplane to accomplish the inspections of the crown area, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of these inspections on U.S. operators is estimated to be $5,517,330, or $6,110 per airplane, per inspection cycle.

It will take approximately 96 work hours per airplane to accomplish the inspections of the lower lobe area, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of these inspections on U.S. operators is estimated to be $5,634,720, or $6,240 per airplane, per inspection cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Should an operator elect to install the preventive modification, it will take approximately 108 work hours to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the preventive modification is estimated to be $7,020 per airplane.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2004–18–06 Boeing: Amendment 39–13784. Docket 2001–NM–246–AD.

Applicability: Model 737–200, –200C, –300, –400, and –500 series airplanes, as listed in Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (j) 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 find and fix fatigue cracking of certain upper and lower skin panels of the fuselage, which could result in sudden fracture and failure of the skin panels and consequent rapid decompression of the airplane, accomplish the following:

External Detailed and Eddy Current Inspections

(a) For Groups 1 through 6 and Group 8 airplanes: Before the accumulation of 35,000 total flight cycles, or within 4,500 flight cycles after the effective date of this AD, whichever is later, do external detailed and eddy current inspections of the crown area and other known areas of fuselage skin cracking, per Part 1 and Figure 1 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001, except as provided by paragraph (i) of this AD. Repeat the external detailed and eddy current inspections at intervals not to exceed 4,500 flight cycles until paragraph (c), (d)(1)(ii), (e), (f), or (g) of this AD has been done, as applicable. Although paragraph 1.D. of the service bulletin references a reporting requirement, such reporting is not required by this AD.

Note 2: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, *etc.*, may be used. Surface cleaning and elaborate access procedures may be required.''

(b) For all airplanes: Before the accumulation of 40,000 total flight cycles, or within 4,500 flight cycles after the effective date of this AD, whichever is later, do an external detailed inspection of the lower lobe area and section 41 of the fuselage for cracking, per Part 2 and Figure 2 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001, except as provided by paragraph (i) of this AD. Repeat the inspection at intervals not to exceed 9,000 flight cycles until paragraph (d)(2) or (e) of this AD has been done, as applicable.

Preventive Modification

(c) For Groups 3, 5, 6, and 8 airplanes: If no cracking is found during any inspection required by paragraph (a) of this AD, doing the preventive modification of the chem-milled pockets in the upper skin as specified in Part 5 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001, ends the repetitive external detailed and eddy current inspections required by paragraph (a) of this AD for the modified area only.

Corrective Actions

(d) If any cracking is found during any inspection required by paragraph (a) or (b) of this AD, before further flight, do the actions specified in paragraphs (d)(1) and (d)(2) of this AD, as applicable, per the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001. Where the service bulletin specifies to contact Boeing for repair instructions, before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

(1) Except as provided by paragraph (e) of this AD, for cracking of the crown area, do the repair specified in either paragraph (d)(1)(i) or (d)(1)(ii) of this AD.

(i) Do a time-limited repair per Part 4 of the Work Instructions of the service bulletin, then do the actions required by paragraph (f) of this AD at the times specified in that paragraph.

(ii) Do a permanent repair per Part 3 of the Work Instructions of the service bulletin. Installation of a permanent repair ends the repetitive inspections required by paragraph (a) of this AD for the repaired area only. Installation of the lap joint repair specified in paragraph (g) of AD 2002–07–08, amendment 39–12702, is considered acceptable for compliance with the corresponding permanent repair specified in this paragraph for the repaired areas only.

(2) Except as provided by paragraph (e) of this AD, for cracking of the lower lobe area and Section 41, repair per Part 2 of the Work Instructions of the service bulletin. Accomplishment of this repair ends the repetitive inspections required by paragraph (b) of this AD for the repaired area only.

Optional Repair Method

(e) For cracking in any area specified in paragraphs (d)(1) and (d)(2) of this AD within the limitations of Chapter 53, Subject 53–30–3, Figure 48 (for Model 737–100 and –200 series airplanes), of the Boeing 737–100 and –200 Structural Repair Manual (SRM); Chapter 53, Subject 53–00–01, Figure 229 (for Model 737–300 airplanes), of the Boeing 737–300 SRM; Chapter 53, Subject 53–00–01, Figure 231 (for Model 737–400 series airplanes), of the Boeing 737–400 SRM; and Chapter 53, Subject 53–00–01, Figure 229 (for Model 737–500 series airplanes), of the Boeing 737–500 SRM; repair cracks per the applicable SRM. Accomplishment of the applicable repair terminates the repetitive inspections required by paragraphs (a) and (b) of this AD for the repaired area only.

Follow-on and Corrective Actions

(f) If a time-limited repair is done, as specified in paragraph (d)(1)(i) of this AD: Do the actions specified in paragraphs (f)(1), (f)(2), and (f)(3) of this AD, at the times specified in paragraphs (f)(1), (f)(2), and (f)(3) of this AD, per the Work Instructions of Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001.

(1) Within 3,000 flight cycles after doing the repair: Do a detailed inspection of the repaired area for loose fasteners per Part 4 of the Work Instructions of the service bulletin. If any loose fastener is found, before further flight, replace with a new fastener per the service bulletin. Then repeat the inspection at intervals not to exceed 3,000 flight cycles until permanent rivets are installed in the repaired area, which ends the repetitive inspections for this paragraph.

(2) Within 4,000 flight cycles after doing the repair: Do inspections of the repaired area for cracking per Part 4 of the Work Instructions of the service bulletin. If any cracking is found, before further flight, repair per a method approved by the Manager, Seattle ACO, or per data meeting the type certification basis of the airplane approved by a Boeing Company DER who has been authorized by the FAA to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the approval letter must specifically reference this AD.

(3) Within 10,000 flight cycles after doing the repair: Make the repair permanent per Part 4 and Figure 20 of the Work Instructions of the service bulletin, which ends the repetitive inspections for the repaired area only.

Optional Terminating Action for Repetitive Eddy Current Inspections

(g) Accomplishment of paragraph (b) or (c), as applicable, of AD 2003–14–06, amendment 39–13225, ends the repetitive eddy current inspections required by paragraph (a) of this AD for that skin panel only; however the repetitive external detailed inspections required by paragraph (a) of this AD are still required for all areas.

Credit for Actions Done Per Previous Service Bulletin

(h) Inspections, repairs, and preventive modifications done before the effective date of this AD per Boeing Alert Service Bulletin 737–53A1210, dated December 14, 2000, are acceptable for compliance with the corresponding actions required by this AD.

Exception to Service Bulletin Procedures

(i) For airplanes subject to the requirements of paragraphs (a) and (b) of this AD: Inspections are not required in areas that are spanned by an FAA-approved repair that has a minimum of 3 rows of fasteners above and below the chem-milled step. If an external doubler covers the chem-milled step, but does not span it by a minimum of 3 rows of fasteners above and below, in lieu of requesting approval for an alternative method of compliance (AMOC), one method of compliance with the inspection requirement of paragraphs (a) and (b) of this AD is to inspect all chemical-milled steps covered by the repair using internal nondestructive test (NDT) methods in accordance with Boeing 737 Non-Destructive Test NDT Manual, Part 6, Subject 53–30–20.

Alternative Methods of Compliance

(j)(1) An alternative method of compliance (AMOC) or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) AMOCs, approved previously in accordance with AD 2003–14–06, amendment 39–13225, for paragraphs (b) and (c) of AD 2003–14–06, are approved as AMOCs with paragraphs (a) and (g) of this AD for the applicable terminating action for the repetitive eddy current inspections only.

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

Special Flight Permit

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

Incorporation by Reference

(l) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 737–53A1210, Revision 1, dated October 25, 2001, excluding Appendix A. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Effective Date

(m) This amendment becomes effective on October 13, 2004.

Issued in Renton, Washington, on August 26, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–20120 Filed 9–7–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–131–AD; Amendment 39–13786; AD 2004–18–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727, 727C, 727–100, –100C, and –200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 727, 727C, 727–100, –100C, and –200 series airplanes. This amendment requires an inspection of the forward trunnion attach fittings of the main landing gear (MLG), inspections of the attach fitting holes of the forward trunnion attach fittings if necessary, replacement of the forward trunnion attach fittings if necessary, and corrective actions if necessary. This action is necessary to detect and correct cracks and corrosion on the attach fitting holes of the forward trunnion attach fittings of the MLG, which could result in the collapse of the MLG. This action is intended to address the identified unsafe condition.

DATES: Effective October 13, 2004.

The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of October 13, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Daniel F. Kutz, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6456; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 727, 727C, 727–100, –100C, and –200 series airplanes was published in the **Federal Register** on June 16, 2004 (69 FR 33587). That action proposed to require an inspection of the forward trunnion attach fittings of the main landing gear, inspections of the attach fitting holes of the forward trunnion attach fittings if necessary, replacement of the forward trunnion attach fittings if necessary, and corrective actions if necessary.

Comments

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

The commenter supports the proposed rule.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 523 airplanes of the affected design in the worldwide fleet. The FAA estimates that 309 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is $65 per work hour. Based on these figures, the

cost impact of the AD on U.S. operators is estimated to be $20,085, or $65 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2004–18–08 Boeing: Amendment 39–13786. Docket 2003–NM–131–AD.

Applicability: Model 727, 727C, 727–100, –100C, and –200 series airplanes, line numbers 1 through 887 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracks and corrosion on the attach fitting holes of the forward trunnion attach fittings of the main landing gear (MLG), which could result in the collapse of the MLG, accomplish the following:

Service Bulletin References

(a) The term ''service bulletin,'' as used in this AD, means Boeing Alert Service Bulletin 727–57A0132, Revision 3, dated March 20, 2003.

Initial Inspection

(b) Perform an inspection of the forward trunnion attach fittings of the MLG to determine the part number (P/N) of the attach fitting, in accordance with ''Part 1'' of the Accomplishment Instructions of the service bulletin, at the latest of the times specified in paragraphs (b)(1), (b)(2), and (b)(3) of this AD:

(1) Prior to airplanes reaching 240 months old since the date of issuance of the original Airworthiness Certificate or the date of issuance of the original Export Certificate of Airworthiness; or

(2) Within 18 months after the effective date of this AD; or

(3) Within 120 months after the last inspection/rework/repair of the attach fitting per Boeing Service Bulletin 727–57A0132, dated June 28, 1974, Revision 1, dated October 31, 1975, or Revision 2, dated April 24, 1981; or Boeing Alert Service Bulletin 727–57A0132, Revision 3, dated March 20, 2003.

Corrective Actions

(c) If, during the inspection required by paragraph (b) of this AD, both attach fittings are found to have P/N 65–19296–9, –10, –13, or –14; P/N 65–99909–1724 or –1727; P/N 65–19296U13 or P/N 65–19296U14 (attach fitting made of 7075–T73511 or 7050–T7451 aluminum); no further action is required by this paragraph.

(d) If, during the inspection required by paragraph (b) of this AD, any attach fitting is found to have P/N 65–19296–1 through –8 inclusive (attach fitting made of 7079–T6 aluminum): Before further flight, perform the actions in paragraphs (d)(1) and (d)(2) of this AD, as applicable.

(1) Do detailed and high frequency eddy current inspections of the attach fitting holes for cracks and corrosion, repair any crack or corrosion found, and rework the attach fitting holes, in accordance with Figures 4 and 5 of the service bulletin, except as provided by paragraph (d)(2) of this AD.

(2) If the attach fitting hole cannot be reworked or repaired in accordance with Figures 4 and 5 of the service bulletin: Before further flight, replace the attach fitting with a new attach fitting that has P/N 65–19296–9, –10, –13, or –14, P/N 65–99909–1724 or –1727, P/N 65–19296U13, or P/N 65–19296U14, in accordance with paragraph 7 of ''Part II'' of the Accomplishment Instructions of the service bulletin. Accomplishment of this replacement is terminating action for that fitting.

Terminating Action

(e) Within 120 months after the effective date of this AD, replace attach fittings that have P/N 65–19296–1 through –8 (attach fittings made of 7079–T6 aluminum) with new attach fittings that have P/N 65–19296–9, –10, –13, or –14, P/N 65–99909–1724 or –1727, P/N 65–19296U13, or P/N 65–19296U14 (attach fittings made of 7075–T73511 or 7050–T7451 aluminum), in accordance with paragraph 7 of ''Part II'' of the Accomplishment Instructions of the service bulletin. Replacement of all attach fittings made of 7079–T6 aluminum with new attach fittings made of 7075–T73511 or 7050–T7451 aluminum terminates the requirements of paragraph (d) of this AD.

Parts Installation

(f) As of the effective date of this AD, no person shall install, on any airplane, an attach fitting, P/N 65–19296–1, –2, –3, –4, –5, –6, –7, or –8 (attach fitting made of 7079–T6 aluminum), unless it has been inspected/reworked/repaired in accordance with paragraph (d) of this AD.

Alternative Methods of Compliance

(g)(1) In accordance with 14 CFR 39.19, the Manager, Seattle Aircraft Certification Office, FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

(2) An AMOC that provides an acceptable level of safety may be used for any rework/repair required by this AD, if it is approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Seattle ACO, to make such findings. For a rework/repair method to be approved, the approval must specifically reference this AD.

Incorporation by Reference

(h) The actions shall be done in accordance with Boeing Alert Service Bulletin 727–57A0132, Revision 3, dated March 20, 2003. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Effective Date

(i) This amendment becomes effective on October 13, 2004.

Issued in Renton, Washington, on August 26, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–20205 Filed 9–7–04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–338–AD; Amendment 39–13788; AD 2004–18–10]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes, that requires inspection of the fitting assemblies located on the vent and scavenge lines routed immediately below the fuel tank access covers on both wings for proper installation, and corrective actions if necessary. This amendment also requires inspection of the stiffeners on the underside of fuel tank access covers on both wings for signs of chafing damage caused by incorrect orientation of the lockwire tail, and removal of damage. This action is necessary to prevent contact between the lockwire pigtail of the fitting and the stiffener located on the inside surface of the fuel access covers of the wings, which could serve as a potential ignition source within the fuel tank if a cover is struck by lightning and result in possible fuel tank explosion. This action is intended to address the identified unsafe condition.

DATES: Effective October 13, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 13, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Mazdak Hobbi, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; (516) 228–7330; fax (516) 256–5531.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes was published in the **Federal Register** on December 31, 2003 (68 FR 75471). That action proposed to require inspection of the fitting assemblies located on the vent and scavenge lines routed immediately below the fuel tank access covers on both wings for proper installation, and corrective actions if necessary. That action also proposed to require inspection of the stiffeners on the underside of fuel tank access covers on both wings for signs of chafing damage caused by incorrect orientation of the lockwire tail, and removal of damage.

Comments

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

Request to Reference Original Issue of Service Bulletin

One commenter requests that the notice of proposed rulemaking (NPRM) be revised to reference Bombardier Alert Service Bulletin A8–28–33, dated June 3, 2002. The commenter notes that the NPRM refers to Bombardier Alert Service Bulletin A8–28–33, Revision ''A,'' dated October 10, 2002, as the appropriate source of service information for the proposed actions. The commenter states that Revision ''A'' only removed the eddy current and fluorescent dye penetrant inspections, and that the original service bulletin accomplishes the same intent as Revision ''A.'' The commenter concludes that including the original service bulletin in the NPRM will eliminate the need to request alternative methods of compliance with the NPRM.

We agree with the commenter that accomplishment of the actions before the effective date of this AD in accordance with Bombardier Alert Service Bulletin A8–28–33, dated June 3, 2002, is acceptable for compliance with the corresponding requirements of this AD. In addition, Canadian airworthiness directive CF–2002–44, dated October 22, 2002, references the original service bulletin as the appropriate source of service information for accomplishing the required actions. Therefore, we have added a new paragraph (f) in the final rule to clarify this point and renumbered subsequent paragraphs.

Request to Extend Compliance Time

One commenter requests that the compliance time for the proposed inspection be extended from 12 months to 36 months. This would allow most airplanes to be inspected during scheduled maintenance. The commenter states that the proposed inspections require tank entry, and that its normal tank entry interval is 11,500 flight hours or approximately every 4 years. The commenter considers that the adoption of the proposed compliance time of 12 months would require operators to schedule special times for the accomplishment of the inspections, at additional expense.

We do not agree with the commenter's request to extend the compliance time. In developing an appropriate compliance time for this action, we considered the safety implications, parts availability, and normal maintenance schedules for timely accomplishment of the inspections. In addition, the 12-month compliance time coincides with Canadian airworthiness directive CF–2002–44. In consideration of these items, we have determined that 12 months represents an appropriate interval of time allowable wherein the inspections can be accomplished during scheduled maintenance intervals for the majority of affected operators, and wherein an acceptable level of safety can be maintained. However, under the provisions of paragraph (h) of the final rule, we may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

Request To Allow Designated Engineering Representatives (DER) To Approve Repairs

One commenter requests that paragraph (e) of the NPRM be revised to allow FAA DERs to approve repairs for damage in excess of the given limits. The commenter states that rework of chafing is a relatively minor structural repair, and the repair has no impact on the arcing condition for which the NPRM is being issued.

We do not agree. Authority for this type of approval is normally retained by the responsible Aircraft Certification Office (ACO). We do not anticipate so many requests for this type of approval that delegation would be necessary to provide timely responses. Also, paragraph (e) of the final rule provides two additional sources of repair approval (*i.e.*, the TCCA or its delegated agent).

Conclusion

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

Cost Impact

The FAA estimates that 172 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspections, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $11,180, or $65 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2004–18–10 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–13788. Docket 2002–NM–338–AD.

Applicability: Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes, serial numbers 003 through 586 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent contact between the lockwire pigtail of the fitting and the stiffener located on the inside surface of the fuel access covers of the wings, which could serve as a potential ignition source within the fuel tank if a cover is struck by lightning and result in possible fuel tank explosion, accomplish the following:

Inspection of Fitting Assemblies and Lockwire

(a) Within 12 months after the effective date of this AD, do a general visual inspection to verify proper installation of the fitting assemblies and the lockwire located on the vent and scavenge lines routed immediately below the fuel tank access covers on both wings by accomplishing all the actions specified in Part A of the Accomplishment Instructions of Bombardier Alert Service Bulletin A8–28–33, Revision ''A,'' dated October 10, 2002. Do the actions per the service bulletin.

Note 1: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Corrective Actions for Any Improperly Installed Fitting Assembly or Lockwire

(b) If any fitting assembly is found to be improperly installed during the general visual inspection required by paragraph (a) of this AD, before further flight, do the actions specified in paragraphs (b)(1) and (b)(2) of this AD per Part A of the Accomplishment Instructions of Bombardier Alert Service Bulletin A8–28–33, Revision ''A,'' dated October 10, 2002.

(1) Change the orientation of the fitting assembly.

(2) Perform a general visual inspection of the O-ring for damage, and replace any damaged O-ring with a new O-ring.

(c) If any lockwire is found to be improperly installed during the general visual inspection required by paragraph (a) of this AD, before further flight, replace the lockwire with a new lockwire, per Part A of the Accomplishment Instructions of Bombardier Alert Service Bulletin A8–28–33, Revision ''A,'' dated October 10, 2002.

Inspection of the Stiffeners

(d) Within 12 months after the effective date of this AD, do a general visual inspection of the stiffeners on the underside of fuel tank access covers on both wings for signs of chafing damage caused by incorrect orientation of the lockwire tail, per Part B of the Accomplishment Instructions of Bombardier Alert Service Bulletin A8–28–33, Revision ''A,'' dated October 10, 2002.

Corrective Action for Chafing Damage

(e) If any chafing damage is found during the general visual inspection required by paragraph (d) of this AD, before further flight, remove the damage per Part B of the Accomplishment Instructions of Bombardier Alert Service Bulletin A8–28–33, Revision ''A,'' dated October 10, 2002, except where the service bulletin recommends contacting Bombardier for damage in excess of the given limits, before further flight, repair per a method approved by either the Manager, New York Aircraft Certification Office (ACO), FAA; or the Transport Canada Civil Aviation (TCCA) (or its delegated agent).

Credit for Original Service Bulletin

(f) Accomplishment of the applicable actions specified in this AD before the effective date of this AD per Bombardier Alert Service Bulletin A8–28–33, dated June 3, 2002, is acceptable for compliance with the corresponding requirements of this AD.

Exception to Service Bulletin Reporting

(g) Although the service bulletin referenced in this AD specifies to report inspection findings to the airplane manufacturer, this AD does not include that requirement.

Alternative Methods of Compliance

(h) In accordance with 14 CFR 39.19, the Manager, New York ACO, FAA, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(i) Unless otherwise specified in this AD, the actions shall be done in accordance with Bombardier Alert Service Bulletin A8–28–33, Revision ''A,'' dated October 10, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

Note 2: The subject of this AD is addressed in Canadian airworthiness directive CF–2002–44, dated October 22, 2002.

Effective Date

(j) This amendment becomes effective on October 13, 2004.

Issued in Renton, Washington, on August 26, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–20207 Filed 9–7–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD13–04–031]

RIN 1625–AA00

Security and Safety Zone: Protection of Large Passenger Vessels, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Final rule; notice of enforcement.

SUMMARY: The Captain of the Port Portland, OR will begin, on August 11, 2004, enforcing the Large Passenger Vessel Security and Safety Zones that were published in the **Federal Register** on September 12, 2003. The zones provide for the security and safety of large passenger vessels in the navigable waters of Portland, OR and adjacent waters. These security and safety zones will be enforced until further notice.

DATES: 33 CFR 165.1318 will be enforced commencing August 11, 2004.

FOR FURTHER INFORMATION CONTACT: LTjg B. Audirsch, c/o Captain of the Port Portland, OR 6767 North Basin Avenue Portland, OR 97217 at (503) 240–9301 to obtain information concerning enforcement of this rule.

SUPPLEMENTARY INFORMATION: On September 12, 2003, the Coast Guard published a final rule (68 FR 53677) establishing regulations in 33 CFR 165.1318 for the security and safety of large passenger vessels in the navigable waters of Portland, OR and adjacent waters, of Oregon and Washington. These security and safety zones provide for the regulation of vessel traffic in the vicinity of certain large passenger vessels (as defined by the final rule) and exclude persons and vessels from the immediate vicinity of these large passenger vessels. Entry into these zones is prohibited unless otherwise exempted or excluded under the final rule or unless authorized by the Captain of the Port or his designee. The Captain of the Port Portland will begin enforcing the Large Passenger Vessel Safety and Security Zones established in 33 CFR 165.1318 on August 11, 2004. The Captain of the Port may be assisted by other Federal, State, or local agencies in enforcing this security zone.

Dated: August 11, 2004.

Paul D. Jewell,

Captain, U.S. Coast Guard, Captain of the Port, Portland, OR.

[FR Doc. 04–20328 Filed 9–7–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

33 CFR Part 277

Water Resources Policies and Authorities: Navigation Policy: Cost Apportionment of Bridge Alterations; Correction

AGENCY: Army Corps of Engineers, DoD.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the rule published May 30, 1979 on cost apportionment of bridge alterations. This correcting amendment deletes references to Corps of Engineers and U.S. Coast Guard guidance that no longer exists or has been superseded, provides correct references to current Corps and Coast Guard guidance, and makes it clearer that the Corps of Engineers and the Coast Guard each has its own implementing procedures for cost apportionment of bridge alterations.

DATES: Effective June 30, 2004.

FOR FURTHER INFORMATION CONTACT: Harry Kitch, CECW–CP (202) 761–4127, Kirby Fowler CECW–PC/SAD (202) 761–1765, Headquarters, U.S. Army Corps of Engineers, Washington, DC.

SUPPLEMENTARY INFORMATION: 33 CFR part 277 contains the Corps of Engineers implementing guidance for apportioning costs of bridge alterations made as part of Civil Works projects accomplished under Corps of Engineers authorities. The primary purpose of this correcting amendment is to make it more clear within the text of 33 CFR part 277 that the Corps of Engineers and the U.S. Coast Guard maintain separate cost apportionment implementing procedures, and that each agency uses its own implementing procedures under its respective authorities.

In addition, since 33 CFR part 277 has not been revised since its publication in the **Federal Register** in 1979, some internal Corps guidance documents referenced in 33 CFR part 277 have changed, as has a referenced U.S. Coast Guard guidance document. These references are updated. A few Corps terms of self-reference are updated.

The change at § 277.6, Basic Policies, paragraph (a), is merely to remove a

parenthetical reference to an Engineering Regulation that no longer exists.

The change at § 277.7, Coordination with the U.S. Coast Guard, is to remove the parenthetical instruction to see the referenced Engineering Pamphlet for a copy of a Corps-Coast Guard Memorandum of Agreement. The Pamphlet has been revised and it no longer contains a copy of the agreement. Reference to the Pamphlet is retained as it continues to list the agreement as being in force.

List of Subjects in 33 CFR Part 277

Bridges, Navigation (water).

■ Accordingly, 33 CFR part 277 is corrected by making the following correcting amendments:

PART 277—WATER RESOURCES POLICIES AND AUTHORITIES: NAVIGATION POLICY: COST APPORTIONMENT OF BRIDGE ALTERATIONS

■ 1. The authority citation for part 277 continues to read as follows:

Authority: Sec. 2, River and Harbor Act of 1920, 41 Stat. 1009, June 5, 1920; 33 U.S.C. 547.

■ 2. Revise § 277.2 to read as follows:

§ 277.2 Applicability.

This regulation applies to all HQUSACE elements and all USACE Commands having Civil Works responsibilities. For bridges altered under U.S. Coast Guard authority pursuant to the Truman-Hobbs Act (33 U.S.C. 511–524), the U.S. Coast Guard regulations codified at 33 CFR part 116 apply.

■ 3. Revise paragraphs (c), (d), and (e) of § 277.3 to read as follows:

§ 277.3 References.

* * * * *

(c) Coast Guard reference: COMDT (G–OPT–3), Exemplification-Principles of Apportionment of Cost for Alteration of Obstructive Bridges under the Provisions of Act of Congress June 21, 1940 (as amended); File No. 16592.

(d) ER 1105–2–100.

(e) EP 1165–2–2 Appendix C.

■ 4. Revise paragraph (a) of § 277.6 to read as follows:

§ 277.6 Basic policies.

(a) The cost apportionment principles of 33 U.S.C. 516 are applicable to the costs of bridge alterations recommended by reporting officers in the interest of navigation during preauthorization planning, including studies conducted under the Continuing Authorities Program.

* * * * *

■ 5. Revise § 277.7 to read as follows:

§ 277.7 Coordination with the U.S. Coast Guard.

In accordance with an agreement signed by the Chief of Engineers on 18 April 1973 (EP 1165–2–2), reporting officers shall consult with the Coast Guard on contemplated and recommended navigation improvements which involve the consideration of bridge alterations. Determination of navigational requirements for horizontal and vertical clearances of bridges across navigable waters is a responsibility of the Coast Guard. The Chief of Engineers shall coordinate preauthorization feasibility reports, which include recommended bridge alterations, with the Commandant, U.S. Coast Guard.

Dated: August 27, 2004.

Don T. Riley,

Brigadier General, U.S. Army, Director of Civil Works.

[FR Doc. 04–20346 Filed 9–7–04; 8:45 am]

BILLING CODE 3710–92–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA160–5083; FRL–7808–8]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Notice of administrative change.

SUMMARY: EPA is updating the materials submitted by The Commonwealth of Virginia that are incorporated by reference (IBR) into the State implementation plan (SIP). The regulations affected by this update have been previously submitted by the State agency, the Virginia Department of Environmental Quality, and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the Regional Office.

EFFECTIVE DATE: This action is effective September 8, 2004.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 814–2108 or by e-mail at *frankford.harold@epa.gov.*

SUPPLEMENTARY INFORMATION: The SIP is a living document which the State can revise as necessary to address the unique air pollution problems. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between EPA and the Office of the Federal Register (OFR). The description of the revised SIP document, IBR procedures and ''Identification of plan'' format are discussed in further detail in the May 22, 1997 **Federal Register** document. On April 21, 2000 (65 FR 21315), EPA published a **Federal Register** beginning the new IBR procedure for Virginia. In this document EPA is doing the following:

1. Announcing the first update to the IBR'd material.

2. Correcting typographical errors in the text of 40 CFR 52.2420(a).

3. Making corrections to the charts listed in paragraphs 52.2420(c), as described below:

a. General change to **Federal Register** citation in the ''EPA Approval Date'' column. For entries in the ''EPA Approval Date'' column where the EPA approval date is listed as ''4/21/00,'' the **Federal Register** citation is revised from ''60 FR 21320'' to ''60 FR 21315.''

b. Chapter 20—Headings are added to indicate that this chapter is divided into two parts: Part I (Administrative) and Part II (Air Quality Programs).

c. Chapter 20, entries 5–20–220 and 5–20–230—The text in the ''EPA approval date'' column is revised to read ''6/27/03, 68 FR 38191''.

d. Chapter 40, Part II—The titles for all Articles are revised.

e. Chapter 40, Article 13, entry 5–40–1750A—In the ''Explanation [Former SIP citation]'' column, the word ''Register'' is replaced with the word ''federally''.

f. Chapter 50, Part II—The titles for Articles 1 and 4 are revised.

g. Chapter 80, entry VR120–08–01C.1.a; 01C.4.b through d—The date in the ''State effective date'' column is revised to read ''7/31/81; the citation ''01C.1.a.'' is removed.

h. Chapter 80, Article 5, all entries—The **Federal Register** citation in the EPA approval date'' column is revised to read ''6/27/03, 68 FR 38191''; the text in the ''Explanation [Former SIP citation] column'' is removed.

i. Chapter 80, Article 9, entry 5–80–2030—In the ''EPA approval date'' column, the **Federal Register** publication date and page citation are added.

j. Chapter 140—The chapter and ''Part I'' titles are revised.

k. Chapter 140, all entries—In the ''EPA approval date'' column, the **Federal Register** page citation is revised to read ''68 FR 40520''.

l. Chapter 140, entry 5–140–620—The date in the ''state effective date column is revised to read ''7/17/02''.

m. Chapter 160—The Chapter title is revised.

n. Chapter 160, Part I, entry 5–160–10—The text in the ''Explanation [Former SIP citation]'' column is removed.

o. Chapter 200, entries 5–200–10, 5–200–20 and 5–200–30—The text in the ''Explanation [Former SIP citation]'' column is removed.

p. 2 VAC 5 Chapter 480, entry 5–480–20—The text in the ''Explanation [Former SIP citation]'' column is removed.

4. Revising the format and content of paragraph 52.2420(d) as follows:

a. Providing a **Federal Register** publication date, **Federal Register** page citation, and 40 CFR part 52 citation for each entry.

b. Revising the names for certain entries in the ''Source name'' column.

c. Adding additional permit identification numbers which appear in the text of the permit documents in the ''Permit/order or registration number'' column.

d. Revising the date in the ''State effective date'' column for the entry ''Potomac Electric Power Company (PEPCO)—Potomac River Generating Station''.

e. Revising the date format in the ''State effective date'' column.

f. Revising the following **Federal Register** page citations in the ''EPA approval date'' column—The page citation ''66 FR 15'' is revised to read ''66 FR 8'', and the page citation ''68 FR 14545'' is revised to read ''68 FR 14542''.

g. Adding language in the ''40 CFR part 52 citation'' column for certain entries.

EPA has determined that today's rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation, and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations.

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 99 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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).

C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Virginia SIP compilations had previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for these ''Identification of plan'' reorganization update actions for Virginia.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and record keeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 25, 2004.

Richard J. Kampf,

Acting Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart VV—Virginia

■ 2. Section 52.2420 is revised to read as follows:

§ 52.2420 Identification of plan.

(a) *Purpose and scope.* This section sets forth the applicable State implementation plan for Virginia under section 110 of the Clean Air Act, 42 U.S.C. 7410 and 40 CFR part 51 to meet national ambient air quality standards.

(b) Incorporation by reference.

(*1*) Material listed as incorporated by reference in paragraphs (c) and (d) was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates on or after September 1, 2004, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region III certifies that the rules/regulations provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of September 1, 2004.

(3) Copies of the materials incorporated by reference may be inspected at the EPA Region III Office at 1650 Arch Street, Philadelphia, PA 19103; the EPA, Air and Radiation Docket and Information Center, Air Docket (6102), 1301 Constitution Avenue NW., Room B108, Washington, DC 20460; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(c) *EPA-Approved regulations.*

EPA-APPROVED VIRGINIA REGULATIONS

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
Chapter 10	**General Definitions [Part I]**			
5–10–10	General	8/1/02	3/15/04, 69 FR 12074	Revised paragraphs A, B, C.
5–10–20	Terms Defined—Definitions of Administrator, Federally Enforceable, Implementation Plan, Potential to Emit, State Enforceable, Volatile Organic Compound.	4/1/96	3/12/97, 62 FR 11334	§ 52.2465(c) (113)(i)(B)(1).
5–10–20	Terms Defined—Added Terms—Department, Virginia Register Act; Revised Terms—Administrative Process Act, Director (replaces Executive Director), Virginia Air Pollution Control Law.	4/17/95	4/21/00 65 FR 21315	
5–10–20	Terms Defined [all other SIP-approved terms not listed above].	4/17/95	4/21/00, 65 FR 21315	120–01–02.

EPA-APPROVED VIRGINIA REGULATIONS—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–10–20	Terms Defined—	1/1/98	1/7/03, 68 FR 663	Terms Added—Public hearing; Regulations for the Control and Abatement of Air Pollution, Regulation of the Board, These regulations. Terms Revised—Good Engineering Practice, Person, Volatile organic compound. Terms Deleted (moved to 9 VAC 5–170–20)—Administrative Process Act, Air quality maintenance area, Confidential information, Consent agreement, Consent order, Emergency special order, Order, Special order, Variance.
5–10–20	Terms Defined	8/1/02	3/15/04, 69 FR 12074	Terms Added: EPA, Initial emissions test, Initial performance test (as corrected 11/05/03 and effective 01/01/04 in the Commonwealth), Maintenance area. Terms Revised: Affected facility, Delayed compliance order, Excessive concentration, Federally enforceable, Malfunction, Public hearing, Reference method, Reid vapor pressure, Stationary source, True vapor pressure, Vapor pressure, Volatile organic compounds. Terms Removed: Air Quality Maintenance Area.
5–10–30	Abbreviations	7/1/97	4/21/00, 65 FR 21315	Appendix A.
Chapter 20	**General Provisions**			
Part I	**Administrative**			
5–20–10A.–C.	Applicability	4/17/95	4/21/00, 65 FR 21315	120–02–01.
5–20–70	Circumvention	4/17/95	4/21/00, 65 FR 21315	120–02–07.
5–20–80	Relationship of state regulations to federal regulations.	4/17/95	4/21/00, 65 FR 21315	120–02–08.
5–20–121	Air Quality Program Policies and Procedures.	7/1/97	4/21/00, 65 FR 21315	Appendix S.
Part II	**Air Quality Programs**			
5–20–160	Registration	4/17/95	4/21/00, 65 FR 21315	120–02–31.
5–20–170	Control Programs	4/17/95	4/21/00, 65 FR 21315	120–02–32.
5–20–180	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–02–34.
5–20–200	Air Quality Control Regions (AQCR).	7/1/97	4/21/00, 65 FR 21315	Appendix B.
5–20–202	Metropolitan Statistical Areas	7/1/97	4/21/00, 65 FR 21315	Appendix G.
5–20–203	Air Quality Maintenance Areas (AQMA).	7/1/97	4/21/00, 65 FR 21315	Appendix H.
5–20–204	Nonattainment Areas	7/1/97	4/21/00, 65 FR 21315	Appendix K.
5–20–205	Prevention of Significant Deterioration Areas.	1/1/97	3/23/98, 63 FR 13795	Former Appendix L—Effective 2/1/92.
5–20–206	Volatile Organic Compound and Nitrogen Oxides Emissions Control Areas.	7/1/97	4/21/00, 65 FR 21315	Appendix P.
5–20–220	Shutdown of a stationary source.	4/1/98	6/27/03, 68 FR 38191	
5–20–230	Certification of Documents	4/1/98	6/27/03, 68 FR 38191	

EPA-APPROVED VIRGINIA REGULATIONS—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
VR120, Part II	**General Provisions**			
VR120–02–02	Establishment of Regulations and Orders.	2/1/85	2/25/93, 58 FR 11373	EPA has informed VA that except for the Appeals rule, these provisions no longer need to be part of the SIP. VA has withdrawn 2/93 and 2/98 revisions to the Appeals rule from SIP review. Last substantive SIP change became State-effective on 8/6/79 [§ 52.2465(c)(55)].
VR120–02–04	Hearings and Proceedings	2/1/85	2/25/93, 58 FR 11373	
VR120–02–05A	Variances—General	2/1/85	2/25/93, 58 FR 11373	
VR 2.05(b)	Variances—Fuel Emergency	8/14/75	10/8/80, 45 FR 66792	
VR120–02–09	Appeals	2/1/85	2/25/93, 58 FR 11373	
VR120–02–12	Procedural information and guidance.	2/1/85	2/25/93, 58 FR 11373	
Appendix E	Public Participation Guidelines	2/1/85	2/25/93, 58 FR 11373	
Appendix F	Delegation of Authority	2/1/85	2/25/93, 58 FR 11373	
Chapter 30	**Ambient Air Quality Standards—[Part III]**			
5–30–10	General	4/17/95	4/21/00, 65 FR 21315	120–03–01.
5–30–30	Sulfur Oxides (Sulfur Dioxide)	4/17/95	4/21/00, 65 FR 21315	120–03–03.
5–30–40	Carbon Monoxide	4/17/95	4/21/00, 65 FR 21315	120–03–04.
5–30–50	Ozone	4/17/95	4/21/00, 65 FR 21315	120–03–05.
5–30–60	Particulate Matter (PM_{10})	4/17/95	4/21/00, 65 FR 21315	120–03–06.
5–30–70	Nitrogen Dioxide	4/17/95	4/21/00, 65 FR 21315	120–03–07.
5–30–80	Lead	4/17/95	4/21/00 65 FR 21315	120–03–08.
Chapter 40	**Existing Stationary Sources—[Part IV]**			
Part I	**Special Provisions**			
5–40–10	Applicability	8/1/02	3/15/04, 69 FR 12074	Revised paragraphs A, B, and C; added paragraph D.
5–40–20 (except paragraph A.4.).	Compliance	8/1/02	3/15/04, 69 FR 12074	Added new paragraph A.2 and revised renumbered paragraph A.3; added new paragraph G, revised paragraphs H, H.1, H.1.b through e; revised paragraphs I, I.2, I.3 and I.4; added new paragraph J. Note: New paragraph A.4. is not included in the SIP revision.
5–40–21	Compliance Schedules	7/1/97	4/21/00, 65 FR 21315	Appendix N.
5–40–22	Interpretation of Emissions Standards Based on Process Weight-Rate Tables.	7/1/97	4/21/00, 65 FR 21315	Appendix Q.
5–40–30	Emission Testing	8/1/02	3/15/04, 69 FR 12074	Revised Paragraphs A and F.1; Note: Revisions to paragraph C are not included in SIP revision.
5–40–40	Monitoring	8/1/02	3/15/04, 69 FR 12074	Revised paragraph B, and E.1; added paragraph E.12.
5–40–41	Emission Monitoring Procedures for Existing Sources.	7/1/97	4/21/00, 65 FR 21315	Appendix J.
5–40–50	Notification, Records and Reporting.	8/1/02	3/15/04, 69 FR 12074	Added new paragraph A.3; revised paragraphs C, C.1, C.2 and C.3., D, E and F.
Part II	**Emission Standards**			
Article 1	**Visible Emissions and Fugitive Dust/Emissions (Rule 4–1)**			
5–40–60	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–0101.

EPA-APPROVED VIRGINIA REGULATIONS—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–70	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–0102.
5–40–80	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0103.
5–40–90	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–0104.
5–40–100	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–0105.
5–40–110	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–0106.
5–40–120	Waivers	4/17/95	4/21/00, 65 FR 21315	120–04–0107.
Article 4	**Emission Standards for General Process Operations (Rule 4–4)**			
5–40–240	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–0401.
5–40–250	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–0402.
5–40–260	Standard for Particulate Matter (AQCR 1–6).	4/17/95	4/21/00, 65 FR 21315	120–04–0403.
5–40–270	Standard for Particulate Matter (AQCR 7).	4/17/95	4/21/00, 65 FR 21315	120–04–0404.
5–40–280	Standard for Sulfur Dioxide	4/17/95	4/21/00, 65 FR 21315	120–04–0405.
5–40–300	Standard for Volatile Organic Compounds.	4/1/96	3/12/97, 62 FR 11332.	
5–40–310A.–E.	Standard for Nitrogen Oxides	1/1/93	4/28/99, 64 FR 22792	120–04–0408.
5–40–311	Reasonably available control technology guidelines for stationary sources of nitrogen dioxide.	7/1/97	4/28/99, 64 FR 22792	52.2420(c)(132) Exceptions: 311C.3.a, C.3.c, D.
5–40–320	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0409.
5–40–330	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00 65 FR 21315	120–04–0410.
5–40–360	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–0413.
5–40–370	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–0414.
5–40–380	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–0415.
5–40–390	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–0416.
5–40–400	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–0417.
5–40–410	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–0418.
5–40–420	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–0419.
Article 5	**Emission Standards for Synthesized Pharmaceutical Products Manufacturing Operations (Rule 4–5)**			
5–40–430	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–0501.
5–40–440	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–0502.
4–40–450	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–0503.
5–40–460	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–0504.
5–40–470	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0505.
5–40–480	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–0506.
5–40–510	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–0509.
5–40–520	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–0510.
5–40–530	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–0511.
5–40–540	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–0512.
5–40–550	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–0513.
5–40–560	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–0514 .
5–40–570	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–0515.
Article 6	**Emission Standards for Rubber Tire Manufacturing Operations (Rule 4–6)**			
5–40–580	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–0601.
5–40–590	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–0602.
5–40–600	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–0603.
5–40–610	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–0604.
5–40–620	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0605.
5–40–630	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–0606.
5–40–660	Compliance	4/17/95	4/21/00 65 FR 21315	120–04–0609.

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–670	Test Methods and Procedures	4/17/95	4/21/00 65 FR 21315	120–04–0610.
5–40–680	Monitoring	4/17/95	4/21/00 65 FR 21315	120–04–0611.
5–40–690	Notification, Records and Reporting.	4/17/95	4/21/00 65 FR 21315	120–04–0612.
5–40–700	Registration	4/17/95	4/21/00 65 FR 21315	120–04–0613.
5–40–710	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00 65 FR 21315	120–04–0614.
5–40–720	Permits	4/17/95	4/21/00 65 FR 21315	120–04–0615.
Article 7	**Emission Standards for Incinerators (Rule 4–7)**			
5–40–730	Applicability and Designation of Affected Facility.	4/17/95	4/21/00 65 FR 21315	120–04–0701.
5–40–740	Definitions	4/17/95	4/21/00 65 FR 21315	120–04–0702.
5–40–750	Standard for Particulate Matter	4/17/95	4/21/00 65 FR 21315	120–04–0703.
5–40–760	Standard for Visible Emissions	4/17/95	4/21/00 65 FR 21315	120–04–0704.
5–40–770	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00 65 FR 21315	120–04–0705.
5–40–800	Prohibition of Flue-Fed Incinerators.	4/17/95	4/21/00 65 FR 21315	120–04–0708.
5–40–810	Compliance	4/17/95	4/21/00 65 FR 21315	120–04–0709.
5–40–820	Test Methods and Procedures	4/17/95	4/21/00 65 FR 21315	120–04–0710.
5–40–830	Monitoring	4/17/95	4/21/00 65 FR 21315	120–04–0711.
5–40–840	Notification, Records and Reporting.	4/17/95	4/21/00 65 FR 21315	120–04–0712.
5–40–850	Registration	4/17/95	4/21/00 65 FR 21315	120–04–0713.
5–40–860	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00 65 FR 21315	120–04–0714.
5–40–870	Permits	4/17/95	4/21/00 65 FR 21315	120–04–0715.
Article 8	**Emission Standards for Fuel Burning Equipment (Rule 4–8)**			
5–40–880	Applicability and Designation of Affected Facility.	4/1/99	5/31/01 66 FR 29495	
5–40–890	Definitions	4/1/99	5/31/01 66 FR 29495	
5–40–900	Standard for Particulate Matter	4/1/99	5/31/01 66 FR 29495	
5–40–910	Emission Allocation System	4/17/95	4/21/00 65 FR 21315	120–04–0804.
5–40–920	Determination of Collection Equipment Efficiency Factor.	4/17/95	4/21/00 65 FR 21315	120–04–0805.
5–40–930	Standard for Sulfur Dioxide	4/17/95	4/21/00 65 FR 21315	120–04–0806.
5–40–940	Standard for Visible Emissions	4/1/99	5/31/01 66 FR 29495	
5–40–950	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00 65 FR 21315	120–04–0808.
5–40–980	Compliance	4/17/95	4/21/00 65 FR 21315	120–04–0811.
5–40–990	Test Methods and Procedures	4/17/95	4/21/00 65 FR 21315	120–04–0812.
5–40–1000	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–0813.
5–40–1010	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–0814.
5–40–1020	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–0815.
5–40–1030	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–0816.
5–40–1040	Permits	4/1/99	5/31/01, 66 FR 29495	
Article 9	**Emission Standards for Coke Ovens (Rule 4–9)**			
5–40–1050	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR of 21315	120–04–0901.
5–40–1060	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–0902.
5–40–1070	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–0903.
5–40–1080	Standard for Sulfur Dioxide	4/17/95	4/21/00, 65 FR 21315	120–04–0904.
5–40–1090	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0905.
5–40–1100	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–0906.
5–40–1130	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–0909.
5–40–1140	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–0910.
5–40–1150	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–0911.
5–40–1160	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–0912.
5–40–1170	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–0913.
5–40–1180	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–0914.

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–1190	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–0915.
Article 10	**Emission Standards for Asphalt Concrete Plants (Rule 4–10)**			
5–40–1200	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1001.
5–40–1210	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1002.
5–40–1220	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1003.
5–40–1230	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1004.
5–40–1240	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–1005.
5–40–1270	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1008.
5–40–1280	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1009.
5–40–1290	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1010.
5–40–1300	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–1011.
5–40–1310	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1012.
5–40–1320	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1013.
5–40–1330	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1014.
Article 11	**Emission Standards for Petroleum Refinery Operations (Rule 4–11)**			
5–40–1340	Applicability and Designation of Affected Facility.	4/17/95	4/21/00 65 FR 21315	120–04–1101.
5–40–1350	Definitions	4/17/95	4/21/00 65 FR 21315	120–04–1102.
5–40–1360	Standard for Particulate Matter	4/17/95	4/21/00 65 FR 21315	120–04–1103.
5–40–1370	Standard for Sulfur Dioxide	4/17/95	4/21/00 65 FR 21315	120–04–1104.
5–40–1390	Standard for Volatile Organic Compounds.	4/17/95	4/21/00 65 FR 21315	120–04–1106.
5–40–1400	Control Technology Guidelines	4/17/95	4/21/00 65 FR 21315	120–04–1107.
5–40–1410	Standard for Visible Emissions	4/17/95	4/21/00 65 FR 21315	120–04–1108.
5–40–1420	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00 65 FR 21315	120–04–1109.
5–40–1450	Compliance	4/17/95	4/21/00 65 FR 21315	120–04–1112.
5–40–1460	Test Methods and Procedures	4/17/95	4/21/00 65 FR 21315	120–04–1113.
5–40–1470	Monitoring	4/17/95	4/21/00 65 FR 21315	120–04–1114.
5–40–1480	Notification, Records and Reporting.	4/17/95	4/21/00 65 FR 21315	120–04–1115.
5–40–1490	Registration	4/17/95	4/21/00 65 FR 21315	120–04–1116.
5–40–1500	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00 65 FR 21315	120–04–1117.
5–40–1510	Permits	4/17/95	4/21/00 65 FR 21315	120–04–1118.
Article 12	**Emission Standards for Chemical Fertilizer Manufacturing Operations (Rule 4–12)**			
5–40–1520	Applicability and Designation of Affected Facility.	4/17/95	4/21/00 65 FR 21315	120–04–1201.
5–40–1530	Definitions	4/17/95	4/21/00 65 FR 21315	120–04–1202.
5–40–1540	Standard for Particulate Matter	4/17/95	4/21/00 65 FR 21315	120–04–1203.
5–40–1550	Standard for Visible Emissions	4/17/95	4/21/00 65 FR 21315	120–04–1204.
5–40–1560	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00 65 FR 21315	120–04–1205.
5–40–1590	Compliance	4/17/95	4/21/00 65 FR 21315	120–04–1208.
5–40–1600	Test Methods and Procedures	4/17/95	4/21/00 65 FR 21315	120–04–1209.
5–40–1610	Monitoring	4/17/95	4/21/00 65 FR 21315	120–04–1210.
5–40–1620	Notification, Records and Reporting.	4/17/95	4/21/00 65 FR 21315	120–04–1211.
5–40–1630	Registration	4/17/95	4/21/00 65 FR 21315	120–04–1212.
5–40–1640	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00 65 FR 21315	120–04–1213.
5–40–1650	Permits	4/17/95	4/21/00 65 FR 21315	120–04–1214.
Article 13	**Emission Standards for Kraft Pulp Mills (Rule 4–13)**			
5–40–1660	Applicability and Designation of Affected Facility.	4/17/95	4/21/00 65 FR 21315	120–04–1301.
5–40–1670	Definitions of cross recovery furnace, kraft pulp mill, lime kiln, recovery furnace, smelt dissolving tank.	4/17/95	4/21/00, 65 FR 21315	120–04–1302 Remaining definitions are federally enforceable as part of the Section 111(d) plan for kraft pulp mills (*see,* § 62.11610).

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–1680	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1303.
5–40–1700	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–1305.
5–40–1710	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1306.
5–40–1720	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–1307.
5–40–1750A	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1310A. Note: Sections 5–40–1750B. through D. are federally enforceable as part of the Section 111(d) plan for kraft pulp mills (*see,* § 62.11610).
5–40–1760	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1311.
5–40–1770A	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1312A. Note: Sections 5–40–1770B. and C. are federally enforceable as part of the Section 111(d) plan for kraft pulp mills (*see,* § 62.11610).
5–40–1780A	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–1313A. Note: Sections 5–40–1780B. through D. are federally enforceable as part of the Section 111(d) plan for kraft pulp mills (*see,* § 62.11610).
5–40–1790	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1314.
5–40–1800	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1315.
5–40–1810	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1316.
Article 14	**Emission Standards for Sand and Gravel Processing Operations and Stone Quarrying and Processing Operations (Rule 4–14)**			
5–40–1820	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1401.
5–40–1830	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1402.
5–40–1840	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1403.
5–40–1850	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1404.
5–40–1860	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–1405.
5–40–1890	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1408.
5–40–1900	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1409.
5–40–1910	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1410.
5–40–1920	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–1411.
5–40–1930	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1412.
5–40–1940	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1413
5–40–1950	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1414.
Article 15	**Emission Standards for Coal Preparation Plants (Rule 5–15)**			
5–40–1960	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1501.
5–40–1970	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1502.
5–40–1980	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1503.
5–40–1990	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1504.
5–40–2000	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–1505.
5–40–2030	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1508.
5–40–2040	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1509.
5–40–2050	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1510.
5–40–2060	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–1511.
5–40–2070	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1512.
5–40–2080	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1513.
5–40–2090	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1514.

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
Article 16	**Emission Standards for Portland Cement Plants (Rule 4–16)**			
5–40–2100	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1601.
5–40–2110	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1602.
5–40–2120	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1603.
5–40–2130	Standard for Sulfur Dioxide	4/17/95	4/21/00, 65 FR 21315	120–04–1604.
5–40–2140	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1605.
5–40–2150	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–1606.
5–40–2180	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1609.
5–40–2190	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1610.
5–40–2200	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1611.
5–40–2210	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–1612.
5–40–2220	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1613.
5–40–2230	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1614.
5–40–2240	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1615.
Article 17	**Emission Standards for Woodworking Operations (Rule 4–17)**			
5–40–2250	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1701.
5–40–2260	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1702.
5–40–2270	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1703.
5–40–2280	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1704.
5–40–2290	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–1705.
5–40–2320	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1708.
5–40–2330	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1709.
5–40–2340	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1710.
5–40–2350	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–1711.
5–40–2360	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1712.
5–40–2370	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1713.
5–40–2380	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1714.
Article 18	**Emission Standards for Primary and Secondary Metal Operations (Rule 4–18)**			
5–40–2390	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1801.
5–40–2400	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1802.
5–40–2410	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1803.
5–40–2420	Standard for Sulfur Oxides	4/17/95	4/21/00, 65 FR 21315	120–04–1804.
5–40–2430	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1805.
5–40–2440	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–1806.
5–40–2470	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1809.
5–40–2480	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1810.
5–40–2490	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1811.
5–40–2500	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–1812.
5–40–2510	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1813.
5–40–2520	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1814.
5–40–2530	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1815.
Article 19	**Emission Standards for Lightweight Aggregate Process Operations (Rule 4–19)**			
5–40–2540	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1901.
5–40–2541	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1902.
5–40–2542	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1903.
5–40–2543	Standard for Sulfur Oxides	4/17/95	4/21/00, 65 FR 21315	120–04–1904.
5–40–2544	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1905.
5–40–2590	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–1906.
5–40–2620	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1909.
5–40–2630	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1910.
5–40–2640	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1911.

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–2650	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–1912.
5–40–2660	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1913.
5–40–2670	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1914.
5–40–2680	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1915.
Article 20	**Emission Standards for Feed Manufacturing Operations (Rule 4–20)**			
5–40–2690	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2001.
5–40–2700	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2002.
5–40–2710	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–2003.
5–40–2720	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2004.
5–40–2730	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–2005.
5–40–2760	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2008.
5–40–2770	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2009.
5–40–2780	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2010.
5–40–2790	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–2011.
5–40–2800	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2012.
5–40–2810	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2013.
5–40–2820	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2014.
Article 21	**Emission Standards for Sulfuric Acid Production Plants (Rule 4–21)**			
5–40–2830	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2101.
5–40–2840	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2102.
5–40–2850	Standard for Sulfur Dioxide	4/17/95	4/21/00, 65 FR 21315	120–04–2103.
5–40–2870	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2105.
5–40–2880	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–2106.
5–40–2910	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2109.
5–40–2920	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2110.
5–40–2930	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2111.
5–40–2940	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–2112.
5–40–2950	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2113.
5–40–2960	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2114.
5–40–2970	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2115
Article 22	**Emission Standards for Sulfur Recovery Operations (Rule 4–22)**			
5–40–2980	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2201.
5–40–2990	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2202.
5–40–3000	Standard for Sulfur Dioxide	4/17/95	4/21/00, 65 FR 21315	120–04–2204.
5–40–3010	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2204.
5–40–3020	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–2205.
5–40–3050	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2208
5–40–3060	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2209.
5–40–3070	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2210.
5–40–3080	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–2211.
5–40–3090	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2212.
5–40–3100	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2213.
5–40–3110	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2214.
Article 23	**Emission Standards for Nitric Acid Production Units (Rule 4–23)**			
5–40–3120	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2301.
5–40–3130	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2302.
5–40–3140	Standard for Nitrogen Oxides	4/17/95	4/21/00, 65 FR 21315	120–04–2303.
5–40–3150	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2304.

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5–40–3160	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–2305.
5–40–3190	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2308.
5–40–3200	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2309.
5–40–3210	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2310.
5–40–3220	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–2311.
5–40–3230	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2312.
5–40–3240	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2313.
5–40–3250	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2314.
Article 24	**Emission Standards for Solvent Metal Cleaning Operations Using Non-Halogenated Solvents (Rule 4–24)**			
5–40–3260	Applicability and Designation of Affected Family.	4/1/97	11/3/99, 64 FR 59635	
5–40–3270	Definitions	4/1/97	11/3/99, 64 FR 59635	
5–40–3280	Standard for Volatile Organic Compounds.	4/1/97	11/3/99, 64 FR 59635	
5–40–3290	Control Technology Guidelines	4/1/97	11/3/99, 64 FR 59635	
4–40–3300	Standard for Visible Emissions	4/1/97	11/3/99, 64 FR 59635	
5–40–3310	Standard for Fugitive Dust/ Emissions.	4/1/97	11/3/99, 64 FR 59635	
5–40–3340	Compliance	4/1/97	11/3/99 64 FR 59635	
5–40–3350	Test Methods and Procedures	4/1/97	11/3/99 64 FR 59635	
5–40–3360	Monitoring	4/1/97	11/3/99 64 FR 59635	
5–40–3370	Notification, Records and Reporting.	4/1/97	11/3/99 64 FR 59635	
5–40–3380	Registration	4/1/97	11/3/99 64 FR 59635	
5–40–3390	Facility and Control Equipment Maintenance or Malfunction.	4/1/97	11/3/99 64 FR 59635	
5–40–3400	Permits	4/1/97	11/3/99 64 FR 59635	
Article 25	**Emission Standards for Volatile Organic Compound Storage and Transfer Operations (Rule 4–25)**			
5–40–3410	Applicability and Designation of Affected Facility.	4/17/95	4/21/00 65 FR of 21315	120–04–2501.
5–40–3420	Definitions	4/17/95	4/21/00 65 FR 21315	120–04–2502.
5–40–3430	Standard for Volatile Organic Compounds.	4/17/95	4/21/00 65 FR 21315	120–04–2503.
5–40–3440	Control Technology Guidelines	4/17/95	4/21/00 65 FR 21315	120–04–2504.
5–40–3450	Standard for Visible Emissions	4/17/95	4/21/00 65 FR 21315	120–04–2505.
5–40–3460	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00 65 FR 21315	120–04–2506.
5–40–3490	Compliance	4/17/95	4/21/00 65 FR 21315	120–04–2509
5–40–3500	Test Methods and Procedures	4/17/95	4/21/00 65 FR 21315	120–04–2510.
5–40–3510	Monitoring	4/17/95	4/21/00 65 FR 21315	120–04–2511.
5–40–3520	Notification, Records and Reporting.	4/17/95	4/21/00 65 FR 21315	120–04–2512.
5–40–3530	Registration	4/17/95	4/21/00 65 FR 21315	120–04–2513.
5–40–3540	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00 65 FR 21315	120–04–2514.
5–40–3550	Permits	4/17/95	4/21/00 65 FR 21315	120–04–2515.
Article 26	**Emission Standards for Large Coating Application Systems (Rule 4–26)**			
5–40–3560	Applicability and Designation of Affected Facility.	4/17/95	4/21/00 65 FR of 21315	120–04–2601.
5–40–3570	Definitions	4/17/95	4/21/00 65 FR 21315	120–04–2602.
5–40–3580	Standard for Volatime Organic Compounds.	4/17/95	4/21/00 65 FR 21315	120–04–2603.
5–40–3590	Control Technology Guidelines	4/17/95	4/21/00 65 FR 21315	120–04–2604.
5–40–3600	Standard for Visible Emissions	4/17/95	4/21/00 65 FR 21315	120–04–2605.
5–40–3610	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00 65 FR 21315	120–04–2606.
5–40–3640	Compliance	4/17/95	4/21/00 65 FR 21315	120–04–2609.
5–40–3650	Test Methods and Procedures	4/17/95	4/21/00 65 FR 21315	120–04–2610.
5–40–3660	Monitoring	4/17/95	4/21/00 65 FR 21315	120–04–2611.
5–40–3670	Notification, Records and Reporting.	4/17/95	4/21/00 65 FR 21315	120–04–2612.

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5–40–3680	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2613.
5–40–3690	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2614.
5–40–3700	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2615.
Article 27	**Emission Standards for Magnet Wire Coating Application Systems (Rule 4–27)**			
5–40–3710	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR of 21315	120–04–2701.
5–40–3720	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2702.
5–40–3730	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–2703.
5–40–3740	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–2704.
5–40–3750	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2705.
5–40–3760	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–2706.
5–40–3790	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2709.
5–40–3800	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2710.
5–40–3810	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2711.
5–40–3820	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–2712.
5–40–3830	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2713.
5–40–3840	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2714.
5–40–3850	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2715.
Article 28	**Emission Standards for Automobile and Light Duty Truck Coating Application Systems (Rule 4–28)**			
5–40–3860	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR of 21315	120–04–2801.
5–40–3870	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2802.
5–40–3880	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–2803.
5–40–3890	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–2804.
5–40–3900	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2805.
5–40–3910	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–2806.
5–40–3940	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2809.
5–40–3950	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2810.
5–40–3960	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2811.
5–40–3970	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–2812.
5–40–3980	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2813.
5–40–3990	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2814.
5–40–4000	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2815.
Article 29	**Emission Standards for Can Coating Application Systems (Rule 4–29)**			
5–40–4010	Applicability and Designation of Affected Facility.	4/17/95	4/21/00 65 FR 21315	120–04–2901.
5–40–4020	Definitions	4/17/95	4/21/00 65 FR 21315	120–04–2902.
5–40–4030	Standard for Volatile Organic Compounds.	4/17/95	4/21/00 65 FR 21315	120–04–2903.
5–40–4040	Control Technology Guidelines	4/17/95	4/21/00 65 FR 21315	120–04–2904.
5–40–4050	Standard for Visible Emissions	4/17/95	4/21/00 65 FR 21315	120–04–2905.
5–40–4060	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00 65 FR 21315	120–04–2906.
5–40–4090	Compliance	4/17/95	4/21/00 65 FR 21315	120–04–2909.
5–40–4100	Test Methods and Procedures	4/17/95	4/21/00 65 FR 21315	120–04–2910.
5–40–4110	Monitoring	4/17/95	4/21/00 65 FR 21315	120–04–2911.
5–40–4120	Notification, Records and Reporting.	4/17/95	4/21/00 65 FR 21315	120–04–2912.
5–40–4130	Registration	4/17/95	4/21/00 65 FR 21315	120–04–2913.
5–40–4140	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00 65 FR 21315	120–04–2914.
5–40–4150	Permits	4/17/95	4/21/00 65 FR 21315	120–04–2915.
Article 30	**Emission Standards for Metal Coil Coating Application Systems (Rule 4–30)**			
5–40–4160	Applicability and Designation of Affected Facility.	4/17/95	4/21/00 65 FR 21315	120–04–3001.

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5–40–4170	Definitions	4/17/95	4/21/00 65 FR 21315	120–04–3002.
5–40–4180	Standard for Volatile Organic Compounds.	4/17/95	4/21/00 65 FR 21315	120–04–3003.
5–40–4190	Control Technology Guidelines	4/17/95	4/21/00 65 FR 21315	120–04–3004.
5–40–4200	Standard for Visible Emissions	4/17/95	4/21/00 65 FR 21315	120–04–3005.
5–40–4210	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00 65 FR 21315	120–04–3006.
5–40–4240	Compliance	4/17/95	4/21/00 65 FR 21315	120–04–3009.
5–40–4250	Test Methods and Procedures	4/17/95	4/21/00 65 FR 21315	120–04–3010.
5–40–4260	Monitoring	4/17/95	4/21/00 65 FR 21315	120–04–3011.
5–40–4270	Notification, Records and Reporting.	4/17/95	4/21/00 65 FR 21315	120–04–3012.
5–40–4280	Registration	4/17/95	4/21/00 65 FR 21315	120–04–3013.
5–40–4290	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00 65 FR 21315	120–04–3014.
5–40–4300	Permits	4/17/95	4/21/00 65 FR 21315	120–04–3015.
Article 31	**Emission Standards for Paper and Fabric Coating Application Systems (Rule 4–31)**			
5–40–4310	Applicability and Designation of Affected Facility.	4/17/95	4/21/00 65 FR 21315	120–04–3101.
5–40–4320	Definitions	4/17/95	4/21/00 65 FR 21315	120–04–3102.
5–40–4330	Standard for Volatile Organic Compounds.	4/17/95	4/21/00 65 FR 21315	120–04–3103.
5–40–4340	Control Technology Guidelines	4/17/95	4/21/00 65 FR 21315	120–04–3104.
5–40–4350	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3105.
5–40–4360	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–3106.
5–40–4390	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3109.
5–40–4400	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3110.
5–40–4410	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3111.
5–40–4420	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–3112.
5–40–4430	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–3113.
5–40–4440	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–3114.
5–40–4450	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–3115.
Article 32	**Emission Standards for Vinyl Coating Application Systems (Rule 4–32).**			
5–40–4460	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–3201.
5–40–4470	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3202.
5–40–4480	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–3203.
5–40–4490	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–3204.
5–40–4500	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3205.
5–40–4510	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–3206.
5–40–4540	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3209.
5–40–4550	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3210.
5–40–4560	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3211.
5–40–4570	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–3212.
5–40–4580	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–3213.
5–40–4590	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–3214.
5–40–4600	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–3215.
Article 33	**Emission Standards for Metal Furniture Coating Application Systems (Rule 4–33).**			
5–40–4610	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–3301.
5–40–4620	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3302.
5–40–4630	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–3303.
5–40–4640	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–3304.
5–40–4650	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3305.
5–40–4660	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–3306.
5–40–4690	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3309.

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–4700	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3310.
5–40–4710	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3311.
5–40–4720	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–3312.
5–40–4730	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–3313.
5–40–4740	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–3314.
5–40–4750	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–3315.
Article 34	**Emission Standards for Miscellaneous Metal Parts and Products Coating Application Systems (Rule 4–34)**			
5–40–4760	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–3401.
5–40–4770	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3402.
5–40–4780	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–3403.
5–40–4790	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–3404.
5–40–4800	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3405.
5–40–4810	Standard for Fugitive, Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–3406.
5–40–4840	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3409.
5–40–4850	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3410.
5–40–4860	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3411.
5–40–4870	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–3412.
5–40–4880	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–3413.
5–40–4890	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–3414.
5–40–4900	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–3415.
Article 35	**Emission Standards for Flatwood Paneling Coating Application Systems (Rule 4–35)**			
5–40–4910	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–3501.
5–40–4920	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3502.
5–40–4930	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–3503.
5–40–4940	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–3504.
5–40–4950	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3505.
5–40–4960	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–3506.
5–40–4990	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3509.
5–40–5000	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3510.
5–40–5010	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3511.
5–40–5020	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–3512.
5–40–5030	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–3513.
5–40–5040	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–3514.
5–40–5050	Permits	4/17/95	4/21/00, 65 FR 21315	Explanation [former SIP citation].
Article 36	**Flexographic Packaging Rotogravure, and Publication Rotogravure Printing Lines (Rule 4–36)**			
5–40–5060	Applicability and Designation of Affected Facility.	4/1/96	3/12/97, 62 FR 11334	§ 52.2465(c)(113) (i)(B)(*4*).
5–40–5070	Definitions	4/1/96	3/12/97, 62 FR 11334	
5–40–5080	Standard for Volatile Organic Compounds.	4/1/96	3/12/97, 62 FR 11334	
5–40–5090	Standard for Visible Emissions	4/1/96	3/12/97, 62 FR 11334	
5–40–5100	Standard for Fugitive Dust/ Emissions.	4/1/96	3/12/97, 62 FR 11334	
5–40–5130	Compliance	4/1/96	3/12/97, 62 FR 11334	
5–40–5140	Test Methods and Procedures	4/1/96	3/12/97, 62 FR 11334	
5–40–5150	Monitoring	4/1/96	3/12/97, 62 FR 11334	
5–40–5160	Notification, Records and Reporting.	4/1/96	3/12/97, 62 FR 11334	
5–40–5170	Registration	4/1/96	3/12/97, 62 FR 11334	
5–40–5180	Facility and Control Equipment Maintenance or Malfunction.	4/1/96	3/12/97, 62 FR 11334	

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5–40–5190	Permits	4/1/96	3/12/97, 62 FR 11334	
Article 37	**Emission Standards for Petroleum Liquid Storage and Transfer Operations (Rule 4–37)**			
5–40–5200	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–3701.
5–40–5210	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3702.
5–40–5220	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–3703.
5–40–5230	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–3704.
5–40–5240	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3705.
5–40–5250	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–3706.
5–40–5280	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3709.
5–40–5290	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3710.
5–40–5300	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3711.
5–40–5310	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–3712.
5–40–5320	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–3713.
5–40–5330	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–3714.
5–40–5340	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–3715.
Article 39	**Emission Standards for Asphalt Paving Operations (Rule 4–39)**			
5–40–5490	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–3901.
5–40–5500	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3902.
5–40–5510	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–3903.
5–40–5520	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3904.
5–40–5530	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–3905.
5–40–5560	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3908.
5–40–5570	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3909.
5–40–5580	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3910.
5–40–5590	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–3911.
Article 40	**Emission Standards for Open Burning (Rule 4–40)**			
5–40–5600	Applicability	4/1/96	3/12/97, 62 FR 11332	Provisions of Article 40 are applicable only in the Northern Va and Richmond Emissions Control Areas as defined in 9 VAC 5–20–206.
5–40–5610	Definitions of ''refuse'', ''household refuse'', ''clean burning waste'', ''landfill'', ''local landfill'', ''sanitary landfill'', ''special incineration devise';.	4/1/96	3/12/97, 62 FR 11332.	
5–40–5610	All definitions not listed above	4/17/95	4/21/00, 65 FR 21315	120–04–4002.
5–40–5620	Open Burning Prohibitions	4/1/96	3/12/97, 62 FR 11332	
5–40–5630	Permissible Open Burning	4/1/96	3/12/97, 62 FR 11332	
5–40–5631	Forest Management Agricultural Practices.	7/1/97	3/12/97, 62 FR 11332	Former Appendix D, effective 4/1/96.
Article 41	**Emission Standards for Mobile Sources (Rule 4–41)**			
5–40–5650	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–4101.
5–40–5660	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–4102.
5–40–5670	Motor Vehicles	4/17/95	4/21/00, 65 FR 21315	120–04–4103.
5–40–5680	Other Mobile Sources	4/17/95	4/21/00, 65 FR 21315	120–04–4104.
5–40–5690	Export/Import of Motor Vehicles.	4/17/95	4/21/00, 65 FR 21315	120–04–4105.
Article 42	**Emissions Standards for Portable Fuel Container Spillage in the Northern Virginia Volatile Organic Compound Emissions Control Area (Rule 4–42)**			
5–40–5700	Applicability	3/24/2004	6/8/04, 69 FR 31893	SIP effective date: 8/9/04.

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–5710	Definitions	3/24/2004	6/8/04, 69 FR 31893	SIP effective date: 8/9/04.
5–40–5720	Standard for volatile organic compounds.	3/24/2004	6/8/04, 69 FR 31893	SIP effective date: 8/9/04.
5–40–5730	Administrative requirements	3/24/2004	6/8/04, 69 FR 31893	SIP effective date: 8/9/04.
5–40–5740	Compliance	3/24/2004	6/8/04, 69 FR 31893	SIP effective date: 8/9/04.
5–40–5750	Compliance Schedules	3/24/2004	6/8/04, 69 FR 31893	SIP effective date: 8/9/04.
5–40–5760	Test methods and procedures	3/24/2004	6/8/04, 69 FR 31893	SIP effective date: 8/9/04.
5–40–5770	Notification, records and reporting.	3/24/2004	6/8/04, 69 FR 31893	SIP effective date: 8/9/04.
Article 45	**Emission Standards for Lithographic Printing Processes (Rule 4–45)**			
5–40–7800	Applicability and Designation of Affected Facility.	4/1/96	3/12/97, 62 FR 11334.	
5–40–7810	Definitions of ''alcohol'', ''cleaning solution'', ''fountain solution'', ''lithographic printing'', ''printing'', ''printing process''.	4/1/96	3/12/97, 62 FR 11334.	
5–40–7820	Standard for Volatile Organic Compounds.	4/1/96	3/12/97, 62 FR 11334.	
5–40–7840	Standard for Visible Emissions	4/1/96	3/12/97, 62 FR 11334.	
5–40–7850	Standard for Fugitive Dust Emissions.	4/1/96	3/12/97, 62 FR 11334.	
5–40–7880	Compliance	4/1/96	3/12/97, 62 FR 11334.	
5–40–7890	Test Methods and Procedures	4/1/96	3/12/97, 62 FR 11334.	
5–40–7900	Monitoring	4/1/96	3/12/97, 62 FR 11334.	
5–40–7910	Notification, Records and Reporting.	4/1/96	3/12/97, 62 FR 11334.	
5–40–7920	Registration	4/1/96	3/12/97, 62 FR 11334.	
5–40–7930	Facility and Control Equipment Maintenance and Malfunction.	4/1/96	3/12/97, 62 FR 11334.	
5–40–7940	Permits	4/1/96	3/12/97, 62 FR 11334.	
Article 47	**Emission Standards for Solvent Metal Cleaning Operations in the Northern Virginia Volatile Organic Compound Emissions Control Area (Rule 4–47)**			
5–40–6820	Applicability	3/24/04	6/9/04, 69 FR 32277	SIP effective date: 8/9/04.
5–40–6830	Definitions	3/24/04	6/9/04, 69 FR 32277	SIP effective date: 8/9/04.
5–40–6840	Standards for volatile organic compounds.	3/24/04	6/9/04, 69 FR 32277	SIP effective date: 8/9/04.
5–40–6850	Standard for visible emissions	3/24/04	6/9/04, 69 FR 32277	SIP effective date: 8/9/04.
5–40–6860	Standard for fugitive dust/emissions.	3/24/04	6/9/04, 69 FR 32277	SIP effective date: 8/9/04.
5–40–6890	Compliance	3/24/04	6/9/04, 69 FR 32277	SIP effective date: 8/9/04.
5–40–6900	Compliance schedules	3/24/04	6/9/04, 69 FR 32277	SIP effective date: 8/9/04.
5–40–6910	Test methods and procedures	3/24/04	6/9/04, 69 FR 32277	SIP effective date: 8/9/04.
5–40–6920	Monitoring	3/24/04	6/9/04, 69 FR 32277	SIP effective date: 8/9/04.
5–40–6930	Notification, records and reporting.	3/24/04	6/9/04, 69 FR 32277	SIP effective date: 8/9/04.
5–40–6940	Registration	3/24/04	6/9/04, 69 FR 32277	SIP effective date: 8/9/04.
5–40–6950	Facility and control equipment maintenance or malfunction.	3/24/04	6/9/04, 69 FR 32277	SIP effective date: 8/9/04.
5–40–6960	Permits	3/24/04	6/9/04, 69 FR 32277	SIP effective date: 8/9/04.
Article 48	**Emission Standards for Mobile Equipment Repair and Refinishing Operations in the Northern Virginia Volatile Organic Compound Emissions Control Area (Rule 4–48)**			
5–40–6970	Applicability and designation of affected facility.	3/24/04	6/24/04, 69 FR 35253	SIP effective date: 8/23/04.
5–40–6980	Definitions	3/24/04	6/24/04, 69 FR 35253	SIP effective date: 8/23/04.
5–40–6990	Standards for volatile organic compounds.	3/24/04	6/24/04, 69 FR 35253	SIP effective date: 8/23/04.
5–40–7000	Standard for visible emissions	3/24/04	6/24/04, 69 FR 35253	SIP effective date: 8/23/04.
5–40–7010	Standard for fugitive dust/emissions.	3/24/04	6/24/04, 69 FR 35253	SIP effective date: 8/23/04.
5–40–7040	Compliance	3/24/04	6/24/04, 69 FR 35253	SIP effective date: 8/23/04.
5–40–7050	Compliance schedule	3/24/04	6/24/04, 69 FR 35253	SIP effective date: 8/23/04.
5–40–7060	Test methods and procedures	3/24/04	6/24/04, 69 FR 35253	SIP effective date: 8/23/04.
5–40–7070	Monitoring	3/24/04	6/24/04, 69 FR 35253	SIP effective date: 8/23/04.

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–7080	Notification, records and reporting.	3/24/04	6/24/04, 69 FR 35253	SIP effective date: 8/23/04.
5–40–7090	Registration	3/24/04	6/24/04, 69 FR 35253	SIP effective date: 8/23/04.
5–40–7100	Facility and control equipment maintenance or malfunction.	3/24/04	6/24/04, 69 FR 35253	SIP effective date: 8/23/04.
5–40–7110	Permits	3/24/04	6/24/04, 69 FR 35253	SIP effective date: 8/23/04.
Chapter 50	**New and Modified Stationary Sources [Part V]**			
Part I	**Special Provisions**			
5–50–10	Applicability	8/1/02	3/15/04, 69 FR 12074	Revised paragraphs B and C, added paragraph F.
5–50–20	Compliance	8/1/02	3/15/04, 69 FR 12074	Added new paragraph A.2, renumbered paragraphs A.3 through A.5, and revised paragraph A.3; Added new paragraph G; revised paragraphs H, H.2, H.2a, H.3 and H.4; added new paragraph I.
5–50–30	Performance Testing	8/1/02	3/15/04, 69 FR 12074	Revised paragraphs A and F.1; **Note:** Revisions to paragraph C are not included in SIP revision.
5–50–40	Monitoring	8/1/02	3/15/04, 69 FR 12074	Revised paragraphs C, and E.1 through E.8; Added new paragraph E.10.
5–50–50	Notification, Records and Reporting.	8/1/02	3/15/04, 69 FR 12074	Revised paragraphs A.1 through A.4, C, C.1 through C.3, D, E and F.
Part II	**Emission Standards**			
Article 1	**Standards of Performance for Visible Emissions and Fugitive Dust/Emissions (Rule 5–1)**			
5–50–60	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–05–0101.
5–50–70	Definitions	4/17/95	4/21/00, 65 FR 21315	120–05–0102.
5–50–80	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–05–0103.
5–50–90	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–05–0104.
5–50–100	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–05–0105.
5–50–110	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–05–0106.
5–50–120	Waivers	4/17/95	4/21/00, 65 FR 21315	120–05–0107.
Article 4	**Standards of Performance for Stationary Sources (Rule 5–4)**			
5–50–240	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–05–0401.
5–50–250	Definitions	4/17/95	4/21/00, 65 FR 21315	120–05–0402.
5–50–260	Standard for Stationary Sources.	4/17/95	4/21/00, 65 FR 21315	120–05–0403.
5–50–270	Standard for Major Stationary Sources (Nonattainment Areas).	4/17/95	4/21/00, 65 FR 21315	120–05–0404.
5–50–280	Standard for Major Stationary Sources (Prevention of Significant Deterioration (Areas).	4/17/95	4/21/00, 65 FR 21315	120–05–0405.
5–50–290	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–05–0406.
5–50–300	Standard for Fugitive Dust/ Emissions.	4/17/95	4/21/00, 65 FR 21315	120–05–0407.
5–50–330	Compliance	4/17/95	4/21/00, 65 FR 21315	120–05–0410.
5–50–340	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–05–0411.
5–50–350	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–05–0412.
5–50–360	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–05–0413.
5–50–370	Registration	4/17/95	4/21/00, 65 FR 21315	120–05–0414.
5–50–380	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–05–0415.

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–50–390	Permits	4/17/95	4/21/00, 65 FR 21315	120–05–0416.
Chapter 70	**Air Pollution Episode Prevention [Part VII]**			
5–70–10	Applicability	4/17/95	4/21/00, 65 FR 21315	120–07–01.
5–70–20	Definitions	4/17/95	4/21/00, 65 FR 21315	120–07–02.
5–70–30	General	4/17/95	4/21/00, 65 FR 21315	120–07–03.
5–70–40	Episode Determination	4/1/99	10/19/00, 65 FR 62626	References to "TSP" have been removed.
5–70–50	Standby Emission Reduction Plans.	4/17/95	4/21/00, 65 FR 21315	120–07–05.
5–70–60	Control Requirements	4/17/95	4/21/00, 65 FR 21315	120–07–06.
5–70–70	Local Air Pollution Control Agency Participation.	4/17/95	4/21/00, 65 FR 21315	120–07–07.
Chapter 80	**Permits for Stationary Sources [Part VIII]**			
5–80–10	New and Modified Stationary Sources.	4/17/95	4/21/00, 65 FR 21315	120–08–01.
10A	Applicability	4/17/95	4/21/00, 65 FR 21315	01A.
10B	Definitions	4/17/95	4/21/00, 65 FR 21315	01B.
10C. (Exc.C.1.b)	General	4/17/95	4/21/00, 65 FR 21315	01C. (Exc.C.1.b).
10D	Applications	4/17/95	4/21/00, 65 FR 21315	01D.
10E	Information required	4/17/95	4/21/00, 65 FR 21315	01E.
10F	Action on permit application	4/17/95	4/21/00, 65 FR 21315	01F.
10G	Public participation	4/17/95	4/21/00, 65 FR 21315	01G.; Exceptions: 10.G.1 and .10G.4.b.
VR120–08–01C.4.b., c	Public Participation—public hearing requirements for major modifications.	7/31/81; recodified 2/1/85	5/4/82 47 FR 19134; recodified 2/25/93, 58 FR 11373.	See § 52.2423(o).
10H.2. and 10H.3	Standards for granting permits	4/17/95	4/21/00, 65 FR 21315	01H.2. and 01H.3.
10I.1. and 10I.3	Application review and analysis.	4/17/95	4/21/00, 65 FR 21315	01I.1. and 01I.3.
10J	Compliance determination and verification by performance testing.	4/17/95	4/21/00, 65 FR 21315	01J.
10K	Permit invalidation, revocation and enforcement.	4/17/95	4/21/00 65 FR 21315	01K.
10L	Existence of permit no defense.	4/17/95	4/21/00, 65 FR 21315	01L.
10M	Compliance with local zoning requirements.	4/17/95	4/21/00, 65 FR 21315	01M.
10N	Reactivation and permanent shutdown.	4/17/95	4/21/00, 65 FR 21315	01N.
10O	Transfer of permits	4/17/95	4/21/00, 65 FR 21315	01O.
10P	Circumvention	4/17/95	4/21/00, 65 FR 21315	01P.
5–80–11	Stationary source permit exemption levels.	7/1/97	4/21/00, 65 FR 21315	Appendix R.
Article 5	**State Operating Permits**			
5–80–800	Applicability	4/1/98	6/27/03, 68 FR 38191	
5–80–810	Definitions	4/1/98	6/27/03, 68 FR 38191	
5–80–820	General	4/1/98	6/27/03, 68 FR 38191	
5–80–830	Applications	4/1/98	6/27/03, 68 FR 38191	
5–80–840	Application information required.	4/1/98	6/27/03 68 FR 38191	
5–80–850	Standards and conditions for granting permits.	4/1/98	6/27/03 68 FR 38191	
5–80–860	Action on permit application	4/1/98	6/27/03, 68 FR 38191	
5–80–870	Application review and analysis.	4/1/98	6/27/03, 68 FR 38191	
5–80–880	Compliance determination and verification by testing.	4/1/98	6/27/03, 68 FR 38191	
5–80–890	Monitoring requirements	4/1/98	6/27/03, 68 FR 38191	
5–80–900	Reporting requirements	4/1/98	6/27/03, 68 FR 38191	
5–80–910	Existence of permits no defense.	4/1/98	6/27/03, 68 FR 38191	
5–80–920	Circumvention	4/1/98	6/27/03, 68 FR 38191	
5–80–930	Compliance with local zoning requirements.	4/1/98	6/27/03, 68 FR 38191	

EPA-APPROVED VIRGINIA REGULATIONS—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–80–940	Transfer of permits	4/1/98	6/27/03, 68 FR 38191	
5–80–950	Termination of permits	4/1/98	6/27/03 68 FR 38191.	
5–80–960	Changes to permits	4/1/98	6/27/03 68 FR 38191.	
5–80–970	Administrative permit amendments.	4/1/98	6/27/03 68 FR 38191.	
5–80–980	Minor permit amendments	4/1/98	6/27/03 68 FR 38191.	
5–80–990	Significant permit amendments.	4/1/98	6/27/03 68 FR 38191.	
5–80–1000	Reopening for cause	4/1/98	6/27/03 68 FR 38191.	
5–80–1010	Enforcement	4/1/98	6/27/03 68 FR 38191.	
5–80–1020	Public participation	4/1/98	6/27/03 68 FR 38191.	
5–80–1030	General permits	4/1/98	6/27/03 68 FR 38191.	
5–80–1040	Review and evaluation of article.	4/1/98	6/27/03 68 FR 38191.	
Article 8	**Permits—Major Stationary Sources and Major Modifications Located in Prevention of Significant Deterioration Areas**			
5–80–1700	Applicability	1/1/97	6/23/98 63 FR 13795.	
5–80–1710	Definitions	1/1/97	6/23/98 63 FR 13795.	
5–80–1720	General	1/1/97	6/23/98 63 FR 13795.	
5–80–1730	Ambient Air Increments	1/1/97	6/23/98 63 FR 13795.	
5–80–1740	Ambient Air Ceilings	1/1/97	6/23/98 63 FR 13795.	
5–80–1750	Applications	1/1/97	6/23/98 63 FR 13795.	
5–80–1760	Compliance with Local Zoning Requirements.	1/1/97	6/23/98 63 FR 13795.	
5–80–1770	Compliance Determination and Verification by Performance Testing.	1/1/97	6/23/98 63 FR 13795.	
5–80–1780	Stack Heights	1/1/97	3/23/98 63 FR 13795.	
5–80–1790	Review of Major Stationary Sources and Major Modifications—Source Applicability and Exemptions.	1/1/97	6/23/98 63 FR 13795.	
5–80–1800	Control Technology Review	1/1/97	6/23/98 63 FR 13795.	
5–80–1810	Source Impact Analysis	1/1/97	6/23/98 63 FR 13795.	
5–80–1820	Air Quality Models	1/1/97	6/23/98 63 FR 13795.	
5–80–1830	Air Quality Analysis	1/1/97	6/23/98 63 FR 13795.	
5–80–1840	Source Information	1/1/97	6/23/98 63 FR 13795.	
5–80–1850	Additional Impact Analyses	1/1/97	3/23/98 63 FR 13795.	
5–80–1860	Sources Impacting Federal Class I Areas—Additional Requirements.	1/1/97	6/23/98 63 FR 13795.	
5–80–1870	Public Participation	1/1/97	6/23/98 63 FR 13795.	
5–80–1880	Source Obligation	1/1/97	6/23/98 63 FR 13795.	
5–80–1890	Environmental Impact Statements.	1/1/97	3/23/98, 63 FR 13795	
5–80–1900	Disputed Permits	1/1/97	3/23/98, 63 FR 13795	
5–80–1910	Interstate Pollution Abatement	1/1/97	3/23/98, 63 FR 13795	
5–80–1920	Innovative Control Technology	1/1/97	3/23/98, 63 FR 13795	
5–80–1930	Reactivation and Permanent Shutdown.	1/1/97	3/23/98, 63 FR 13795	
5–80–1940	Transfer of Permits	1/1/97	3/23/98, 63 FR 13795	
5–80–1950	Permit Invalidation, Revocation, and Enforcement.	1/1/97	3/23/98, 63 FR 13795	
5–80–1960	Circumvention	1/1/97	3/23/98, 63 FR 13795	
5–80–1970	Review and Confirmation of this Chapter by Board.	1/1/97	3/23/98, 63 FR 13795	
Article 9	**Permits—Major Stationary Sources and Major Modifications Located in Nonattainment Areas. [120–08–03]**			
5–80–2000	Applicability	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03A (9/21/99, 64 FR 51047).
5–80–2010	Definitions	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03B (9/21/99, 64 FR 51047).
5–80–2020	General	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03C (9/21/99, 64 FR 51047).
5–80–2030	Applications	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03D (9/21/99, 64 FR 51047).

EPA-APPROVED VIRGINIA REGULATIONS—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–80–2040	Information required	1/1/93, 4/1/99	4/21/00, 65 FR 21315	03E (9/21/99, 64 FR 51047).
5–80–2050	Standards/conditions for granting permits.	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03F (9/21/99, 64 FR 51047)
5–80–2060	Action on permit application	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03G (9/21/99, 64 FR 51047).
5–80–2070	Public Participation	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03H (9/21/99, 64 FR 51047).
5–80–2080	Compliance determination and verification by performance testing.	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03I (9/21/99, 64 FR 51047).
5–80–2090	Application review and analysis.	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03J (9/21/99, 64 FR 51047).
5–80–2100	Circumvention	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03K (9/21/99, 64 FR 51047).
5–80–2110	Interstate pollution abatement	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03L (9/21/99, 64 FR 51047).
5–80–2120	Offsets	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03M (9/21/99, 64 FR 51047).
5–80–2130	De minimis increases and stationary source modification alternatives for ozone nonattainment areas classified as serious or severe in 9 VAC 5–20–204.	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03N (9/21/99, 64 FR 51047).
5–80–2140	Exception	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03O (9/21/99, 64 FR 51047).
5–80–2150	Compliance with local zoning requirements.	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03P (9/21/99, 64 FR 51047).
5–80–2160	Reactivation and Permit Shutdown.	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03Q (9/21/99, 64 FR 51047).
5–80–2170	Transfer of Permits	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03R (9/21/99, 64 FR 51047).
5–80–2180	Revocation of permit	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03S (9/21/99, 64 FR 51047).
5–80–2190	Existence of permit no defense.	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03T (9/21/99, 64 FR 51047).
5–91–10	General	1/24/97	9/1/99, 64 FR 47670	
5–91–20	Terms Defined	1/24/97	9/1/99, 64 FR 47670	Exception-"Northern Virginia program area" does not include Fauquier County, Effective 1/1/98.
Part II	**General Provisions**			
5–91–30	Applicability and authority of the department.	1/24/97	9/1/99, 64 FR 47670	
5–91–40	Establishment of Regulations and Orders.	1/24/97	9/1/99, 64 FR 47670	
5–91–50	Documents Incorporated by Reference.	1/24/97	9/1/99, 64 FR 47670	
5–91–60	Hearings and Proceedings	1/24/97	9/1/99, 64 FR 47670	
5–91–70	Appeal of Case Decisions	1/24/97	9/1/99, 64 FR 47670	
5–91–80	Variances	1/24/97	9/1/99, 64 FR 47670	
5–91–90	Right of entry	1/24/97	9/1/99, 64 FR 47670	
5–91–100	Conditions on approvals	1/24/97	9/1/99, 64 FR 47670	
5–91–110	Procedural information and guidance.	1/24/97	9/1/99, 64 FR 47670	
5–91–120	Export and import of motor vehicles.	1/24/97	9/1/99, 64 FR 47670	
5–91–130	Relationship of state regulations to federal regulations.	1/24/97	9/1/99, 64 FR 47670	
5–91–140	Delegation of authority	1/24/97	9/1/99, 64 FR 47670.	
5–91–150	Availability of information	1/24/97	9/1/99, 64 FR 47670	
Part III	**Emission Standards for Motor Vehicle Air Pollution**			
5–91–160	Exhaust emission standards for two-speed idle testing in enhanced emissions inspection programs.	1/24/97	9/1/99, 64 FR 47670	

EPA-APPROVED VIRGINIA REGULATIONS—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–91–170	Exhaust emission standards for ASM testing in enhanced emissions inspection programs.	1/24/97	9/1/99, 64 FR 47670	
5–91–180	Exhaust emission standards for on-road testing through remote sensing.	1/24/97	9/1/99, 64 FR 47670	
5–91–190	Emissions control systems standards.	1/24/97	9/1/99, 64 FR 47670	
5–91–200	Evaporative emissions standards.	1/24/97	9/1/99, 64 FR 47670	
5–91–210	Visible emissions standards	1/24/97	9/1/99, 64 FR 47670	
Part IV	**Permitting and Operation of Emissions Inspection Stations**			
5–91–220	General provisions	1/24/97	9/1/99, 64 FR 47670	
5–91–230	Applications	1/24/97	9/1/99, 64 FR 47670	
5–91–240	Standards and conditions for permits.	1/24/97	9/1/99, 64 FR 47670	
5–91–250	Action on permit application	1/27/97	9/1/99, 64 FR 47670	
5–91–260	Emissions inspection station permits, categories.	1/24/97	9/1/99 64 FR 47670	
5–91–270	Permit renewals	1/24/97	9/1/99 64 FR 47670	
5–91–280	Permit revocation, surrender of materials.	1/24/97	9/1/99 64 FR 47670	
5–91–290	Emission inspection station operations.	1/24/97	9/1/99 64 FR 47670	
5–91–300	Emissions inspection station records.	1/24/97	9/1/99 64 FR 47670	
5–91–310	Sign and permit posting	1/24/97	9/1/99 64 FR 47670	
5–91–320	Equipment and facility requirements.	1/24/97	9/1/99 64 FR 47670	
5–91–330	Analyzer system operation	1/24/97	9/1/99 64 FR 47670	
5–91–340	Motor vehicle inspection report; certificate of emission inspection.	1/24/97	9/1/99 64 FR 47670	
5–91–350	Data media	1/24/97	9/1/99 64 FR 47670	
5–91–360	Inspector number and access code usage.	1/24/97	9/1/99 64 FR 47670	
5–91–370	Fleet emissions inspection stations; mobile fleet emissions inspection stations.	1/24/97	9/1/99 64 FR 47670	
Part V	**Emissions Inspector Testing and Licensing**			
5–91–380	Emissions inspector licences and renewals.	1/24/97	9/1/99 64 FR 47670	
5–91–390	Qualification requirements for emissions inspector licenses.	1/24/97	9/1/99 64 FR 47670	
5–91–400	Conduct of emissions inspectors.	1/24/97	9/1/99 64 FR 47670	
Part VI	**Inspection Procedures**			
5–91–410	General	1/24/97	9/1/99 64 FR 47670	
5–91–420	Inspection procedure; rejection, pass, fail, waiver.	1/24/97	9/1/99 64 FR 47670	
5–91–430	ASM test procedure	1/24/97	9/1/99 64 FR 47670	
5–91–440	Two-speed idle test procedure	1/24/97	9/1/99 64 FR 47670	
4–91–450	Fuel system evaporative pressure test and gas cap pressure test procedure.	1/24/97	9/1/99 64 FR 47670	
4–91–460	Fuel system evaporative purge test procedure.	1/24/97	9/1/99 64 FR 47670	
5–91–470	Short test standards for warranty eligibility.	1/24/97	9/1/99 64 FR 47670	
5–91–480	Emissions related repairs	1/24/97	9/1/99 64 FR 47670	
5–91–490	Engine and fuel changes	1/24/97	9/1/99 64 FR 47670	

EPA-APPROVED VIRGINIA REGULATIONS—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
Part VII	**Vehicle Emissions Repair Facility Certification**			
5–91–500	Applicability and Authority	1/24/97	9/1/99 64 FR 47670	
5–91–510	Certification Qualifications	1/24/97	9/1/99 64 FR 47670	
5–91–520	Expiration, reinstatement, renewal, and requalification.	1/24/97	9/1/99 64 FR 47670	
5–91–530	Emissions repair facility operations.	1/24/97	9/1/99 64 FR 47670	
5–91–540	Sign Posting	1/24/97	9/1/99 64 FR 47670	
Part VIII	**Emissions Repair Technician Certification and Responsibilities**			
5–91–550	Applicability and authority	1/24/97	9/1/99, 64 FR 47670	
5–91–560	Certification qualifications for emissions repair technicians.	1/24/97	9/1/99, 64 FR 47670	
5–91–570	Expiration, reinstatement, renewal and requalification.	1/24/97	9/1/99, 64 FR 47670	
5–91–580	Certified emissions repair technician responsibilities.	1/24/97	9/1/99, 64 FR 47670	
Part IX	**Enforcement Procedures**			
5–91–590	Enforcement of regulations, permits, licenses, certifications and orders.	4/2/97	9/1/99, 64 FR 47670	
5–91–600	General enforcement process	4/2/97	9/1/99, 64 FR 47670	
5–91–610	Consent orders and penalties for violations.	4/2/97	9/1/99, 64 FR 47670	
5–91–620	Major violations	4/2/97	9/1/99, 64 FR 47670	
5–91–630	Minor violations	4/2/97	9/1/99, 64 FR 47670	
Part X	**Analyzer System Certification and Specifications for Enhanced Emissions Inspections Programs**			
5–91–640	Applicability	1/24/97	9/1/99, 64 FR 47670	
5–91–650	Design goals	1/24/97	9/1/99, 64 FR 47670	
5–91–660	Warranty; service contract	1/24/97	9/1/99, 64 FR 47670	
5–91–670	Owner provided services	1/24/97	9/1/99, 64 FR 47670	
5–91–680	Certification of analyzer systems.	1/24/97	9/1/99, 64 FR 47670	
5–91–690	Span gases; gases for calibration purposes.	1/24/97	9/1/99, 64 FR 47670	
5–91–700	Calibration of exhaust gas analyzers.	1/24/97	9/1/99, 64 FR 47670	
5–91–710	Upgrade of analyzer system	1/24/97	9/1/99, 64 FR 47670	
Part XI	**Manufacturer Recall**			
5–91–720	Vehicle manufacturer recall	1/24/97	9/1/99, 64 FR 47670	
5–91–730	Exemptions; temporary extensions.	1/24/97	9/1/99, 64 FR 47670	
Part XII	**On-Road Testing**			
5–91–740	General Requirements	1/24/97	9/1/99, 64 FR 47670	
5–91–750	Operating Procedures; violation of standards.	1/24/97	9/1/99, 64 FR 47670	
5–91–760	Schedule of civil charges	1/24/97	9/1/99, 64 FR 47670	
Part XIII	**Federal Facilities**			
5–91–770	General requirements	1/24/97	9/1/99, 64 FR 47670	
5–91–780	Proof of compliance	1/24/97	9/1/99, 64 FR 47670	
Part XIV	**ASM Exhaust Emission Standards**			
5–91–790	ASM start-up standards	1/24/97	9/1/99, 64 FR 47670	
5–91–800	ASM final standards	1/24/97	9/1/99, 64 FR 47670	

EPA-APPROVED VIRGINIA REGULATIONS—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
Chapter 140	**Regulation for Emissions Trading**			
Part I	**NO_X Budget Trading Program**			
Article 1	**NO_X Budget Trading Program General Provisions**			
5–140–10	Purpose	7/17/02	7/8/03 68 FR 40520.	
5–140–20	Definitions	7/17/02	7/8/03 68 FR 40520.	
5–140–30	Measurements, abbreviations, and acronyms.	7/17/02	7/8/03 68 FR 40520.	
5–140–31	Federal Regulations Incorporated by reference.	7/17/02	7/8/03 68 FR 40520.	
5–140–40	Applicability	7/17/02	7/8/03 68 FR 40520.	
5–140–50	Retired unit exemption	7/17/02	7/8/03 68 FR 40520.	
5–140–60	Standard requirements	7/17/02	7/8/03 68 FR 40520.	
5–140–70	Computation of time	7/17/02	7/8/03 68 FR 40520.	
Article 2	**NO_X Authorized Account Representative for NO_X Budget Sources**			
5–140–100	Authorization and responsibilities of the NO_X authorized account representative.	7/17/02	7/8/03 68 FR 40520	
5–140–110	Alternate NO_X authorized account representative.	7/17/02	7/8/03 68 FR 40520	
5–140–120	Changing the NO_X authorized account representative and alternate NO_X authorized account representative; changes in the owners and operators.	7/17/02	7/8/03 68 FR 40520	
5–140–130	Account certificate of representation.	7/17/02	7/8/03 68 FR 40520	
5–140–140	Objections concerning the NO_X authorized account representative.	7/17/02	7/8/03 68 FR 40520	
Article 3	**Permits**			
5–140–200	General NO_X Budget permit requirements.	7/17/02	7/8/03 68 FR 40520	
5–140–210	Submission of NO_X Budget permit applications.	7/17/02	7/8/03 68 FR 40520	
5–140–220	Information requirements for NO_X Budget permit applications.	7/17/02	7/8/03 68 FR 40520	
5–140–230	NO_X Budget permit contents	7/17/02	7/8/03 68 FR 40520	
5–140–240	Effective date of initial NO_X Budget permit.	7/17/02	7/8/03 68 FR 40520	
5–140–250	NO_X Budget permit revisions	7/17/02	7/8/03 68 FR 40520	
Article 4	**Compliance Certification**			
5–140–300	Compliance certification report	7/17/02	7/8/03 68 FR 40520	
5–140–310	Permitting authority's and administrator's action on compliance certifications.	7/17/02	7/8/03 68 FR 40520	
Article 5	**NO_X Allowance Allocations**			
5–140–400	State trading program budget	7/17/02	7/8/03 68 FR 40520	
5–140–410	Timing requirements for NO_X allowance allocations.	7/17/02	7/8/03 68 FR 40520	
5–140–420	NO_X allowance allocations	7/17/02	7/8/03 68 FR 40520	
5–140–430	Compliance Supplement Pool	7/17/02	7/8/03 68 FR 40520	
Article 6	**NO_X Allowance Tracking System**			
5–140–500	NO_X Allowance Tracking System accounts.	7/17/02	7/8/03 68 FR 40520.	
5–140–510	Establishment of accounts.	7/17/02	7/8/03, 68 FR 40520	

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–140–520	NO_X Allowance Tracking System responsibilities of NO_X authorized account representative.	7/17/02	7/8/03, 68 FR 40520	
5–140–530	Recordation of NO_X allowance allocations.	7/17/02	7/8/03, 68 FR 40520	
5–140–540	Compliance	7/17/02	7/8/03, 68 FR 40520	
5–140–550	Banking	7/17/02	7/8/03, 68 FR 40520	Full approval 8/25/04 (69 FR 52174).
5–140–560	Account error	7/17/02	7/8/03, 68 FR 40520	
5–140–570	Closing of general accounts	7/17/02	7/8/03, 68 FR 40520	
Article 7	**NO_X Allowance Transfers**			
5–140–600	Scope and submission of NO_X allowance transfers.	7/17/02	7/8/03, 68 FR 40520	
5–140–610	EPA recordation	7/17/02	7/8/03, 68 FR 40520	
5–140–620	Notification	7/17/02	7/8/03, 68 FR 40520	
Article 8	**Monitoring and Reporting**			
5–140–700	General Requirements	7/17/02	7/8/03, 68 FR 40520	
5–140–710	Initial certification and recertification procedures.	7/17/02	7/8/03, 68 FR 40520	
5–140–720	Out of control periods	7/17/02	7/8/03, 68 FR 40520	
5–140–730	Notifications	7/17/02	7/8/03, 68 FR 40520	
5–140–740	Recordkeeping and reporting	7/17/02	7/8/03, 68 FR 40520	
5–140–750	Petitions	7/17/02	7/8/03, 68 FR 40520	
5–140–760	Additional requirements to provide heat input data for allocation purposes.	7/17/02	7/8/03, 68 FR 40520	
Article 9	**Individual Unit Opt-ins**			
5–140–800	Applicability	7/17/02	7/8/03, 68 FR 40520	
5–140–810	General	7/17/02	7/8/03, 68 FR 40520	
5–140–820	NO_X authorized account representative.	7/17/02	7/8/03, 68 FR 40520	
5–140–830	Applying for NO_X Budget opt-in permit.	7/17/02	7/8/03, 68 FR 40520	
5–140–840	Opt-in process	7/17/02	7/8/03, 68 FR 40520	
5–140–850	NO_X Budget opt-in permit contents.	7/17/02	7/8/03, 68 FR 40520	
5–140–860	Withdrawal from NO_X Budget Trading Program.	7/17/02	7/8/03, 68 FR 40520	
5–140–870	Change in regulatory status	7/17/02	7/8/03, 68 FR 40520	
5–140–880	NO_X allowance allocations to opt-in units.	7/17/02	7/8/03, 68 FR 40520	
Article 10	**State Trading Program Budget and Compliance Pool**			
5–140–900	State trading program budget	7/17/02	7/8/03, 68 FR 40520	
5–140–910	Compliance supplement pool budget.	7/17/02	7/8/03, 68 FR 40520	
5–140–920	Total electric generating unit allocations.	7/17/02	7/8/03, 68 FR 40520	
5–140–930	Total non-electric generating unit allocations.	7/17/02	7/8/03, 68 FR 40520	
Chapter 160	**Regulation for General Conformity**			
Part I	**General Definitions**			
5–160–10	General	1/1/98	1/7/03, 68 FR 663	
5–160–20	Terms Defined	1/1/97	10/21/97, 62 FR 54585	

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State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–160–20	Terms Defined	1/1/97, 1/1/98	1/7/03, 68 FR 663	Terms revised—Emergency; Terms deleted—Administrative Process Act, Confidential information, Consent agreement, Consent order, Emergency special order, Formal hearing, Order, Party, Public hearing, Special order, Variance, Virginia Register Act.
Part II	**General Provisions**			
5–160–30	Applicability	1/1/97	10/21/97, 62 FR 54585	
5–160–40	Authority of board and department.	1/1/97	10/21/97, 62 FR 54585	
5–160–80	Relationship of state regulations to federal regulations.	1/1/97	10/21/97, 62 FR 54585	
Part III	**Criteria and Procedures for Making Conformity Determinations**			
5–160–110	General	1/1/97	10/21/97, 62 FR 54585	§ 52.2465(c)(118).
5–160–120	Conformity analysis	1/1/97	10/21/97, 62 FR 54585	
5–160–130	Reporting requirements	1/1/97	10/21/97, 62 FR 54585	
5–160–140	Public participation	1/1/97	10/21/97, 62 FR 54585	
5–160–150	Frequency of conformity determinations.	1/1/97	10/21/97, 62 FR 54585	
5–160–160	Criteria for determining conformity.	1/1/97	10/21/97, 62 FR 54585	
5–160–170	Procedures for conformity determinations.	1/1/97	10/21/97, 62 FR 54585	
5–160–180	Mitigation of air quality impacts.	1/1/97	10/21/97, 62 FR 54585	
5–160–190	Savings provision	1/1/97	10/21/97, 62 FR 54585	
5–160–200	Review and confirmation of this chapter by board.	1/1/97	10/21/97, 62 FR 54585	
Chapter 170	**Regulation for General Administration**			
Part I	**Definitions**			
5–170–10	Use of Terms	1/1/98	1/7/03, 68 FR 6639	Split out from VAC 5–10–10
5–170–20	Terms Defined	1/1/98	1/7/03, 68 FR 6639	Split out from VAC 5–10–20 and 5–160–20 Terms Added—Public hearing, Regulation of the Board. Terms Revised from 4/17/95 version—Consent agreement, Consent order, Emergency special order, Order, Owner, Person, Pollutant, Special Order, Source.
Part II	**General Provisions**			
5–170–30	Applicability	1/1/98	1/7/03, 68 FR 663	Split out from 9 VAC 5–20–10.
5–170–60	Availability of Information	1/1/98	1/7/03, 68 FR 663	Replaces 9 VAC 5–20–150 and 5–160–100.
Part V	**Enforcement**			
5–170–120A.–C.	Enforcement of Regulations, Permits and Orders.	1/1/98	1/7/03, 68 FR 663	Replaces 9 VAC 5–20–30A.–D. and 5–160–60.
5–170–130A.	Right of Entry	1/1/98	1/7/03, 68 FR 663	Replaces 9 VAC 5–20–100.
Part VI	**Board Actions**			
5–170–150	Local Ordinances	1/1/98	1/7/03, 68 FR 663	Replaces 9 VAC 5–20–60.
5–170–160	Conditions on Approvals	1/1/98	1/7/03, 68 FR 663	Replaces 9 VAC 5–20–110.
5–170–170	Considerations for Approval Actions.	1/1/98	1/7/03, 68 FR 663	Replaces 9 VAC 5–20–140.

EPA-APPROVED VIRGINIA REGULATIONS—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
Chapter 200	**National Low Emission Vehicle Program**			
5–200–10	Definitions	4/14/99	12/28/99, 64 FR 72564	
5–200–20	Participation in national LEV	4/14/99	12/28/99, 64 FR 72564	
5–200–30	Transition from national LEV requirements to a Virginia Sec. 177 program.	4/14/99	12/28/99, 64 FR 72564	
2 VAC 5 Chapter 480	**Regulation Governing the Oxygenation of Gasoline**			
5–480–10	Definitions	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 1
5–480–20	Applicability	11/1/96	2/17/00, 65 FR 8051	
5–480–30	Minimum oxygenate content	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 3
5–480–40	Nature of oxygenates	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 4
5–480–50	Record keeping and transfer requirements.	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 5
5–480–60	Gasoline pump labeling	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 6
5–480–70	Sampling, testing and oxygen content calculations.	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 7
5–480–80	Compliance and enforcement	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 8

(d) *EPA-Approved State Source Specific Requirements*

EPA-APPROVED SOURCE SPECIFIC REQUIREMENTS

Source name	Permit/order or registration number	State effective date	EPA approval date	40 CFR part 52 citation
Norfolk Naval Base—Exchange Service Station.	[NONE]	8/6/79	8/17/81, 46 FR 41499	52.2465(c)(41).
Reynolds Metal Co.—Rolling Mill	DSE–597–87	9/30/87	8/20/90, 55 FR 33904	52.2465(c)(92).
Aqualon (Hercules). Company	50363	9/26/90	11/1/91 56, FR 56159	52.2465(c)(93).
Nabisco Brands, Inc	DTE–179–91	4/24/91	3/6/92, 57 FR 8080	52.2465(c)(95).
Burlington Industries	30401	11/19/91	3/18/92, 57 FR 9388	52.2465(c)(96).
Reynolds Metals. Co.—Bellwood	DSE–413A–86	10/31/86	6/13/96 61, FR 29963	52.2465(c)(110).
Reynolds Metal Co.—Richmond Foil Plant	DSE–412A–86	10/31/86	6/13/96, FR 29963	52.2465(c)(110).
Philip Morris, Inc.—Blended Leaf Facility	50080	2/27/86	10/14/97, 62 FR 53277	52.2465(c)(120).
Philip Morris, Inc.—Park 500 Facility	50722	3/26/97	10/14/97 62, FR 53277	52.2465(c)(120).
Philip Morris, Inc.—Richmond Manufacturing Center.	50076	7/13/96	10/14/97, 62 FR 53277	52.2465(c)(120).
Virginia Electric and Power Co.—Innsbrook Technical Center.	50396	5/30/96	10/14/97, 62 FR 53277	52.2465(c)(120).
Hercules, Inc.—Aqualon Division	V–0163–96	7/12/96	10/14/97, 62 FR 53277	52.2465(c)(120).
City of Hopewell—Regional Wastewater Treatment Facility.	50735	5/30/96	10/14/97, 62 FR 53277	52.2465(c)(120).
Allied Signal, Inc.—Hopewell Plant	50232	3/26/97	10/14/97, 62 FR 53277	52.2465(c)(121).
Allied Signal, Inc.—Chesterfield Plant	V–0114–96	5/20/96	10/14/97 62, FR 53277	52.2465(c)(121).
Bear Island Paper Co. L.P	V–0135–96	7/12/96	10/14/97 62, FR 53277	52.2465(c)(121).
Stone Container Corp.—Hopewell Mill	50370	5/30/96	10/14/97 62, FR 53277	52.2465(c)(121).
E.I. Dupont de Nemours and Co.—Spruance Plant.	V–0117–96	5/30/96	10/14/97, 62 FR 53277	52.2465(c)(121).
ICI Americas Inc.—Films Division-Hopewell Site.	50418	5/30/96	10/14/97 62, FR 53277	52.2465(c)(121).
Tuscarora, Inc	71814	6/5/96	1/22/99 64, FR 3425	52.2465(c)(128).
Potomac Electric Power Company (PEPCO)—Potomac River Generating Station [Permit to Operate].	Registration No. 70228; County-Plant No. 510–0003.	9/18/00	12/14/00 65, FR 78100	52.2420(d)(2).
Virginia Power (VP)—Possum Point Generating Station [Permit to Operate].	Registration No. 70225; County-Plant No. 153–0002.	9/26/00	12/14/00, 65 FR 78100	52.2420(d)(2).

EPA-APPROVED SOURCE SPECIFIC REQUIREMENTS—Continued

Source name	Permit/order or registration number	State effective date	EPA approval date	40 CFR part 52 citation
Cellofoam North America, Inc.—Falmouth Plant [Consent Agreement].	Registration No. 40696 FSO–193–98.	8/10/98	1/02/01, 66 FR 8	52.2420(d)(3).
CNG Transmission Corporation—Leesburg Compressor Station [Permit to Operate].	Registration No. 71978 County-Plant No. 107–0101.	5/22/00	1/02/01, 66 FR 8	52.2420(d)(3).
Columbia Gas Transmission Company—Loudoun County Compressor Station [Permit to Operate].	Registration No. 72265 County-Plant No. 107–0125..	5/23/2000	1/02/01, 66 FR 8	52.2420(d)(3).
District of Columbia's Department of Corrections—Lorton Correctional Facility [Permit to Operate].	Registration No. 70028 County-Plant No. 0059– 0024.	12/10/99	1/02/01 66 FR 8	52.2420(d)(3).
Michigan Cogeneration Systems, Inc.—Fairfax County I–95 Landfill [Permit to Operate].	Registration No. 71961 County—Plant No. 0059–0575.	5/10/00	1/02/01, 66 FR 8	52.2420(d)(3).
Metropolitan Washington Airports Authority–Ronald Reagan Washington National Airport [Permit to Operate].	Registration No. 70005 County—Plant No. 0013–0015.	5/22/00	1/02/01 66 FR 8	52.2420(d)(3).
Noman M. Cole, Jr., Pollution Control Plant [Consent Agreement].	Registration No. 70714.	12/13/99	1/02/01, 66 FR 8	52.2420(d)(3).
Ogden Martin Systems of Alexandria/Arlington, Inc. [Consent Agreement].	Registration No. 71895 NVRO–041–98.	7/31/98	1/02/01, 66 FR 8	52.2420(d)(3).
Ogden Martin Systems of Fairfax, Inc. [Consent Agreement].	Registration No. 71920.	4/3/98	1/02/01, 66 FR 8	52.2420(d)(3).
U.S. Department of Defense—Pentagon Reservation [Permit to Operate].	Registration No. 70030 County-Plant No. 0013–0188.	5/17/00	1/02/01, 66 FR 8	52.2420(d)(3).
Potomac Electric Power Company (PEPCO)—Potomac River Generating Station [Consent Agreement].	Registration No. 70228 NVRO–106–98.	7/31/98	1/02/01, 66 FR 8	52.2420(d)(3) NO_X RACT requirements.
Potomac Electric Power Company (PEPCO)—Potomac River Generating Station.	Registration No. 70228; County-Plant No. 510–0003.	5/8/00	1/02/01, 66 FR 8	52.2420(d)(3) VOC RACT requirements.
United States Marine Corps.—Quantico Base [Permit to Operate].	Registration No. 70267 County-Plant No. 153–0010..	5/24/00	1/02/01, 66 FR 8	52.2420(d)(3).
Transcontinental Gas Pipeline Corporation—Compressor Station No.185 [Consent Agreement].	Registration No. 71958.	9/5/96	1/02/01, 66 FR 8	52.2420(d)(3).
U.S. Army Garrison at Fort Belvoir [Permit to Operate].	Registration No. 70550 County-Plant No. 059–0018..	5/16/00	1/02/01, 66 FR 8	52.2420(d)(3).
Virginia Power (VP)—Possum Point Generating Station [Permit containing NO_X RACT requirements].	Registration No. 70225 County-Plant No. 153–0002.	7/21/00	1/02/01, 66 FR 8	52.2420(d)(3).
Virginia Electric and Power Company—Possum Point Generating Station [Consent Agreement containing VOC RACT requirements].	Registration No. 70225.	6/12/95	1/02/01, 66 FR 8	52.2420(d)(3).
Washington Gas Light Company—Springfield Operations Center [Consent Agreement].	Registration No. 70151 NVRO–031–98.	4/3/98	1/02/01, 66 FR 8	52.2420(d)(3).
Georgia Pacific—Jarratt Softboard Plant	Registration No. 50253.	9/28/98	3/26/03, 68 FR 14542	40 CFR 52.242(d)(4); **Note:** In Section E, Provision 1, the portion of the text which reads''...and during periods of start-up, shutdown, and malfunction.'' is not part of the SIP.

(e) *EPA-approved nonregulatory and quasi-regulatory material.*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional xplanation
Commitment Letter-Clean fuel fleet or alternative substitute program.	Northern Virginia Ozone nonattainment Area.	1/25/93	9/23/93 58 FR 50846	52.2423(j).
Documents Incorporated by Reference	Statewide	4/12/89	8/23/95, 60 FR 43714	52.2423(m).
Documents Incorporated by Reference	Statewide	2/12/93	8/23/95, 60 FR 43714	52.2423(n).
9 VAC 5–60–100 (adopts 40 CFR 63.460 through 63.469 by reference).	Statewide	10/9/98	11/3/99, 64 FR 59648	52.2423(q).
Documents Incorporated by Reference (9 VAC 5–20–21, Section E).	Statewide	6/22/99	1/7/03, 68 FR 663	52.2423(r).
Documents Incorporated by Reference (9 VAC 5–20–21, paragraph E.12).	Statewide	2/23/04	6/8/04, 69 FR 31893	52.2423(s).
Motor vehicle emissions budgets	Hampton Roads Ozone Maintenance Area.	8/29/96	6/26/97, 62 FR 34408	52.2424(a).
Motor vehicle emissions budgets	Richmond Ozone Maintenance Area.	7/30/96	11/17/97, 62 FR 61237	52.2424(b).
1990 Base Year Emissions Inventory-Carbon Monoxide (CO).	Metropolitan Washington Area.	11/1/93 4/3/95 10/12/95	1/30/96, 61 FR 2931	52.2425(a).
1990 Base Year Emissions Inventory-Carbon Monoxide (CO), oxides of nitrogen (NO_X), & volatile organic compounds (VOC).	Richmond-Petersburg, Norfolk, Virginia Beach, and Smyth County Ozone Area.	11/11/92 11/18/92 11/1/93 12/15/94	9/16/96, 61 FR 48657	52.2425(b).
1990 Base Year Emissions Inventory-Carbon Monoxide (CO), oxides of nitrogen (NO_X), & volatile organic compounds (VOC).	Northern Virginia (Metropolitan Washington) Ozone Nonattainment Area.	11/30/92 11/1/93 4/3/95	9/16/96, 61 FR 54656	52.2425(c).
1990 Base Year Emissions Inventory-oxides of nitrogen (NO_X), & volatile organic compounds (VOC).	Northern Virginia (Metropolitan Washington) Ozone Nonattainment Area.	12/17/97	7/8/98, 63 FR 36854	52.2425(d).
Photochemical Assessment Monitoring Stations (PAMS) Program.	Northern Virginia (Metropolitan Washington) Ozone Nonattainment Area.	11/15/94	9/11/95, 60 FR 47081	52.2426.
Attainment determination of the ozone NAAQS	Richmond Ozone Nonattainment Area.	7/26/96	10/6/97, 62 FR 52029	52.2428(a).
15% rate of progress plan	Northern Virginia (Metropolitan Washington) Ozone Nonattainment Area.	4/14/98	10/6/00, 65 FR 59727	52.2428(b).
Small business stationary source technical and environmental assistance program.	Statewide	11/10/92	2/14/94, 59 FR 5327	52.2460.
Establishment of Air Quality Monitoring Network	Statewide	3/24/80	12/5/80, 45 FR 86530	52.2465(c)(38).
Lead (Pb) SIP	Statewide	12/31/80	3/21/82, 45 FR 8566	52.2465(c)(61).
Carbon Monoxide Maintenance Plan	Arlington County & Alexandria City.	10/4/95	1/30/96, 61 FR 2931	52.2465(c)(107).
Ozone Maintenance Plan, emissions inventory & contingency measures.	Hampton Roads Area	8/27/96	6/26/97, 62 FR 34408	52.2465(c)(117).
Ozone Maintenance Plan, emissions inventory & contingency measures.	Richmond Area	7/26/96	11/17/97, 62 FR 61237	52.2465(c)(119).

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[NM–47–1–7606a; FRL–7810–2]

Clean Air Act Approval of Revisions to the Title V Operating Permit Program in the State of New Mexico, Albuquerque/Bernalillo County, NM, and the State of Arkansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action to approve revisions to the title V Operating Permits program for the State of New Mexico, Albuquerque/Bernalillo County, New Mexico, and the State of Arkansas. This includes revisions that the State of New Mexico, Albuquerque/Bernalillo County, New Mexico, and the State of Arkansas, submitted to EPA on November 5, 2002, May 2, 2003, and October 24, 2002, respectively to revise the definition of ''Major Source'' as defined in the States' or County's regulation. This also includes other administrative revisions to other areas of Arkansas' regulations to incorporate updated Federal regulatory citations.

DATES: This direct final rule will be effective November 8, 2004, without further notice, unless EPA receives adverse comments by October 8, 2004. If adverse comments are received, the EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- U.S. EPA Region 6 ''Contact Us'' Web site: *http://epa.gov/region6/r6coment.htm.* Please click on ''6PD'' (Multimedia) and select ''Air'' before submitting comments.

• E-mail: Mr. David Neleigh at *neleigh.david@epa.gov.* Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

• Fax: Mr. David Neleigh, Chief, Air Permits Section (6PD–R), at fax number 214–665–7263.

• Mail: Mr. David Neleigh, Chief, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

• Hand or Courier Delivery: Mr. David Neleigh, Chief, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Please include the text ''Public Comment on File ID No. NM–47–1–7606a'' in the subject line of the first page of your comments. EPA's policy is that all comments received will be included in the public file without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through regulations.gov or e-mail if you believe that it is CBI or otherwise protected from disclosure. Regulations.gov is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public file and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Official File: Copies of the documents relevant to this action are in the official file which is available at the Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

Copies of any State/County submittals and EPA's technical support document are also available for public inspection at the State/County Air Agency listed below during official business hours by appointment:

Arkansas Department of Environmental Quality, Air Division, 8001 National Drive, P.O. Box 8913, Little Rock, Arkansas 72219–8913.

New Mexico Environment Department, Air Quality Bureau, 1190 St. Francis Drive, Santa Fe, New Mexico 87502.

Albuquerque Environmental Health Department, Air Pollution Control Division, One Civic Plaza, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Allen Chang of the Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733, telephone (214) 665–7451; fax number 214–665–7263; e-mail address *chang.allen@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we'', ''us'', or ''our'' means EPA.

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I. What Is the Background for This Action?
II. What Is the Federal Approval Process for a Title V Revision?
III. What Is Being Addressed in the Document?
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I. What Is the Background for This Action?

The State of New Mexico, the Albuquerque/Bernalillo County Air Quality Control Board, and the State of Arkansas have proposed to revise the definition of ''Major Source'' in response to recent amendments to the definition of ''Major Source'' in 40 CFR 70.2. *See* 66 FR 59161 (November 27, 2001).

In 1992, the EPA promulgated a definition of ''Major Source'' under 40 CFR 70.2. Paragraph (2) of the ''Major Source'' definition defines a major source of non-hazardous air pollutants (HAP) as ''a source which directly emits, or has the potential to emit non-HAP pollutants, at 100 tons per year [1] or more.'' The definition requires a source to include fugitive emissions [2] of any such pollutant, as determined by the Administrator. The definition specifically provides that fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source unless the source belongs to a listed category under 40 CFR 70.2, Major Source. The 27th category in the list, 70.2(2)(xxvii), was defined as ''all other stationary source categories regulated by a standard promulgated under Section 111 or 112 of the Act, but only with respect to those pollutants that have been regulated for that category.''

The EPA proposed two revisions to the definition of ''Major Source'' regarding when non-HAP fugitive emissions are included in determining major source status. In August 1994, the EPA proposed to revise the definition of ''Major Source'' to require the counting of fugitive emissions only for source categories subject to a standard under Section 111 or 112 that was promulgated as of August 7, 1980. EPA proposed to add the phrase ''promulgated as of August 7, 1980.'' Subsequently, in August 1995, the EPA proposed a second revision to the definition of ''Major Source'' to make the definition of ''Major Source'' consistent with the ''Major Source'' definition found in the New Source Review Program (*e.g.* Prevention of Significant Deterioration and Non-Attainment). This revision deleted the pollution limitation in the ''Major Source'' definition and eliminated the phrase ''but only with respect to those air pollutants that have been regulated for the category.'' *See* 60 FR 45530 (August 31, 1995).

Both of these revisions were promulgated by the EPA on November 27, 2001. The EPA then required the States to make the same changes to their definition of ''Major Source'' no later than November 27, 2002, to ensure that their rules would be consistent with the final rule (66 FR 59162).

States may include requirements that are more stringent than the Federal requirements, by requiring sources subject to section 111 or 112 standards promulgated after August 7, 1980, to count fugitive emissions in major source

[1] Under paragraph (3) of the major source definition, the major source threshold is less than 100 tons per year in certain non-attainment areas.

[2] Under 40 CFR 70.2, ''fugitive emissions'' are defined ''as those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening.''

determinations under section 302 or part D of Title I.

The proposed revisions to the rules of the State of New Mexico, the Albuquerque/Bernalillo County Air Quality Control Board, and the State of Arkansas are consistent with the definition of ''Major Source'' in 40 CFR 70.2.

II. What Is the Federal Approval Process for a Title V Revision?

In order for the States/County regulations to be approved as part of the title V Operating Permits program (Operating Permits Program), the States/County permitting authority must formally adopt these regulations consistent with State and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and formal adoption by a state/local-authorized rulemaking body.

Once a rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the Operating Permits Program. We must then provide for public notice and seek additional comment regarding the proposed Federal action on the state submission. If we receive adverse comments, we must address them prior to any final Federal action by us.

III. What Is Being Addressed in This Document?

The EPA is taking direct final action to approve into the Operating Permits program the following submitting States/County:

A. New Mexico State Title 20 of the New Mexico Administrative Code Section 20.2.70

The State of New Mexico initially adopted the first revision in 1994 but did not submit it to EPA at that time because EPA had not yet finalized the Federal revision. New Mexico is now submitting to EPA both revisions to its Operating Permits Program. These changes revise the definition of ''Major Source'' to be identical to the Federal term as defined in 40 CFR 70.2.

The State of New Mexico adopted these revisions on September 25, 2002, and submitted the revisions to us for approval as a revision to its Operating Permits Program on November 5, 2002. The State of New Mexico's definition is consistent with the term as defined in 40 CFR 70.2.

B. Title 20 of the New Mexico Administrative Code Section 20.11.42.7 (Bernalillo County)

Albuquerque/Bernalillo County Air Quality Control Board (Board) revised the definition of ''Major Source'' in 20.11.42 NMAC Operating Permits to remove the phrase, ''but only with respect to those air pollutants regulated for that category.'' The previous definition of ''Major Source'', stated, ''All other stationary source categories regulated by a standard promulgated under the Section 111 or 112 of the Federal Act, but only with respect to those air pollutants regulated for that category.'' The Board adopted the revision on December 11, 2002, and submitted the revision to us for approval on May 2, 2003. The Board's definition of ''Major Source'' is consistent with the term as defined in 40 CFR 70.2.

C. The Arkansas Operating Permit Program Regulation 26 Chapter 2 Definitions, Major Source (B)(27)

The Arkansas Department of Environmental Quality (ADEQ) adopted two revisions to its Operating Permit Program on August 23, 2002, and submitted both revisions to us for approval on October 24, 2002. These changes revise the definition of ''Major Source'' to be identical to the Federal term as defined in 40 CFR 70.2.

The ADEQ also made other non-substantive administrative revisions, such as updating regulation dates and correcting typographical errors.

Our approval of these revisions to the definitions of ''Major Source'' for the State of New Mexico, Albuquerque/Bernalillo County, New Mexico, and the State of Arkansas is consistent with the revisions to the term ''Major Source'' that EPA promulgated on November 27, 2001, under 40 CFR 70.2.

IV. What Action Is EPA Taking?

We are approving the above revisions to the definitions of ''Major Source'' to the Operating Permits program for the State of New Mexico, Albuquerque/Bernalillo County, New Mexico, and the State of Arkansas. This includes revisions to NMAC 20.2.70, NMAC 20.11.42.7, and the Arkansas Operating Permit Program Regulation 26, respectively submitted on November 5, 2002, May 2, 2003, and October 24, 2002.

We are processing these revisions as a direct final action because they add noncontroversial regulations to the above-referenced Operating Permits Programs. We do not anticipate adverse comments. Please note that if we receive adverse comments on a part of this rule and if the part can be severed from the remainder of a rule, we may adopt as final those parts of the rule that are not subject to an adverse comment.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, as specified by Executive Order 13175(65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing title V submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a operating permit program submission for failure to use

VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a title V operating permit program submission, to use VCS in place of a title V operating permit program submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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. 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 United States 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 not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 8, 2004. 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 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: August 23, 2004.

Richard E. Greene,

Regional Administrator, Region 6.

■ Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

■ 1. The authority citation for part 70 continues to read as follows:

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

■ 2. Appendix A to part 70 is amended as follows:

■ a. By adding paragraph (c) to the entry for Arkansas.

■ b. By adding paragraphs (e) and (f) to the entry for New Mexico.

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Arkansas

* * * * *

(c) The Arkansas Department of Environmental Quality; submitted its operating permits program revisions on October 24, 2002: the Arkansas Operating Permit Program Regulation 26, effective November 8, 2004.

* * * * *

New Mexico

* * * * *

(e) The Environmental Department; submitted the following program revisions on November 5, 2002: NMAC 20.2.70, effective November 8, 2004.

(f) Albuquerque/Bernalillo County Air Quality Control Board; submitted the following program revisions on May 2, 2003: NMAC 20.11.42.7, effective November 8, 2004.

* * * * *

[FR Doc. 04–20333 Filed 9–8–04; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 221

[Docket No. MARAD 2004–19030]

RIN 2133–AB55

Trading Restrictions on Vessels Transferred to a Foreign Registry: Amendment of List of Prohibited Countries

AGENCY: Maritime Administration, DOT.

ACTION: Final rule.

SUMMARY: In accordance with foreign policy considerations, the Maritime Administration (MARAD) currently prohibits the foreign transfer of an interest in or control of certain U.S. documented or previously U.S. documented vessels to an entity in the foreign countries listed in the Department of Commerce's list of prohibited countries set forth in Country Group E. Currently, the rule specifically lists the countries set forth in Country Group E. This final rule amends regulations to incorporate Country Group E by reference and eliminates the separate listing.

EFFECTIVE DATE: This final rule is effective on September 8, 2004.

ADDRESSES: This final rule is available for inspection and copying between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays, at the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. An electronic version of this document along with all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Len Sutter, Attorney-Advisor, Office of Chief Counsel, Division of Maritime Programs, Maritime Administration, at (202) 366–5177, fax (202) 366–7485.

SUPPLEMENTARY INFORMATION:

Under 46 CFR part 221, subpart B—Transfers to Noncitizens or to Registry or Operation under Authority of a Foreign Country (Subpart B), MARAD implements authority provided by 46 U.S.C. 808(c)(1) to regulate the transfer to foreign ownership and registry of certain U.S. documented vessels. Currently, under subpart B, certain ownership, registry and trading restrictions apply to entities in certain foreign countries set forth in 46 CFR 221.13(a)(4) (MARAD Prohibited Countries). For this purpose, MARAD incorporates the countries listed by the Department of Commerce in 15 CFR part 740, Supplement 1, Country Group E (Country Group E Prohibited Countries). In lieu of reproducing the list of Country Group E Prohibited Countries in MARAD's regulations, and amending our regulations each time the list is changed, this final rule amends 46 CFR 221.13(a)(4) to incorporate the Country Group E Prohibited Countries list by reference in MARAD's regulations. In this manner, MARAD's regulations will remain current with any changes made by the Department of Commerce to the Country Group E list of Prohibited Countries.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review), and Department of Transportation (DOT) Regulatory Policies; Pub. L. 104–121

Under Executive Order 12866, the Office of Management and Budget

(OMB) has determined that this final rule is a significant regulatory action. Accordingly, it was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record. This final rule is not economically significant, as it is not likely to result in an annual effect on the economy of $100 million or more. It is also not considered a major rule for purposes of Congressional review under Pub. L. 104–121. Finally, it is not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034, February 26, 1979).

Under Executive Order 12866 and the Department of Transportation Regulatory Policies, Pub. L. 104–121, the costs associated with this rule are so minimal that further analysis is not necessary. This final rule should result in a net economic benefit, as it reduces the number of prohibited countries, from fourteen (14) in MARAD's current list, to six (6) on the current Country Group E list, which functionally lifts a restraint on trade in the marketplace. In addition, this rule will result in administrative efficiencies, as it will obviate the need for further rulemakings to keep the list of prohibited countries in MARAD's regulations congruent with the Country Group E list.

Administrative Procedure Act

The Administrative Procedure Act (5 U.S.C. 553) provides an exception to notice and comment procedures when they are unnecessary or contrary to the public interest. MARAD finds that under 5 U.S.C. 553(b)(3)(B), good cause exists for not providing notice and comment since this final rule is ministerial and merely implements a recognized list of prohibited countries, with no issues of policy discretion. Accordingly, opportunity for public comment is unnecessary. Under 5 U.S.C. 553(d)(3), MARAD finds that, for the same reasons listed above, good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Federalism

We analyzed this final rule in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism'') and have determined that it does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. The regulations have no substantial effects on the States, the current Federal-State relationship, or the current distribution of power and responsibilities among local officials. Therefore, consultation with State and local officials was not necessary.

Executive Order 13175

MARAD does not believe that this final rule will significantly or uniquely affect the communities of Indian tribal governments when analyzed under the principles and criteria contained in Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments). Therefore, the funding and consultation requirements of this Executive Order do not apply.

Regulatory Flexibility

The Maritime Administrator certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Although there may be a substantial number of small business vessel owners who may desire to transfer their vessels to the foreign registry of a prohibited country, the economic impact will not be significant because under U.S. foreign policy, the vessel owners may not participate in trade activities with these prohibited countries.

Environmental Assessment

We have analyzed this final rule for purposes of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and have concluded that under the categorical exclusions provision in section 4.05 of Maritime Administrative Order (MAO) 600–1, ''Procedures for Considering Environmental Impacts,'' 50 FR 11606 (March 22, 1985), neither the preparation of an Environmental Assessment, an Environmental Impact Statement, nor a Finding of No Significant Impact for this rulemaking is required. This rulemaking has no environmental impact.

Paperwork Reduction Act

This rulemaking contains no new or amended information collection or recordkeeping requirements that have been approved or require approval by the Office of Management and Budget.

Unfunded Mandates Reform Act of 1995

This final rule will not impose an unfunded mandate under the Unfunded Mandates Reform Act of 1995. It will not result in costs of $100 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector. This final rule is the least burdensome alternative that achieves this objective of U.S. policy.

List of Subjects in 46 CFR Part 221

Administrative practice and procedure, Maritime carriers, Mortgages, Penalties, Reporting and recordkeeping requirements, Trust and trustees.

■ For the reasons set forth in the preamble, 46 CFR part 221 is amended as follows:

PART 221—[AMENDED]

■ 1. The authority citation for part 221 continues to read as follows:

Authority: 46 App. U.S.C. 802, 803, 808, 835, 839, 841a, 1114(b), 1195; 46 U.S.C. chs. 301 and 313; 49 U.S.C. 336; 49 CFR 1.66.

§ 221.13 [Amended]

■ 2. Section 221.13 is amended in paragraph (a)(4) by removing the words ''an entity within the geographic area formerly known as the Union of Soviet Socialist Republics, Latvia, Lithuania, Estonia, Libya, Iraq, Bulgaria, Albania, North Korea, Laos, Cambodia, Mongolian Peoples Republic, Vietnam, or Cuba,'' and by inserting in their place the words ''an entity within any country listed by the Department of Commerce in 15 CFR part 740, Supplement 1, Country Group E''.

By Order of the Maritime Administrator.

Dated: September 2, 2004.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 04–20321 Filed 9–7–04; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. RSPA–02–13208]

RIN 2137–AD01

Pipeline Safety: Pressure Limiting and Regulating Stations

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

ACTION: Confirmation of effective date of direct final rule.

SUMMARY: In the May 17, 2004, issue of the **Federal Register**, the Research and Special Programs Administration's Office of Pipeline Safety (RSPA/OPS) published a direct final rule that removed an unintended impact of regulations on pressure limiting and regulating stations. The direct final rule modified pressure limits that could have required a reduction in the operating pressure of certain pipelines and been impracticable for other pipelines to

meet. The present document confirms the effective date of that direct final rule.

EFFECTIVE DATES: The direct final rule published May 17, 2004 (69 FR 27861), goes into effect October 8, 2004.

FOR FURTHER INFORMATION CONTACT: L.M. Furrow by phone at 202–366–4559, by fax at 202–366–4566, by mail at U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, or by e-mail at *buck.furrow@rspa.dot.gov.*

SUPPLEMENTARY INFORMATION: On May 17, 2004, RSPA/OPS published a direct final rule titled ''Pipeline Safety: Pressure Limiting and Regulating Stations'' (69 FR 27861). In the direct final rule, RSPA/OPS stated that if it did not receive an adverse comment, as defined in 49 CFR 190.339(c),[1] or notice of intent to file an adverse comment by July 16, 2004, it would publish a confirmation document to announce that the direct final rule would go into effect on September 14, 2004, or at least 30 days after the confirmation document is published, whichever is later.

As of July 16, 2004, only one person, Barb Sachau, submitted a comment on the direct final rule. Ms. Sachau exhorted RSPA/OPS to ensure pipelines are truly safe by adopting additional standards and hiring experts. Because Ms. Sachau addressed pipeline safety in general and did not speak specifically about the direct final rule, we do not consider her comment to be an adverse comment under 49 CFR 190.339(c). Therefore, by this document, we are confirming that the direct final rule will go into effect on October 8, 2004.

Issued in Washington, DC, on August 30, 2004.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 04–20262 Filed 9–7–04; 8:45 am]

BILLING CODE 4910–60–P

[1] An adverse comment is one which explains why the rule would be inappropriate, including a challenge to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. Comments that are frivolous or insubstantial will not be considered adverse under this procedure. A comment recommending a rule change in addition to the rule will not be considered an adverse comment, unless the commenter states why the rule would be ineffective without the additional change.

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 00–7145; Notice 3]

RIN No. 2127–AH61

Federal Motor Vehicle Safety Standards; Head Impact Protection; Correction

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Correcting amendment.

SUMMARY: On February 27, 2004, the National Highway Traffic Safety Administration (NHTSA) published a final rule amending the upper interior impact requirements of the Federal motor vehicle safety standard on occupant protection in interior impact to increase the minimum separation distance between tested areas on vertical surfaces of a motor vehicle. The final rule also added targets for pillar-like structures that do not meet the definition of ''pillar,'' i.e., certain door frames and freestanding vertical seat belt mounting structures. The amendments adding the new targets necessitated changes to certain compliance test requirements, including the approach angles specified for certain target locations. The effective date of these amendments was August 25, 2004.

This document corrects several typographical errors in the amendatory language contained in the February 27, 2004 final rule.

DATES: These amendments are effective August 25, 2004.

FOR FURTHER INFORMATION CONTACT: The following persons at the NHTSA, 400 Seventh Street, SW., Washington, DC 20590.

For non-legal issues, you may call Dr. William Fan, Office of Crashworthiness Standards, at (202) 366–4922.

For legal issues, you may call George Feygin, Office of the Chief Counsel, at (202) 366–5834.

SUPPLEMENTARY INFORMATION: On February 27, 2004, NHTSA published a final rule (69 FR 9226) amending Federal Motor Vehicle Safety Standard 201 ''Occupant protection in interior impact.'' The amendments made two principal changes to the Standard. One of these changed the method used to determine the appropriate distance for excluding impacts on adjacent targets to prevent impact overlap. The second modified the Standard to add test targets to seat belt mounting structures and door frames for certain vehicle configurations. The addition of the new targets required adding new specifications for the new targets to the list of approach angles set forth in S8.13.4.

Further review of the February 27, 2004 final rule indicates that the amendatory instructions issued at that time were incomplete and did not properly describe the changes to the Standard. Those instructions failed to correctly specify that revisions were being made to S8.13.4 and the accompanying Table 1. In addition, the amendatory language failed to identify that revisions were being made to S8.13.4.2(b)(2) by indicating that revisions were being made to S8.13.4.2(b).

In FR Doc. 04–4277 published on February 27, 2004, (69 FR 9217) make the following correction:

PART 571—[CORRECTED]

■ On page 9226, in the second column, correct amendatory instruction 2 to read as follows:

■ 2. Section 571.201 is amended by revising the definition of B-pillar in S3 and adding, in alphabetical order, definitions of B-pillar, Door frame, Other door frame, and Seat belt mounting structure to S3; by adding S6.3(e) and SB.13.4.1(e) through (h); revising the introductory text and Table 1 of S8.13.4, S8.13.4.2(b)(2), S8.14, and S10(a) through (b); and by adding S10.14, S10.15 and S10.16 to read as follows:

Issued: August 31, 2004.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 04–20261 Filed 9–7–04; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 69, No. 173
Wednesday, September 8, 2004

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2004–19038; Directorate Identifier 2004–SW–24–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France Model AS350B, BA, B1, B2, B3, C, D, D1, and EC130 B4 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for the specified Eurocopter France (ECF) model helicopters. This proposal would require removing and modifying the fuel bleed lever. This proposal is prompted by some cases of loss of the fuel bleed lever in flight. If the tension of the control cable is too low, the cable may vibrate out of its notch, resulting in the fuel bleed lever separating from the hinge. The actions specified by this proposed AD are intended to prevent a fuel bleed lever from separating and striking the tail rotor blade (blade), resulting in damage to or loss of a blade, and subsequent vibration and loss of control of the helicopter.

DATES: Comments must be received on or before November 8, 2004.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD:

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically;
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically;
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590;
- Fax: 202–493–2251; or
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may get the service information identified in this proposed AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527.

You may examine the comments to this proposed AD in the AD docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Ed Cuevas, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Safety Management Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5355, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written data, views, or arguments regarding this proposed AD. Send your comments to the address listed under the caption **ADDRESSES**. Include the docket number ''FAA–2004–19038, Directorate Identifier 2004–SW–24–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed rulemaking. Using the search function of our docket Web site, you can find and read the comments to any of our dockets, including the name of the individual who sent or signed the comment. You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

You may examine the docket that contains the proposed AD, any comments, and other information in person at the Docket Management System (DMS) Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5227) is located at the plaza level of the Department of Transportation NASSIF Building in Room PL–401 at 400 Seventh Street, SW., Washington, DC. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

The Direction Generale de L'Aviation Civile (DGAC), the airworthiness authority for France, notified the FAA that an unsafe condition may exist on the Model EC 130 and the AS 350 helicopters. The DGAC advises of some cases of loss of the fuel bleed lever in flight.

ECF has issued Alert Service Bulletin (ASB) Nos. 28A001 for the Model EC130 B4 and 28.00.16 for the civil version of the Model AS350B, BA, BB, B1, B2, B3, D, and the military version of the Model L1 helicopters, both dated March 3, 2004. The ASB's specify removing and modifying the fuel bleed lever. The DGAC classified these ASB's as mandatory and issued AD Nos. F–2004–034 for the Model EC130 B4 pre-MOD 073239 and F–2004–033 for the Model AS350B, BA, BB, B1, B2, B3, and D helicopters, pre-MOD 073239, both dated March 17, 2004, to ensure the continued airworthiness of these helicopters in France.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, the DGAC has kept us informed of the situation described above. We have examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

This previously described unsafe condition is likely to exist or develop on other helicopters of the same type design registered in the United States. Therefore, the proposed AD would require removing and modifying the fuel bleed lever, part number (P/N) 350A55104320, and reinstalling the modified fuel bleed lever and marking it with P/N 350A08254720. The actions

would be required to be done following the ASB's described previously.

We estimate that this proposed AD would:

- Affect 624 helicopters of U.S. registry;
- Take about 1 work hour per helicopter to modify the fuel bleed lever at an average labor rate of $65 per work hour.
- Cost about $300 for consumable materials.

Based on these figures, we estimate the total cost impact of the proposed AD on U.S. operators would be $227,760.

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. Additionally, this proposed AD would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a draft economic analysis of the estimated costs to comply with this proposed AD. See the DMS to examine the draft economic analysis.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Eurocopter France: Docket No. FAA–2004–19038; Directorate Identifier 2004–SW–24–AD.

Applicability: Model AS350B, BA, B1, B2, B3, C, D, D1, and EC130 B4 helicopters, pre-MOD 073239, with fuel bleed lever, part number (P/N) 350A55104320, installed, certificated in any category.

Compliance: Required within 6 months for the Model EC130 B4 helicopters and within 100 hours time-in-service or 6 months, whichever comes first, for the Model AS350B, BA, B1, B2, B3, C, D, and D1 helicopters, unless accomplished previously.

To prevent a fuel bleed lever from separating and striking the tail rotor blade (blade), resulting in damage to or loss of a blade, and subsequent vibration and loss of control of the helicopter, do the following:

(a) Remove and modify the fuel bleed lever, P/N 350A55104320, by following the Accomplishment Instructions, paragraph 2.B., of Eurocopter Alert Service Bulletin Nos. 28A001 for the Model EC130 B4 and 28.00.16 for the Model AS350B, BA, B1, B2, B3, C, D, and D1 helicopters, both dated March 3, 2004, as applicable. Reinstall the modified fuel bleed lever and mark it with P/N 350A08254720.

(b) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Safety Management Group, FAA, for information about previously approved alternative methods of compliance.

Note: The subject of this AD is addressed in Direction Generale de L'Aviation Civile (France) AD Nos. F–2004–033 and F–2004–034, both dated March 17, 2004.

Issued in Fort Worth, Texas, on August 31, 2004.

Kim Smith,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 04–20311 Filed 9–7–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 356

[Docket No. BPD GSRS 04–01]

Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds—Bidder Definitions

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Proposed rule.

SUMMARY: The Department of the Treasury (''Treasury,'' ''We,'' or ''Us'') proposes to amend 31 CFR Part 356 (Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds) by modifying its definitions of different types of bidders in Treasury marketable securities auctions. We are proposing this amendment to allow a certain business relationship between two entities that currently would be treated as a single bidder under the auction rules to be treated as separate bidders. Specifically, the proposed amendment would state that an entity that is more than 50-percent-owned by a corporation or partnership is not deemed to be an affiliate of the corporation or partnership if the ownership is for investment purposes only. The amendment would update the auction rules to acknowledge a business practice that currently is not accommodated in the rules.

DATES: Send your comments to reach us on or before November 8, 2004.

ADDRESSES: You may send comments to: Bureau of the Public Debt, Government Securities Regulations Staff, 799 9th Street NW., Washington, DC 20239–0001. You also may e-mail us comments at either *govsecreg@bpd.treas.gov,* or through the federal eRulemaking portal at *http://www.regulations.gov* and following the instructions for submitting comments. When sending comments by e-mail, please provide your full name, mailing address, and docket number BPD GSRS 04–01. You may download this proposed amendment from *http://www.regulations.gov* or from the Bureau of the Public Debt's Web site at *http://www.publicdebt.treas.gov.* The comments we receive will be available from Public Debt's website. The proposed amendment and comments will also be available for public inspection and copying at the Treasury Department Library, Room 1428, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. To visit the library, call (202) 622–0990 for an appointment.

FOR FURTHER INFORMATION CONTACT: Lori Santamorena (Executive Director) or Chuck Andreatta (Associate Director), Bureau of the Public Debt, Government Securities Regulations Staff, (202) 504–3632 or e-mail us at *govsecreg@bpd.treas.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Uniform Offering Circular (UOC), in conjunction with the announcement for each auction, provides the terms and conditions for the sale and issuance in an auction to the public of marketable Treasury bills, notes and bonds.[1] For the most part, these terms and conditions

[1] The Uniform Offering Circular was published as a final rule on January 5, 1993 (58 FR 412). The circular, as amended, is codified at 31 CFR Part 356. A final rule revising the UOC in plain language and making certain other minor changes was published in the **Federal Register** on July 28, 2004 (69 FR 45202).

apply to ''bidders'' [2] in an auction. For example, we will not award more than 35 percent of an auction's offering amount to any particular competitive bidder to help ensure broad distribution of Treasury securities at original issuance.[3]

Appendix A of the UOC provides bidder definitions that describe the categories of bidders eligible to bid in Treasury auctions. We provide these definitions so that persons and entities can use them to determine whether they are considered to be one bidder or more than one bidder for the purpose of bidding in auctions, and for compliance purposes.

Two of the bidder categories in Appendix A are ''Corporations'' and ''Partnerships.'' We consider a corporation or partnership and all of its ''affiliates''—in other words, the entire corporate or partnership structure—collectively to be one bidder. Using the ''Corporation'' category as an example, Appendix A defines an ''affiliate'' as ''any:

- entity that is more than 50-percent owned, directly or indirectly, by the corporation;
- entity that is more than 50-percent owned, directly or indirectly, by any other affiliate of the corporation;
- Person or entity that owns, directly or indirectly, more than 50 percent of the corporation;
- Person or entity that owns, directly or indirectly, more than 50 percent of any other affiliate of the corporation; or
- Entity, a majority of whose board of directors or a majority of whose general partners are directors or officers of the corporation, or of any affiliate of the corporation.'' [4]

The more-than-50-percent ownership standard is an important part of the definition because it implies at least potential, if not actual, control of an entity.

Appendix A also provides a mechanism by which a major organizational component (for example, a parent or a subsidiary), or group of components, in a corporate or partnership structure may obtain recognition by us as a bidder separate from the larger corporate or partnership structure. Separate-bidder status may be sought for a variety of reasons, the most common being that it simplifies the process of net long position reporting that applies to large competitive bidders.[5]

To obtain recognition as a separate bidder, each component or group of components must request such recognition from us, provide a description of the component or group and its position within the corporate or partnership structure, meet certain criteria, and provide a certification that it has policies or procedures in place designed to prevent any improper exchanges of information about participation in an auction or in any way acting together with respect to participating in an auction.[6] As previously noted, these requests for separate-bidder status come from the component or group of components seeking to be separated from the larger corporation or partnership structure. In general, these entities requesting separate-bidder status are financial in nature and are likely to participate in Treasury auctions.

II. Discussion

We have become aware that a business relationship, commonly referred to as ''merchant banking,'' can under certain circumstances make technical compliance with the auction rules impractical. In this business relationship, a corporation or partnership typically makes investments in other commercial enterprises, not for the purpose of actually engaging in the business of the enterprise, but rather to seek a return on the investment. Usually these other commercial enterprises are not financial in nature, although they may, on occasion, purchase and hold Treasury securities.

It is during those instances when a corporation's or partnership's investment in another enterprise causes its ownership percentage to exceed 50 percent that the complications can arise. For example, if the corporation or partnership is a large enough bidder in Treasury securities auctions that it has to calculate and possibly report its net long position, under the auction rules it is supposed to contact the acquired enterprise and find out if it has any position in the security being auctioned. This can be impractical since the net long position must be calculated as of one-half hour prior to the deadline for competitive bidding and enterprises acquired through merchant banking activities generally do not participate in Treasury securities auctions.

We believe entities acquired through merchant-banking activities pose much less potential for acting in concert with their acquiring corporation or partnership in regard to transactions in, and holdings of, Treasury securities. Corporations or partnerships invest in such entities generally to seek a return on investment and not to engage in the business of the entity, they do not exercise any control over or make operational or investment decisions for such entities and, in general, such entities are not engaged in the securities business and generally do not participate in Treasury securities auctions. Therefore, we believe the public interest is served by allowing the exclusion of merchant-banking activities from a corporate or partnership structure, as described below.

We are proposing that an entity that is more than 50-percent-owned by a corporation or partnership be deemed not to be an affiliate of the corporation or partnership if the ownership is for investment purposes only. Such entities would be deemed to be separate bidders from the corporation or partnership that owns them.

Because majority ownership still carries the potential for the acquiring corporation or partnership to exercise management control of the acquired entity, we are further proposing that any corporations or partnerships that intend to make use of this proposed change in the bidder definitions notify us in advance in writing. We do not intend to approve or formally acknowledge these letters, but submitters may contact us to determine whether the letters have been received.

This written communication would include a certification that the corporation or partnership does not exercise control over or make operational or investment decisions for such acquired entities, and that it has written policies in place to prevent any inappropriate exchange of information concerning participation in Treasury marketable securities auctions. We do not intend, however, to prevent a corporation or partnership from submitting bids on behalf of acquired entities, as long as the corporation or partnership has not exercised any control over or made operational or investment decisions for the entity, and the transaction is otherwise in compliance with the regulations. Until we publish a final rule or issue other guidance on this matter, we do not expect any such corporations or partnerships to change their current

[2] See § 356.2 and Appendix A of 31 CFR Part 356.

[3] See § 356.22(b).

[4] The ''Partnership'' category uses the same definition of ''affiliate'' except that ''partnership'' is used in place of ''corporation.''

[5] See § 356.13. A bidder must report its net long position when the total of all of its bids in an auction plus its net long position in the security being auctioned equals or exceeds the net long position reporting threshold amount stated in the offering announcement, generally 35 percent of the offering amount.

[6] See Appendix A, Section II.

practices regarding the reporting of positions of majority-owned entities.

Procedural Requirements

It has been determined that this proposed rule is not a significant regulatory action for purposes of Executive Order 12866. Although we are issuing this proposed rule in proposed form to benefit from public comment, the notice and public procedures requirements of the Administrative Procedure Act do not apply, under 5 U.S.C. 553(a)(2).

Since no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

The Office of Management and Budget previously approved the collections of information in this proposed amendment in accordance with the Paperwork Reduction Act under control number 1535–0112. We are not proposing changes that would impose additional burdens on auction bidders.

List of Subjects in 31 CFR Part 356

Bonds, Federal Reserve System, Government Securities, Securities.

For the reasons stated in the preamble, we propose to amend 31 CFR Part 356 as follows:

PART 356—SALE AND ISSUE OF MARKETABLE BOOK-ENTRY TREASURY BILLS, NOTES, AND BONDS (DEPARTMENT OF THE TREASURY CIRCULAR, PUBLIC DEBT SERIES NO. 1–93)

1. The authority citation for Part 356 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 3102 *et seq.*; 12 U.S.C. 391.

2. In Appendix A to Part 356, amend Section I by revising the introductory text and paragraphs (a) and (b) to read as follows:

Appendix A to Part 356—Bidder Categories

I. Categories of Eligible Bidders

We describe below various categories of bidders eligible to bid in Treasury auctions. You may use them to determine whether we consider you and other persons or entities to be one bidder or more than one bidder for auction bidding and compliance purposes. For example, we use these definitions to apply the competitive and noncompetitive award limitations and for other requirements. Notwithstanding these definitions, we consider any persons or entities that intentionally act together with respect to bidding in a Treasury auction to collectively be one bidder. Even if an auction participant does not fall under any of the categories listed below, it is our intent that no auction participant receives a larger auction award by acquiring securities through others than it could have received had it been considered one of these types of bidders.

(a) *Corporation*—We consider a corporation to be one bidder. A corporation includes all of its affiliates, which may be persons, partnerships, or other entities. We consider a business trust, such as a Massachusetts or Delaware business trust, to be a corporation. We use the term ''corporate structure'' to refer to the collection of affiliates that we consider collectively to be one bidder. An affiliate is any:

- Entity that is more than 50-percent owned, directly or indirectly, by the corporation;
- Entity that is more than 50-percent owned, directly or indirectly, by any other affiliate of the corporation;
- Person or entity that owns, directly or indirectly, more than 50 percent of the corporation;
- Person or entity that owns, directly or indirectly, more than 50 percent of any other affiliate of the corporation; or
- Entity, a majority of whose board of directors or a majority of whose general partners are directors or officers of the corporation, or of any affiliate of the corporation.

An entity that is more than 50-percent owned as described in this definition is not an affiliate, however, if:

- The purpose of such ownership is to seek a return on investment and not to engage in the business of the entity;
- The owner does not exercise any control over or make operational or investment decisions for the entity;
- The corporation has written policies or procedures, including ongoing compliance monitoring processes, that are designed to prevent it from acting together with the entity regarding participation in Treasury auctions or investment strategies regarding Treasury securities being auctioned; and
- The corporation submits notice and certification to us, as provided in this Appendix A.

A corporation that plans to make use of this exception to the definition of ''affiliate'' must inform us of this fact in writing and provide the following certification:

[Name of corporation] hereby certifies that, with regard to any entity of which it owns more than 50 percent as defined in Appendix A to 31 CFR Part 356, but for which the purpose of such ownership is to seek a return on investment and not to engage in the business of the entity:

- We do not exercise any control over or make operational or investment decisions for the entity;
- We have written policies or procedures, including ongoing compliance monitoring processes, that are designed to prevent the corporation from acting together with the entity regarding participation in Treasury auctions or investment strategies regarding Treasury securities being auctioned; and
- We will continue to meet the terms of this certification until we notify the Treasury of a change.

(b) *Partnership*—We consider a partnership to be one bidder if it is a partnership for which the Internal Revenue Service has assigned a tax-identification number. A partnership includes all of its affiliates, which may be persons, corporations, general partners acting on behalf of the partnership, or other entities. We use the term ''partnership structure'' to refer to the collection of affiliates that we consider collectively to be one bidder. We may consider a partnership structure that contains one or more corporations as a ''partnership'' or a ''corporation,'' but not both.

An affiliate is any:

- Entity that is more than 50-percent owned, directly or indirectly, by the partnership;
- Entity that is more than 50-percent owned, directly or indirectly, by any other affiliate of the partnership;
- Person or entity that owns, directly or indirectly, more than 50 percent of the partnership;
- Person or entity that owns, directly or indirectly, more than 50 percent of any other affiliate of the partnership; or
- Entity, a majority of whose general partners or a majority of whose board of directors are general partners or directors of the partnership or of any affiliate of the partnership.

An entity that is more than 50-percent owned as described in this definition is not an affiliate, however, if:

- The purpose of such ownership is to seek a return on investment and not to engage in the business of the entity;
- The owner does not exercise any control over or make operational or investment decisions for the entity;
- The partnership has written policies or procedures, including ongoing compliance monitoring processes, that are designed to prevent it from acting together with the entity regarding participation in Treasury auctions or investment strategies regarding Treasury securities being auctioned; and
- The partnership submits notice and certification to us, as provided in this Appendix A.

A partnership that plans to make use of this exception to the definition of ''affiliate'' must inform us of this fact in writing and provide the following certification:

[Name of partnership] hereby certifies that, with regard to any entity of which it owns more than 50 percent as defined in Appendix A to 31 CFR Part 356, but for which the purpose of such ownership is to seek a return on investment and not to engage in the business of the entity:

- We do not exercise any control over or make operational or investment decisions for the entity;
- We have written policies or procedures, including ongoing compliance monitoring processes, that are designed to prevent the partnership from acting together with the entity regarding participation in Treasury auctions or investment strategies regarding Treasury securities being auctioned; and
- We will continue to meet the terms of this certification until we notify the Treasury of a change.

* * * * *

Dated: August 30, 2004.

Donald V. Hammond,

Fiscal Assistant Secretary.

[FR Doc. 04–20189 Filed 9–7–04; 8:45 am]

BILLING CODE 4810–39–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[NM–47–1–7606b; FRL–7810–3]

Clean Air Act Approval of Revisions to the Title V Operating Permits Program in the State of New Mexico, Albuquerque/Bernalillo County, NM, and the State of Arkansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve revisions to the title V Operating Permits Program for the State of New Mexico, Albuquerque/Bernalillo County, New Mexico, and the State of Arkansas. This includes revisions that the State of New Mexico, Albuquerque/Bernalillo County, New Mexico, and the State of Arkansas submitted to EPA on November 5, 2002, May 2, 2003, and October 24, 2002, respectively to revise the definition of ''Major Source'' as defined in the States' or County's regulation.

This also includes other administrative revisions to other areas of Arkansas' regulations to incorporate updated Federal regulatory citations.

DATES: Written comments must be received in writing on or before October 8, 2004.

ADDRESSES: Submit your comments, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- U.S. EPA Region 6 ''Contact Us'' Web site: *http://epa.gov/region6/r6coment.htm.* Please click on ''6PD'' (Multimedia) and select ''Air'' before submitting comments.
- E-mail: Mr. David Neleigh at *neleigh.david@epa.gov.* Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.
- Fax: Mr. David Neleigh, Chief, Air Permits Section (6PD–R), at fax number 214–665–7263.
- Mail: Mr. David Neleigh, Chief, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- Hand or Courier Delivery: Mr. David Neleigh, Chief, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Please include the text ''Public Comment on File ID No. NM–47–1–7606a'' in the subject line of the first page of your comments. EPA's policy is that all comments received will be included in the public file without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through regulations.gov or e-mail if you believe that it is CBI or otherwise protected from disclosure. Regulations.gov is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public file and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Official File: Copies of the documents relevant to this action are in the official file which is available at the Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 FOIA Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area on the 7th floor at 1445 Ross Avenue, Suite 700, Dallas, Texas.

Copies of any State submittals and EPA's technical support document are also available for public inspection at the State Air Agency listed below during official business hours by appointment:

Arkansas Department of Environmental Quality, Air Division, 8001 National Drive, P.O. Box 8913, Little Rock, Arkansas 72219–8913.

New Mexico Environment Department, Air Quality Bureau, 1190 St. Francis Drive, Santa Fe, New Mexico 87502.

Albuquerque Environmental Health Department, Air Pollution Control Division, One Civic Plaza, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Allen Chang of the Air Permits Section (6PD–R), Environmental Protection Agency, Region VI, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The telephone number is (214) 665–7541. Mr. Allen Chang can also be reached via electronic mail at *chang.allen@epa.gov*.

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the above mentioned States' and County's title V revisions as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision and anticipates no adverse comment. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives relevant adverse comment, EPA will withdraw the direct final rule and will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For further information, please see the direct final rule of the same title which is located in the ''Rules and Regulations'' section of this **Federal Register**.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: August 23, 2004.

Richard E. Greene,

Regional Administrator, Region 6.

[FR Doc. 04–20334 Filed 9–7–04; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 229

[Docket No. FRA–2003–16357, Notice No. 2]

RIN 2130–AB34

Locomotive Event Recorders

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Proposed rule; notice of public hearing and extension of comment period.

SUMMARY: By notice of proposed rulemaking (NPRM) published on June 30, 2004 (69 FR 39774), FRA proposed revisions to the regulations governing locomotive event recorders in order to improve the crashworthiness of railroad locomotive event recorders and to enhance the quality of information available for post-accident investigations. In that document, FRA announced that it expected to be able to resolve this rulemaking without a public, oral hearing but indicated that if it received a specific request for a public, oral hearing, one would be scheduled. In response to that document, several commenters requested the opportunity for a public, oral hearing, and one commenter sought an extension in the time for submitting written comments. This document grants those requests.

DATES: (1) *Comments:* Comments must be received by October 11, 2004, unless information received at the public hearing indicates a need to further extend this time period.

(2) *Public Hearing:* A public hearing will be held on September 30, 2004, beginning at 10 a.m. at the location listed below to provide interested parties the opportunity to comment on the proposed revisions contained in the NPRM.

Any person wishing to participate in the public hearing should notify FRA's Docket Clerk by mail at the address provided below at least five working days prior to the date of the hearing and submit three copies of the oral statement that he or she intends to make at the hearing. The notification should identify the party the person represents, and the particular subject(s) the person plans to address. The notification should also provide the Docket Clerk with the participant's mailing address. FRA reserves the right to limit participation in the hearings of persons who fail to provide such notification.

ADDRESSES: (1) *Comments:* Comments related to Docket No. FRA–2003–16357 may be submitted by any of the following methods:

- *Web site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m. Monday through Friday, except Federal Holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information. FRA wishes to inform all potential commenters that anyone is able to search the electronic form of all comments received into any agency docket by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov*.

(2) *Public Hearing:* A hearing to provide interested parties the opportunity to comment on the proposed revisions contained in the NPRM will be held in Conference Room 1 located on the 7th floor at 1120 Vermont Avenue, NW., Washington, DC 20005.

(3) *FRA Docket Clerk:* Written notification of a party's desire to participate in the public hearing should identify the docket number and must be submitted to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, RCC–10, Mail Stop 10, 1120 Vermont Avenue, NW., Washington, DC 20005.

(4) *DOT Docket:* For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m. Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Edward W. Pritchard, Director, Office of Safety Assurance and Compliance, RRS–10, Mail Stop 25, Federal Railroad Administration, Department of Transportation, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone 202–493–6247), or Thomas J. Herrmann, Trial Attorney, Office of Chief Counsel, Mail Stop 10, Federal Railroad Administration, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone 202–493–6036).

SUPPLEMENTARY INFORMATION: The public hearing will be informal and will be conducted in accordance with FRA's Rules of Practice (49 CFR 211.25) by representatives designated by FRA. FRA's representatives will make opening statements outlining the scope of the hearing, as well as any additional procedures for the conduct of the hearing. The hearing will be a non-adversarial proceeding in which all interested parties will be given the opportunity to express their views regarding this NPRM, without cross-examination. After all initial statements have been completed, those persons wishing to make brief rebuttal statements will be given an opportunity to do so in the same order in which initial statements were made.

Issued in Washington, DC, on September 2, 2004.

Betty Monro,

Acting Federal Railroad Administrator.

[FR Doc. 04–20416 Filed 9–3–04; 1:49 pm]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 2004–19031]

RIN 2127–AH81

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of withdrawal of request for comments.

SUMMARY: In 2001, this agency published a request for comments seeking information on the causes and potential safety risks associated with headlamp glare. After receiving and reviewing more than 5,000 public comments, the agency has identified five separate issues that may become the subject of rulemaking in the future. However, before the agency considers whether to initiate rulemaking, it plans to conduct evaluations and research in a number of areas. Accordingly, the agency is terminating public proceedings on this subject by withdrawing the request for comments. The agency will continue to study the issue of glare and headlamp performance, including any new information submitted by the public.

FOR FURTHER INFORMATION CONTACT: The following persons at the NHTSA, 400 Seventh Street, SW., Washington, DC 20590.

For non-legal issues, you may call Mr. Richard Van Iderstine, Office of Crash Avoidance Standards (telephone: 202–366–2720) (fax: 202–366–7002).

For legal issues, you may call Mr. Eric Stas, Office of Chief Counsel (Telephone: 202–366–2992) (Fax: 202–366–3820).

SUPPLEMENTARY INFORMATION:

I. Background

Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment,* establishes performance requirements for lighting-related equipment on new motor vehicles, as well as their location. The standard also covers replacement lighting equipment. The present version of FMVSS No. 108 sets minimum and maximum headlamp intensities to ensure that the driver of the vehicle sees as much of the roadway as possible, while minimizing the glare for other drivers using the road.

In response to over 200 consumer complaints of headlamp glare, NHTSA published a request for comments on September 28, 2001, on the issue of glare from headlamps (*see* 66 FR 49594; *see also* 66 FR 59769 (November 30, 2001) (notice reopening comment period)). Some of the questions in the request for comments addressed auxiliary forward illumination devices, high-mounted headlamps, glare from high-intensity discharge (HID) headlamps, and light source and color issues.

As noted in the summary above, NHTSA received over 5,000 submissions pursuant to this request for comments, most of which can be classified as individual complaints from persons concerned about the increasing incidence of nighttime glare from front-mounted lamps.[1] The commenters most frequently discussed extra headlamps, high-mounted headlamps, blue headlamps, HID headlamps, and certain other issues related to glare.

After reviewing these comments, the agency has identified five discrete issue areas related to glare that need further evaluation and may be considered for future regulatory action: (1) Auxiliary forward illumination devices; (2) headlamp mounting height; (3) headlamp light source issues; (4) HID headlamps, and (5) aiming.

NHTSA has also identified several research topics related to glare that the agency is undertaking with universities, including research to quantify the benefits of reducing glare and improving headlamp performance, human factors testing of driver reaction to various types of headlamps, the potential safety-related benefits of adaptive frontal headlighting systems, and measurement of the effects of spectral distribution, lamp size, and luminance on glare and visual performance.

II. Reason for Withdrawal

In light of the agency's plans for further evaluation and research related to glare, there will be no further public proceedings in the immediate future. We are terminating the current public proceedings by withdrawing the request for comments. We may consider initiating separate glare-related rulemakings under FMVSS No. 108 on the above-mentioned topics in the future. If we decide to do so, we will commence new public proceedings.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued: August 31, 2004.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 04–20258 Filed 9–7–04; 8:45 am]

BILLING CODE 4910–59–P

[1] *See* Docket No. NHTSA–2001–8885.

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Part 1507

[Docket No. TSA–2004–18984, Amendment 1507–1]

RIN 1652–AA36

Privacy Act of 1974: Implementation of Exemptions; Registered Traveler Operations Files

AGENCY: Transportation Security Administration (TSA), DHS.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: TSA proposes to exempt the Registered Traveler Operations Files (DHS/TSA 015) from several provisions of the Privacy Act. Public comment is invited.

DATES: Submit comments by October 8, 2004.

ADDRESSES: You must identify the TSA docket number when you submit comments to this rulemaking, using any one of the following methods:

Comments Filed Electronically: You may submit comments through the docket Web site at *http://dms.dot.gov.* Please be aware that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the applicable Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

You also may submit comments through the Federal eRulemaking portal at *http://www.regulations.gov.*

Comments Submitted by Mail, Fax, or In Person: Address or deliver your written, signed comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001; Fax: 202–493–2251.

Reviewing Comments in the Docket: You may review the public docket containing comments in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is located on the plaza level of the NASSIF Building at the Department of Transportation address above. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

See **SUPPLEMENTARY INFORMATION** for format and other information about comment submissions.

FOR FURTHER INFORMATION CONTACT: Conrad Huygen, Privacy Act Officer, TSA Office of Information Management Programs, TSA–17, West Tower, 11th Floor, 601 S. 12th Street, Arlington, VA 22202–4220; telephone (571) 227–1954; facsimile (571) 227–2912.

SUPPLEMENTARY INFORMATION:

Comments Invited

TSA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. See **ADDRESSES** above for information on where to submit comments.

With each comment, please include your name and address, identify the docket number at the beginning of your comments, and give the reason for each comment. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. You may submit comments and material electronically, in person, or by mail as provided under **ADDRESSES**, but please submit your comments and material by only one means. If you submit comments by mail or delivery, submit them in two copies, in an unbound format, no larger than 8.5 by 11 inches, suitable for copying and electronic filing.

If you want TSA to acknowledge receipt of your comments on this rulemaking, include with your comments a self-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Except for comments containing confidential information and SSI, we will file in the public docket all comments we receive, as well as a report summarizing each substantive public contact with TSA personnel concerning this rulemaking. The docket is available for public inspection before and after the comment closing date.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late to the extent practicable. We may change this rulemaking in light of the comments we receive.

Availability of Rulemaking Document

You may obtain an electronic copy using the Internet by—

(1) Searching the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*);

(2) Accessing the Government Printing Office's Web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html;* or

(3) Visiting the TSA's Law and Policy Web page at *http://www.tsa.dot.gov/public/index.jsp.*

In addition, copies are available by writing or calling the individual in the **FOR FURTHER INFORMATION CONTACT** section. Make sure to identify the docket number of this rulemaking.

Background

TSA plans to conduct a pilot program at a limited number of airports to test and evaluate the merits of a registered traveler program (RT), in which travelers may volunteer to undergo a limited security threat assessment in order to expedite the pre-boarding process. In the RT pilot, TSA would positively identify volunteer travelers using advanced identification technology and then conduct a security threat assessment to ensure that the volunteer does not pose a security threat. TSA believes that this process has the potential to enhance the allocation of its limited security resources on individuals who are more likely to pose a security threat. However, it is important to note that all travelers who volunteer and are deemed eligible for the RT pilot program will be required to undergo physical screening at the screening checkpoint in the selected pilot locations.

Summary of Proposed Rule

In conjunction with the establishment of a new system of records to facilitate the RT Pilot Program, Registered Traveler Operations Files (DHS/TSA 015), TSA proposes to exempt portions of the system from 5 U.S.C. 552a(c)(3) (accounting of disclosures), (d) (access to records), (e)(1) (relevancy of necessary information), (e)(4)(G), (H) and (I) (agency requirements), and (f) (agency rules) pursuant to exemptions (k)(1) and (k)(2) of the Act. These exemptions are being claimed in accordance with the Privacy Act so that the security aspects of the system may properly function and to prevent the unauthorized disclosure of classified and law enforcement information.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that TSA consider the impact of paperwork and other information collection burdens imposed on the public. We have determined that there are no current or new information collection requirements associated with this proposed rule.

Analysis of Regulatory Impacts

This proposal is not a ''significant regulatory action'' within the meaning of Executive Order 12886. Because the economic impact should be minimal, further regulatory evaluation is not necessary. Moreover, I certify that this proposal would not have a significant economic impact on a substantial number of small entities, because the reporting requirements themselves are not changed and because it applies only to information on individuals.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), (Pub. L. 104–4, 109 Stat. 48), requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for proposed and final rules that contain Federal mandates. A ''Federal mandate'' is a new or additional enforceable duty, imposed on any State, local, or tribal government, or the private sector. If any Federal mandate causes those entities to spend, in aggregate, $100 million or more in any one year the UMRA analysis is required. This proposal would not impose Federal mandates on any State, local, or tribal government or the private sector.

Executive Order 13132, Federalism

TSA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore would not have federalism implications.

Environmental Analysis

TSA has reviewed this action for purposes of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) and has determined that this action will not have a significant effect on the human environment.

Energy Impact

The energy impact of this document has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Public Law 94–163, as amended (42 U.S.C. 6362). We have determined that this rulemaking is not a major

regulatory action under the provisions of the EPCA.

List of Subjects in 49 CFR Part 1507

Privacy, Transportation Security.

The Proposed Amendment

In consideration of the foregoing, the Transportation Security Administration proposes to amend Part 1507 of Chapter XII, Title 49 of the Code of Federal Regulations, as follows:

PART 1507 PRIVACY ACT—EXEMPTIONS

1. The authority cited for part 1507 is revised to read as follows:

Authority: 49 U.S.C. 114(l)(1), 40113, 5 U.S.C. 552a(j) and (k).

2. Section 1507.3 is revised by adding a new paragraph (i) to read as follows:

§ 1507.3 Exemptions.

* * * * *

(i) *Registered Traveler Operations Files (DHS/TSA 015)*

The purpose of this system is to pre-screen and positively identify volunteer travelers using advanced identification technologies and conduct security threat assessment to ensure that the volunteer does not pose a security threat. This system may expedite the pre-boarding process for the traveler and improve the allocation of TSA's security resources on individuals who may pose a security threat. Pursuant to exemptions (k)(1) and (k)(2) of the Privacy Act, DHS/TSA 015 is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I), and (f). Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of heightened security concerns relating to an actual or potential criminal, civil, or regulatory violation to the existence of an investigative interest on the part of the Transportation Security Administration as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to transportation security law enforcement efforts and efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the program suitability determination, which undermines the entire system.

(2) From subsection (d) (Access to Records) because access to some of the records contained in this system of records could permit the individual who is the subject of a record to impede the program suitability determination. Amendment of the records would interfere with ongoing security assessment investigations and program suitability determinations and impose an impossible administrative burden by requiring such investigations to be continuously reinvestigated. The information contained in the system may also include classified information, the release of which would pose a threat to national defense and/or foreign policy. In addition, permitting access and amendment to such information also could disclose security-sensitive information that could be detrimental to transportation security.

(3) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of screening applicants for program suitability, TSA must be able to review information from a variety of sources. What information is relevant and necessary may not always be apparent until after the evaluation is completed. In the interests of transportation security, it is appropriate to include a broad range of information that may aid in determining an applicant's suitability for the RT program.

(4) From subsections (e)(4)(G), (H) and (I) (Agency Requirements), and (f) (Agency Rules), because this system is exempt from the access and amendment provisions of subsection (d).

Issued in Arlington, Virginia, on August 30, 2004.

Susan T. Tracey,

Chief Administrative Officer.

[FR Doc. 04–20252 Filed 9–7–04; 8:45 am]

BILLING CODE 4910–62–P

Notices

Federal Register

Vol. 69, No. 173

Wednesday, September 8, 2004

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

Agricultural Marketing Service

[Docket No. TB–04–12]

Notice of Request for an Extension of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension to a currently approved information collection for Tobacco Report.

DATES: Comments on this notice must be received by November 8, 2004 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Henry R. Martin, Chief, Market Information and Program Analysis Branch, Tobacco Programs, AMS, U.S. Department of Agriculture (USDA), Stop 0280, 1400 Independence Ave. SW., Washington, DC 20250–0280, (202) 205–0489, Fax (202) 205–0099.

SUPPLEMENTARY INFORMATION:

Title: Tobacco Report.

OMB Number: 0581–0004.

Expiration Date of Approval: 06/30/2005.

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

Abstract: The Tobacco Statistics Act of 1929 (7 U.S.C. 501–508) provides for the collection and publication of statistics of tobacco by USDA with regard to quantity of leaf tobacco in all forms in the United States and Puerto Rico, owned by or in the possession of dealers, manufacturers, growers' cooperative associations, and others with the exception of the original growers of the tobacco.

The statistics shall show the quantity of tobacco in such detail as to types, as USDA shall deem to be practical and necessary and shall be summarized as of January 1, April 1, July 1, and October 1 of each year and are due within 15 days of the summarized dates.

The information furnished under the provisions of this Act shall be used only for statistical purposes for which it is supplied. No publication shall be made by USDA whereby the data furnished by any particular establishment can be identified, nor shall anyone other than the sworn employees of USDA be allowed to examine the individual reports.

The regulations governing the Tobacco Stocks and Standards Act (7 CFR part 30) issued under the Tobacco Statistics Act specifically address the reporting requirements. Tobacco in leaf form or stems is reported by types of tobacco and whether stemmed or unstemmed. Tobacco in sheet form shall be segregated as to whether for cigar wrapper, cigar binder, for cigarettes, or for other products.

Tobacco stocks reporting is mandatory. The basic purpose of the information collection is to ascertain the total supply of unmanufactured tobacco available to domestic manufacturers and to calculate the amount consumed in manufactured tobacco products. This data is also used for the calculation of production quotas for individual types of tobacco and for price support calculations.

The Quarterly Report of Manufacture and Sales of Snuff, Smoking and Chewing Tobacco is voluntary. Prior to 1965, information on the manufacture and sale of snuff, smoking and chewing tobacco products was available from Treasury Department publications on the collection of taxes. With repeal of the Federal tax in 1965, the industry requested that the collection of basic data be continued to maintain the statistical series and all the major manufacturers agreed to furnish information. Federal taxes were reimposed in 1985 for snuff and chewing tobacco and the Treasury Department began reporting data on these products, but not in the detail desired by the industry. Data from this report is also used in the calculations to determine the production quotas of types of tobacco used in these products.

The Agriculture Marketing Act of 1946 (7 U.S.C. 1621–1627) directs and authorizes USDA to collect, tabulate, and disseminate statistics on marketing agricultural products including market supplies, storage stocks, quantity, quality and condition of such products in various positions in the marketing channel, utilization of sub-products, shipments, and unloads.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.92 hours per response.

Respondents: Primarily tobacco dealers, manufacturers, and growers' cooperative associations including small businesses or organizations.

Estimated Number of Respondents: 76.

Estimated Number of Responses: 304.

Estimated Number of Responses per Respondent: 4.

Estimated Total Annual Burden on Respondents: 278.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Henry R. Martin, Chief, Market Information and Program Analysis Branch, Tobacco Programs, AMS, USDA Stop 0280, 1400 Independence Ave. SW., Washington, DC 20250–0280. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: September 1, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04–20272 Filed 9–7–04; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Request for Extension of Currently Approved Information Collection

AGENCY: Farm Service Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intent of the Farm Service Agency (FSA) to request an extension of a currently approved information collection for a form used in support of the FSA Farm Loan Programs (FLP). This renewal does not involve any revisions to the program rules.

DATES: Comments on this notice must be received on or before November 8, 2004 to be assured consideration.

FOR FURTHER INFORMATION CONTACT: Constance Rime, USDA, Farm Service Agency, Loan Servicing and Property Management Division, 1400 Independence Avenue, SW., STOP 0523, Washington, DC 20250–0523; Telephone (202) 690–4012; electronic mail: *constance_rime@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Agreement for the Use of Proceeds/Release of Chattel Security.

OMB Control Number: 0560–0171.

Expiration Date of Approval: March 31, 2005.

Type of Request: Extension of Currently Approved Information Collection.

Abstract: This information collection is needed to implement section 335(f) of the Consolidated Farm and Rural Development Act (7 U.S.C 1985(f)), which requires release of normal income security to pay essential household and farm operating expenses of the borrower, until the Agency accelerates the loan.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 20 minutes per response.

Respondents: Individuals or households, businesses or other for profit and farms.

Estimated Number of Respondents: 55,000.

Estimated Number or Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 18,150.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. These comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Constance Rime, Senior Loan Officer, USDA, FSA, Farm Loan Programs, Loan Servicing Division, 1400 Independence Avenue, SW., STOP 0523, Washington, DC 20250–0523.

Comments will be summarized and included in the request for OMB approval of the information collection. All comments will also become a matter of public record.

Signed in Washington, DC, on September 1, 2004.

James R. Little,

Administrator, Farm Service Agency.

[FR Doc. 04–20350 Filed 9–7–04; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Supplement to the Draft Environmental Impact Statement for the Drew Creek, Diamond Rock and Divide Cattle Allotments, Tiller Ranger District, Umpqua National Forest, Douglas County, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a supplement to a draft environmental impact statement.

SUMMARY: The USDA Forest Service will prepare a Supplement to the Draft Environmental Impact Statement (EIS) for the Drew Creek, Diamond Rock and Divide Cattle Allotments. The draft EIS for the Drew Creek, Diamond Rock and Divide Cattle Allotments was released by former Forest Supervisor Don Ostby in May 2001 (Notice of Availability, May 25, 2001, 66 FR 28904). Based on comments received on the draft EIS, as well as monitoring data that indicate additional grazing opportunities can be successfully implemented through adaptive management practices, Forest Supervisor James A. Caplan decided to prepare a supplement pursuant to 40 CFR 1502.9(c)(1)(ii). This supplement will provide a new proposed action to the existing analysis. Previous notices were published in the **Federal Register** on April 2, 1999, (64 FR 15953); and May 25, 2001, (66 FR 28904).

ADDRESSES: Send written comments and suggestions concerning the scope of this supplement to Sharon R. Sprouse, District Ranger, Tiller Ranger District, 27812 Tiller-Trail Highway, Tiller, Oregon 97484.

FOR FURTHER INFORMATION CONTACT: West Yamamoto, ID Team Leader, Tiller Ranger District, 27812 Tiller-Trail Highway, Tiller, Oregon 97484, or (541) 825–3201.

Responsible Official: Forest Supervisor James A. Caplan is the responsible official for this EIS. Mr. Caplan may be contacted at Umpqua National Forest, 2900 NW., Stewart Parkway, Roseburg, OR 97470.

SUPPLEMENTARY INFORMATION: The purpose of the supplement is to provide a new proposed action. The proposed action would permit 1,903 head months (HM) to graze three full allotments, and portion of two other allotments, totaling 51,950 acres. Under this proposed action, 90 HM would be permitted on the drew Creek Allotment, 680 HM on the Diamond Rock Allotment, 418 HM in the Divide Allotment, 440 HM on a portion of the Summit Allotment and 275 HM in a portion of the Acker Divide Allotment. It also will provide additional information on the biological, social and economic environments that would be affected by the proposal.

In addition to the new proposed action, the supplement will contain three other alternatives, including: (1) The no change alternative, which describes the current grazing program; (b) an alternative proposed by the South Umpqua Grazing Association, which represents local ranchers and livestock grazing permittees; and (c) the no grazing alternative, which would eliminate the range program on the Tiller Ranger District.

The supplement will be prepared and circulated in the same manner as the draft EIS (40 CFR 1502.9). Comments received on the supplement will be considered in the preparation of the Final Environmental Impact Statement (FEIS). The supplement to the draft EIS is expected to be available for public review and comment in October 2004.

The comment period on the supplement will be 45 days from the date the Environmental Protection Agency's publishes the notice of availability in the **Federal Register**.

The Forest Service believes it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of supplemental draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage, but are not raised until the completion of the final EIS, may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1002 (9th Cir, 1986), and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is important that those interested in this proposed action participate by the close of the 45-day comment period so substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the supplemental draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the supplemental draft EIS. Comments may also address the adequacy of the supplemental draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council of Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

In the final EIS, the Forest Service is required to respond to substantive comments and responses received during the comment period that pertain to the environmental consequences discussed in the supplemental draft EIS, as well as applicable laws, regulations and policies considered, in making a decision regarding the proposal. The final EIS is scheduled to be completed in December 2004. The Responsible Official is James A. Caplan, Forest Supervisor for the Umpqua National Forest. The Responsible Official will document the decision and rationale for the decision in the Record of Decision. Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: September 1, 2004.

James A. Caplan,

Forest Supervisor.

[FR Doc. 04–20306 Filed 9–7–04; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Fish Creek Watershed Project, Umpqua National Forest, Douglas County, OR

AGENCY: Forest Service, USDA.

ACTION: Cancellation notice.

SUMMARY: On June 1, 2001, a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for the Fisk Creek Watershed Project on the Diamond Lake Ranger District of the Umpqua National Forest, was published in the **Federal Register** (66 FR 29763). The Forest Service has decided to cancel the preparation for this EIS. The NOI is hereby rescinded.

FOR FURTHER INFORMATION CONTACT: Questions may be directed to Debbie Anderson, Forest Environmental Coordinator, Umpqua National Forest, Supervisors Office, 2900 NW., Stewart Parkway, Roseburg, Oregon 97470, or (541) 957–3466.

Dated: September 1, 2004.

James A. Caplan,

Forest Supervisor.

[FR Doc. 04–20307 Filed 9–7–04; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Exodus Timber Sale Project, Umpqua National Forest, Douglas County, OR

AGENCY: Forest Service, USDA.

ACTION: Cancellation notice.

SUMMARY: On August 20, 2001, a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for the Exodus Timber Sale Project on the North Umpqua Ranger District of the Umpqua National Forest, was published in the **Federal Register** (66 FR 43568). The Forest Service has decided to cancel the preparation for this EIS. The NOI is hereby rescinded.

FOR FURTHER INFORMATION CONTACT: Questions may be directed to Debbie Anderson, Forest Environmental Coordinator, Umpqua National Forest, Supervisors Office, 2900 NW., Stewart Parkway, Roseburg, Oregon 97470, or (541) 957–3466.

Dated: September 1, 2004.

James A. Caplan,

Forest Supervisor.

[FR Doc. 04–20308 Filed 9–7–04; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

A Public Forum on Weighing Practices and Use of Stored Tare in Weighing Trucks Used for Commercial Purposes

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Announcement of a public forum on weighing practices and the use of stored tare with the weighing of trucks for commercial purposes.

SUMMARY: Notice is hereby given that the Public Forum on Weighing Practices and the Use of Stored Tare with the Weighing of Trucks for Commercial Purposes will be held September 28, 2004, at the Department of Commerce, Washington, DC. This meeting is open to industry representatives, consumers, scale-owners-users, exporters, importers, retailers, Federal and State agencies, and other interested parties. Meeting registration can be found on the National Institute of Standards, Weights and Measures Web site (*http://www.nist.gov/owm*).

DATES: September 28, 2004.

ADDRESSES: The forum will be held at Department of Commerce, Herbert C. Hoover Building, 14th and Constitution Avenue, NW., Washington, DC 20230. Written correspondence can be directed to the NIST Weights and Measures Division, 100 Bureau Drive, Stop 2600, Gaithersburg, MD 20899–2600, or via e-mail at *owm@nist.gov.*

FOR FURTHER INFORMATION CONTACT: G. Thomas Coleman, Weights and Measures Division, 100 Bureau Drive, Stop 2600, Gaithersburg, MD 20899–2600, or via e-mail at *t.coleman@nist.gov,* or fax at 301–926–0647.

SUPPLEMENTARY INFORMATION:

Purpose of Forum

To review State laws and regulations relating to commercial transactions concerning net weight and scale

accuracy and use requirements as they relate to vehicle tare weights stored in computer memory.

To examine weights and measures laws which require commercial transactions to be computed on the basis of net weight. There are numerous weighing applications (*e.g.*, solid waste disposal and landfills, quarries, mining, agriculture, household moving and others) where net weights of commodities and/or service charges are determined using vehicle scales. Most commercial vehicle scales are required to be accurate to approximately ±0.2 percent (*e.g.*, ±160 lbs at 80,000 lb), however, stored tare weights have been found to have errors of several thousand pounds. This forum will discuss the issues and alternatives that should be considered in an effort to balance buyer and seller interests in the accuracy of these transactions.

To provide an opportunity for industry representatives, consumers, scale-owners-users, exporters, importers, retailers, Federal and State agencies, and other interested parties to understand how state and local weights and measures officials supervise the weighing of trucks and other vehicles to ensure accuracy and equity in the marketplace.

To pursue partners to work with NIST, along with state and local weights and measures officials, in a national working group to identify industry and regulatory concerns (*e.g.*, economic impact of incorrect weights versus the cost, in terms of time and money to weigh vehicles for both gross and tare weight).

Another purpose is to solicit industry cooperation in reducing weighing inaccuracies through the identification and use of good weighing practices.

Participation—Advance Registration Required

The forum is free and open to the public, but space is limited. Advance registration is required for Department of Commerce security purposes and to ensure that all participants receive a name badge (required to obtain access to the building) and handout materials. The deadline for registration is 5 p.m. EDT on September 21, 2004.

Dated: August 31, 2004.

Hratch G. Semerjian,

Acting Director.

[FR Doc. 04–20341 Filed 9–7–04; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051404A]

Notice of Availability of Final Stock Assessment Reports

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA),Commerce.

ACTION: Notice of availability; response to comments.

SUMMARY: NMFS has incorporated public comments into revisions of marine mammal stock assessment reports (SARs). The 2003 final SARs are now complete and available to the public.

ADDRESSES: Send requests for printed copies of reports to: Chief, Marine Mammal Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910 3226, Attn: Stock Assessments. Copies of the Alaska Regional SARs may be requested from Robyn Angliss, Alaska Fisheries Science Center (F/AKC), NMFS, 7600 Sand Point Way, NE BIN 15700, Seattle, WA 98115 0070, email *Robyn.Angliss@noaa.gov*. Copies of the Atlantic and Gulf of Mexico Regional SARs may be requested from Gordon Waring, Northeast Fisheries Science Center, 166 Water St., Woods Hole, MA 02543, email *Gordon.Waring@noaa.gov* or Lance Garrison, Southeast Fisheries Science Center, 75 Virginia Beach Dr., Miami, FL 33149, e-mail *Lance.Garrison@noaa.gov*. Copies of the Pacific Regional SARs may be requested from Cathy Campbell, Southwest Regional Office (F/SWO3), NMFS, 501 West Ocean Boulevard, Long Beach, CA 90802 4213, e-mail *Cathy.E.Campbell@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Tom Eagle, Office of Protected Resources, 301 713 2322, e-mail Tom.Eagle@noaa.gov; Robyn Angliss 206–526–4032, regarding Alaska regional stock assessments; Gordon Waring, 508–495–2311, regarding Northwest Atlantic regional stock assessments; Lance Garrison, 305–361–4488, regarding Mid-Atlantic and Gulf of Mexico regional stock assessments; or Cathy Campbell, 562–980–4020, regarding Pacific regional stock assessments.

SUPPLEMENTARY INFORMATION:

Electronic Access

All stock assessment reports and the guidelines for preparing them are available via the Internet at *http://www.nmfs.noaa.gov/prot_res/PR2/Stock_Assessment_Program/sars.html*.

Background

Section 117 of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) requires NMFS and the U.S. Fish and Wildlife Service (FWS) to prepare stock assessments for each stock of marine mammals that occurs in waters under the jurisdiction of the United States. These reports must, among other things, contain information regarding the distribution and abundance of the stock, population growth rates and trends, estimates of annual human caused mortality and serious injury from all sources, descriptions of the fisheries with which the stock interacts, and the status of the stock. Initial reports were completed in 1995.

The MMPA requires NMFS and FWS to review the SARs at least annually for strategic stocks and stocks for which significant new information is available and at least once every 3 years for nonstrategic stocks. NMFS and the FWS are required to revise a SAR if the status of the stock has changed or can be more accurately determined.

Draft 2003 SARs were made available for a 90 day public review and comment period on August 27, 2003 (68 FR 51561). Prior to their release for public review and comment, NMFS subjected the draft reports to internal technical review and to scientific review by regional Scientific Review Groups (SRGs) established under the MMPA. Following the close of the comment period, NMFS revised the reports as needed to prepare final 2003 SARs. Printed copies may be obtained by request (see ADDRESSES), and electronic copies are available on the Internet (see Electronic Access).

The most recent versions of the SARs for polar bears, sea otters, walrus, and manatees, prepared by FWS, are appended to NMFS' final 2003 SARs. These reports were included so that interested constituents would have reports for all regional stocks in a single document.

Comments and Responses

NMFS received three letters with comments on the draft 2003 SARs. The comments and responses below are separated according to the regional scope of the comments. Many of the comments on specific SARs addressed minor editorial points for clarification.

Most of these comments were included into the final reports or will be included in future reports and are not included in the following segment of this document.

Comments on National Issues

Comment 1: Draft 2003 SARs are being commented on by the public while regional scientific review groups are reviewing draft 2004 SARs. Thus, the public may be commenting on reports that are soon to be out of date. For example, information on the continued decline of Cook Inlet belugas after reduction in subsistence harvests and the recent decline in gray whale abundance are not covered in the 2003 reports. NMFS should work with the scientific review groups from each region and the MMC to investigate means to update the data in the stock assessment reports in a more timely fashion and to better coordinate the review process for the reports.

Response: The current process for preparing, reviewing, and adjusting SARs was developed in conjunction with the regional SRGs. Resources and competing priorities have resulted in the process being delayed after the initial SRG reviews, and NMFS is working to get the process back on schedule. The 2004 draft SARs are already late; therefore, the opportunity for returning to the schedule will be for the 2005 revisions to the SARs. NMFS would consider alternatives submitted by the public or other agencies to update the reports in a more timely and coordinated manner.

Comment 2: Information on fisheries interactions needs to be presented in a more systematic and consistent approach. Some basic information should be reported clearly in all SARs and should include answers to questions such as: (1) which fisheries might interact with the stock; (2) which of those fisheries are monitored for interactions; (3) how effective are the monitoring efforts; and (4) how many individuals from the stock are killed or seriously injured.

Response: Each SAR contains a discussion of fishery-related mortality, which includes fishery-specific information on data sources and mortality estimates. The SARs do not contain a list of fisheries that may interact with stocks of marine mammals nor an analysis of the effectiveness of monitoring efforts. The latter is usually apparent from levels of observer coverage and frequency of mortality in the fishery, which is included in each SAR for the marine mammal stocks that experience incidental mortality in commercial fisheries. Expanding the SARs to all information on each stock would be inconsistent with their purpose, a summary of the status of each stock of marine mammals and of factors that may affect the status.

Comment 3: Reports from the different regions are not consistent with regard to use of and/or reporting of observer coverage; thus, monitoring standards are needed to assist with understanding mortality and serious injury estimates and to distinguish those cases where estimates are actually low compared to those cases where they may appear low due to inadequate observer coverage.

Response: NMFS is producing a document to identify resource requirements for adequate protected species stock assessment, and the document will describe desired levels of data quality, quantity, and timeliness. These levels will represent goals to which NMFS would like to achieve; achievement of the goals will require additional resources to support stock assessment activities. The requested information is available from NMFS' fishery science centers, and its inclusion within SARs would expand the reports beyond the scope of information required by the MMPA (see also response to comment 2).

Comment 4: A number of reports assumed that the absence of evidence for mortality and serious injury reasonably could be construed as evidence that mortality and serious injury did not occur, even without effective monitoring. In addition, NMFS needs to review and revise its approach for determining when right whales have been seriously injured. The requirement that mortality of an injured animal be confirmed before it can be considered a ''serious injury'' clearly biases estimates of ''mortality and serious injury'' downward, and underestimates the need to address the source of the injury.

Response: When there is a lack of direct information upon which to base serious injury and mortality estimates, the SAR contains no reported serious injury or mortality. In those cases where indirect evidence (e.g., seasonal distribution of the affected marine mammals and fisheries) or anecdotal information suggests the lack of reported mortality may reflect exceedingly low mortality levels, the SAR assumes the absence of reported mortality accurately reflects the situation.

Mortality and serious injury estimates for North Atlantic right whales are likely biased downward because only observation or recovery of dead or seriously injured animals is included in the reports. Thus, any unobserved mortality or serious injury is not included in the reports. NMFS will continue to examine each injured North Atlantic right whale on a case-by-case basis in consultation with other North Atlantic right whale experts in classifying injuries as serious or non-serious. However, the details of these analyses will not be included in the SARs to ensure reports remain as they were designed, summaries of the status of the stocks.

Comment 5: NMFS should review its interpretation of population parameters and status in the absence of adequate information, identify measures that can be used to convey the associated uncertainty, and incorporate those measures in the stock assessment reports.

Response: The SARs contain brief descriptions of the evidence used to support estimates and report coefficients of variation on estimates when these are available. When default parameters are used in PBR calculations due to lack of stock-specific estimates, the defaults are identified. The bibliography of each report directs interested readers to source documents containing the details of the information upon which the SARs are based.

Comment 6: Prepare SARs on prospective stocks, or at least incorporate information on the applicable parameters (e.g. minimum population estimate, potential biological removal level, mortality estimate, and status) in the current SAR. For example, the available information on harbor seals in Alaska has not been updated while stock structure is being determined. Sufficient information is available to identify prospective stocks and report their potential biological removal levels and associated parameters.

Response: In a meeting in September 2003 to discuss guidelines for preparing stock assessment reports, NMFS scientists and managers and representatives of the regional SRGs and the Marine Mammal Commission recommended identifying prospective stocks in SARs and showing applicable information on each prospective stock. Prospective stocks would be a transition to new stock identification, including reports on the new stocks, for the affected marine mammals. The recommendation has not been presented to NMFS senior managers for approval, and, if the recommendation is approved, it would be incorporated in future SARs.

Comment 7: Use the SARs as a basis for an overall assessment of key issues/problems, and use that assessment to facilitate planning and setting of priorities for future research. NMFS

should consider adding an appendix to these reports to list and prioritize research needs and conservation issues.

Response: The purpose of the SARs is to summarize the status of stocks of marine mammals. The requested information is included in conservation and recovery plans prepared for depleted, threatened and endangered stocks of marine mammals and is used to prioritize NMFS activities in the conservation of marine mammals.

Atlantic Regional SARs

Comment 8: The description of the geographic range of long-finned (*Globicephala melas*) and short-finned (*G. macrorhynchus*) pilot whales is confusing. The third paragraph in the ''Fishery Information'' section that explains the overlap of the ranges of the two species has been deleted; however, this explanation was more clear than the current explanation.

Response: NMFS has re-instated the former paragraph.

Comment 9: Unless *G. melas* and *G. macrorhynchus* are equivalent in every way (e.g., abundance, age structure, life history characteristics, interactions with fisheries), combining them for the purposes of abundance estimation is not only inconsistent with a precautionary approach, but actually may expose one species to levels of risk greater than is allowed for under the PBR-based management approach. In addition, the most recent abundance estimate for long-finned pilot whales is five years old and, given that this is a strategic stock, abundance surveys on a more frequent basis seem necessary.

Response: Although combined information for these species has its limitations, presenting the information at hand is better than presenting no information. The situation with pilot whales is similar to beaked whales, where species cannot be identified during surveys. NMFS understands the limitations of the grouped estimates and uses this information accordingly in its conservation programs and decision-making. To alleviate this problem, NMFS will be conducting a pelagic cetacean abundance survey, including dedicated biopsy sampling in the region of overlap of these two species. Also, NMFS has made it a high priority to collect tissue samples from pilot whales taken incidental to fishing operations to further assist in delineating stock boundaries.

Comment 10: For long-finned pilot whales (*G. melas*), the report notes mortality and serious injury has been close to PBR for the last few years and its status has fluctuated. It should be clarified that it is not possible to determine whether mortality and serious injury have fluctuated or the estimates have fluctuated due to lack of precision in observer data.

Response: The text has been revised to clarify the meaning.

Comment 11: Observer coverage for long-finned pilot whales is inadequate for two of the four fisheries that affect this species; thus, even relatively large bycatch rates may go undetected. Either observer coverage should be increased in the pelagic longline and midwater trawl fisheries or alternative methods must be developed to assess incidental mortality.

Response: NMFS has recently completed an analysis on the level of sampling required to achieve reasonable precision on estimates of mortality for long-finned pilot whales taken incidental to the *Illex* and *Loligo* squid fisheries prosecuted by trawls in the Mid-Atlantic region. NMFS plans to implement increased sampling coverage levels for these fisheries in 2004, contingent on funding, and plans to research alternative analytical methods to reduce bias in estimated mortality rates.

Comment 12: Increased observer coverage is necessary to better characterize fishery interactions with common dolphins (Western North Atlantic stock). The extremely high coefficients of variation of mortality estimates for the Northeast multi-species sink gillnet fishery results in these estimates being highly sensitive to the observed bycatch of small numbers of dolphins (e.g., bycatch of 2 animals increases the mortality estimate from 0 to 146 animals).

Response: Common dolphin mortality in the Northeast multi-species gillnet fishery can be characterized generally as a rare occurrence. Rarely-observed mortality is reflected in the coefficients of variation associated with the mortality estimates. Increased sampling levels in addition to improved analytical procedures for this species would improve precision for common dolphin mortality estimates. Increased sampling, however, is contingent on increased resources for observer coverage.

Comment 13: Recent genetic evidence has shown that harbor porpoises that stranded in the mid-Atlantic region are not exclusively from the Gulf of Maine/Bay of Fundy stock, but also from the Gulf of St. Lawrence and Newfoundland stocks. These latter stocks are not assessed by NMFS, but they occur in U.S. waters and are vulnerable to mortality in U.S. fisheries.

Response: NMFS does not have the resources to assess the northern Canadian stocks of harbor porpoises. Canada has recently conducted abundance surveys in the Gulf of St. Lawrence and around Newfoundland, and more surveys are planned for the near future. When results from the Canadian surveys and more genetic work from the mid-Atlantic states are available, it would be possible to include assessments on these populations as well. Additional assessment for these populations as well as for many other stocks of marine mammals in waters under US jurisdiction would facilitate improved management decisions. Additional abundance surveys, like additional observer coverage, are limited by available resources to support them.

Comment 14: The SAR states that the population estimate in 1998 for North Atlantic right whales may have been biased in a downward direction if animals were not photographed and identified or if some living animals were presumed dead. However, this estimate might be biased upwards if animals died, but were not confirmed, in the 5–year period prior to 1998 and, hence, were assumed alive based on past sightings.

Response: The statistical model used in estimating North Atlantic right whale abundance in 1998 incorporated only animals known to have been alive (i.e., seen alive) in 1998 and future years; therefore, an over-estimate is unlikely.

Comment 15: There is insufficient information in the SAR on North Atlantic right whales to allow the reader to determine if NMFS made an accurate assessment of serious injury and mortality. This comment specifically refers to two cases of entangled whales (2427 and 3107) and the ''gruesome'' appearance of injuries to two other whales.

Response: In the case of right whale 2427, the entanglement was not considered a serious injury. The event involving whale 3107 happened after the period addressed by the 2003 SAR and will be included in future SARs as an entanglement mortality.

For the two whales with gruesome-appearing injuries, the injuries were deemed not likely to be fatal. Detailed assessments of an injured right whale's condition are recorded by NMFS while in the field and are reviewed by scientists or other people with certain expertise in the biology of right whales. When injured animals are re-sighted, the determination of serious injury and mortality is reassessed based upon the new information. Hence, the determination of serious injury and mortality represents the best scientific information available. As noted in

responses to other comments, the SARs are not designed to present the details of each analysis. Rather, the SARs present summaries of information available in more detail elsewhere (e.g., in documents listed in the reference section of each report).

Comment 16: The report on sei whales (Nova Scotia stock) states, ''...there have been no reported entanglements or other interactions between sei whales and commercial fishing activities...'', but it is not clear if the lack of reported mortality reflects low interaction rates or inadequate monitoring.

Response: The text has been changed to clarify the meaning.

Comment 17: Evidence from two stranded rough-toothed dolphins (Northern Gulf of Mexico stock) indicates fisheries-related mortalities occur; however, there is not sufficient information to attribute these mortalities to a specific fishery. The pelagic longline fishery is the only fishery discussed, but it is unclear if this is the only fishery operating in the Gulf of Mexico that may interact with rough-toothed dolphins.

Response: The text has been modified. The pelagic longline fishery is not the only fishery operating in the Gulf of Mexico, but it is the only one with any appreciable observer coverage and the only one for which marine mammal interactions have been documented. The lack of information concerning rough-toothed dolphin interactions with other fisheries precludes their mention in the 2003 SAR; however, NMFS recognizes the review of fisheries in the Gulf of Mexico is incomplete and plans to address this issue in future SARs.

Pacific Regional SARs

Comment 18: The SAR for harbor seals (California stock) indicates a ''small number'' of seals occurs along the west coast of Baja California, but these animals are not included in the assessment because the U.S. and Mexico do not have a formal agreement for management. It is unclear what constitutes a ''small number'', and why a formal agreement is needed to include these animals in the stock assessment.

Response: Harbor seals along Baja California are not considered to be a part of the California stock because it is not known if there is any demographically significant movement of harbor seals between California and Mexico. Although harbor seals occur along the west coast of Baja California, at least as far south as Isla Asuncion, which is about 100 miles south of Punta Eugenia, numbers are not available. In this context, ''small number'' means the actual abundance is unknown; however, it is expected to be small compared to the abundance on US haul-outs. A formal agreement would ensure mortality estimates are available and ensure management efforts are consistent with the MMPA.

Comment 19: Stranding data on harbor seal (California stock) deaths and injuries are attributed to hook-and-line as well as gillnet fisheries, but the text does not indicate which fisheries operate in the same times and areas as the strandings. This information would be useful in determining if observer coverage was adequately capturing mortality of harbor seals.

Response: The SAR has been revised to clarify this information.

Comment 20: The ''Subsistence Harvests'' section for harbor seals (Washington Inland Waters stock) states that few seals are taken in subsistence hunts because the tribes utilize seals taken as bycatch in fishing operations; yet, it is not clear whether this incidental catch is included in the mortality estimates. If the seals utilized by the Pacific Northwest treaty Indian tribes are from the set gillnet fisheries, a simple reference in this section would be sufficient.

Response: The text has been modified to identify likely fisheries.

Comment 21: The SARs for the northern right whale dolphin, striped dolphin (CA/OR/WA stock) and Risso's dolphin (CA/OR/WA stock) state that surveys were conducted in 1991, 1992, 1998, and 2003; however, trends in abundance were not estimated. It is unclear why no conclusion was made. The SAR should state if different methods were used and if comparisons cannot be made.

Response: The relative imprecision of abundance estimates for these stocks (coefficients of variation are typically ≤ 0.40 for individual surveys) renders any trend analysis equivocal. Text has been added to these stock assessments comparing estimates of abundance over time, with the general statement indicating no evidence of a trend in abundance for any of these stocks.

Comment 22: The SAR for Southern Resident killer whales does not reflect NMFS' determination (68 FR 31980; May 29, 2003) that the Southern Residents comprise a ''depleted stock'' under the MMPA.

Response: The final SAR includes the depleted status. The depleted status was not final until after the draft SAR was prepared.

Comment 23: PBR for Southern Resident killer whales should be set at zero, not 0.8 whales per year.

Response: The formula for calculating PBR is specified in the MMPA, and the parameters used in the PBR calculation for this stock are consistent with NMFS guidelines for preparing marine mammal stock assessment reports.

Comment 24: The minimum population estimate (Nmin) for Southern Resident killer whales is an overestimate because L98 is isolated from other members of the stock.

Response: NMFS considers L98 a part of the population at this time. Although the whale is separated from other members of the stock, it is a sub-adult and would not interbreed with other Southern Residents even if it were now associated with the group. If L98 survives to adulthood and remains separate from the stock, NMFS would re-consider his status in the population.

Comment 25: NMFS improperly relies on maximum net productivity (Rmax) estimates for Southern Resident killer whales when observed data for other killer whales are available and may be used to calculate a stock-specific Rmax.

Response: The default (theoretical) Rmax value used in the PBR estimate for this stock is consistent with NMFS guidelines for preparing SARs. The data from the Northern Resident stock does not necessarily reflect Rmax for Southern Resident stock because the Norther Resident stock was large when the growth rate was estimated. The MMPA defines Rmax as the maximum per capita growth rate when the population is at a small size.

*Comment 26:*NMFS is using the wrong value for the recovery factor of Southern Resident killer whales.

Response: The recovery factor of 0.5 is consistent with NMFS guidelines for preparing marine mammal stock assessment reports, which provide the use of 0.5 as the default recovery factor for threatened or depleted stocks or stocks of unknown status. NMFS will review this SAR annually in consultation with the Pacific SRG and will revise the recovery factor and other parameters used in the PBR calculation when information suggests a revision is warranted.

Alaska Regional SARs

Comment 27: The third paragraph under ''Fisheries Information'' of the Steller sea lion (Western stock) SAR indicates that precise figures for observer coverage will be available when the contract report is provided to NMFS in 2001. This statement is out-of-date, as it is nearly 2004. The same paragraph includes an incorrect reference to table 2b.

Response: The statement has been revised, indicating precise estimates of

effort will be made available when the report is provided. The reference to table 2b should have been to table 2a and will be corrected in future reports.

Comment 28: It is not clear whether the fisheries information provided for the western population of Steller sea lions includes any interactions with fisheries for herring. It would be helpful if such information (e.g., target species) were included in either the body of the report or in Appendix 5.

Response: The SARs report interactions between marine mammals and commercial fishing only when these interactions result in mortality and serious injury of marine mammals. NMFS has no information indicating incidental mortality and serious injury of Steller sea lions occurs in herring fisheries. The marine mammal stocks potentially interacting with specific fisheries are listed in the annual list of fisheries prepared and published in accordance with the MMPA.

Comment 29: In the SAR for Northern fur seals (Eastern Pacific stock), the first sentence under ''Current and Maximum Net Productivity Rates'' seems misleading in that the population increased steadily until the 1940s and perhaps even the early 1950s. In addition, the harvest was discontinued from 1912–1917, resumed and focused on juvenile males from 1918 to the mid to late 1950s, and focused on adult females after that in an effort to reduce population size and interactions with Japanese fisheries.

Response: NMFS will propose alternate wording in future draft SARs.

Comment 30: The ''Fisheries Information'' section of the Northern fur seal (Eastern Pacific stock) SAR states, ''No observers have been assigned to several of the gillnet fisheries that are known to interact with this stock, making the estimated mortality unreliable.'' This statement may underestimate the number of fisheries involved, and a more descriptive statement of the fisheries that might interact with Northern fur seals would be useful.

Response: Information on which fisheries have reported mortality and serious injuries of marine mammals is included in Appendices 4 and 5 of the SARs and is, thus, readily available. These appendices identify which fisheries have been observed.

Comment 31: The ''Habitat Concerns'' section fails to mention the Eastern Pacific stock of Northern fur seals may interact indirectly or ecologically (i.e., may compete) with the Alaska groundfish fisheries. Recently collected information indicates that northern fur seal foraging patterns overlap with fishing distributions, and fishing remains a reasonable hypothesis to explain, at least partially, the decline of the stock from the 1970s to the present.

Response: NMFS will propose alternative wording in future draft SARs.

Comment 32: The SARs for harbor seals in southeast Alaska, Gulf of Alaska, and Bering Sea are out-dated and await revision pending determination of harbor seal stock structure in Alaska. The evidence indicating finer stock structure is substantial, and assessments for the prospective stocks would be useful to identify conservation issues of concern.

Response: The available scientific information suggests fine structure in stocks of harbor seals. The process for making the stock identification includes working with the Alaska Native Harbor Seal Commission pursuant to an agreement under MMPA section 119 and is underway. The harbor seal reports will be revised according to the stock structure identified in this process.

Comment 33: The SARs for the Alaska stocks of spotted seals, bearded seals, ribbon seals and ringed seals present information that seems biased and non-precautionary. Abundance trends are not known, and each may be subject to multiple factors that could affect their abundance, including subsistence harvests and changes in climate and ice conditions. Statements such as ''there is no reason to believe there are less than 50,000 spotted seals in U.S. waters,'' and ''reliable data on trends in population abundance are unavailable, though there is no evidence that population levels are declining'' imply an absence of evidence is best interpreted as evidence of no problems.

Response: The SARs for spotted, bearded, ribbon, and ringed seals have been revised twice in recent years. The reports indicate abundance estimates and trends are unknown and state the impacts of climate change on these sensitive species is unknown. In a few places, the SARs include statements from previous versions postulating lower limits for abundance or making unsupported statements about trends. These statements will be supported by additional information or analysis or removed when the reports are updated in 2005.

Comment 34: The SAR for beluga whales (Beaufort Sea stock) states the stock is stable or increasing. A description of the trend and a basis for the statement are needed. The conclusion that ''there is no evidence that the eastern Chukchi Sea stock of beluga whales is declining'' is based on a number of assumptions that should be described and justified. The count data presented are from a limited portion of the geographic range of the stock, and it is not clear that the counts in this region are indicative of trends for the overall population. The Subsistence/Native Harvest section of the beluga whale (Bristol Bay stock) states that ''there were 7 reported mortalities of beluga in subsistence salmon gillnet fisheries in 2000. If this level of mortality is averaged over 5 years, an average of 1.4 beluga per year would be caught in subsistence gillnet fisheries in this area''. It is not clear why the number from a single year would be averaged over 5 years, unless there were no mortalities in those other years, in which case the report should state there were no mortalities for those other years.

Response: At the time the report was last reviewed and revised, the SAR authors were had received additional reports of mortalities in the subsistence gillnet fishery other than the 7 incidental mortalities that occurred in 2007. If the reporting of 7 incidental mortalities in 2000 and none in other years accurately reflects true mortality, then averaging the total over the five years is appropriate. Because the subsistence gillnet fishery is conducted by Alaska Natives beluga whales taken incidental to this fishery are often used for subsistence purposes. Thus, care will have to be taken to ensure that incidental mortalities in the subsistence gillnet fishery are not double-counted as both ''subsistence harvest'' and ''mortalities that occur incidental to the subsistence gillnet fishery''. Uncertainty about the level of incidental mortality in the subsistence gillnet fishery is reflected in the SAR; therefore, this point, like the others noted in the comment, will be considered when the beluga SARs (other than for the Cook Inlet stock) are scheduled for revision in 2005.

Comment 35: The Population Size section of the Cook Inlet beluga whale SAR states, ''Although the 2001 estimate of abundance is slightly lower than the estimate for 2000, the difference is not significant and is not believed to represent a decline in the population.'' This statement should be updated to indicate the trend is still not clear and to explain who believes, and for what reason, the difference does not represent a decline.

Response: The statement has been deleted from the SAR because the trend is not clear.

Comment 36: Under the section Habitat Concerns of the Cook Inlet beluga SAR, the statement ''The best

available information indicated that these activities, alone or cumulatively, have not caused the stock to be in danger of extinction'' should be corrected. The best available science is unable to describe or explain the current population trend or to describe the importance of all factors that may be affecting the stock. Further, NMFS should specifically list ongoing and proposed developments of concern and describe what is being done to provide protection for belugas.

Response: The wording of the draft SAR was based upon the 12–month finding on a petition to list this stock of whales under the Endangered Species Act (65 FR 38778, June 22, 2000), and abundance estimates for the stock do not show a significant trend since 1998; therefore, factors related to habitat or other human activities may be impeding recovery. NMFS will consider revisions related to such factors and consult with the Alaska SRG when revising the SAR in the future.

Comment 37: Because results of surveys since 1999 show no sign of population recovery, the rationale for the choice of a recovery factor for Cook Inlet beluga whales is questionable and should be corrected. Similarly, the statement ''once the subsistence harvest ceased, the decline in the stock ceased'' is misleading and should be deleted or changed.

Response: Other than the minimal level of subsistence harvest of one or two whales per year, no other sources of human-caused mortality have been identified. Such a low level of human-caused mortality is not expected to delay recovery significantly. Although the abundance estimates for Cook Inlet belugas remain near the 1999 levels, the precipitous decline of the previous 5 years is no longer apparent. Thus, suggesting the decline has ceased is reasonable. The rationale explaining the recovery factor notes concern for the population because it was reduced to low levels, states that the lower recovery factor recommended by the SRG was used for those stocks listed as endangered (and Cook Inlet beluga are not listed as endangered), and states the stock is designated as depleted (and 0.5 is the default recovery factor for depleted stocks). The current recovery factor (0.3) is midway between the default for depleted and endangered stocks; thus, it reflects the increased concern for the stock compared with other depleted stocks.

Comment 38: The Current and Maximum Net Productivity Rates section in the SAR for killer whales (Eastern North Pacific Northern Resident stock) states that ''a population typically increases at the maximum growth rate (Rmax) only when the population is at extremely low levels; thus, the estimate of 2.92 percent is not a reliable estimate of Rmax''. This statement is debatable because, under density-dependence theory, populations may increase at their maximum rate even when population size is beyond extremely low levels.

Response: The Northern Resident killer whale SAR is scheduled for review in 2005, and the comment will be considered at that time. The comment is true for some population models; however, the statement in the SAR is accurate under the logistic model, the underlying theory supporting the PBR approach.

Comment 39: The estimate of Nmin is outdated for the North Pacific stock of Pacific white-sided dolphins.

Response: The estimate is older than NMFS' guidelines indicate for reliable use, and no new data are expected in the near future. Therefore, NMFS has revised the PBR for this stock to be ''undefined''.

Comment 40: The first data row of Table 21 under Fisheries Information for Gulf of Alaska harbor porpoises is incomplete and unclear.

Response: The table has been clarified to indicate no harbor porpoise were observed killed or seriously injured in fisheries with observer programs.

Comment 41: More up-to-date information on population size of Eastern North Pacific gray whales has been available for several years and should be included in the report.

Response: NMFS intends to include updated information when the SAR for this stock is next revised.

Comment 42: Both population size and minimum population estimates for Central North Pacific humpback whales are based on outdated information.

Response: The SAR for this stock contains the most current information available on the stock's abundance. A major research effort directed at North Pacific humpback whales is in progress, and results from this research will be incorporated into the SAR when the information is compiled, subjected to review, and made available.

Comment 43: The information on Central North Pacific humpback whales for current population trends and current and maximum net productivity rates is inconsistent. The section on current population trend suggests the available information is not sufficient to estimate a trend, even for whales in southeast Alaska, whereas information in the section on current and maximum net productivity rates suggests it is sufficient. In addition, based on caveats expressed in the trend section, the data used to estimate maximum net productivity should be examined closely as it is higher than expected. Also, the section on Status of Stock for Central North Pacific humpback whales is confusing. It is not clear estimated mortality and serious injury rates for the entire stock and for southeast Alaska are below respective PBRs. Furthermore, it states the rate of increase for whales in southeast Alaska may have recently declined, suggesting that this portion of the stock may be approaching carrying capacity without providing any basis for this statement, and then reports that trends cannot be estimated.

Response: NMFS will review this SAR in consultation with the Alaska SRG and will revise in a future draft as needed.

Comment 44: The use of a 3–year mean to estimate the population size of the Eastern Pacific stock of northern fur seals creates an upward bias in the annual population estimate. There has been a statistically significant declining trend detected in population abundance on both St. Paul and St. George islands since the mid–1990s; thus, a 3–year mean creates an upward bias in the annual population estimate by effectively ''shadowing'' the real population decline.

Response: The 3–year (3–estimate) mean is used to reduce the effect of variation when applying a constant (the expansion factor) to estimate the total population size from pup production estimates. If, for example, the reproductive rates are extremely high or low during a given year, pup production for the year would result in an exceptionally high or low estimate of population size. This variation is a problem inherent to the application of the expansion factor to estimate total population size from a single year. The use of 3–estimate means reduces this annual variation.

The population size listed in the SAR is clearly identified as being calculated from an average of the three most recent pup production estimates. Therefore, the population size, currently calculated as a 3–estimate mean over a 5–year period, represents the most recent estimate for the time period, not for the most recent estimate of pup production. Consequently, the SAR does not overestimate population abundance.

The SAR documents trends based on estimates of pup production rather than population size, and identifies the trends as such. Thus, the trends are not calculated using the 3–estimate means, and do not reduce the estimated downward trend of the population.

Comment 45: In the SAR for Eastern Pacific northern fur seals, it is inconsistent with the organization of the assessment to describe the entanglement-related mortality in the ''Other Mortality'' section, when entanglement is primarily due to fisheries. Also, there is no estimate of entanglement-related mortality reported; however, a conservative estimate of mortality can be obtained by estimating that 50 percent of seals observed entangled, but not captured, die.

Response: Northen fur seals, like other marine mammals, may become entangled in derelict fishing gear and other marine debris. The section related to fishery mortality is designed to account for mortality and serious injury incidental to active fishing and is used in conservation programs under MMPA section 118 (such as classifying fisheries). In this regard, NMFS treats such data for northern fur seals in a manner similar to the same data for Hawaiian monk seals, where the debris (including derelict fishing gear) often originates thousands of miles from the Hawaiian Islands. The entanglements are recorded as human-caused mortality and serious injury and are used to evaluate the level of such mortality relative to the stock's PBR.

Comment 46: The first sentence in the ''Habitat Concerns'' section of the SAR for Eastern Pacific northern fur seals reads ''Recent rapid development on the Pribilof Islands increases the potential for negatively affecting habitat used by northern fur seals.'' It is unclear when the ''rapid development'' occurred on the Pribilof Islands. The word ''rapid'' should be removed from the first sentence, and a follow-up analysis of the relationship between pup production and distance from development, as well as text describing the accumulation of marine debris, should be included.

Response: The text in the section ''Habitat Concerns'' is a recent addition to the SARs made in response to a public comment and will be reviewed and revised, as necessary, during the next revision of the SAR.

Comment 47: It is unclear why Steller sea lion (Western U.S. stock) subsistence harvest data from Lestenkof and Zavadil (2001), Lestenkof *et al.* (2003) and Zavadil *et al.* (2003) were not used in the ''Subsistence/Native Harvest Information''.

Response: The 2003 draft SARs were developed using the best scientific information available at the time. The reports cited were made available to NMFS after the SARs were initially developed. Information contained in these reports will be reviewed during preparation of future draft SARs.

Comment 48: For the Western U.S. stock of Steller sea lions, table 2b in the ''Other Mortality'' section should be placed under the ''Subsistence/Native Harvest Information'' section.

Response: The table will be moved when the report is next revised.

Dated: August 31, 2004.

Donna Wieting,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 04–20343 Filed 9–7–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090104A]

Marine Mammals; File No. 782–1765–00

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Alaska Fisheries Science Center, National Marine Mammal Laboratory, NMFS, 7600 Sand Point Way, NE, Seattle, Washington 98115–0070 (Principal Investigator: John L. Bengtson, Ph.D.) has been issued a permit to conduct research on ice seals in Alaska.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907)586–7221; fax (907)586–7249;

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Amy Sloan, (301)713–2289.

SUPPLEMENTARY INFORMATION: On July 15, 2004, notice was published in the **Federal Register** (69 FR 42424) that a request for a scientific research permit to conduct research on ringed seals (*Phoca hispida*), ribbon seals (*Phoca fasciata*), and bearded seals (*Erignathus barbatus*) had been submitted by the above-named organization. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: September 1, 2004.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 04–20342 Filed 9–7–04; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination Under the African Growth and Opportunity Act

September 1, 2004.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Directive to the Commissioner, Bureau of Customs and Border Protection.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that certain textile and apparel goods from Tanzania shall be treated as ''handloomed, handmade, or folklore articles'' and qualify for preferential treatment under the African Growth and Opportunity Act. Imports of eligible products from Tanzania with an appropriate visa will qualify for duty-free treatment.

EFFECTIVE DATE: September 13, 2004.

FOR FURTHER INFORMATION CONTACT: Anna Flaaten, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: The African Growth and Opportunity Act (Title I of the Trade and Development Act of 2000, Pub. L. No. 106-200) (AGOA) provides preferential tariff treatment for imports of certain textile and apparel products of beneficiary sub-Saharan African countries, including handloomed, handmade, or folklore articles of a beneficiary country that are certified as such by the competent authority in the beneficiary country. In Executive Order 13191, the President authorized CITA to consult with beneficiary sub-Saharan African countries and to determine which, if any, particular textile and apparel goods shall be treated as being handloomed, handmade, or folklore articles. (66 FR 7272).

In a letter to the Commissioner of Customs dated January 18, 2001, the United States Trade Representative directed Customs to require that importers provide an appropriate export visa from a beneficiary sub-Saharan African country to obtain preferential treatment under section 112(a) of the AGOA (66 FR 7837). The first digit of the visa number corresponds to one of nine groupings of textile and apparel products that are eligible for preferential tariff treatment. Grouping ''9'' is reserved for handmade, handloomed, or folklore articles.

CITA has consulted with Tanzanian authorities, and has determined that handloomed fabrics, handloomed articles (e.g., handloomed rugs, scarves, place mats, and tablecloths), handmade articles made from handloomed fabrics, and the folklore articles described in the annex to this notice, if produced in and exported from Tanzania, are eligible for preferential tariff treatment under section 112(a) of the AGOA. In the letter published below, CITA directs the Commissioner of Customs and Border Protection to allow duty-free entry of such products under U.S. Harmonized Tariff Schedule subheading 9819.11.27 if accompanied by an appropriate AGOA visa in grouping ''9''.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 1, 2004.

Commissioner,
Bureau of Customs and Border Protection, Washington, DC 20229.

Dear Commissioner: The Committee for the Implementation of Textiles Agreements (CITA), pursuant to Sections 112(a) of the African Growth and Opportunity Act (Title I of Pub. L. No. 106-200) (AGOA) and Executive Order 13191 of January 17, 2001, has determined, effective on September 13, 2004, that the following articles shall be treated as ''handloomed, handmade, and folklore articles'' under the AGOA: (a) handloomed fabrics, handloomed articles (e.g., handloomed rugs, scarves, placemats, and tablecloths), and hand-made articles made from handloomed fabrics, if made in Tanzania from fabric handloomed in Tanzania; and (b) the folklore articles described in the attachment to this letter if made in Tanzania. Such articles are eligible for duty-free treatment only if entered under subheading 9819.11.27 and accompanied by a properly completed visa for product grouping ''9'', in accordance with the provisions of the Visa Arrangement between the Government of Tanzania and the Government of the United States Concerning Textile and Apparel Articles Claiming Preferential Tariff Treatment under Section 112 of the Trade and Development Act of 2000. After additional consultations with Tanzanian authorities, CITA may determine that other textile and apparel goods shall be treated as handloomed, handmade, or folklore articles.

Sincerely,
James C. Leonard III,
Chairman, Committee for the Implementation of Textile Agreements.

ANNEX - Folklore Articles

CITA has determined that the following textile and apparel goods shall be treated as folklore articles for purposes of the AGOA if made in Tanzania and certified by a competent authority. Articles must be ornamented in characteristic Tanzanian or regional folk style, i.e., Kikoi items, as described below. An article may not include modern features such as zippers, elastic, elasticized fabrics, or hook-and-pile fasteners (such as Velcro ® or similar holding fabric). An article may not incorporate patterns that are not traditional or historical to Tanzania, such as airplanes, buses, cowboys, or cartoon characters and may not incorporate designs referencing holidays or festivals not common to traditional Tanzanian culture, such as Halloween and Thanksgiving.

Kikoi (also spelled kikoy)

Kikoi is a traditional Tanzanian multipurpose fabric of the East African coast, varying in size depending on use. Kikoi is a 100 percent cotton fabric, either handloomed or machine-made. Kikoi has distinct striped or plaid patterns and usually has knotted or un-knotted tassels along each hem. If striped, the stripes are vertical along the selvedge edges in bright colors, such as red, yellow, orange, green, or blue for garments. Folklore articles made of Kikoi fabric eligible for treatment as folklore articles are currently limited to the Mgolole, the Traditional Kikoi Shirt, and the Traditional Kikoi Boubou, as described below. Handloomed Kikoi fabric and handmade articles of such fabric may be eligible for preferential AGOA treatment as handloomed or handmade articles, but not as folklore articles.

Eligible folklore articles:

(a) Mgolole (Body Wrap, Scarf)
Made of Kikoi fabric, these traditional garments are worn as a wrap around garment by both men and women all over the East African coast, similar to the sarong of South East Asia. This traditional garment is draped over one shoulder and held in place with a knot. The Kikoi Mgolole can also be thrown over one shoulder for decoration or treated as a normal scarf. Dimensions for the Mgolole are approximately 45 x 80 inches long for wraps and 12 x 80 inches for scarves. The unfinished top and lower hems are knotted or un-knotted tassels along each hem.

(b) Traditional Kikoi Shirt
Made of Kikoi fabric, the article is a loose-fitting, straight-seamed shirt. Sleeves are half to three-quarter in length. The neckline is rounded or v- shaped, without collar. The shirt may or may not have square-shaped breast and lower front pockets. It may have wooden button fastenings below the neckline. Kikoi striped- trim typically decorates the neckline, pockets and each arm opening. The bottom hem and/or pockets may be finished or left unfinished with fringe or knotted tassels hanging.

(c) Traditional Kikoi Boubou (long tunic)
A loose flowing, straight-seamed, non-tailored, full-length outer tunic, made of Kikoi fabric. The neckline is rounded or v-shaped, without collar. Kikoi striped- trim decorates the neckline and each arm opening, which extend down the full length of the garment. There are no discernable sleeves. The garment is rectangular in shape. The bottom hem can be finished or left unfinished with fringe knotted tassels hanging.

[FR Doc. E4–2092 Filed 9–7–04; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on Commercial Availability Petition under the United States - Caribbean Basin Trade Partnership Act (CBTPA)

September 3, 2004.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for public comments concerning a petition for determinations that certain twill rayon/nylon/spandex warp stretch fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA.

SUMMARY: On August 31, 2004, the Chairman of CITA received a petition from Grunfeld, Desiderio, Lebowitz, Silverman, and Klestadt LLP, on behalf of Mast Industries, Inc., alleging that certain twill rayon/nylon/spandex warp stretch fabric, of the specifications detailed below, classified in subheading 5516.22.0040 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petition requests that apparel articles of such fabrics assembled in one or more CBTPA beneficiary countries be eligible for preferential treatment under the CBTPA. CITA hereby solicits public comments on this petition, in particular with regard to whether this fabric can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by September 23, 2004 to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, 14th and Constitution, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Janet E. Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 213(b)(2)(A)(v)(II) of the CBERA, as added by Section 211(a) of the CBTPA; Section 6 of Executive Order No. 13191 of January 17, 2001.

BACKGROUND:

The CBTPA provides for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States. The CBTPA also provides for quota- and duty-free treatment for apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabric or yarn that is not formed in the United States, if it has been determined that such fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures that it will follow in considering requests. (66 FR 13502).

On August 31, 2004, the Chairman of CITA received a petition on behalf of Mast Industries, Inc., alleging that certain twill rayon/nylon/spandex warp stretch fabric, of the specifications detailed below, classified HTSUS subheading 5516.22.0040, cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting quota- and duty-free treatment under the CBTPA for apparel articles that are cut and sewn in one or more CBTPA beneficiary countries from such fabrics.

Specifications:

HTSUS Sub-heading:	5516.22.0040
Fiber Content:	77% staple rayon/ 20% filament nylon/ 3% filament spandex
Weight:	245 g/m2
Construction:	2 X 1 twill weave
Thread Count:	39.4 warp ends per centimeter and 29.9 filling picks per centimeter
Yarn Number:	Warp: 70 denier filament nylon yarns gimped around a core of 40 denier monofilament spandex; filling: 10/1 c.c. staple rayon yarn

The petitioner emphasizes the importance of weaving and dyeing the fabric under controlled ''relaxed'' (i.e. tensionless) conditions. The subject fabric requires the use of tentering frames to overfeed the fabric through a relaxed drying process.

CITA is soliciting public comments regarding this request, particularly with respect to whether this fabric can be supplied by the domestic industry in commercial quantities in a timely manner. Also relevant is whether other fabrics that are supplied by the domestic industry in commercial quantities in a timely manner are substitutable for the fabric for purposes of the intended use. Comments must be received no later than September 23, 2004. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230.

If a comment alleges that this fabric can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of the fabric stating that it produces the fabric that is the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked ''business confidential'' from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 04–20426 Filed 9–3–04; 2:28 pm]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on Commercial Availability Petition under the United States - Caribbean Basin Trade Partnership Act (CBTPA)

September 3, 2004.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for public comments concerning a petition for determinations that certain circular single knit jersey fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA.

SUMMARY: On August 31, 2004, the Chairman of CITA received a petition from Sandler, Travis & Rosenberg, P.A., on behalf of Jaclyn, Inc. of New York, alleging that certain circular single knit jersey fabric of the specifications detailed below, classified in subheading 6006.32.00.80 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petition requests that women's and girl's nightwear of such fabric assembled in one or more CBTPA beneficiary countries be eligible for preferential treatment under the CBTPA. CITA hereby solicits public comments on this petition, in particular with regard to whether this fabric can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by September 23, 2004 to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, 14th and Constitution, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Anna Flaaten, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 213(b)(2)(A)(v)(II) of the CBERA, as added by Section 211(a) of the CBTPA; Section 6 of Executive Order No. 13191 of January 17, 2001.

BACKGROUND:

The CBTPA provides for quota- and duty-free treatment for qualifying textile and apparel products. Such treatment is generally limited to products manufactured from yarns or fabrics formed in the United States. The CBTPA also provides for quota- and duty-free treatment for apparel articles that are

both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabric or yarn that is not formed in the United States, if it has been determined that such fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner. In Executive Order No. 13191, the President delegated to CITA the authority to determine whether yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA and directed CITA to establish procedures to ensure appropriate public participation in any such determination. On March 6, 2001, CITA published procedures that it will follow in considering requests. (66 FR 13502).

On August 31, 2004, the Chairman of CITA received a petition on behalf of Jaclyn, Inc. of New York, alleging that certain circular single knit jersey fabric, of the specifications detailed below, classified HTSUS subheading 6006.32.00.80, cannot be supplied by the domestic industry in commercial quantities in a timely manner and requesting quota- and duty-free treatment under the CBTPA for certain apparel articles that are cut and sewn in one or more CBTPA beneficiary countries from such fabric.

Specifications:

Fabric Description:	single knit jersey, jacquard geometric rib stitch
Petitioner Style No:	4934
HTS Subheading:	6006.32.00.80
Fiber Content:	64% polyester staple/34% cotton/2% spandex
Weight:	6.165 sq. meters/kg
Yarn Size:	54.14 metric (32/1 English), spun, filament core
Gauge:	24
Finish:	(Piece) dyed
Stretch Characteristics:	45% from relaxed state; 95% recovery to relaxed state

The petitioner emphasizes that the fabric must be knit on a jacquard machine in order to provide the geometric pattern and puckered effect apparent in the fabric. Also, the petitioner states that the fabric's stretch properties set forth are necessary.

CITA is soliciting public comments regarding this request, particularly with respect to whether this fabric can be supplied by the domestic industry in commercial quantities in a timely manner. Also relevant is whether other fabrics that are supplied by the domestic industry in commercial quantities in a timely manner are substitutable for the fabric for purposes of the intended use. Comments must be received no later than September 23, 2004. Interested persons are invited to submit six copies of such comments or information to the Chairman, Committee for the Implementation of Textile Agreements, room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230.

If a comment alleges that this fabric can be supplied by the domestic industry in commercial quantities in a timely manner, CITA will closely review any supporting documentation, such as a signed statement by a manufacturer of the fabric stating that it produces the fabric that is the subject of the request, including the quantities that can be supplied and the time necessary to fill an order, as well as any relevant information regarding past production.

CITA will protect any business confidential information that is marked ''business confidential'' from disclosure to the full extent permitted by law. CITA will make available to the public non-confidential versions of the request and non-confidential versions of any public comments received with respect to a request in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230. Persons submitting comments on a request are encouraged to include a non-confidential version and a non-confidential summary.

James C. Leonard III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 04–20427 Filed 9–3–04; 2:28 pm]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

AGENCY: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by October 8, 2004.

Title, Form, and OMB Number: National Security Education Program (Service Agreement Report for Scholarship and Fellowship Awards); DD Form 2572, National Security Education Program (NSEP) Service Agreement for Scholarship and Fellowship Awards, and DD Form 2573, National Security Education Program (NSEP) Service Agreement Report (SAR) for Scholarship and Fellowship Awards; OMB control number 0704–0368.

Type of Request: Reinstatement.

Number of Respondents: 300.

Responses Per Respondent: 2.

Annual Responses: 600.

Average Burden Per Response: 30 minutes.

Annual Burden Hours: 300.

Needs and Uses: This information collection requirement is necessary to obtain verification that applicable scholarship and fellowship recipients are fulfilling service obligations mandated by the David L. Boren National Security Education Act of 1991, Title VIII of Public Law 102–183, as amended.

Affected Public: Individuals or households; Federal Government agencies.

Frequency: Semi-annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Ms. Jacqueline Zeiher.

Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/ESCD/Information Management Division, 1225 South Clark Street, Suite 504, Arlington VA 22202–4326.

Dated: August 31, 2004.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 04–20316 Filed 9–7–04; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by October 8, 2004.

Title, Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 204, administrative matters, and related clauses at DFARS 252.204; DD Form 2051, Request for Assignment of a

Commercial and Government Entity (CAGE) Code, and DD Form 2051–1, Request for Information/Verification of Commercial and Government Entity (CAGE) Code; OMB control number 0704–0225.

Type of Request: Extension.

Number of Respondents: 32,240.

Responses Per Respondent: 1.

Annual Responses: 32,240.

Average Burden Per Response: 61 hours.

Annual Burden Hours: 19,624.

Needs and Uses: DoD uses this information to control unclassified contract data that is sensitive and inappropriate for release to the public; and to facilitate data exchange among automated systems for contract award administration, and contract payment by assigning a unique code to each DoD contractor.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jacqueline Zeiher.

Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/ESCD/Information Management Division, 1225 South Clark Street, Suite 504, Arlington, VA 22202–4326.

Dated: August 31, 2004.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 04–20317 Filed 9–7–04; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Defense Financing and Accounting Service; Privacy Act of 1974; Systems of Records

AGENCY: Defense Finance and Accounting Services, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Defense Finance and Accounting Service (DFAS) is proposing to alter an existing system of records. The system of records (A0037–1 MTMC, entitled Defense Travel System) is being transferred from the Department of the Army's inventory to the DFAS inventory of systems of records, and is being altered to expand the category of individuals covered, the categories of records being maintained, and adds a routine use to permit the release of records to the Internal Revenue Service for the purpose of taxing travel pay allowances.

DATES: This action will be effective without further notice on October 8, 2004, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the FOIA/PA Program Manager, Office of Corporate Communications, Defense Finance and Accounting Service, 6760 E. Irvington Place, Denver, CO 80279–8000.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Krabbenhoft at (303) 676–7514.

SUPPLEMENTARY INFORMATION: The Defense Finance and Accounting Service notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on August 30, 2004, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: September 1, 2004.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0037–1 MTMC

SYSTEM NAME:

Defense Travel System (DTS) (March 12, 1999, 64 FR 12291).

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'T7334'.

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Central Data Center 1, Northrop Grumman Mission Systems, 12900 Federal Systems Park Drive, FPI/6133, Fairfax, VA 22033–4411.

Central Data Center 2, Usinternetworking, Inc., One Usi Plaza, Annapolis, MD 21401–7478.

Northrop Grumman Mission Systems, 12011 Sunset Hill Road, Reston, VA 20190–3262.

DTS Archive/Management Information System, Defense Manpower Data Center, DoD Center, Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Department of Defense (DoD) civilian personnel; military active, former, and retired military members; Reserve and National Guard personnel; academy nominees, applicants, and cadets; dependents of military personnel; and foreign national residing in the United States; and all in receipt of DoD travel orders'.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Add a new paragraph 'To the Internal Revenue Service to provide information concerning the pay of travel allowances which are subject to federal income tax.'

* * * * *

RETRIEVABILITY:

Delete entry and replace with 'Travel authorization and voucher records are retrieved by the name, and Social Security Number. In addition, authorized individuals may also retrieve the information via travel authorization number or reports generated based on criteria such as trip dates, document type, document status, organization, accounting codes, trip purposes, document number, or temporary duty location.'

SAFEGUARDS:

Delete entry and replace with 'When individuals are granted access to the DTS records system, their access is limited to only those records needed to perform their assigned duties. For those granted access to all records, procedures are in place to deter and detect browsing and unauthorized access.

Physical and electronic access are limited to persons responsible for servicing and authorized to use the record system in the performance of their official duties. These individuals are properly screened and cleared for a need-to-know the information in this record system. Records are stored in office buildings protected by guards, controlled screening, use of visitor registers, electronic access, and/or locks.

Passwords and digital signatures are used to control access to the systems data in accordance with industry

standards and DoD policies. The DTS CDC1, CDC2, and DMDC are certified an accredited in accordance with DoD and DFAS information quality assurances policies.'

* * * * *

T7334

SYSTEM NAME:

Defense Travel System.

SYSTEM LOCATION:

Central Data Center 1, Northrop Gumman Mission Systems, 12900 Federal Systems Park Drive, FPI/6133, Fairfax, VA 22033–4411.

Central Data Center 2, Usinternetworking, Inc. One Usi Plaza, Annapolis, MD 21401–7478.

Northrop Gruman Mission Systems, 12011 Sunset Hills Road, Reston, VA 20190–3262.

DTS Archive/Management Information System, Defense Manpower Data Center, DoD Center, Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Defense (DoD) civilian personnel; military active, former, and retired military members; Reserve and National Guard personnel; academy nominees, applicants, and cadets; dependents of military personnel; and foreign nationals residing in the United States; and all in receipt of DoD travel orders.

CATEGORIES OF RECORDS IN THE SYSTEM:

Traveler's name, Social Security Number, gender, e-mail address, Service/Agency, organizational information, mailing address, home address, emergency contact information, duty station information, title/rank, civilian/military status information, travel preferences, frequent flyer information, passport information. Information in this system is obtained from the individual traveler, related voucher documents, Defense Accounting Offices (DAOs), and other DoD Components, government and/or personal checking and/or savings account numbers, government accounting code/budget information, travel itineraries and reservations, trip record number, trip cost estimates, travel vouchers, travel-related receipts, travel document status information, travel budget information, commitment of travel funds, records of actual payment of travel funds, and supporting documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5701–5757, Travel, Transportation, and subsistence; 10 U.S.C. 135, Under Secretary of Defense (Comptroller); 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 8013, Secretary of the Air Force; DoD Financial Management Regulation 7000.14–R, Vol. 9, Travel Policies and Procedures; and E.O. 9397 (SSN).

PURPOSE(S):

To provide a DoD-wide travel management process which will cover all official travel, from pre-travel arrangements to post-travel payments, to include the processing of official travel requests for DoD personnel, and other individuals who travel pursuant to DoD travel orders; to provide for the reimbursement of travel expenses incurred by individuals while traveling on official business; and to create a tracking system whereby DoD can monitor the authorization, obligation, and payment for such travel.

To establish a repository of archived/Management Information system (MIS) travel records which can be used to satisfy reporting requirements; to assist in the planning, budgeting, and allocation of resources for future DoD travel; to conduct oversight operations; to analyze travel, budgetary, or other trends; to detect fraud and abuse; and to respond to authorized internal and external requests for data relating to DoD official travel and travel related services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To Federal and private entities providing travel services for purposes of arranging transportation and lodging for those individuals authorized to travel at government expense on official business.

To the Internal Revenue Service to provide information concerning the pay of travel allowances which are subject to federal income tax.

The DoD ''Blanket Routine Uses'' set forth at the beginning of the DoD compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained on electronic storage media and hard copy documents.

RETRIEVABILITY:

Travel authorization and voucher records are retrieved by the name and Social Security Number of the individual.

SAFEGUARDS:

Records are stored in office buildings protected by guards, controlled screening, use of visitor registers, electronic access, and/or locks. Access to records is limited to individuals who are properly screened and cleared on a need-to-know basis in the performance of their official duties. Passwords and digital signatures are used to control access to the systems data, and procedures are in place to deter and detect browsing and unauthorized access. Physical and electronic access are limited to persons responsible for servicing and authorized to use the record system.

RETENTION AND DISPOSAL:

Records are maintained from 90 days to 6 years and 3 months.

SYSTEM MANAGER(S) AND ADDRESS:

Program Director, Project Management Office, Defense Travel System, 241 18th Street, Suite 100, Arlington, VA 22202–3408.

For archived records: Deputy Director, DTS/Management Information System, Defense Manpower Data Center, 400 Gigling Road, Seaside, CA 93955–6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Defense Finance and Accounting Service, Office of Corporate Communications, Freedom of Information/Privacy Act Program Manager, 6760 E. Irvington Place, Denver, CO 80279–8000.

Individuals should provide their full name, Social Security Number, office or organization where assigned when trip was taken, and dates of travel.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Defense Finance and Accounting Service, office of Corporate Communications, Freedom of Information/Privacy Act Program

Manager, 6760 E. Irvington Place, Denver, CO 80279–8000.

Individuals should provide their full name, Social Security Number, office or organization where assigned when trip was taken, and dates of travel.

CONTESTING RECORD PROCEDURES:

The DFAS rules for accessing records, for contesting contents and appealing initial agency determinations are published in DFAS Regulation 5400.11–R; 32 CFR part 324; or may be obtained from the Freedom of Information/Privacy Act Program Manager, Office of Corporate Communications, 6760 E. Irvington Place, Denver, CO 80279–8000.

RECORD SOURCE CATEGORIES:

Records are obtained from the individual traveler, related voucher documents, DFAS or other DoD components, as applicable.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 04–20279 Filed 9–7–04; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Defense Finance and Accounting Service; Privacy Act of 1974; Systems of Records

AGENCY: Defense Finance and Accounting Service.

ACTION: Notice to amend DFAS systems of records.

SUMMARY: The Defense Finance and Accounting Service (DFAS) is proposing to make a global administrative change to its 18 Privacy Act systems of records notices. DFAS is amending the procedure regarding how an individual accesses records and contests the contents of such records to reflect a new address.

DATES: This action will be effective without further notice on (insert date thirty days after publication in the **Federal Register**) unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the FOIA/PA Program Manager, Office of Corporate Communications, Defense Finance and Accounting Service, 6760 E. Irvington Place, Denver, CO 80279–8000.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Krabbenhoft at (303) 676–7514.

SUPPLEMENTARY INFORMATION: The Defense Finance and Accounting Service notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific change to the records system being amended is set forth below, followed by a listing of the affected notices. The proposed amendment is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: September 1, 2004.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DFAS is amending the entry 'Contesting record procedures:' with the following:

'CONTESTING RECORD PROCEDURES:

The DFAS rules for accessing records, for contesting contents and appealing initial agency determinations are published in DFAS Regulation 5400.11–R; 32 CFR part 324; or may be obtained from the Freedom of Information/Privacy Act Program Manager, Office of Corporate Communications, 6760 E. Irvington Place, Denver, CO 80279–8000.

T1205 Junior Reserve Office Training Corps Payment Reimbursement System
T1300 Disbursing Officer Establishment and Appointment Files
T3020 Living Disaster Recovery Planning System (LDRPS)
T5015a Military Pay Correction Case Files
T5015b Privacy Act Request Files
T5015c Freedom of Information Act Requests
T5500a Congressional Inquiry File
T5500b Garnishment Processing Files
T7280 Uniformed Services Savings Deposit Program (USSDP)
T7290 Non-appropriated Fund Accounts Receivable System
T7330 DFAS Payroll Locator File System (PLFS)
T7332 Defense Debt Management System (DDMS)
T7332c Bankruptcy Processing Files
T7333 {PRIVATE} Travel Payment System
T7335 Defense Civilian Pay System
T7340 Defense Joint Military Pay System—Active Component
T7346 Defense Joint Military Pay System—Reserve Component
T7347b Defense Military Retiree and Annuity Pay System

[FR Doc. 04–20281 Filed 9–7–04; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to delete systems of records.

SUMMARY: The Department of the Army is deleting a system of records notice from its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended. The system of records, A0037–1 MTMC, entitled Defense Travel System, was transferred to the Defense Financing and Accounting Service and assigned the system identifier T7334, entitled Defense Travel System.

DATES: This proposed action will be effective without further notice on October 8, 2004, unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Act Office, 701 Telegraph Road, Alexandria, VA 22315–3905.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 428–6504.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: September 1, 2004.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0037–1 MTMC

SYSTEM NAME:

Defense Travel System (DTS) (March 12, 1999, 64 FR 12291).

Reason: The system of records was transferred to the Defense Finance and Accounting Service, and was assigned the system identifier T7334, entitled Defense Travel System.

[FR Doc. 04–20280 Filed 9–7–04; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; Global Dosimetry Solutions, Inc.

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Global Dosimetry Solutions, Inc., a revocable, nonassignable, exclusive license to practice in the field of real time monitoring of the radiation dose rate and the immediate and/or cumulative radiation dose delivered to the skin (entrance and exit) of human medical patients during radiation therapy and other medical procedures, and real time in vivo monitoring of the radiation dose rate and the immediate or cumulative radiation dose delivered inside of human medical patients during radiation therapy and other medical procedures in the United States and certain foreign countries, the Government-owned inventions described in U.S. Patent No. 5,585,640: Glass Matrix Doped with Activated Luminescent Nanocrystalline Particles, Navy Case No. 76,342.//U.S. Patent No. 5,606,163: All-Optical, Rapid Readout, Fiber-Coupled Thermoluminescent Dosimeter System, Navy Case No. 76,626.//U.S. Patent No. 5,811,822: Optically Transparent, Optically Stimulable Glass Composites for Radiation Dosimetry, Navy Case No. 77,637.//U.S. Patent No. 6,087,666: Optically Stimulated Luminescent Fiber Optic Radiation Dosimeter, Navy Case No. 78,583.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than September 23, 2004.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320.

FOR FURTHER INFORMATION CONTACT: Ms. Jane F. Kuhl, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone 202–767–3083. Due to U.S. Postal delays, please fax 202–404–7920, E-mail *kuhl@utopia.nrl.navy.mil*, or use courier delivery to expedite response.

Authority: 35 U.S.C. 207, 37 CFR Part 404.

Dated: August 31, 2004.

J.H. Wagshul,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 04–20309 Filed 9–7–04; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Navy proposes to alter a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

The alteration consists of adding new categories of individuals covered, i.e., Air Force, Army, and Coast Guard personnel.

DATES: This action will be effective on October 8, 2004, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (DNS–36), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system reports, as required by 5 U.S.C. 552a(r) of the Privacy Act, were submitted on August 26, 2004, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996, (61 FR 6427, February 20, 1996).

Dated: September 1, 2004.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N06150–3

SYSTEM NAME:

Naval Health/Dental Research Center Data File (June 6, 2003, 68 FR 35657).

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'NM06150–3'.

SYSTEM NAME:

Delete entry and replace with 'Health/Dental Research Center Data File'.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'For medical: Navy and Marine Corps personnel on active duty since 1960 to date and civilians taking part in Operation Deep Freeze, 1964 to date; for U.S. Coast Guard, Air Force, and Army personnel on active duty since 1980.

For dental: Navy and Marine Corps personnel on active duty since 1967 to date.'

* * * * *

PURPOSE(S):

Delete entry and replace with 'To research, monitor and analyze the types and frequency of medical and dental diseases and illnesses in Navy, Marine Corps, U.S. Coast Guard, Air Force, and Army personnel.'

* * * * *

STORAGE:

Delete entry and replace with 'Paper and automated records'.

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Research records are permanent. Paper records, if used, are maintained for five years at the activity performing the research and then retired to the Federal Records Center, St. Louis, MO.'

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'Information is derived from (a) Medical Treatment Record Systems, including medical, dental, health records, inpatient treatment records and outpatient treatment records, (b) Personnel Records System and Personnel Rehabilitation Support System, (c) Enlisted Master File, (d) information provided by the members

themselves on a volunteer basis in response to specific research questionnaires and forms, (e) information provided by the members' peers and superiors, and (f) the Defense Manpower Data Center.'

* * * * *

NM06150–3

SYSTEM NAME:

Health/Dental Research Center Data File.

SYSTEM LOCATION:

Naval Medical Research and Development Command, Naval Medical Research Institute, Naval Health Research Center, and/or Naval Dental Research Institute to which individual is assigned. Official mailing addresses are published in the Standard Navy Distribution List available at *http://neds.nebt.daps.mil/sndl.htm.*

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

For medical: Navy and Marine Corps personnel on active duty since 1960 to date and civilians taking part in Operation Deep Freeze, 1964 to date; for U.S. Coast Guard, Air Force, and Army personnel on active duty since 1980.

For dental: Navy and Marine Corps personnel on active duty since 1967 to date.

CATEGORIES OF RECORDS IN THE SYSTEM:

Extracts of information from official medical/dental and personnel records, results of dental examinations conducted by staff research scientists, as well as information dealing with biographical, attitudes, and questions relating to medical and dental health patterns during active service or prior to active duty.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 8013, Secretary of the Air Force; 10 U.S.C. 5041, Headquarters, Marine Corps; 14 U.S.C. 93, Commandant, U.S. Coast Guard General Powers; and E.O. 9397 (SSN).

PURPOSE(S):

To research, monitor and analyze the types and frequency of medical and dental diseases and illnesses in Navy, Marine Corps, U.S. Coast Guard, Air Force, and Army personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

Note: This system of records contains individually identifiable health information. The DoD Health Information Privacy Regulation (DoD 6025.18–R) issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to most such health information. DoD 6025.18–R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974 or mentioned in this system of records notice.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and automated records.

RETRIEVABILITY:

Retrievability is by Social Security Number or service number as appropriate for military and former military personnel. Civilians are by name only.

SAFEGUARDS:

Access is restricted to personnel having a need to work with the research data stored. Access is controlled by password for health records stored on magnetic tape. Computerized dental research records contain I.D. numbers that can be matched to Social Security Number's on code sheets maintained by research personnel.

RETENTION AND DISPOSAL:

Research records are permanent. Paper records, if used, are maintained for five years at the activity performing the research and then retired to the Federal Records Center, St. Louis, MO.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding Officer of the activity in question. Official mailing addresses are published in the Standard Navy Distribution List available at *http://neds.nebt.daps.mil/sndl.htm.*

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commanding Officer of the activity in question.

Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://neds.nebt.daps.mil/sndl.htm.*

Navy, Marine Corps, U.S. Coast Guard, Air Force, and Army personnel and former serving members must provide a Social Security Number or service number as appropriate, give the branch of service, and years of active duty. Civilians in Operation Deep Freeze must identify themselves by full name and the year in which they wintered over.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commanding Officer of the activity in question.

Official mailing addresses are published in the Standard Navy Distribution List available at *http://neds.nebt.daps.mil/sndl.htm.*

Navy, Marine Corps. U.S. Coast Guard, Air Force, and Army personnel and former serving members must provide a Social Security Number or service number as appropriate, give the branch of service, and years of active duty. Civilians in Operations Deep Freeze must identify themselves by full name and the year in which they wintered over.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determination are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained form the system manager.

RECORD SOURCE CATEGORIES:

Information is derived form (a) Medical Treatment Record Systems, including medical, dental, health records, inpatient treatment records and outpatient treatment records, (b) Personnel Records System and Personnel Rehabilitation Support System, (c) Enlisted Master File, (d) information provided by the members themselves on a volunteer basis in response to specific research questionnaires and forms, (e) information provided by the members' peers and superiors, and (f) the Defense Manpower Data Center.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 04–20278 Filed 9–7–04; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office

of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 8, 2004.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 1, 2004.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: New.

Title: Impact Evaluation of Charter School Strategies-Baseline Intake and Administrative Records Forms.

Frequency: Annually.

Affected Public: Individuals or household; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 7,300; Burden Hours: 1,900.

Abstract: The current OMB package requests clearance for the baseline intake and administrative records instruments to be used in the Impact Evaluation of Charter School Strategies. The baseline intake instrument will collect information from parents of children applying for admission to the charter schools included in the study. The administrative records instruments will be used to collect information on student outcomes such as test scores and will be completed by school or district staff in these charter schools as well as in comparison schools that are attended by control group students. The study will examine the impact of these charter schools on student outcomes over a two year follow-up period.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2613. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202-4700. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to (202) 245-6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her e-mail address *Kathy.Axt@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. E4–2099 Filed 9–7–04; 8:45 am]

BILLING CODE 4000–01–S

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 8, 2004.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

September 1, 2004.

Angela C. Arrington,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Vocational and Adult Education

Type of Review: New.

Title: Annual Performance Report for Grants under the Smaller Learning Communities Program - Cohort 2.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 181; Burden Hours: 1,448.

Abstract: The Annual Performance Report form requests information from grantees regarding progress made in achieving the objectives identified in

the grantee's application including student outcome data and program implementation information.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2612. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202-4700. Requests may also be electronically mailed to the Internet address *OCIO__RIMG@ed.gov* or faxed to (202) 245-6621. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at her e-mail address *Sheila.Carey@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. E4–2100 Filed 9–7–04; 8:45 am]

BILLING CODE 4000–01–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0266; FRL–7674–7]

Notice of Receipt of Requests to Cancel A Chromated Copper Arsenate (CCA) Use and to Amend Current Label Language

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests from registrants of pesticide products containing Chromated Copper Arsenate (CCA) to amend affected registrations to terminate the use ''members out of water and not subject to salt water [or brackish water] splash, and not in soil use,'' as currently stated under American Wood Preservers' Association (AWPA) Standard C18 (Wood for Marine Construction)(For further information, please refer to the CCA guidance document at *http://www.epa.gov/pesticides/factsheets/chemicals/cca__awpa__june.pdf)*. The requests for use termination proposed replacement label language reflecting the use terminations.

These registrants are requesting that these voluntary use terminations and associated label revisions become effective December 31, 2004. Each registrant waived the 180–day comment period (i.e., any comment period in excess of 30 days).

DATES: Unless a request is withdrawn by October 8, 2004, the Agency intends to issue cancellation orders granting these requests to amend to terminate certain uses. The Agency will consider withdrawal requests postmarked no later than October 8, 2004.

FOR FURTHER INFORMATION CONTACT: Rebecca Miller, Antimicrobials Division (7510C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–0012; e-mail address: *miller.rebecca@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce, sell, distribute or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2004–0266. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell Street, Arlington, VA. This docket facility is open from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of requests from registrants of pesticide products containing Chromated Copper Arsenate (CCA) to amend affected registrations to terminate the use ''members out of water and not subject to salt water [or brackish water] splash, and not in soil use,'' as currently stated under American Wood Preservers' Association (AWPA) Standard C18 (Wood for Marine Construction). The registrants requesting use termination have included proposed replacement label language reflecting the use terminations. The registrants made the requests by letters dated June 4, 2004 (Osmose, Inc.), June 10, 2004 (Arch Wood Protection, Inc.), and June 28, 2004 (CSI, Inc.). In the letters, each of the registrants waived the 180–day comment period (i.e., any comment period in excess of 30 days). The label language proposed by the registrants is as follows:

A. Revised Language Experimental Use Permit (EUP)

This product may only be used for preservative treatment of the following categories of forest products and in accordance with the respective cited standard (noted parenthetically) of the 2001 edition of the American Wood-Preservers' Association (AWPA) Standards: Lumber and Timber for Salt Water Use Only (C2), Piles (C3), Poles (C4), Plywood (C9), Wood for Highway Construction (C14), Round, Half Round and Quarter Round Fence Posts (C16), Poles, Piles and Posts Used as Structural Members on Farms, and Plywood Used on Farms (C16), Wood for Marine Construction (C18), Lumber and Plywood for Permanent Wood Foundations(C22), Round Poles and Posts Used in Building Construction (C23), Sawn Timber Used To Support Residential and Commercial Structures (C24), Sawn Crossarms (C25), Structural Glued Laminated Members and Laminations Before Gluing (C28), Structural Composite Lumber (C33), and Shakes and Shingles (C34); and in

accordance with the respective cited standard (noted parenthetically) of the 2002 edition of the American Wood-Preservers' Association Standards: Lumber, Timbers and Plywood for Cooling Towers (C30). Forest products treated with this product may only be sold or distributed for uses within the AWPA Commodity Standards under which the treatment occurred.

Effective December 31, 2004, this product may only be used for preservative treatment of the following categories of forest products and in accordance with the respective cited standard (noted parenthetically) of the 2001 edition of the American Wood-Preservers' Association (AWPA) Standards: Lumber and Timber for Salt Water Use (also includes brackish water) Only (C2), Piles (C3), Poles (C4), Plywood(C9), Wood for Highway Construction (C14), Round, Half Round and Quarter Round Fence Posts (C16), Poles, Piles and Posts Used as Structural Members on Farms, and Plywood Used on Farms (C16), Wood for Marine Construction for Salt Water Use (also includes brackish water)(immersion and/or subject to saltwater (or brackish water) splash[''subject to saltwater (or brackish water) splash'' means any member of a marine structure which is positioned above mean high tide, but is subject to frequent wetting from wave action], [Pilings (sheet, round and square), Timbers, and Plywood; Walers, Framing, Stringers and Cross Bracing (2″x8″ and/or 3″x6″ and larger nominal dimensions and treated to a minimum of 0.60 pcf) (C18), Lumber and Plywood for Permanent Wood Foundations (C22), Round Poles and Posts Used in Building Construction(C23), Sawn Timber Used To Support Residential and Commercial Structures(C24), Sawn Crossarms (C25), Structural Glued Laminated Members and Laminations Before Gluing (C28), Structural Composite Lumber (C33), and Shakes and Shingles (C34); and in accordance with the respective cited standard (noted parenthetically) of the 2002 edition of the American Wood-Preservers' Association Standards: Lumber, Timbers and Plywood for cooling Towers (C30). Forest products treated with this product may only be sold or distributed for uses within the AWPA Commodity Standards under which the treatment occurred, except where otherwise provided above.

B. Revised Language Manufacturing Use Product (MUP)

This product may only be used (1) for formulation of the following end-use wood preservative products: ammoniacal copper zinc arsenate(ACZA) or chromated copper arsenate (CCA) labeled in accordance with the Directions for Use shown below, or (2) by persons other than the registrant, in combination with one or more other products to make: ACZA wood preservative; or CCA wood preservative that is used in accordance with the Directions for Use shown below.

This product may only be used for preservative treatment of the following categories of forest products and in accordance with the respective cited standard (noted parenthetically) of the 2001 edition of the American Wood-Preservers' Association (AWPA) Standards: Lumber and Timber for Salt Water Use Only (C2), Piles (C3), Poles (C4), Plywood(C9), Wood for Highway Construction (C14), Round, Half Round and Quarter Round Fence Posts (C16), Poles, Piles and Posts Used as Structural Members on Farms, and Plywood Used on Farms (C16), Wood for Marine Construction (C18), Lumber and Plywood for Permanent Wood Foundations(C22), Round Poles and Posts Used in Building Construction (C23), Sawn Timber Used To Support Residential and Commercial Structures (C24), Sawn Crossarms (C25), Structural Glued Laminated Members and Laminations Before Gluing (C28), Structural Composite Lumber (C33), and Shakes and Shingles (C34); and in accordance with the respective cited standard(noted parenthetically) of the 2002 edition of the American Wood-Preservers' Association Standards: Lumber, Timbers and Plywood for Cooling Towers (C30). Forest products treated with this product may only be sold or distributed for uses within the AWPA Commodity Standards under which the treatment occurred.

Effective December 31, 2004, this product may only be used for preservative treatment of the following categories of forest products and in accordance with the respective cited standard (noted parenthetically) of the 2001 edition of the American Wood-Preservers' Association (AWPA) Standards: Lumber and Timber for Salt Water Use (also includes brackish water) Only (C2), Piles (C3), Poles (C4), Plywood(C9), Wood for Highway Construction (C14), Round, Half Round and Quarter Round Fence Posts (C16), Poles, Piles and Posts Used as Structural Members on Farms, and Plywood Used on Farms (C16), Wood for Marine Construction for Salt Water Use (also includes brackish water)(immersion and/or subject to saltwater (or brackish water) splash[''subject to saltwater (or brackish water) splash'' means any member of a marine structure which is positioned above mean high tide, but is subject to frequent wetting from wave action], [Pilings (sheet, round and square), Timbers, and Plywood; Walers, Framing, Stringers and Cross Bracing (2″x8″ and/or 3″x6″ and larger nominal dimensions and treated to a minimum of 0.60 pcf) (C18), Lumber and Plywood for Permanent Wood Foundations (C22), Round Poles and Posts Used in Building Construction(C23), Sawn Timber Used To Support Residential and Commercial Structures(C24), Sawn Crossarms (C25), Structural Glued Laminated Members and Laminations Before Gluing (C28), Structural Composite Lumber (C33), and Shakes and Shingles (C34); and in accordance with the respective cited standard (noted parenthetically) of the 2002 edition of the American Wood-Preservers' Association Standards: Lumber, Timbers and Plywood for Cooling Towers (C30). Forest products treated with this product may only be sold or distributed for uses within the AWPA Commodity Standards under which the treatment occurred, except where otherwise provided above.

Unless a request is withdrawn by the registrant within 30 days of publication of this notice, the Agency intends to issue cancellation orders granting these requests and ordering the registration amendments and label revisions. Users of these pesticides or anyone else desiring the retention of the affected use or having any comment on the proposed label language should contact the applicable registrant directly during this 30–day period.

Table 1 includes the names and addresses of record for all registrants, by EPA company number, requesting voluntary termination of certain uses of products listed in Table 2:

TABLE 1.—REGISTRANTS REQUESTING VOLUNTARY TERMINATION OF CERTAIN USES LISTED IN TABLE 2

EPA Company No.	Company name and address
062190	Arch Wood Protection, Inc., 1955 Lake Park Drive, Suite 250, Smyrna, GA 30080
010465	Chemical Specialties, Inc., One Woodlawn Green, Charlotte, NC 28217
003008	Osmose Inc., 980 Ellicott Street Buffalo, NY 14209–2398

TABLE 2.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO TERMINATE CERTAIN USES

Registration Number	Product Name
End Use Products	
003008–17	K-33-C (72%) Wood Preservative
003008–21	Special K-33 Preservative
003008–34	K-33 (60%) Wood Preservative
003008–35	K-33 (40%) Type-B Wood Preservative
003008–36	K-33-C (50%) Wood Preservative
003008–42	K-33-A (50%) Wood Preservative
003008–72	Osmose Arsenic Acid 75%
010465–26	CCA Type-C Wood Preservative 50%
010465–28	CCA Type-C Wood Preservative 60%

TABLE 2.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO TERMINATE CERTAIN USES—Continued

Registration Number	Product Name
010465–32	CSI Arsenic Acid 75%
035896–2	Wood-Last Conc. Wood Preservation AQ 50% Solution CCA-Type A
062190–2	Wolmanac Concentrate 50%
062190–8	Wolmanac Concentrate 72%
062190–14	Wolmanac Concentrate 60%
Manufacturing Use Products	
003008–66	Arsenic Acid 75%
010465–32	CSI Arsenic Acid 75%
062190–7	Arsenic Acid 75%

III. What is the Agency's Authority for Taking this Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate use. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register** and provide a comment period. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for voluntary cancellation or amendment to terminate uses must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**, postmarked before October 8, 2004. This written withdrawal of the request for cancellation or amendment to terminate uses will apply only to the applicable FIFRA section 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation or use termination action, the effective date of cancellation and all other provisions of any earlier cancellation order or use termination are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold, or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product. Exception to this general approach will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in a Special Review action, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

The registrants making these requests asked for no existing stocks provisions. Should these requests be granted, on or after December 31, 2004, any sale, distribution, or use of existing stocks by the registrants of the subject registrations would be prohibited. This refers to CCA product labels that bear the proposed-to-be deleted C18 Marine Use, ''members out of water and not subject to saltwater [or brackish water] splash and not in soil use.'' Sale, distribution or use of the stocks in the channels of trade by persons other than the registrant may continue until depleted, provided any sale, distribution or use is in accordance with the existing label of that product.

List of Subjects

Environmental Protection, Chromated Copper Arsenate, Treated Wood, Pesticides and Pests.

Dated: August 27, 2004.

Frank Sanders,

Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. 04–20336 Filed 9–7–04; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7810–1]

Cal-Tech Metal Finishers Removal Site; Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as Amended by the Superfund Amendments and Reauthorization Act

AGENCY: Environmental Protection Agency.

ACTION: Notice, request for public comments.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed Administrative Order on Consent (''AOC, Region 9 Docket No. 2004–0008) pursuant to Section 122(h) of CERCLA concerning the Cal-Tech Metal Finishers Removal Site (the ''Site''), located in Oakland, California. The respondent to the AOC is Donald G. Dean (''Dean''). The AOC provides Dean with a covenant not to sue and contribution protection for the removal action at the Site. To date, EPA has incurred approximately $967,836.00 in response costs related to the Site. Dean is reimbursing $15,000.00 of the incurred response costs to EPA, consistent with EPA's determination of Dean's ability to pay. For thirty (30) days following the date of publication of this Notice, the Agency will receive written comments relating to the proposed AOC. The Agency's response to any comments will be available for public inspection at IPA's Region IX offices, located at 75 Hawthorne Street, San Francisco, California 94105.

DATES: Comments must be submitted on or before October 8, 2004.

ADDRESSES: The proposed Agreement may be obtained from Judith Winchell, Environmental Protection Specialist, telephone (415) 972–3124. Comments regarding the proposed Agreement should be addressed to Judith Winchell (SFD–7) at EPA, Region IX, 75 Hawthorne Street, San Francisco, California 94105, and should reference the Cal-Tech Metal Finishers Removal Site, Oakland, California and USEPA Docket No. 2004–0008.

FOR FURTHER INFORMATION CONTACT: J. Andrew Helmlinger, Office of Regional Counsel, telephone (415) 972–3904, USEPA Region IX, 75 Hawthorne Street, San Francisco, California 94105.

Dated: August 31, 2004.

Daniel A. Meer,

Acting Director, Superfund Division EPA, Region 9.

[FR Doc. 04–20335 Filed 9–7–04; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice 66]

Agency Information Collection Activities; Comment Request

AGENCY: Export-Import Bank of the United States (Ex-Im Bank).

ACTION: Notice and request for comments.

SUMMARY: The Export-Import Bank, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments should be received on or before November 8, 2004 to be assured of consideration.

ADDRESSES: Direct all comments and requests for additional information to Roberta Zenn, Export-Import Bank of the U.S., 811 Vermont Avenue, NW., Washington, DC 20571, (202) 565–3221, *Roberta.zenn@exim.gov,* or to Nicole Behrendt, Export-Import Bank of the U.S., 811 Vermont Avenue, NW., Washington, DC 20571, (202) 565–3411, *nicole.behrendt@exim.gov.*

SUPPLEMENTARY INFORMATION:

Title and Form Number: Ex-Im Bank Letter of Interest Application, EIB Form 95–9.

OMB Number: 3048–0005.

Type of Review: Extension of a currently approved collection.

Need and Use: The information requested enables the applicant to provide Ex-Im Bank with the information necessary to determine eligibility for an indicative offer of support under the loan and guarantee programs.

Affected Public: Business and other for-profit institutions.

Respondents: Entities involved in the provision of financing or arranging of financing for foreign buyers of U.S. exports.

Estimated Annual Respondents: 500.

Estimated Time Per Respondent: 20 minutes.

Estimated Annual Burden: 165.

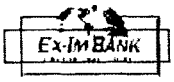
Frequency of Response: When applying for a Letter of Interest.

Dated: September 2, 2004.

Solomon Bush,

Agency Clearance Officer.

BILLING CODE 6690–01–M



LETTER OF INTEREST APPLICATION

OMB No. 3048-0005
Expires 10/31/2004

Please type. Processing of applications may be delayed if the requested information is not provided.

1. **Applicant.** The applicant may be any responsible individual, financial institution or non-financial enterprise. • Check if applicant has been assisted by a city or state export agency and provide the name of the agency:

Applicant name:		Duns #:
Contact person:		Phone #:
Position title:		Fax #:
Street Address:		City:
State/Province:	Postal Code:	Country:
Taxpayer ID #:		

2. **Exporter.** The "exporter" is the company which contracts with the buyer for the sale of the U.S. goods and services. • Check if the exporter is also the applicant. If not, complete the information below.

Exporter name:		Duns #:
Street address:		Phone #:
City:	State:	Postal code:
Taxpayer ID #:		

3. **Supplier.** The "supplier" is the U.S. company which manufactures the goods and/or performs the services to be exported. • Check if the supplier is also the exporter. • Check if the supplier is not determined. If neither applies, attach the same information for the primary supplier as requested above for the exporter. Information on additional suppliers is not required for an LI.

4. **Borrower.** The "borrower" is the company which agrees to repay the Ex-Im Bank direct or guaranteed loan. Complete the information below. Check the box for "public sector" if the borrower is at least 50% directly or indirectly owned by a government. Check the box for "private sector" if the borrower is less than 50% owned by a government.

Contact person:		Fax #:
Borrower name:		Duns #:
Street address:	City:	• • public sector • • private sector
State/Province:	Postal Code:	Country:

5. **Buyer and End-user.** The "buyer" is the company which contracts with the exporter for the purchase of the U.S. goods and services. The "end-user" is the foreign company which utilizes the U.S. goods and services in its business. • Check if the borrower, buyer, and end-user are not the same entity. If box is checked, attach the same information for the buyer and the end-user as requested above for the borrower.

6. **Export Items.** The "export items" are the goods and services to be exported from the U.S.

   6a. **Large Aircraft.** • Check if the export items include aircraft which, in a passenger configuration, contain more than 70 seats. If box is checked, complete *Attachment A*.

   6b. **Military.** • Check if the buyer is associated in *any* way with the military, if *any* export items are to be used by the military, or if *any* export items are defense articles or have a military application.

   6c. **Limited Recourse Project Finance.** • Check if you want a Letter of Interest issued by the Project Finance Division. If box is checked, complete *Attachment D*.

   6d. **Description of Export Items.** Briefly describe the principal goods and services, including the *type, quantity, model number and capacity (if applicable), and SIC Code*. For an aircraft transaction, include a description of the engines.

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Revised 04/99

LETTER OF INTEREST APPLICATION

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Expires: 10/31/2004

6e. **Utilization of Export Items.** Briefly describe the principal business activity of the *end-user*. If the export items are to be used in a project, also provide the name, location, purpose, and scope of the project.

7. **Financing Type Requested.** Check applicable box(es). You may request both a direct loan and a guarantee. If both financing options are acceptable to Ex-Im Bank, they will be indicated in the LI as options. Refer to *Attachment A* if the transaction involves the export of new large aircraft.

   • Direct Loans • Comprehensive Guarantee • Political Risk Guarantee

8. **Contract Price.** The "contract price" is the ***amount to be shown in the supplier's invoice related to goods to be exported from the U.S. and services to be performed by U.S. companies.*** If there is more than one supplier, the contract price is the sum of the suppliers' invoice amounts. The "eligible foreign content" is the portion of the contract price representing components to be purchased by the sup-plier outside the U.S. and ***incorporated in the U.S. into the items to be exported.*** Costs to be incurred in the end-user's country are not considered eligible foreign content. Note that the eligible foreign content, if any, is part of the contract price.

   8a. **Contract Price:** $ _____ (including eligible foreign content)

   8b. **Eligible Foreign Content:** $ _____

9. **Foreign Competition.** • Check if, to the best of your knowledge, there is at least one entity offering non-U.S. goods and/or services in *direct* competition for this specific export sale.

10. **Other U.S. Government Agencies.** • Check if an application for support of this export contract or related project has been filed with the Agency for International Development, Maritime Administration, Overseas Private Investment Corporation or Trade Development Agency.

11. **Environmental Effects.** If 85% of the contract price exceeds $10,000,000, complete *Attachment B*. Attachment B is not required for aircraft transactions.

12. **Tied Aid Capital Projects Fund.** If you want Ex-Im Bank to preclude or counter a tied aid offer, complete *Attachment C*.

13. **Certifications.** The undersigned certifies that the facts stated and the representations made in this application and any attachments to this application are true, to the best of the applicant's knowledge and belief after due diligence, and that the applicant has not omitted any material facts.

    The undersigned further certifies that it is not currently, nor has it been within the preceding three years: 1) debarred, suspended or declared ineligible from participating in any Federal program; 2) formally proposed for debarment, with a final determination still pending, 3) voluntarily excluded from participation in a Federal transaction; or 4) indicted, convicted or had a civil judgment rendered against it for any of the offenses listed in the Regulations Governing Debarment and Suspension (Governmentwide Nonprocurement Debarment and Suspension Regulations: Common Rule), 53 fed. Reg. 19204 (1988)

    Applicant (company) name: _____

    Name and title of authorized officer: _____

    Signature of authorized officer: _____ Date: _____

Payment, payable to the Export-Import Bank of the U.S., must accompany application; please indicate: • Visa • Mastercard • Check

Account #: _____ Expiration Date: _____

Signature: _____

Ex-Im Bank would be pleased to assist you in applying for financial support. If you have any questions, please contact the Business Development Division (Telephone: 202-565-3946 or Fax: 202-565-3931). For information concerning financing of large aircraft and ancillary equipment, please contact the Aircraft Finance Division (Telephone: 202-565-3550 or Fax: 202-565-3558).

Taxpayer Identifying Numbers: Ex-Im Bank intends to use the taxpayer identifying numbers furnished on this application for purposes of collecting and reporting on any claims arising out of such persons' or business entities' relationships with the U.S. government.

LETTER OF INTEREST APPLICATION

OMB No. 3048-0005
Expires: 10/31/2004

Public Burden Statement: Public burden reporting for this collection of information is estimated to average 20 minutes per response, including time required for searching existing data sources, gathering the necessary data, providing the information required, and reviewing the final collection. Send comments on the accuracy of this estimate of the burden and recommendations for reducing it to: Office of Management and Budget, Paperwork Reduction Project (#3048-0004), Washington, D.C. 20503.

EX-IM BANK

LETTER OF INTEREST APPLICATION

ATTACHMENT A: Large Aircraft Transactions

OMB No. 3048-0005
Expires 07/31/2001

1. **Financing Type Requested.** Three financing options are available for *new* large aircraft transactions under the Large Aircraft Sector Understanding (LASU), contained in the OECD Arrangement. Check the option(s) you are requesting. For *used* large aircraft transactions, complete No. 7 of the *Letter of Interest Application.*

   ☐ **Option 1:** An Ex-Im Bank guarantee for up to 85% of the contract price.

   ☐ **Option 2:** An Ex-Im Bank guarantee for 42.5% of the contract price coupled with an Ex-Im Bank direct loan at the applicable LASU interest rate for 42.5% of the contract price. The Ex-Im Bank direct loan is repaid during the later maturities.

   ☐ **Option 3:** An Ex-Im Bank guarantee for 22.5% of the contract price coupled with an Ex-Im Bank direct loan at the applicable LASU interest rate for 62.5% of the contract price. The Ex-Im Bank guaranteed loan and direct loan are repaid on a pari-passu basis.

2. **Spare Parts Financing.** Indicate in No. 6d. of the *Letter of Interest Application* if any spare parts or spare engines are included in the export sale. Provide the requested information on these items.

3. **Transaction Information.** Include with your application a background summary on the airline, the reason for the purchase, proposed routes, and delivery dates. This information replaces the information requested in No. 6e. of the *Letter of Interest Application.*

4. **Contract Price.** If credit memoranda information is available, deduct all airframe and engine credit memoranda, if any, from the aircraft price when calculating the contract price to be entered in No. 8a. of the *Letter of Interest Application.*

If you have questions about this attachment, please contact the Aircraft Finance Division at 202-565-3550.

EIB Form 95-9
Revised 04/99

EX-IM BANK

LETTER OF INTEREST APPLICATION

ATTACHMENT B: Ex-Im Bank Environmental Screening Document

OMB No. 3048-0005
Expires 07/31/2001

Limited Recourse Project Financing and Long-Term Programs Only

Ex-Im Bank will screen project finance and long-term transactions into three categories, as defined in Ex-Im Bank's *Environmental Procedures*. The information you provide will help Ex-Im Bank to determine the proper category for your application. This information is crucial to the appropriate and timely review of your application. Check the boxes that apply to your application.

1. **Project Identification.**

☐ Check if the goods and/or services described in your application are destined for an identified project.

If checked, identify the project: _____

If not checked, explain: _____

_____

2. **Project Location.** Is the project located in or sufficiently near to have perceptible environmental effects in any of the following areas? Check all that apply.

☐ Tropical Forest
☐ Nationally designated wetlands or protected wildlands
☐ National parks
☐ Nationally designated refuges
☐ Coral reefs or mangrove swamps
☐ Nationally designated seashore areas
☐ Habitat of endangered species
☐ Large scale resettlement
(How many persons? _____)
☐ Properties on the World Heritage List

3. **Project Sector or Industry.** Which classification describes the project for which the exports are destined? Check all that apply.

☐ Airport construction
☐ Chemical plant
☐ Forestry
☐ Geothermal Power
☐ Hydropower plant
☐ Iron & steel plant
☐ Large infrastructure project
☐ Large-scale water reservoir
☐ Mining & mineral processing plant
☐ Nuclear power plant
☐ Oil & gas field development
☐ Petrochemical plant or refinery
☐ Pharmaceutical project
☐ Pulp & paper plant
☐ Smelter
☐ Thermal power plant
☐ Waste management
☐ Air traffic control systems or navigational aids
☐ Consulting services
☐ Hospitals and medical equipment
☐ Pre-project services (feasibility & environmental studies)
☐ Railway signaling
☐ Telecommunications or satellites
☐ Transportation carriers (aircraft, locomotives, boats)
☐ Other (describe)
_____

Name of Applicant _____ Date _____

If you have questions about this attachment, please contact the Engineering and Environment Division at 202-565-3570.

LETTER OF INTEREST APPLICATION

ATTACHMENT C: Tied Aid Capital Projects Fund

OMB No. 3048-0005
Expires 07/31/2001

1. ☐ Check if you are requesting appropriate Ex-Im Bank support to preclude or counter foreign tied aid offers.

2. ☐ Check if one or more foreign governments are offering, or planning to offer, unusually long repayment periods, unusually low interest rates, and/or mixed grant-credit financing for ***the specific contract for which Ex-Im Bank support is sought***. Attach available documentary evidence of a foreign tied aid credit offer. If such evidence is not available, specify your reasons for suspecting foreign tied aid.

_____

_____

_____

_____

3. ☐ Check if you authorize Ex-Im Bank to ask the OECD Secretariat to issue a confidential "no aid" common line request to OECD member governments. Acceptance of this request would preclude future foreign and U.S. aid financing for the project.

4. ☐ Check if you believe that loss of this contract will jeopardize follow-on sales opportunities for similar sales in the same market. Provide the type and estimated value of potential follow-on sales.

_____

_____

_____

5. Provide the following information, if known, for each foreign government's tied aid offer.

	Foreign Offer #1	Foreign Offer #2
Donor government		
Foreign exporters supported		
Total offer amount		
Currency of offer		
Credit portion amount		
Credit portion interest rate		
Credit portion grace period		
Credit portion repayment period		
Grant portion, if any		

If you have questions about this attachment, please contact the Credit Applications and Processing Unit at 202-565-3800.

EIB Form 95-9
Revised 04/99

OMB No. 3048-0005
Expires 07/31/2001

LETTER OF INTEREST APPLICATION

ATTACHMENT D: Project Finance Transactions, Executive Summary

Ex-Im Bank's analysis of potential limited recourse project finance transactions differs from routine export trade finance transactions. Therefore, we require additional information from applicants for a Project Finance Letter of Interest. Please provide the information outlined below to the best of your ability. It is highly recommended that you provide as much information as possible at this stage of the application process.

1. **Project Name:** _____

2. **Type of Project:** _____

3. **Project Location:** _____

4. **Project Description:** _____

5. **Project Participants**
   a. **Sponsors:** _____
   b. **EPC Contractor:** _____
   c. **Project Input Supplier(s):** _____
   d. **Off-taker(s):** _____

6. **Estimated Debt to Equity Ratio:** _____

7. **Other Potential Financing Sources:** _____

8. **Is this an international tender?**
   ☐ Yes ☐ No **Bid due date:** _____

9. **Estimated Project Timeline: (e.g. financial close, construction start date, etc.)** _____

10. **Project Status: (e.g. signed EPC contract, status of offtake contract, etc.)** _____

EIB Form 95-9
Revised 12/99

LETTER OF INTEREST APPLICATION

OMB No. 3048-0005
Expires 07/31/2001

ATTACHMENT D: Project Finance Transactions, Executive Summary

11. Other Relevant Factors: _____

_____

_____

If you have questions about this attachment, please contact Business Development Division at 202-565-3946.

EIB Form 95-9
Revised 12/99

[FR Doc. 04–20347 Filed 9–7–04; 8:45 am]

BILLING CODE 6690–01–C

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection(s) Requirement Submitted to OMB for Emergency Review and Approval

August 27, 2004.

SUMMARY: The Federal Communications Commission, 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(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 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 Paperwork Reduction Act (PRA) comments should be submitted on or before October 8, 2004. 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 contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Kristy L. LaLonde, Office of Management and Budget, Room 10234 NEOB, Washington, DC 20503, (202) 395–3087, or via fax at 202–395–5167 or via Internet at *Kristy_L._LaLonde@omb.eop.gov*, and Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554 or via Internet to *Judith-B.Herman@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judith B. Herman at 202–418–0214 or via Internet at *Judith-B.Herman@fcc.gov*.

SUPPLEMENTARY INFORMATION: The Commission has requested emergency OMB processing review of this new information collection with an OMB approval by September 30, 2004.

OMB Control Number: 3060–XXXX.

Title: Rural Wireless Community VISION Program Essay Guidelines.

Form No.: N/A.

Type of Review: New collection.

Respondents: State, local and tribal government.

Number of Respondents: 250.

Estimated Time Per Response: 8 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 2,000 hours.

Total Annual Cost: N/A.

Needs and Uses: The Commission is seeking emergency processing of this new information collection so that it may be implemented no later than October 15, 2004, as part of the President's program to bring ''affordable broadband access to all corners of America by 2007.'' Additionally, we are requesting emergency processing so that we meet the terms in the Memorandum of Understanding between the Federal Communications Commission (FCC) and the United States Department of Agriculture (USDA).

The information collection consists of a one page essay with five questions inviting any rural community to submit a Community VISION Essay, which describes their community's ''vision'' of how to utilize broadband access to bring new, economic, educational, healthcare, and other opportunities and benefits to their residents. The selected communities will work with a team of experts from FCC and USDA. The team of experts will provide direct, hands-on assistance to the communities to achieve successful wireless broadband deployments and thus make their Community's VISION a reality. The team of experts will select the participants in the program from among the communities that apply. These communities will serve as models to help speed wireless broadband access to unserved or underserved rural communities in the United States.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–20355 Filed 9–7–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 04–2596]

Audit of Operational Status of Licenses in the Paging and Radiotelephone Service and 929–930 MHz and on Exclusive Channels

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document the Wireless Telecommunications Bureau (Bureau) announces a license audit of the operational status of all site-specific licenses operating under part 22, Paging and Radiotelephone Service with a ''CD'' radio service code and all site-specific licenses operating in the 929–930 MHz band on exclusive channels with a ''GS'' radio service code, excluding those licensees in the ''GS'' service operating on shared channels, is scheduled to begin during the week of September 27, 2004. Licensees must verify their mailing address on record in the Universal Licensing System for each license held and, where appropriate, update the information. Further, licensees must register with the Commission Registration System (CORES) to receive its FCC Registration Number (FRN) and has associated the FRN with each license held, and to respond to the audit letter electronically, via the internet, within forty-five (45) calendar days from the date on the audit letter.

ADDRESSES: Federal Communications Commission 445 12th Street, SW., TW–A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Denise D. Walter, Mobility Division, at 202–418–0620.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's *Public Notice*, DA 04–2596, released on August 24, 2004. The full text of this document is available for inspection and copying during normal business hours in the Federal Communications Commission Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Federal Communications Commission's copy contractor, Best Copy & Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at *http://wireless.fcc.gov*. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at *bmillin@fcc.gov*.

1. The Federal Communications Commission's (FCC) Wireless Telecommunications Bureau (Bureau) will be conducting a license audit of the operational status of all site-specific licenses operating under part 22, Paging and Radiotelephone Service, subpart E, with a ''CD'' radio service code and all site-specific licenses operating in the 929–930 MHz band on the exclusive channels with a ''GS'' radio service code, wherein all licensees listed, except for licensees in the ''GS'' service operating on shared channels, must respond to the audit letter and certify that its authorized station(s) has not permanently discontinued operations from the date of initial construction and operation. The audit is being performed to promote intensive use of the radio spectrum by updating and increasing the accuracy of the Commission's licensing database.

2. To prepare for the audit, the Bureau strongly encourages licensees in these radio services to verify the mailing address for each license held prior to September 25, 2004. Licensees can verify the accuracy of the Commission's information by accessing the License Search function in the Universal Licensing System (ULS) at *http://wireless.fcc.gov/uls*. If the information is incorrect, the licensee should use ULS to electronically file an Update application.

3. Another important step a licensee should take to prepare for the audit is to ensure that it has registered in CORES, received an FRN, and associated the FRN with all licenses held. This should be done by September 25, 2004.

4. The Bureau will send letters to all licensees operating in the ''CD'' and ''GS'' (exclusive channels) radio services inquiring about the operational status of each license held. The letters will be mailed during the week of September 27, 2004. Each letter will include the call signs of the licensee's authorizations involved in this audit and will be directed to each licensee at its address of record in ULS. A licensee will receive only one audit letter if the licensee has, by September 25, 2004, verified the address is listed correctly in ULS, obtained its FRN, and associated its call signs with the FRN. If the licensee has not performed these activities by September 25, 2004, the Bureau will attempt to include all of a licensee's call signs subject to this audit in one letter, but may issue more than one letter for an entity due to slight variations in licensee name or address in the Commission's licensing records. If a licensee receives multiple letters, the licensee must respond to each letter in order to account for all its call signs that are part of this audit. If a licensee holds authorizations in one of these radio services (''CD'' and ''GS'' exclusive channels) and does not receive an audit letter, the licensee must still respond to the audit. In order to determine if a particular license is a part of the audit, licensees should use Audit Search at *http://wireless.fcc.goc/licensing/audits after the audit letters have been mailed* (scheduled for the week of September 27, 2004). If the search shows an audit letter was mailed, the licensee is required to respond to the audit using the audit reference number. For instructions on how to proceed in this instance, licensees can call the Commission at 717–338–2888 or 888–CALLFCC (888–225–5322) and select option 2.

5. A response to the audit letter is mandatory. The process for responding to the audit and the internet site will be included in the audit letter. Each licensee is required to submit its response electronically within forty-five (45) calendar days of the date on the audit letter. Failure to provide a timely response may result in the Commission presuming that the station(s) has permanently discontinued operations pursuant to 47 CFR 22.317, and thus the license may be presumed to have automatically cancelled. Failure to provide a timely response may also result in a enforcement action, including monetary forfeiture, pursuant to section 503(b)(1)(B) of the Communications Act and 47 CFR 1.80(a)(2).

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–20361 Filed 9–7–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY: Federal Trade Commission.

TIME AND DATE: 10 a.m., Thursday, December 9, 2004.

PLACE: Federal Trade Commission Building, Room 532, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion Open to Public: (1) Oral Argument in the matter of Rambus Incorporated, Docket 9302.

Portion Closed to the Public: (2) Executive Session to follow Oral Argument in Rambus Incorporated, Docket 9302.

CONTACT PERSON FOR MORE INFORMATION: Mitch Katz.

Office of Public Affairs: (202) 326–2180.

Recorded Message: (202) 326–2711.

Donald S. Clark,

Secretary.

[FR Doc. 04–20403 Filed 9–3–04; 12:10 pm]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Renovations in the Division of Dockets Management

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the partial closing of the Division of Dockets Management (DDM) on September 9, 2004, to September 14, 2004. During the renovations in DDM, it is necessary to partially close the office to allow the staff and others to store and dismantle furniture and other items. The purpose of this document is to inform the public in advance to avoid confusion in carrying out DDM's functions.

DATES: On September 10, 2004, the office and open space areas of DDM will be painted and the carpet replaced. Therefore, from September 9, 2004, to September 14, 2004, DDM will be partially closed. During this time, the public reading room will be open from 9 a.m. to 4 p.m., normal business hours, to accept hand-delivered documents, but will not provide other services.

FOR FURTHER INFORMATION CONTACT: Jennie C. Butler, Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, 301–827–6880, e-mail: *jbutler1@oc.fda.gov*.

ADDRESSES: Anyone wishing to hand deliver documents to DDM should go to 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Normal operations of DDM will resume on September 15, 2004. Please note: The telephones will be unavailable from 1 p.m. on September 10, 2004, through 12 noon on September 13, 2004.

SUPPLEMENTARY INFORMATION:

I. Background

DDM, which is part of the Office of Management, is responsible for many activities under 21 CFR 10.20. The

major functions of DDM include the following: (1) Serving as the entry point for citizen petitions, comments, hearing requests, and other documents related to FDA's rulemaking and administrative activities; (2) maintaining a public reading room, in which documents are available for public inspections; (3) providing copies of official records maintained in accordance with the Freedom of Information Act; and (4) providing advice and guidance regarding filing requirements pertaining to FDA's rulemaking or administrative activities.

Dated: September 2, 2004.

William K. Hubbard,

Associate Commissioner for Policy and Planning.

[FR Doc. 04–20394 Filed 9–3–04; 11:49 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Opportunities for Cooperative Research and Development Agreements (CRADAs) To Undertake Research and Development of Compounds From Specific Categories for the Treatment of Drug Dependence

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice.

SUMMARY: The National Institute on Drug Abuse (NIDA), a component of the National Institutes of Health, is seeking proposals from potential collaborators for one or more Cooperative Research and Development Agreements (CRADAs) to test, by scientific means meeting U.S. Food and Drug Administration (FDA) standards, the hypothesis that compounds representative of the following classes (numbered 1–8 below) may be useful in the treatment of drug dependence:

1. CRF–1 antagonists.
2. Cannabinoid-1 antagonists.
3. MGluR5 antagonists.
4. AMPA antagonists.
5. Selective, high affinity dopamine D3 agonists and antagonists.
6. Selective, high affinity dopamine D1 full or partial agonists.
7. Kappa opioid antagonists.
8. Compounds from classes not named in 1–7 above, but for which compelling rationales are provided by potential collaborators.

DATES: NIDA will consider all proposals received within 60 days of the date of the publication of this notice. This notice is active until November 8, 2004.

ADDRESSES: Questions and expressions of interest concerning this notice may be addressed to Dr. Frank Vocci (301–443–2711; e-mail: *fv6k@nih.gov*) or Mr. Lee Cummings (301–443–1143; e-mail: *lc65i@nih.gov*) or at the following address: Division of Pharmacotherapies and Medical Consequences of Drug Abuse, National Institute on Drug Abuse, 6001 Executive Boulevard, MSC 955, Room 4123, Bethesda, Maryland 20892–9551.

SUPPLEMENTARY INFORMATION:

Rationale for CRF–1 Antagonists

Evidence suggests that withdrawal syndromes associated with chronic use of drugs of abuse results in elevations of CRF levels. Stress has been shown to modify the intake of drugs of abuse in preclinical studies of drug self-administration. The effects of stress can increase drug intake and can be mimicked by CRF administration. CRF antagonists have a robust inhibitory effect on stress-induced increases in drug taking behavior.

Rationale for Cannabinoid-1 Antagonists

Cannabinoid-1 antagonists (CB–1) block the cell surface receptors activated by marijuana, but have been reported to be involved in effects of other abused substances. A CB–1 receptor antagonist has been shown to reduce nicotine self-administration and nicotine-induced dopamine release in the nucleus accumbens, reduce heroin self-administration in rats, and reduce amphetamine self-administration in rats. Further, CB–1 antagonists may also prevent relapse to cocaine or heroin by blocking rats' responses to both cocaine and heroin priming, and to cues associated with cocaine. Finally, mice lacking the CB–1 receptor do not show stress-induced increases in alcohol consumption, suggesting that the receptor may also contribute to stress-induced drinking. Taken together, results suggest a role for the cannabinoid system in abuse of several classes of drugs.

Rationale for mGluR5 Antagonists

Drugs of abuse increase glutamatergic neurotransmission in the nucleus accumbens, and metabotropic glutamate receptors located there may modulate release of glutamate and dopamine. Since gene knockout studies reported in 2001 showed that mice lacking the mGluR5 receptor show decreased locomotor stimulant effects of cocaine and fail to develop cocaine self-administration behavior, a number of studies have examined the effects of mGluR5 antagonist on behaviors related to drug abuse. Interestingly, mGluR5 antagonists have been reported to decrease cocaine and nicotine self-administration in rodents, decrease amphetamine-stimulated locomotor activity, and to attenuate relapse to alcohol, suggesting a role in abuse of more than one drug.

Rationale for AMPA Antagonists

AMPA antagonists may be useful in the treatment of cocaine addiction because AMPA antagonists have been shown to affect three cocaine-induced processes thought to be important in the development of cocaine addiction for: (1) Prevention of locomotor sensitization, (2) Blockade of cocaine-cue induced drug seeking behavior, and (3) blocking cocaine-primed reinstatement in an animal model of cocaine self-administration.

Rationale for D3 Partial Agonists and Antagonists

Dopamine D3 receptors are localized in areas of the brain that are involved in drug abuse, and have been reported to be up-regulated in the brains of cocaine overdose fatalities. The potency of compounds that activate D3 receptors is related to their ability to decrease cocaine self-administration in rats, suggesting the involvement of these receptor types in cocaine drug-taking. Dopamine D3 partial agonists have been shown to block the behaviorally activating effects of cues that have been paired with cocaine in rats, suggesting potential usefulness in blocking relapse following contact with environmental cues associated with drug use. Dopamine D3 antagonists have recently been reported to block nicotine-primed nicotine seeking behavior in rats as well as cocaine-primed cocaine seeking in rats, suggesting a potential role in preventing relapse. Further, a D3 antagonist has been reported to block both the acquisition and expression of heroin conditioned place preference in rats, suggesting, overall, that both dopamine D3 partial agonists and D3 antagonists may be useful treatments for more than one drug of abuse.

Rationale for D1 Agonists

There is evidence that dopamine D1 receptors are down-regulated in rats and monkeys following exposure to cocaine using in vitro measures. In addition, D1 agonists have been shown to lack priming effects in rats trained to self-administer cocaine, and are able to block the effects of a priming dose of cocaine in this model. Other cocaine-self administration models indicate that D1 agonists can reduce the self-administration of both low and high

doses of cocaine. In a cocaine self-administration reinstatement model in monkeys that may model relapse following a period of abstinence in humans, a D1 agonist can reduce the effect of a priming dose of cocaine that might lead to relapse. In humans, a D1 agonist blunted the subjective effects of cocaine, and reduced craving for cocaine and other drugs.

Rationale for Kappa-Opioid Antagonists

Kappa-opioid antagonists block receptors for the endogenous opioid ligand dynorphin, which is up-regulated by chronic opioid use and has been linked to dysphoric states that can lead to opioid relapse. There is also evidence that kappa antagonists have anti-stress effects, which may make them useful in the prevention of relapse to drugs of abuse like cocaine.

Rationale for Compounds Not Named Above To Be Considered

The possibility exists that compounds that have mechanisms of action other than those described in items 1–7 above may be potentially useful in the treatment of drug dependence. NIDA will consider candidate compounds from other classes if, and only if, scientific evidence exists to support a compelling rationale for testing and/or development.

Potential for Collaborative Development

NIDA does not currently own or have adequate access to compounds representing the referenced classes. To this end, NIDA is seeking to enter into a CRADA collaboration with entities that may qualify as CRADA collaborators. These would include, but not be limited to pharmaceutical companies, academic research institutions with company affiliations, and other commercial entities with adequate capacity to participate in the evaluation and development of candidate compounds from the classes listed for the treatment (reduction in use in drug dependent persons and prevention of relapse in formerly drug dependent individuals). NIDA will consider proposals from all qualified entities and will, subject to negotiation of the details of a mutually agreed upon research plan and CRADA, provide the CRADA collaborator access to services and data generated from its comprehensive preclinical and clinical trials facilities. CRADA Collaborators will be able to utilize data derived from the CRADA to pursue regulatory filings in the U.S. and abroad. Compounds of the representative classes at all stages of development will be considered. NIDA's Medications Development Program possesses the capacity to perform pharmacological and toxicological testing, pharmacokinetics, dosage form development, regulatory management, and clinical testing from Phase I through Phase III testing and is willing to apply these capacities in the assessment of specified compounds as may be warranted.

Following classical drug development schema, decisions to proceed to each subsequent preclinical or clinical study will be based on data derived from previous or ongoing studies. Assuming adequate safety can be demonstrated, it is NIDA's intention to provide clinical trials services sufficient to permit, subject to FDA approval, research and development up to and including Phase II hypothesis testing. Assuming demonstration of safety and efficacy at the conclusion of Phase II trials and subject to negotiation, NIDA will, in some cases, also consider collaborations to undertake Phase III trials sufficient to permit collaborator to seek a U.S. New Drug Approval (NDA).

No funding may be provided to a collaborator under a CRADA: all assistance is provided ''in-kind''. Therefore the collaborator will bear the financial and organizational costs of meeting its obligations under collaborator's portion of any research plan that may be negotiated. Benefits of collaborating with NIDA beyond access to NIDA's clinical and preclinical resources include the option to an exclusive license to any subject inventions made by NIDA scientists during the course of the collaboration, and exclusivity with respect to submitting data from the collaboration for regulatory filings.

Selection Factors and Considerations

Selection factors and considerations of importance of NIDA include:

1. It is mandatory that collaborators possess commercialization rights to the compound sufficient to permit research and commercial development for the intended field of use, *i.e.*, treatment of drug dependence. In the event the collaborator does not own the compound or composition, collaborator must provide appropriate documentation of a license permitting research and commercialization for the field of use sufficient to permit the CRADA to proceed.

2. NIDA will consider the amount of research and development documentation and experience already in the collaborator's possession. NIDA will sign appropriate confidential disclosure agreements in order to review confidential and unpublished data. While NIDA will review all proposals concerning candidate compounds representative of the listed classes, it will give a higher priority to proposals that can document a more advanced level of development with the proposed compound(s).

3. NIDA will consider the amount and type of research and development resources the collaborator proposes to undertake as part of a proposed CRADA.

4. NIDA will consider the background, experience, and expertise in medications development of the proposed collaborator.

Dated: August 27, 2004.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 04–20290 Filed 9–7–04; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute: Cooperative Research and Development Agreement (''CRADA'') Opportunity and Licensing Opportunity: Scientific and Commercial Drug Development To Exploit Antiangiogenic Activity Targeting Adrenomedullin Gene Products

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute (NCI) is currently seeking Cooperative Research and Development Agreement (CRADA) collaborator(s) to work with investigators in the Center for Cancer Research (CCR) to explore, for drug development and clinical testing, novel antiangiogenic agents that target adrenomedullin gene products. Research and development may include development of blocking reagents (humanized antibodies, peptide antagonists, small molecules), formulation for systemic and topical application, preclinical animal studies, and clinical trials. Licensing is available for background inventions related to this technology.

DATES: Parties interested in a CRADA collaboration should notify the Technology Transfer Branch of the NCI in writing of their interest no later than October 25, 2004. The written notice should briefly address the selection criteria listed below under Supplementary Information.

Licensing inquiries/applications are accepted by the NIH Office of Technology Transfer at any time.

ADDRESSES: For information on the CRADA Opportunity, please contact: Julianne Chappell, J.D., Technology Transfer Specialist, Technology Transfer Branch, National Cancer Institute, NIH, 6120 Executive Boulevard, Suite 450, Rockville, MD 20852; Phone: (301) 496–0477; Fax: (301) 402–2117; e-mail: *jchappel@mail.nih.gov.*

For information on the Licensing Opportunity, please contact: Pradeep Ghosh, J.D., Ph.D., M.B.A., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Blvd., Suite 325, Rockville, MD 20852; Phone: (301) 435–5282; Fax: (301) 402–0220; e-mail: *ghoshpr@mail.nih.gov.* Information about patent application(s) and pertinent information not yet publicly described can be obtained under the terms of a Confidential Disclosure Agreement. Respondees interested in licensing the technology will be required to submit an Application for License to Public Health Service Inventions.

SUPPLEMENTARY INFORMATION:

Scientific Background: Tumor growth requires a series of extracellular signaling molecules that induce cell proliferation and production of new blood vessels (angiogenesis) and reduce apoptosis (programmed cell death) of the tumor cells. Agents that block angiogenesis or tumor cell proliferation have been successfully used in the clinic to reduce tumor burden.

The regulatory peptide adrenomedullin (AM) is a multifunctional molecule that has been recently characterized by researchers at the CCR, through use of *ex vivo* and *in vivo* animal models, as a proangiogenic factor. In addition to inducing angiogenesis, AM functions in cancer cells as an autocrine growth factor, enhances thymidine incorporation, reduces apoptosis, and is induced by hypoxia, thus identifying this peptide as an important tumor cell survival factor and a potential target for antitumor therapy.

AM is synthesized as a prohormone that contains another biologically active peptide, proAM N-terminal 20 peptide. CCR has determined that PAMP is approximately one million times more potent than well-known angiogenic factors such as vascular endothelial growth factor (VEGF) and basic fibroblast growth factor (bFGF). CCR scientists have characterized PAMP's angiogenic activity in both *in vitro* and *in vivo* assays, including a chick aortic ring angiogenesis assay and a nude mouse angiogenesis assay. Inhibitors of PAMP have been shown to inhibit angiogenesis *in vivo.*

Current Status of the Technology: There is a continuing market need for new therapeutic interventions to inhibit angiogenesis in diseases dependent on the development of new vasculature, or to promote angiogenesis in conditions ameliorated by such development. In addition to the discoveries described above, CCR scientists have developed a method of screening small molecule libraries for AM agonists and antagonists and have identified a number of potential small molecule candidates for drug development; CCR has also identified antagonistic peptide fragments and monoclonal antibodies against AM and PAMP that may warrant development. These discoveries form the basis of the background intellectual property, identified below in the **Patent Status and Pertinent References** section. AM gene products and their agonists or antagonists may prove effective in areas such as cancer treatment, wound healing, diabetic retinopathy, endometriosis, psoriasis, arthritis, coronary artery disease, peripheral vascular disease, and cerebral ischemia.

CRADA Proposal: CRADA collaborative efforts will explore the specific and highly active pathway discussed above. Inhibition of either AM or PAMP *in vivo* with a variety of agents (monoclonal antibodies, peptide analogs, small molecule antagonists) results in significant reduction of tumor growth. Therefore, CRADA studies may focus on the utilization of that technology in tumor management, and the NCI proposal delineated below reflects that approach. The Institute, however, is open to proposals directed at other diseases and conditions in which angiogenesis may play a major role (arthritis, impaired wound healing, ischemia, retinal degeneration, coronary artery disease, etc).

Proposed NCI Contribution: The role of the NCI will include, but not be limited to, the following:

1. Conduct *in vitro* and *in vivo* analysis of the antitumor capabilities of the generated blocking reagents.
2. Test biological specimens from the animal and clinical phases to evaluate whether the intermediate endpoints (diminution of peptide contents) are reached.

Proposed CRADA Collaborator Contribution: The role of the CRADA collaborator(s) will include, but not be limited to, the following:

1. Manufacture enough of the blocking reagents (humanized monoclonal antibodies, peptide antagonists, small molecules) under FDA approved standards.
2. Formulate the initial lot of agent for topical and systemic administration.
3. Perform pharmacokinetic and pharmacodynamic evaluation in animal models.
4. Collaborate in the planning and support clinical development leading to FDA approval and marketing.
5. Conduct clinical trials.

Proposed Joint Contribution: NCI and CRADA collaborator(s) will:

1. Design a CRADA research plan and interpret the data generated under the research plan.
2. Publish the results and share all data as soon as they become available.

Selection Criteria for Choosing the CRADA Collaborator May Include:

1. A demonstrated background and expertise in conducting clinical trials, and in the generation of the blocking reagents.
2. The demonstration of adequate resources to perform the research and development necessary for commercialization of the technology and any inventions.
3. A demonstrated record of success in the commercial development and production of products related to this area of technology.
4. The level of financial and staffing support the CRADA collaborator will provide for CRADA-related activities.
5. The willingness to cooperate with the NCI in the collection, evaluation, and maintenance of data from preclinical and clinical trials of investigational agents; and in the timely publication of research results.
6. The agreement to be bound by the Department of Health and Human Services (DHHS) regulations involving the use of human and animal subjects, and human tissue.
7. The willingness to accept the legal provisions and language of the CRADA. These provisions govern the distribution of future patent rights to CRADA inventions. Generally, the rights of ownership are retained by the organization which is the employer of the inventor, with (a) the grant of a license for research and other Government purposes to the Government when the CRADA collaborator's employee is the sole inventor, or (b) the grant of an option to elect an exclusive or non-exclusive license to the CRADA collaborator when the Government employee is the sole inventor.
8. The willingness to obtain any necessary background licenses to NIH technology.

Terms/Licensing Potential/Patent Status:

1. No funding from the Government is available to collaborator under a CRADA.

2. Non-exclusive license option available for background rights. Exclusive license rights may be available in a specified field of use.

3. One patent has been issued related to Adrenomedullin and PAMP and other related patent applications are pending.

4. In case, as a result of the CRADA work, a joint intellectual property is developed, the CRADA partner may have a right to file a joint patent application.

Patent Status and Pertinent References:

U.S. Provisional Patent Application Number 60/425,018, filed November 7, 2002, ''A New Target for Angiogenesis and Anti-angiogenesis Therapy.''

Patent Application Number PCT/US2003/035633, filed November 7, 2003, ''A New Target for Angiogenesis and Anti-angiogenesis Therapy.''

U.S. Provisional Application Serial No. 60/500,650 filed on 09/08/2003; ''A new method to screen small molecule libraries and biologically active compounds that modulate adrenomedullin and gastrin releasing peptides.'' International Publication Number WO 2004/043383 A2, published May 27, 2004, ''A New Target for Angiogenesis and Anti-angiogenesis Therapy.''

López J, Martínez A. Cell and molecular biology of the multifunctional peptide, adrenomedullin. *International Review of Cytology* 221:1–92 (2002).

Martínez A, Vos M, Guédez L, Kaur G, Chen Z, Garayoa M, Pío R, Moody T, Stetler-Stevenson WG, Kleinman HK, Cuttitta F. The effects of adrenomedullin overexpression in breast tumor cells. *Journal of the National Cancer Institute* 94: 1226–1237 (2002).

Cuttitta F, Pío R, Garayoa M, Zudaire E, Julián M, Elsasser TH, Montuenga LM, Martínez A. Adrenomedullin functions as an important tumor survival factor in human carcinogenesis. *Microscopy Research and Technique* 57:110–119 (2002).

Pío R, Martínez A, Cuttitta F. Cancer and diabetes: two pathological conditions in which adrenomedullin may be involved. *Peptides* 22:1719–1729 (2001).

Pío R, Martínez A, Unsworth EJ, Kowalak JA, Bengoechea JA, Zipfel PF, Elsasser TH, Cuttitta F. Complement factor H is a serum binding protein for adrenomedullin. The resulting complex modulates the bioactivities of both partners. *Journal of Biological Chemistry* 276:12292–12300 (2001).

Martínez A, Julián M, Bregonzio C, Notari L, Moody TW, Cuttitta F. Identification of vasoactive non-peptidic positive and negative modulators of adrenomedullin using a neutralizing monoclonal antibody-based screening strategy. *Endocrinology* 145:3858–3865 (2004).

Martínez A, Zudaire E, Portal-Núnez S, Guédez L, Libutti SK, Stetler-Stevenson WG, Cuttitta F. Proadrenomedullin—terminal 20 peptide is a potent angiogenic factor and its inhibition results in reduction of tumor growth. *Cancer Research* in press (2004).

Dated: August 25, 2004.

Karen Maurey,

Acting Chief, Technology Transfer Branch, National Cancer Institute, National Institutes of Health.

Dated: August 30, 2004.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 04–20291 Filed 9–7–04; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

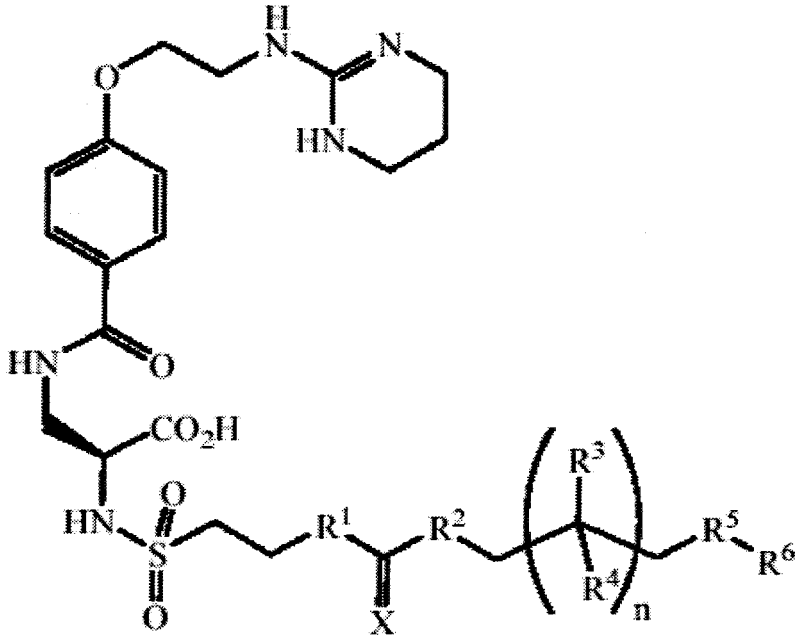
ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Integrin Alpha-V Beta-3 Antagonists for Use in Imaging and Therapy

S. Narasimhan Danthi *et al.* (CC), U.S. Patent Application filed 04 Aug 2004 (DHHS Reference No. E–170–2004/0–US–01).

Licensing Contact: Michael Shmilovich; 301/435–5019; *shmilovm@mail.nih.gov*.

Available for licensing are compounds as shown below for imaging and therapy. These compounds are integrin $\alpha_v\beta_3$ receptor antagonists and are described and claimed in a patent application available for review. The patent application also includes claim coverage for the administration of these compounds containing a detectable moiety or pharmaceutical compositions of such imaging agents as part of the imaging of cells that express integrin $\alpha_v\beta_3$.



In which: X is either NH, O, or S; n is zero or a positive integer; R_1 is either CH_2, NH, O, or S; R_2 is either CHR_7, NR_7, O, or S, in which R_7 is H or alkyl; R_3 and R_4, which are either the same or different from each other, are either H, alkyl, aryl, arylalkyl, cycloalkyl, cycloalkylalkyl, alkyl-substituted aryl, (alkylsubstitutedaryl)alkyl, hydroxy-substituted alkyl, hydroxy-substituted aryl, or (hydroxy-substituted aryl)alkyl; R_5 is either CH_2, NH, O, or S; and R_6 is either H or C(=Y)-R_8-R_9, in which: Y is either NH, O, or S; R_8 is either CHR_{10}, NR_{10}, O, or S, in which R_{10} is H or alkyl; and R_9 is either H, alkyl, aryl, arylalkyl, cycloalkyl, cycloalkylalkyl, alkylsubstituted aryl, (alkyl-substituted aryl)alkyl, hydroxy-substituted alkyl, hydroxy-substituted aryl, or (hydroxy-substituted aryl)alkyl.

Use of Protein Kinase C Delta Inhibitor, Specifically Rottlerin, Alone or in Further Combination With Staurosporine, in the Treatment of Metastatic Epithelioid Melanoma

Denise Simmons (NCI), U.S. Provisional Application No. 60/531,876 filed 22 Dec 2003 (DHHS Reference No. E–311–2003/0–US–01).

Licensing Contact: Mojdeh Bahar; 301/435–2950; *baharm@mail.nih.gov*.

This invention is directed to the use of a protein kinase C delta inhibitor, specifically rottlerin, alone or in further combination with staurosporine, in the treatment of metastatic epithelioid melanoma. Preliminary studies show that treatment of cells from a metastasized human epithelioid melanoma with rottlerin reduced cellular proliferation by 90%, without affecting proliferation or morphology of normal melanocytes. Cells from the matched primary site tumor of the same patient were not affected by this inhibitor, nor were cells from a matched tumor pair of fibroblastoid morphology obtained from a second patient. Treatment of cells from a metastasized human epithelioid melanoma with staurosporine caused an increase in branching and in the number of processes in the melanoma cells, without affecting cell number. These staurosporine-induced changes may be indicative of differentiation.

Dated: August 27, 2004.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 04–20293 Filed 9–7–04; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by contacting Susan Ano, Ph.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/435–5515; fax: 301/402–0220; e-mail: *anos@mail.nih.gov*. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Safer Attenuated Virus Vaccines With Missing or Diminished Latency of Infection

Jeffrey Cohen et al. (NIAID)

U.S. Provisional Application Filed 28 Jun 2004 (DHHS Reference No. E–217–2004/0–US–01)

This technology describes recombinant viruses that have weakened ability to establish and/or maintain latency and their use as live vaccines. The viruses have one or more genetic mutations that allow for continued replication but that inhibit latency. The vaccine materials and methods for their construction are exemplified with the virus that causes chickenpox and whose latent infection results in shingles, a condition that affects up to an estimated 1 million people per year in the United States alone. Additionally, there are veterinary

applications of this technology. Specific examples of gene deletions, modifications, and/or insertions are described. Furthermore, replacement of these deleted genes with other desirable viral antigen encoding sequence(s) and/or cytokine genes in order to enhance a desired immunological response is also described. Aspects of this technology are relevant to other live virus vaccines, thus increasing the safety of such vaccines.

Anti-Vaccinia Monoclonal Antibody

Jonathan Yewdell et al. (NIAID)

DHHS Reference No. E–123–2004/0—Research Tool

The current technology describes a monoclonal antibody that reacts with a vaccinia virus protein abundantly expressed under an early viral promoter after infection of cells. The antibody is useful for quantitating vaccinia virus infected cells and for studying the function of the protein to which it binds, which is known to be a double stranded RNA binding protein involved in resistance of the virus to interferons. This antibody is available for licensing through a biological materials license agreement.

New Surrogate Marker for Diagnosis of HIV/AIDS Infection and for Evaluation of Treatment Effectiveness

Gene M. Shearer et al. (NCI)

U.S. Provisional Application 60/564,588 Filed 23 Apr 2004 (DHHS Reference No. E–045–2004/0–US–01)

This technology describes the identification of a new surrogate marker, TNF-related apoptosis-inducing ligand (TRAIL), that can be universally employed to monitor the progression of HIV infection and other conditions and diseases associated with immune system activation and immunoassays for assessing the amount of TRAIL in a biological sample. In the case of HIV infection, measuring levels of this surrogate marker can distinguish among infected individuals with high viral load, infected individuals with low viral load, and uninfected individuals. Only two surrogate markers are currently recognized by the Food and Drug Administration as clinically relevant to HIV progression, HIV viral load and the absolute number of peripheral CD4 +T cells. Tests for assessing HIV viral load employ PCR, the use of which has drawbacks, including cross-contamination. TRAIL has mechanistic implications for HIV–1 pathogenesis and directly correlates to viral load but not necessarily inversely with CD4+ T cell count. Other surrogate markers have been proposed but do not consistently reflect AIDS progression in all individuals or may result in overlooking possible treatments that may affect disease progression but do not affect the chosen marker. Therefore, use of this new surrogate marker to assess disease progression in infected individuals and to evaluate the effectiveness of various treatment regimens has several advantages over currently used methods.

Peptide Mimotopes of Lipooligosaccharide From Nontypeable *Haemophilus influenzae* and *Moraxella catarrhalis* as Peptide Vaccines

Xin-Xing Gu (NIDCD)

U.S. Provisional Application No. 60/441,928 Filed 22 Jan 2003 (DHHS Reference No. E–344–2002/0–US–01)

PCT Application No. PCT/US04/01457 Filed 21 Jan 2004 (DHHS Reference No. E–344–2002/0–PCT–02)

U.S. Provisional Application No. 60/531,239 Filed 19 Dec 2003 (DHHS Reference No. E–083–2004/0–US–01)

U.S. Provisional Application No. 60/571,889 filed 17 May 2004 (DHHS Reference No. E–083–2004/1–US–01)

These inventions relate to peptide mimotopes of lipooligosaccharides (LOS) from nontypeable *Haemophilus influenzae* (NTHi) and *Moraxella catarrhalis* that are suitable for developing novel vaccines against the respective pathogens, for which there are currently no licensed vaccines. The mimotopes not only immunologically mimic LOS from NTHi and *Moraxella catarrhalis* but will also bind to antibodies specific for the respective LOS. NTHi and *Moraxella catarrhalis* are common pathogens that cause otitis media in children and lower respiratory tract infections in adults. The effectiveness of a vaccine could be increased by substitution of a LOS epitope with a peptide mimic. Preliminary experiments have shown that some of the mimic peptides conjugated to a carrier were as effective as their respective LOS-based vaccine in stimulating a humoral immune response in rabbits. A single consensus amino acid sequence was identified for *Moraxella catarrhalis,* while four such sequences were identified for NTHi. Thus, the identified peptides are promising candidates for developing novel vaccines for NTHi or *Moraxella catarrhalis.*

Dated: August 27, 2004.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 04–20294 Filed 9–7–04; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

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Vectors for Wild-Type DDR1b or DDR1b Mutant, and Production of THP–1 Cell Line Expressing Two DDR1 Isoforms, DDR1a and DDR1b

Teizo Yoshimura (NCI)

DHHS Reference No.: E–243–2004/0—Research Material.

Licensing Contact: Jesse S. Kindra; (301) 435–5559; *kindraj@mail.nih.gov.*

This technology relates to cloning of cDNAs coding for human discoidin domain receptor (DDR1) cDNAs (clone 11A for DDR1a and Clone 11B for DDR1b) from a human lung cDNA library; a mammalian expression vector for wild-type DDR1b or DDR1b mutant, and a THP–1 cell line expressing two DDR1 isoforms, DDR1a and DDR1b. These materials are useful to study the role and signaling pathways of DDR1 and to identify agonists or antagonists of these receptors.

Additional information regarding these materials is described in: Kamohara *et al.*, ''Discoidin domain receptor 1 isoform-a (DDR1a) promotes migration of leukocytes in three-dimensional collagen lattices,'' FASEB J, 15:2724–2726, 2001; Matsuyama *et al.*, ''Interaction of discoidin receptor 1 isoform b (DDR1b) with collagen activates p38 mitogen-activated protein kinase and promotes differentiation of macrophages,'' FASEB J, 17:1286–1288, 2003; Matsuyama *et al.*, ''Activation of discoidin receptor 1 facilitates the maturation of human monocyte-derived dendritic cells through the TNF receptor associated factor 6/TGF-beta-activated protein kinase 1 binding protein 1beta/p38alpha mitogen-activated protein kinase signaling cascade,'' *J. Immunol.* 171:3520–3532, 2003; Matsuyama *et al.*, ''Activation of discoidin domain receptor 1 isoform b with collagen up-regulates chemokine production in human macrophages: Role of p38 mitogen-activated protein kinase and NF-kB,'' *J. Immunol.* 172:2332–2340, 2004.

Method for Ex-Vivo Selection and Expansion of Stimulus-Responding Primary Cells Using Selective Reversible Immortalization

Eugene Barsov, David Ott (NCI)

U.S. Provisional Application No.: 60/528,244 filed 09 Dec 2003 (DHHS Reference No. E–210–2002/0–US–01).

Licensing Contact: Mojdeh Bahar; (301) 435–2950; *baharm@mail.nih.gov.*

This invention is a gene transfer technique to immortalize primary cells (*e.g.* lymphocytes) that respond to a stimulus, such as a viral antigen (*e.g.* HIV toxoids), a tumor antigen, or a growth factor. The antigen or growth factor stimulates a specific subset of primary cells within a population of cells to proliferate and divide. Murine leukemia virus (MuLV)-based retroviral vectors comprising a gene or genes for immortalization are used to transfect primary cells that have been stimulated to divide. Since MuLV retroviral vectors will only infect dividing cells, only primary cells activated by the antigen or growth factor will be infected by this retroviral vector and immortalized, thereby creating an ''antigen-specific trap.'' The primary cells to be immortalized can be in targeted tissue or in stimulated *ex vivo* culture. The transduced cells are expanded to large numbers without differentiating, and brought back to the primary cell stage by removing the introduced genes (*e.g.* by Cre-lox recombination). The expanded population of primary cells can then be used.

Hybrid Adeno-Retroviral Vector for the Transformation of Cells

Changyu Zheng, Brian O'Connell, Bruce J. Baum (NIDCR)

U.S. Provisional Application No.: 60/265,198 filed 30 Jan 2001 (DHHS Reference No. E–312–2000/0–US–01; PCT Application PCT/US02/02279 filed 25 Jan 2002, which was published as WO 02/061104 on 30 Jul 2002 (DHHS Reference No. E–312–2000/0–PCT–02).

U.S. Patent Application No.: 10/470,784 filed 29 Jul 2003 (DHHS Reference No. E–312–2000/0–US–03).

Licensing Contact: Jesse Kindra; (301) 435–5559; *kindraj@mail.nih.gov.*

The invention described and claimed in these patent applications provides for novel hybrid vectors which may be used for cell transformation either in vivo, in vitro, or ex vivo. The hybrid vectors, which are capable of integrating into the chromosome of the host cell and are capable of transducing dividing and non-dividing cells, have an adenoviral serotype 5 backbone and two retroviral (Moloney murine leukemia virus) elements upstream and downstream of the transgene. These elements include part of the envelope sequence, the long terminal repeat (LTR) and the packaging signal sequence (upstream), and part of the envelope sequence and LTR (downstream). Due to their hybrid nature, these vectors provide a means of efficient, reliable, long-term gene expression. Furthermore, unlike other chimeric or hybrid vector systems, only a single vector is required to deliver a transgene of interest and retroviral functional proteins are not required. The vectors are packaged and delivered via an adenoviral particle and administered directly to the target cell.

This research is described, in part, in: Zheng *et al.*, ''Inclusion of Moloney murine leukemia virus elements upstream of the transgene cassette in an E1-deleted adenovirus leads to an unusual genomic integration in epithelial cells,'' *Virology* 2003 313:460–72, 2003; Zheng *et al.*, ''Integration efficiency of a hybrid adenoretroviral vector,'' *Biochem Biophys Res Commun.* 300:115–20, 2003; Zheng & Baum, ''Long-term expression after infection by the hybrid vector AdLTR-luc is from integrated transgene,'' *Biochem Biophys Res Commun.* 291:34–40, 2002.

Dated: August 31, 2004.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 04–20295 Filed 9–7–04; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of a Meeting of the Scientific Advisory Committee on Alternative Toxicological Methods

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Scientific Advisory Committee on Alternative Toxicological Methods (SACATM) on October 20, 2004, at the U.S. Environmental Protection Agency (EPA), 109 TW Alexander Drive, Durham, NC (Building C, Room C111, Auditorium sections A. and B). The SACATM provides advice on the statutorily mandated duties of the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) and the activities of the National Toxicology Program (NTP) Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM).

The meeting is being held on October 20, 2004, from 8:30 a.m. until adjournment and is open to the public with attendance limited only by the space available. Individuals who plan to attend are strongly encouraged to register with the NTP Executive Secretary by October 13, 2004, in order to ensure access to the EPA campus (Dr. Kristina Thayer at the NTP Liaison and Scientific Review Office, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709; telephone: 919–541–5021; facsimile: 919–541–0295; or e-mail: *thayer@niehs.nih.gov*) or online on the NTP Web site (*http://ntp-server.niehs.nih.gov*) under ''What's New.'' A map of the EPA campus, including visitor parking, is available at *http://www.epa.gov/rtp/transportation/parking/map.htm.* Please note that a photo ID is required to access the EPA campus.

Persons needing special assistance, such as sign language interpretation or other reasonable accommodation in order to attend, are asked to notify the NTP Executive Secretary at least seven business days in advance of the meeting (*see* contact information above).

Agenda

A preliminary agenda is provided below. A copy of the agenda, committee roster, and any additional information, when available, will be posted on the

NTP Web site (*http://ntp-server.niehs.nih.gov*) under ''What's New'' or available upon request to the NTP Executive Secretary (contact information provided above). Additional information about SACATM is available through the NICEATM/ICCVAM Web site (*http://iccvam.niehs.nih.gov*) under ''Advisory Committee.'' Following the meeting, summary minutes will be prepared and available at this Web site and upon request to the NTP Liaison and Scientific Review Office (contact information above).

Preliminary Agenda

Scientific Advisory Committee on Alternative Toxicological Methods, October 20, 2004. U.S. Environmental Protection Agency, Building C, Room C111 (Auditorium sections A. and B), 109 TW Alexander Drive, Durham, NC 27709. (A photo ID is required to access the EPA campus.)

October 20, 2004

8:30 a.m.

- Call to Order and Introductions.
- Welcome and Remarks from the National Institute of Environmental Health Sciences (NIEHS) and the National Toxicology Program (NTP).
- Welcome and Remarks from the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) Chair.
- Update on Activities of the National Toxicology Program (NTP) Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM) and ICCVAM.
- Update on the European Center for the Validation of Alternative Methods (ECVAM) Workshop Recommendations andValidation Studies.
- Evaluation of the Under-Prediction Rate for the *In Vivo* Rabbit Dermal Irritation Test.
- Public Comment.
- Evaluation of the Under-Prediction Rate for the *In Vivo* Rabbit Occular Irritation Test.
- Public Comment.

12 p.m.

Lunch break (on your own, the EPA campus has a cafeteria).

1 p.m.

- ICCVAM Nominations.
- Public Comment.
- NTP Roadmap.
- Public Comment.
- ECVAM–ICCVAM–NICEATM Workshop on Validation of Toxicogenomic-Based Test Systems.
- General Discussion.

4:30 p.m. Adjourn

Public Comment Welcome

Public input at this meeting is invited and time is set aside for the presentation of public comments on any agenda topic. Each organization is allowed one time slot per agenda topic. At least 7 minutes will be allotted to each speaker, and if time permits, may be extended to 10 minutes. In order to facilitate planning for this meeting, persons wishing to make an oral presentation are asked to notify the NTP Executive Secretary (contact information above) by October 13, 2004, and to provide their name, affiliation, mailing address, phone, fax, e-mail, and sponsoring organization (if any). Registration to present oral public comments or to submit written comments can be completed online at the NTP Web site (*http://ntp-server.niehs.nih.gov*) under ''What's New.'' Registration for oral comments will also be available on-site, although time allowed for presentation by on-site registrants may be less then that for pre-registered speakers and will be determined by the number of persons who register at the meeting.

Persons registering to make oral comments are asked, if possible, to provide a copy of their statement to the NTP Executive Secretary (contact information above) by October 13, 2004, to enable review by the SACATM and NIEHS/NTP staff prior to the meeting. Written statements can supplement and may expand the oral presentation. If registering on-site and reading from written text, please bring 40 copies of the statement for distribution to the SACATM and NIEHS/NTP staff and to supplement the record. Written comments received in response to this notice will be posted on the NTP Web site (*http://ntp-server.niehs.nih.gov*) under ''What's New''. Persons may also submit written comments in lieu of making oral comments. Written comments should be sent to the NTP Executive Secretary and received by October 13, 2004, to enable review by the SACATM and NIEHS/NTP staff prior to the meeting. Persons submitting written comments should include their name, affiliation, mailing address, phone, fax, e-mail, and sponsoring organization (if any) with the document.

Background

The SACATM was established January 9, 2002, to fulfill section 3(d) of Public Law 106–545, the ICCVAM Authorization Act of 2000 (42 U.S.C. 285l–3(d)) and is composed of scientists from the public and private sectors (**Federal Register:** March 13, 2002: vol. 67, no. 49, page 11358). The SACATM provides advice to the Director of the NIEHS, the ICCVAM, and the NICEATM regarding statutorily mandated duties of the ICCVAM and activities of the NICEATM. The committee's charter is posted on the Web at *http://iccvam.niehs.nih.gov* under ''Advisory Committee'' and is available in hard copy upon request from the NTP Executive Secretary (contact information above). Information about NICEATM and ICCVAM activities can also be found at the NICEATM/ICCVAM Web site (*http://iccvam.niehs.nih.gov*) or by contacting the Director of NICEATM, Dr. William Stokes (telephone: 919–541–2384, or e-mail: *niceatm@niehs.nih.gov*).

Dated: August 26, 2004.

Samuel Wilson,

Deputy Director, National Institute of Environmental Health Sciences.

[FR Doc. 04–20292 Filed 9–7–04; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Homeland Security Advisory Council

AGENCY: Office of the Secretary, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Homeland Security Advisory Council (HSAC) will hold its next meeting in Washington, DC on Wednesday, September 22, 2004. The HSAC will meet for purposes of (1) receiving reports from Senior Advisory Committees; (2) receiving briefings from DHS staff on Departmental initiatives; and (3) holding roundtable discussions with and among HSAC members.

This meeting will be partially closed; the open portions of the meeting for purposes of (1) above will be held at the U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC, from 9:30 a.m. to 11:15 a.m. The closed portions of the meeting, for purposes of (2) and (3) above will be held at the U.S. Coast Guard Headquarters from 8:30 a.m. to 9:20 a.m. and from 11:30 a.m. to 3:30 p.m.

Public Attendance: A limited number of members of the public may register to attend the public session on a first-come, first-served basis per the procedures that follow. Security requires that any member of the public who wishes to attend the public session provide his or her name, social security number, and date of birth no later than 5 p.m., EST, Wednesday, September 15, 2004. Please provide the required

information to Mike Miron or Jeff Gaynor of the HSAC staff, via email at *HSAC@dhs.gov*, or via phone at 202–692–4283. Persons with disabilities who require special assistance should indicate so in their admittance request. Photo identification will be required for entry into the public session, and everyone in attendance must be present and seated by 9:15 a.m.

Basis for Closure: In accordance with Section 10 (d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App. 2), the Secretary has issued a determination that portions of this HSAC meeting will concern matters sensitive to homeland security within the meaning of 5 U.S.C. 552b(c)(7) and (c)(9)(B) and that, accordingly, these portions of the meeting will be closed to the public.

Public Comments: Members of the public who wish to file a written statement with the HSAC may do so by mail to Mike Miron at the following address: Homeland Security Advisory Council, Department of Homeland Security, Washington, DC 20528. Comments may also be sent via email to *HSAC@dhs.gov* or via fax at 202–772–9718.

Dated: September 1, 2004.

Tom Ridge,

Secretary of Homeland Security.

[FR Doc. 04–20324 Filed 9–7–04; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2004–18977]

Collection of Information Under Review by Office of Management and Budget (OMB): OMB Control Numbers: 1625–0024, 1625–0044, and 1625–0045

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Coast Guard intends to seek the approval of OMB for the renewal of three Information Collection Requests (ICRs). The ICRs comprise (1) 1625–0024, Safety Approval of Cargo Containers; (2) 1625–0044, Outer Continental Shelf Activities—Title 33 CFR Subchapter N; and (3) 1625–0045, Adequacy Certification for Reception Facilities and Advance Notice—33 CFR Part 158. Before submitting the ICRs to OMB, the Coast Guard is inviting comments on them as described below.

DATES: Comments must reach the Coast Guard on or before November 8, 2004.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG–2004–18977] more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web site for the Docket Management System at *http://dms.dot.gov*.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov*.

Copies of the complete ICRs are available through this docket on the Internet at *http://dms.dot.gov*, and also from Commandant (CG–611), U.S. Coast Guard Headquarters, room 6106 (Attn: Mr. Arthur Requina), 2100 Second Street, SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, 202–267–2326, for questions on these documents; or Ms. Andrea M. Jenkins, Program Manager, Docket Operations, 202–366–0271, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this request for comment by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov*, and they will include any personal information you have provided. We have an agreement with DOT to use the Docket Management Facility. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this request for comment [USCG–2004–18977], indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov*.

Information Collection Requests

1. *Title:* Safety Approval of Cargo Containers.

OMB Control Number: 1625–0024.

Summary: This information collection requires owners and manufacturers of cargo containers to submit information and keep records associated with the approval and inspection of those containers. This information is needed to ensure compliance with the International Convention for Safe Containers (CSC)

Need: This collection of information addresses the reporting and recordkeeping requirements for containers in 49 CFR parts 450–453. These rules are necessary because the U.S. is signatory to the CSC. The CSC

requires that all containers be safety approved before they are used in trade. These rules prescribe only the minimum requirements of the CSC.

Respondents: Owners and manufacturers of containers, and organizations that the Coast Guard delegates to act as an approval authority.

Frequency: On occasion.

Burden Estimate: The estimated burden is 73,272 hours a year.

2. *Title:* Outer Continental Shelf Activities—Title 33 CFR Subchapter N

OMB Control Number: 1625–0044.

Summary: The Outer Continental Shelf (OCS) Lands Act, as amended, authorizes the Coast Guard to promulgate and enforce regulations promoting the safety of life and property on OCS facilities. These regulations are in 33 CFR, Chapter I, Subchapter N.

Need: The information is needed to ensure compliance with the safety regulations related to OCS activities. The regulations include reporting and recordkeeping requirements for annual inspections of fixed OCS facilities, employee citizenship records, station bills, emergency evacuation plans, and equivalency determinations.

Respondents: Operators of facilities and vessels engaged in activities on the OCS.

Frequency: On occasion.

Burden Estimate: The estimated burden is 5,867 hours a year.

3. *Title:* Adequacy Certification for Reception Facilities and Advance Notice—33 CFR Part 158.

OMB Control Number: 1625–0045.

Summary: This information collection is needed to evaluate the adequacy of reception facilities prior to issuance of a Certificate of Adequacy. Information for the advance notice ensures effective management of reception facilities and reduces the burden to facilities and ships.

Need: Section 1905 of 33 U.S.C. gives the Coast Guard the authority to certify the adequacy of reception facilities in ports. Reception facilities are needed to receive waste from ships which may not discharge at sea. Under these regulations, in 33 CFR part 151 and 158, there are discharge limitations for oil and oily waste, noxious liquid substances, plastics and other garbage.

Respondents: Owners and operators of reception facilities, and owners and operators of vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden is 1,058 hours a year.

Dated: August 30, 2004.

Clifford I. Pearson,

Assistant Commandant for C4 and Information Technology.

[FR Doc. 04–20329 Filed 9–7–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2004–18949]

Collection of Information Under Review by Office of Management and Budget: 1625–0006 [Formerly 2115–0015], Shipping Articles

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Coast Guard intends to seek the approval of OMB for the renewal of an Information Collection Request (ICR), 1625–0006, Shipping Articles. Before submitting this ICR to OMB, the Coast Guard is inviting your comments.

DATES: Comments must reach the Coast Guard on or before November 8, 2004.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG–2004–18949] more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation (DOT), Room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001. Caution: Because of recent delays in the delivery of mail to Federal facilities, your comments may reach the Facility more quickly if you choose one of the other means described below.

(2) By delivery to Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.

(3) By fax to the Docket Management Facility at (202) 493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at Room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

Copies of the complete ICR is available through this docket on the Internet at *http://dms.dot.gov,* and also from Commandant (CG–611), U.S. Coast Guard Headquarters, Room 6106 (Attn: Mr. Arthur Requina), 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is (202) 267–2326.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, (202) 267–2326, for questions on these documents; or Ms. Andrea M. Jenkins, Program Manager, Docket Operations, (202) 366–0271, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments: We encourage you to participate in this request for comments by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov,* and they will include any personal information you have provided. We have an agreement with DOT to use their Docket Management Facility. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this request for comment [USCG–2004–18949], indicate the specific section of this document or the ICR to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES;** but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in Room

PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

Information Collection Request:

Title: Shipping Articles.

OMB Control Number: 1625–0006.

Summary: Sections 10302 and 10502 of 46 U.S.C., and 46 CFR 14.201 mandates that the owner, charterer, managing operator, master, or individual in charge shall make a shipping agreement in writing with each seaman before the seaman commences employment. Section 14.313 of 46 CFR mandates that shipping companies, after 3 years, deliver original shipping articles to Coast Guard custody for storage at the Federal Records Center in Suitland, MD. In addition, shipping companies must provide copies of shipping articles to the mariner and the Coast Guard upon request.

Need: The information collected provides verification, identification, location and employment record of U. S. merchant seaman to the following: (1) Federal, state and local law enforcement agencies for use in criminal or civil law enforcement purposes, (2) shipping companies, (3) labor unions, (4) seaman's authorized representatives, (5) seaman's next of kin, (6) whenever the disclosure of such information would be in the best interest of the seaman or his/her family.

Respondents: Individuals or companies.

Frequency: Once.

Burden: The estimated burden is 18,000 hours a year.

Dated: August 30, 2004.

Clifford I. Pearson,

Assistant Commandant for C4, And Information Technology.

[FR Doc. 04–20330 Filed 9–7–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Automated Commercial Environment (ACE): Open Application Period for Participation in a National Customs Automation Program Test for Importers and Brokers

AGENCY: Customs and Border Protection; Department of Homeland Security.

ACTION: General notice.

SUMMARY: This notice clarifies that importers and their designated brokers may still apply to establish accounts so as to participate in a National Customs Automation Program Test for the ACE Secure Data Portal (''ACE Portal''). This notice also invites customs brokers to participate in the ACE Portal test generally. Prior to this notice, brokers could only participate in the ACE Portal test if they were designated by participating importers to make Periodic Monthly Statement payments on their behalf.

DATES: The test application period remains open until further notice. Comments concerning this notice and all aspects of the announced test may be submitted at any time.

ADDRESSES: Comments concerning this notice and applications to establish ACE Importer and Broker Accounts should be submitted to Ms. Sherri Braxton via e-mail at *acenow@dhs.gov*.

FOR FURTHER INFORMATION CONTACT: For questions regarding ACE Importer or Broker Accounts: Ms. Sherri Braxton via e-mail at *acenow@dhs.gov* or by telephone at (703) 440–3000. For questions concerning general CBP Account Management issues contact Mr. Lamar Witmer by telephone at (202) 344–1320.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2002, CBP published a general notice in the **Federal Register** (67 FR 21800) announcing a plan to conduct a National Customs Automation Program test of the first phase of the Automated Commercial Environment. In this notice, CBP stated that it planned to select approximately 40 importer accounts from the list of qualified applicants for the initial deployment of this test. The notice also stated that additional participants may be selected throughout the duration of this test. In order to be considered as to be one of the initial participants, importers' applications had to be received by CBP by June 1, 2002.

On June 18, 2002, CBP extended the application period for those desiring to be one of the initial importer participants by publishing a second general notice in the **Federal Register** (67 FR 41572). That notice emphasized that applications to be an initial participant had to be submitted to CBP prior to August 1, 2002. Applications would be accepted after that date, but parties who so applied would be placed on a waiting list and considered for participation pending expansion of the technology.

On February 4, 2004, CBP published a third General Notice in the **Federal Register** (69 FR 5362) announcing the next step toward the full electronic processing of commercial importations in ACE, with a focus on identifying authorized importers and brokers to participate in the test to implement the Periodic Monthly Statement Process. The notice stated that participants in this test would benefit by having access to operational data through the ACE Portal, enjoying the capability of being able to interact electronically with CBP, and making payments of duties and fees on a periodic monthly basis. In order for customs brokers to apply, they had to provide names of the initial 41 importers participating in the test by whom they had been or will have been designated as the authorized broker.

Importer Accounts

Through this notice, CBP seeks to expand the number of ACE importer accounts.

Broker Accounts

Through this notice, CBP also seeks to expand the number of ACE broker accounts. In order to become an ACE broker account, a customs broker will no longer need to be designated specifically as the broker by an ACE importer account participating in the Periodic Monthly Statement Test.

Receipt of Applications

CBP will give priority to the first 1100 applications it receives. Additionally, once interested parties have been notified that their request to participate in the ACE Portal test has been accepted, they will be asked to sign and submit a Terms and Conditions document. The application requirements are set forth below.

ACE Importer Account Application

Each importer application for participation in this test must include the following information:

1. Importer name;

2. Unique importer number (*e.g.*, SSN, EIN, Customs Assigned Importer #, DUNS #);

3. Statement certifying participation in Customs Trade Partnership Against Terrorism (C–TPAT), and

4. Statement certifying the capability to connect to the Internet.

ACE Broker Account Application

Brokers wishing to participate in this test must first establish an individual ACE Broker Account. Brokers must submit an application to establish an ACE Broker Account via e-mail to the e-mail address set forth in the **ADDRESSES** portion of the document. Each broker application for participation in this test must include the following information:

1. Broker name;

2. Unique identification number (EIN, SSN);

3. Filer code;

4. Statement certifying participation in C–TPAT;

5. Statement certifying capability of connecting to the Internet;

6. Statement certifying capability of making periodic payment via the Automated Clearing House (ACH) Credit or ACH Debit, if applicable; and

7. Statement certifying capability of filing entry/entry summary via Automated Broker Interface (ABI).

Additionally, all participants requesting to participate in Periodic Monthly Statement are required to provide a bond rider covering the periodic payment of estimated duties.

Notification from CBP

Applicants will be notified by CBP of the acceptance of their applications. Any applicant who does not meet the eligibility criteria or who provides an incomplete application will be notified and given the opportunity to resubmit his or her application.

Authorization for the Test

Pursuant to Customs Modernization provisions in the North American Free Trade Agreement Implementation Act, Pub. L. 103–182, 107 Stat. 2057, 2170 (December 8, 1993), CBP amended its regulations (19 CFR chapter I), in part, to enable the Commissioner of Customs and Border Protection to conduct limited test programs or procedures designed to evaluate planned components of the National Customs Automation Program (NCAP). Section 101.9(b) of the CBP Regulations (19 CFR 101.9(b)) provides for the testing of NCAP programs or procedures. *See* T.D. 95–21. The ACE Portal test for which participation is being sought in this notice is established pursuant to that regulatory provision.

Previous Notices

All requirements and aspects of the test discussed in previous notices are hereby incorporated by reference into this notice and continue to be applicable. Examples of such requirements and aspects are the rules regarding misconduct under the test and the required evaluation of the test (both of which are detailed in the notices published at 67 FR 21800 and 69 FR 5362).

Dated: September 2, 2004.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 04–20319 Filed 9–7–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4903–N–67]

Notice of Submission of Proposed Information Collection to OMB; Recertification of Family Income and Composition

AGENCY: Office of the Chief Information Officer.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This is a request for extension of current approval to collect information for recertifications. Recertification information is submitted by homeowners to mortgagees to determine their continued eligibility for assistance and to determine the amount of assistance a homeowner is to receive. The information collected is also used by mortgagees to report statistical and general program data to HUD.

DATES: Comments Due Date: October 8, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0082) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins and at HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm*.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, a survey instrument to obtain information from faith-based and community organizations on their likelihood and success at applying for various funding programs. This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. This Notice also lists the following information:

Title of Proposal: Recertification of Family Income and Composition.

OMB Approval Number: 2502–0082.

Form Numbers: HUD–93101 and HUD–93101A.

Description of the need for the information and its proposed use: Recertification information is submitted by homeowners to mortgagees to determine their continued eligibility for assistance and to determine the amount of assistance a homeowners is to receive. The information collected is also used by mortgagees to report statistical and general program data to HUD.

Frequency of Submission: On occasion, Annually.

	Number of burden respondents	×	Annual responses	×	Hours per response	=	Hours
Reporting Burden	6,500		12,000		0.71		8,520

Total Estimated Burden Hours: 8,520.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 31, 2004.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. E4–2086 Filed 9–7–04; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4903–N–68]

Notice of Submission of Proposed Information Collection to OMB; Public Housing Assessment System (PHAS) Memorandum of Agreement (MOA), MOA Monthly Report, and Improvement Plan (IP)

AGENCY: Office of the Chief Information Officer.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This is a request for extension of an existing information collection.

A Public Housing Agency (PHA) which is designated Trouble or substandard under the Public Housing Assessment System (PHAS) must enter into a Memorandum of Agreement (MOA) with HUD to outline its planned improvements. Similarly, a PHA which is a standard performer, but receives a total PHAS score or less than 70% but not less than 60% is required to submit an Improvement Plan (IP). These plans are designed to address deficiencies in a PHA's operations found through the PHAS assessment process (management, financial, physical, or resident related) and any other deficiencies identified by HUD through independent assessments or other methods.

DATES: *Comments Due Date:* October 8, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2577–0237) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins and at HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, a survey instrument to obtain information from faith based and community organizations on their likelihood and success at applying for various funding programs. This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Public Housing Assessment System (PHAS) Memorandum. of Agreement (MOA), MOA Monthly Report, and Improvement Plan (IP).

OMB Approval Number: 2577–0237.

Form Numbers: HUD–53336–A, 53336–B, 53337, and 53338.

Description of the Need for the Information and its Proposed Use

A Public Hosing Agency (PHA) which is designated Troubled or substandard under the Public Housing Assessment System (PHAS) must enter into a Memorandum of Agreement (MOA) with HUD to outline its planned improvements. Similarly, a PHA which is a standard performer, but receives a total PHAS score of less than 70% but not less than 60% is required to submit an Improvement Plan (IP). These plans are designed to address deficiencies in a PHA's operations found through the PHAS assessment process (management, financial, physical, or resident related) and any other deficiencies identified by HUD through independent assessments or other methods.

Frequency of Submission: On Occasion, Quarterly, Other when designated troubled.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting burden	375	1		81.73		30,650

Total Estimated Burden Hours: 30,650.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 31, 2004.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. E4–2087 Filed 9–7–04; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4903–N–69]

Notice of Submission of Proposed Information Collection to OMB; Single Family Housing Property Disposition Acquisition (Conveyance) of Mortgaged Properties

AGENCY: Office of the Chief Information Officer.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This request is for the extension of a currently approved collection of information. The information is necessary to the process of acquisition and disposition of mortgaged single family properties.

DATES: *Comments Due Date:* October 8, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0306) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins and at HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, a survey instrument to obtain information from faith based and community organizations on their likelihood and success at applying for various funding programs. This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Single Family Housing Property Disposition and Acquisition (Conveyance) of Mortgaged Properties.

OMB Approval Number: 2502–0306.

Form Numbers: HUD–9516–A, HUD–9519, HUD–9519–A, HUD–9544, HUD–9548, HUD–9548–A, HUD–9548–B, HUD–9548–C.

Description of the Need for the Information and its Proposed Use

This collection of information is needed in order to determine the condition of a property upon conveyance, the results of repair contracts, and to monitor contractor performance in maintaining properties. The sales contracts and addenda are used in binding contracts between the purchaser and HUD.

The respondents are potential contractors, contractors for HUD, purchasers of HUD-owned properties.

Frequency Of Submission: On occasion.

	Number of burden respondents	×	Annual responses	×	Average hrs. per response	=	Hours
Reporting burden	80,240		1,102,530		0.50		551,265

Total Estimated Burden Hours: 551,265.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 31, 2004.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. E4–2088 Filed 9–7–04; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4903–N–66]

Notice of Submission of Proposed Information Collection to OMB; Brownfield's Economic Development Initiative (BEDI) Grant Application

AGENCY: Office of the Chief Information Officer.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This request is for approval of a revision of the currently approved information collection. The information collection is for applications for BEDI grants. Competitive Economic Development Initiatives (EDI) grants applications are no longer included.

The BEDI application for is required to rate and rank applications submitted as part of a funding competition and to ensure funding eligibility of applicant activities. Respondents are units of general local government eligible for Section 108 Loan Guarantees under 42 U.S.C. 5308.

DATES: Comments Due Date: October 8, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2506–0153) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne__Eddins@HUD.gov*; telephone (202) 708-2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins and at HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm*.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, a survey instrument to obtain information from faith-based and community organizations on their likelihood and success at applying for various funding programs. This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice Also Lists the Following Information:

Title of Proposal: Brownfield's Economic Development Initiative (BEDI) Grant Application.

OMB Approval Number: 2506–0153.

Form Numbers: HUD–40122, HUD–40123, SF–424, SF–424S, SF–LLL, HUD–424–B, HUD–2880, HUD–2990, HUD–96010–l, and HUD–2993.

Description of the Need for the Information and Its Proposed Use:

This information collection is required to rate and rank applications submitted as part of a funding competition and to ensure funding eligibility of applicant activities. Respondents are units of general local government eligible for Section 108 Loan Guarantees under USC 5308.

Frequency of Submission: Annually.

	Number of burden respondents	×	Annual responses	×	Hours per response	=	Hours
Reporting Burden	50		1		40		2,000

Total Estimated Burden Hours: 2,000.

Status: Revision of currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 31, 2004.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. E4–2089 Filed 9–7–04; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of an information collection (1010–0058).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under ''30 CFR 250, Subpart I, Platforms and Structures.'' This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments by October 8, 2004.

ADDRESSES: You may submit comments either by fax (202) 395–6566 or e-mail (*OIRA_DOCKET@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010–0058). Mail or hand carry a copy of your comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team; Mail Stop 4024, 381 Elden Street, Herndon, Virginia 20170–4817. If you wish to e-mail your comments to MMS, the address is: *rules.comments@mms.gov*. Reference Information Collection 1010–0058 in your subject line and mark your message for return receipt. Include your name and return address in your message text.

FOR FURTHER INFORMATION CONTACT: Cheryl Blundon, Rules Processing Team, (703) 787–1600. You may also contact Cheryl Blundon to obtain a copy, at no cost, of the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR 250, Subpart I, Platforms and Structures.

OMB Control Number: 1010–0058.

Abstract: The Outer Continental Shelf (OCS) Lands Act, 43 U.S.C. 1331 *et seq.*, gives the Secretary of the Interior (Secretary) the responsibility to preserve, protect, and develop oil and gas resources in the OCS in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resource development with protection of human, marine, and coastal environments; ensure the public a fair and equitable return on offshore resources in the OCS; and preserve and maintain free enterprise competition. Specifically, the OCS Lands Act (43 U.S.C. 1356) requires the issuance of ''* * * regulations which require that any vessel, rig, platform, or other vehicle or structure— * * * (2) which is used for activities pursuant to this subchapter, comply, * * * with such minimum standards of design, construction, alteration, and repair as the Secretary * * * establishes; * * *.'' The OCS Lands Act (43 U.S.C. 1332(6)) also states, ''operations in the [O]uter Continental Shelf should be conducted in a safe manner * * * to prevent or minimize the likelihood of * * *

physical obstruction to other users of the water or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.'' These authorities and responsibilities are among those delegated to MMS under which we issue regulations to ensure that operations in the OCS will meet statutory requirements; provide for safety and protection of the environment; and result in diligent exploration, development, and production of OCS leases. This information collection request addresses the regulations at 30 CFR 250, Subpart I, Platforms and Structures, and the associated supplementary notices to lessees and operators intended to provide clarification, description, or explanation of these regulations. It should be noted that the 60-day **Federal Register** notice (69 FR 30956), referenced an NTL and burden hours that will not be included in this renewal.

The MMS OCS Regions use the information submitted under Subpart I to determine the structural integrity of all offshore structures and ensure that such integrity will be maintained throughout the useful life of these structures. We use the information to ascertain, on a case-by-case basis, that the platforms and structures are structurally sound and safe for their intended use to ensure safety of personnel and pollution prevention. More specifically, we use the information to:

- Review data concerning damage to a platform to assess the adequacy of proposed repairs.
- Review plans for platform construction (construction is divided into three phases—design, fabrication, and installation) to ensure the structural integrity of the platform.
- Review verification plans and reports for unique platforms to ensure that all nonstandard situations are given proper consideration during the design, fabrication, and installation phases of platform construction.
- Review platform design, fabrication, and installation records to ensure that the platform is constructed according to approved plans.
- Review inspection reports to ensure that platform integrity is maintained for the life of the platform.

Responses are mandatory. No questions of a ''sensitive'' nature are asked. MMS will protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR 2), 30 CFR 250.196 (Data and information to be made available to the public) and 30 CFR Part 252 (OCS Oil and Gas Information Program).

Frequency: The frequency varies by section, but is generally ''on occasion'' or annual.

Estimated Number and Description of Respondents: Approximately 153 Federal OCS oil and gas or sulphur lessees.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: The following chart details the components of the hour burden for the information collection requirements in Subpart I'an estimated total of 34,164 burden hours. In estimating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Citation 30 CFR 250 subpart I	Reporting or recordkeeping requirement	Hour burden	Average no. annual responses	Annual burden hours
900(b), (g); 901; 902; 909(b)(4)(iii).	Submit application and plans for new platform or major modifications and notice to MMS.	24	331 applications.	7,944
900(e)	Request approval for major repairs of damage to platform and notice to MMS.	24	15 requests	360
900(f)	Request approval for resue of conversion of use of existing fixed or mobile platforms.	24	50 requests	1,200
901(e)	Notify MMS before transporting platform to installation site	10 minutes	30 notices	5
903(a),(b)	Submit nominations for Certified Verification Agent (CVA)	16	15 nominations.	240
903(a)(1)–(3)	Submit interim and final CVA reports	600	15 reports	9,000
912(a)	Request inspection interval that exceeds 5 years	16	50 requests	800
912(b)	Submit annual report of platforms inspected and summary of testing results.	45	153 lessees	6,885
900 thru 914	General departure and alternative compliance requests not specifically covered elsewhere in Subpart I regulations.	8	10 requests	80
	Reporting Hour Burden		669	26,514
909, 911, 912, 914	Recordkeeping Requirement: Maintain records on as-built structural drawings, design assumptions and analyses, summary on nondestructive examination records, inspection results, etc., for the functional life of the platform.	50	153 lessees (recordkeepers).	7,650
Total Hour Burden			822	34,164

Estimated Annual Reporting and Recordkeeping ''Non-Hour Cost'' Burden: We have identified no ''non-hour cost'' burdens.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.*) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of

automated collection techniques or other forms of information technology.

To comply with the public consultation process, on June 1, 2004, we published a **Federal Register** notice (69 FR 30956) announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. In addition, § 250.199 displays the OMB control number for the information collection requirements imposed by the 30 CFR Part 250 regulations. The regulation also informs the public that they may comment at any time on the collections of information and provides the address to which they should send comments. We have received no comments in response to these efforts.

If you wish to comment in response to this notice, send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by October 8, 2004. The PRA provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

MMS Information Collection Clearance Officer: Arlene Bajusz, (202) 208–7744.

Dated: August 3, 2004.

E.P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 04–20344 Filed 9–7–04; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of an extension of a currently approved information collection (OMB Control Number 1010–0090).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR 216, Subpart B—Oil and Gas, General. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements. The ICR is titled ''30 CFR 216, Subpart B—Oil and Gas, General, § 216.57 Stripper Royalty Rate Reduction Notification (Form MMS–4377, Stripper Royalty Rate Reduction Notification).'' We changed the title of this ICR from ''Stripper Royalty Rate Reduction Notification (Form MMS–4377)'' to clarify the regulatory language we are covering under 30 CFR 216.57.

DATES: Submit written comments on or before October 8, 2004.

ADDRESSES: Submit written comments by either FAX (202) 395–6566 or e-mail (OIRA_Docket@omb.eop.gov) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1010–0090.) Mail or hand-carry a copy of your comments to Sharron L. Gebhardt, Lead Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 302B2, Denver, Colorado 80225. If you use an overnight courier service, our courier address is Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225. You may also e-mail your comments to us at *mrm.comments@mms.gov*. Include the title of the information collection and the OMB Control Number in the ''Attention'' line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your e-mail, contact Ms. Gebhardt at (303) 231–3211.

FOR FURTHER INFORMATION CONTACT: Sharron L. Gebhardt, telephone (303) 231–3211, FAX (303) 231–3781, e-mail *Sharron.Gebhardt@mms.gov*. You may also contact Sharron Gebhardt to obtain a copy at no cost of the form and regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION: *Title:* 30 CFR 216, Subpart B—Oil and Gas, General, § 216.57 Stripper Royalty Rate Reduction Notification (Form MMS–4377, Stripper Royalty Rate Reduction Notification).

OMB Control Number: 1010–0090.

Bureau Form Number: Form MMS–4377.

Abstract: The Secretary of the U.S. Department of the Interior is responsible for matters relevant to mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary under The Mineral Leasing Act (30 U.S.C. 1923) and The Outer Continental Shelf Lands Act (43 U.S.C. 1353) is responsible for managing the production of minerals from Federal and Indian lands and the OCS, collecting royalties from lessees who produce minerals, and distributing the funds collected in accordance with applicable laws. The MMS performs the royalty management functions for the Secretary.

The Bureau of Land Management, the surface management agency for Federal onshore leases, grants royalty rate reductions to operators of stripper oil properties producing an average of less than 15 barrels of oil per eligible well per well-day. See 43 CFR 3103.4–2. The purpose of these royalty rate reductions is to encourage continued production, provide an incentive for enhanced oil recovery projects, discourage abandonment of properties producing an average of less than 15 barrels of oil per eligible well per well-day, and reduce the operator's expenses. The royalty rate for a stripper oil property is lower than the royalty rate reflected in the lease and thus reduces the amount of revenues paid to the Federal Government. In order to perform the royalty management functions for the Secretary, MMS must receive timely notification of any royalty rate change. Reporters use the Form MMS–4377 to notify MMS of royalty rate changes. Operators may submit an initial Form MMS–4377 when a new property qualifies as a stripper oil property. Reporters must submit Form MMS–4377 to notify MMS of a royalty rate reduction that is lower than the initial royalty rate reduction on an existing stripper oil property (out-year notification). The decision to request an initial royalty rate reduction is voluntary; however, failure to timely submit the out-year notification will result in the royalty rate change being denied.

The MMS is requesting OMB's approval to continue to collect this information. Not collecting this information would limit the Secretary's ability to discharge fiduciary duties and may also result in loss of royalty payments. Proprietary information submitted is protected, and there are no questions of a sensitive nature included in this information collection.

Frequency: Annually.

Estimated Number and Description of Respondents: 900 operators of stripper oil properties producing an average of less than 15 barrels of oil per eligible well per well-day.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 1,080 hours.

Since this ICR was renewed 3 years ago, we obtained more accurate

estimates from companies of the time required to provide the information requested, and we adjusted the burden hours accordingly. We do not include in our estimates certain requirements performed in the normal course of business as we consider them usual and customary. The following chart shows the breakdown of the estimated burden hours by CFR section and paragraph.

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS

CFR section	Reporting requirement	Burden hours per response	Annual number of responses	Annual burden hours
30 CFR 216.57	Stripper royalty rate reduction notification. In accordance with its regulations at 43 CFR 3103.4–1, titled "Waiver, suspension, or reduction of rental, royalty, or minimum royalty," the Bureau of Land Management (BLM) may grant reduced royalty rates to operators of low producing oil leases to encourage continued production. Operators who have been granted a reduced royalty rate(s) by BLM must submit a Stripper Royalty Rate Reduction Notification (Form MMS–4377) to MMS for each 12-month qualifying period that a reduced royalty rate(s) is granted. 58 FR 64903, Dec. 10, 1993]. Please note the BLM citation and title changed to 43 CFR 3103.4–2 Stripper well royalty reductions.	1.2	900	1,080
Total			900	1,080

Estimated Annual Reporting and Recordkeeping "Non-hour" Cost Burden: We have identified no "non-hour" cost burdens.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB Control Number.

Comments: Section 3506(c)(2)(A) of the PRA requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *." Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a notice in the **Federal Register** on February 3, 2004 (69 FR 5182), announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received no comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by October 8, 2004.

Public Comment Policy: We will post all comments in response to this notice on our Web site at *http://www.mrm.mms.gov/Laws_R_D/InfoColl/InfoColCom.htm.* We will also make copies of the comments available for public review, including names and addresses of respondents, during regular business hours at our offices in Lakewood, Colorado. Upon request, we will withhold an individual respondent's home address from the public record, as allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you request that we withhold your name and/or address, state your request prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Arlene Bajusz (202) 208–7744.

Dated: June 4, 2004.

Cathy J. Hamilton,

Acting Associate Director for Minerals Revenue Management.

[FR Doc. 04–20345 Filed 9–7–04; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft Schoodic General Management Plan Amendment and Environmental Impact Statement, Acadia National Park, Maine

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190, as amended), the National Park Service announces the availability of the Draft Schoodic General Management Plan Amendment and Environmental Impact Statement (Draft GMPA/EIS) for Acadia National Park, in the Town of Winter Harbor, Hancock County, Maine. Consistent with National Park Service laws, regulations, and policies, and the mission of Acadia National Park, the Draft GMPA/EIS describes and analyzes two action alternatives to guide the management of the Schoodic District over the next 15 to 20 years. The action alternatives incorporate various management prescriptions to ensure protection and enjoyment of the park's resources. A no action alternative also is evaluated. The Draft GMPA/EIS evaluates potential environmental consequences of implementing the

alternatives. Impact topics include cultural and natural resources, visitor experience, park operations, and the socioeconomic environment. Alternative C is the National Park Service's preferred alternative. This notice also announces that a public meeting will be held to solicit comments on the Draft GMPA/EIS during the public review period identified below.

DATES: The Draft GMPA/EIS will be available for public review for 60 days from September 17, 2004 through November 16, 2004. The National Park Service will hold a public meeting to solicit comments during the public review period. The public meeting will be held on Wednesday, October 20, 2004, at the Sumner Memorial High School cafeteria on U.S. Route 1 in Sullivan, Maine, from 7 to 9 p.m. Comments on the Draft GMPA/EIS must be received at one of the addresses below no later than November 16, 2004.

ADDRESSES: Comments on the Draft GMPA/EIS should be mailed to: Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, or sent by e-mail to: *john_t_kelly@nps.gov*. Comments may also be submitted on the Internet at: *planning.nps.gov/plans.cfm*.

FOR FURTHER INFORMATION CONTACT: Copies of the Draft GMPA/EIS are available on request by writing to: John T. Kelly, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609; e-mailing: *john_t_kelly@nps.gov*, or calling: 207–288–8703. The Draft GMPA/EIS is available for pick-up in person at the Acadia National Park Headquarters on Route 233/Eagle Lake Road in Bar Harbor, Maine, during regular business hours. It is also available on the Internet at: *http://www.nps.gov/acad/schoodic/home.htm*.

SUPPLEMENTARY INFORMATION: Acadia National Park includes 2,366 acres on Schoodic Peninsula, most of which was acquired in 1929 as a donation from the Hancock County Trustees of Public Reservations. The Schoodic District offers exceptional views of the surf, rocky coast, and surrounding islands in an uncrowded environment, and receives approximately 250,000 visits a year.

In 1935, the U.S. Navy established a radio communications base within the park at Schoodic Point. The U.S. Navy closed the base after 67 years of service and returned 100 acres to the NPS on July 1, 2002. The former navy base contains 36 major buildings totaling approximately 206,000 square feet, including a dormitory, apartment complex, cafeteria, medical clinic, fire station, commissary, gymnasium, day care center, maintenance facility, recreational facilities, and related utility systems. The original apartment building (Rockefeller Building) and generator house are eligible for listing in the National Register of Historic Places.

The Schoodic District is zoned ''Natural Area'' in Acadia's 1992 General Management Plan. The National Park Service manages visitor use at Schoodic to retain current use levels and opportunities for low-density recreation. The Schoodic District contains two ''Rare Natural Communities'' (Jack Pine Woodland and Maritime Shrubland), several rare plant species, and significant habitat for seabirds, shorebirds, waterfowl, and bald eagles, as identified by the Maine Natural Areas Program. Most of the Schoodic District is eligible for listing in the National Register of Historic Places because of its historically significant cultural landscape.

In response to the transfer of the Navy base, the National Park Service has prepared a draft amendment to the park's General Management Plan that describes three alternatives for the management and development of the Schoodic District over the next 15 to 20 years. The Environmental Impact Statement assesses the potential environmental impacts of implementing the alternatives. To support the plan, the National Park Service has prepared a cultural landscape inventory, transportation feasibility study, collections management plan, visitor use study, and fire protection study for Schoodic, and conducted public scoping of the alternatives, including consultations with Indian tribes in Maine. The reuse of the former navy base will be consistent with the laws and management policies that govern the use of national parks.

All alternatives include establishing the Schoodic Education and Research Center (SERC), which is a National Park Service approved research learning center that began operation in 2002. The purpose of SERC is to promote and facilitate education and research that is consistent with the mission of the National Park Service. SERC would offer classrooms, laboratories, offices, and lodging to educators, researchers, and students of all ages. SERC's programs and activities would not degrade the purposes and values for which Acadia National Park was established. In addition to Alternative A, which is the ''no action'' alternative required by the National Environmental Policy Act, the NPS is proposing the two action alternatives described below.

Alternative B emphasizes the park's use of the former navy base for managing the Schoodic District, providing interpretive services to visitors, facilitating park research, offering resident environmental education programs, and housing staff. Under Alternative B, SERC would expand and improve the park's ongoing educational and research activities. Alternative C is the National Park Service's preferred alternative and emphasizes the use of the former navy base as an education and research center by multiple partners managed by a nonprofit organization. Under Alternative C, SERC would provide opportunities for collaboration among a variety of partners and complement the growing momentum in science and research that is underway in the region.

After public review of the Draft GMPA/EIS, the National Park Service will consider comments, and a Final GMPA/EIS, followed by a Record of Decision, will be prepared. The Final GMPA/EIS is scheduled for completion in 2004.

Dated: July 6, 2004.

Chrysandra Walter,

Deputy Regional Director, Northeast Region, National Park Service.

[FR Doc. 04–20297 Filed 9–7–04; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

Chesapeake Bay Special Resource Study, Final Environmental Impact Statement

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of availability of a Chesapeake Bay Special Resource Study, Final Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2) of the National Environmental Policy Act of 1969, the National Park Service announces the availability of a Chesapeake Bay Special Resource Study/Final Environmental Impact Statement (SRS/FEIS).

The Fiscal Year 1999 appropriations bill for the Department of Interior and related agencies included direction to the National Park Service to conduct a Special Resource Study to: (a) Examine whether having additional Chesapeake Bay resources within the National Park System would make sense and would advance partnership efforts to conserve and celebrate the Chesapeake Bay; (b) define whether there are concepts or

ways that areas of the Bay might fit appropriately within the diverse National Park System; and (c) make recommendations to Congress regarding these findings. This SRS/FEIS outlines alternatives and a preferred approach for how the Chesapeake Bay might be represented within/by the National Park System.

DATES: The National Park Service will execute a Record of Decision (ROD) no sooner than 30 days following publication by the Environmental Protection Agency of the notice of availability of the Final Environmental Impact Statement.

ADDRESSES: Copies of the SRS/FEIS are available upon request by writing to NPS Chesapeake Bay Program Office, 410 Severn Avenue, Suite 109, Annapolis MD 21403, by phone at 800 YOUR BAY (968–7229), or by e-mail to *cmueller@chesapeakebay.net*. A downloadable on-line version of the document is available at: *http://www.chesapeakestudy.org*.

FOR FURTHER INFORMATION CONTACT: Director, NPS Chesapeake Bay Program Office, 410 Severn Avenue, Suite 109, Annapolis MD 21403, or 800 YOUR BAY (968–7229).

Dated: June 23, 2004.

Marie Rust,

Regional Director, Northeast Region, National Park Service.

[FR Doc. 04–20296 Filed 9–7–04; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 14, 2004. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by September 23, 2004.

Beth M. Boland,

Acting Keeper of the National Register of Historic Places.

Arkansas

Baxter County

Fort Smith to Jackson Road—Talbert's Ferry Segments, (Cherokee Trail of Tears MPS) Address Restricted, Cotter, 04001030

Chicot County

Davis, M.E., House, (Ethnic and Racial Minority Settlement of the Arkansas Delta MPS) 200 N. Knox St., Dermott, 04001034

Hempstead County

Dooley's Ferry Fortifications Historic District, Address Restricted, Spring Hill, 04001031

Independence County

Big Botton Slough Bridge, (Historic Bridges of Arkansas MPS) Cty Rd. 58 (Padgett Island Rd.), Magness, 04001042

Izard County

Missouri Pacific Railroad Depot, (Historic Railroad Depots of Arkansas MPS) Old AR 9, Sylamore, 04001036

Logan County

Short Mountain Creek Bridge, (Historic Bridges of Arkansas MPS) Cty. Rd. 64, Paris, 04001039

Lonoke County

First Presbyterian Church, 304 S. Center St., Lonoke, 04001037

Trimble—McCrary House, 516 Jefferson, Lonoke, 04001038

US 70, Union Valley Segment, (Arkansas Highway History and Architecture MPS) N and S of U.S. 70 from the S28/S29 boundary line R9W W to S26/S27 boundary line R10W, Union Valley, 04001040

Madison County

Cannon Creek Bridge, Madison Cty. Rd. 5340, Cannon Creek, 04001033

Miller County

Buhrman—Pharr Hardware Company Historic District, 610 and 620 E 3rd St., Texarkana, 04001045

Confederate Section—Old Rondo Cemetery, (Civil War Commemorative Sculpture MPS) 1612 Smith Rd., Rondo, 04001029

Perry County

South Fourche LaFave River Bridge, (Historic Bridges of Arkansas MPS) AR 7, Hollis, 04001044

Pima County

Pascua Cultural Plaza, 785 W. Sahuaro St., Tucson, 04001032

Randolph County

Looney—French House, 1325 Deer Run Trail, Dalton, 04001035

US 67, Old, Biggers to Datto, (Arkansas Highway History and Architecture MPS) Biggers-Reyno Rd., First St. and Clay Cty Rd. 111, Biggers, 04001046

Washington County

County Road 6 Bridge, (Historic Bridges of Arkansas MPS) Cty Rd. 6, Cincinnati, 04001043

US 71, Greenland Segment, Old, (Arkansas Highway History and Architecture MPS), Washington Cty. Rd. 1194 (S. Main Ave.), Greenland, 04001041

California

Monterey County

Monterey County Jail, 142 W. Alisal St., Salinas, 04001028

Maine

Hancock County

Moore-Mayo House, Lighthouse Rd., Bass Harbor, 04001050

Parker House, 185 South St., Blue Hill, 04001047

Rural Hall, Surry Rd., 1 mi. E of Contention Cove, Surry, 04001049

Sagadahoc County

Randall-Hildreth House, 806 Foreside Rd., Topsham, 04001048

York County

Leavitt, James, House, 6 Old Alfred Rd., Waterboro Center, 04001051

New York

Cayuga County

Mentz Church, Mentz Church Rd. at McDonald Rd., Montezuma, 04001064

Chenango County

Guildford Center Presbyterian Church, Cty Rd. 36, Guilford Center, 04001059

Fulton County

St. John's Episcopal Church, 1 North Market St., Johnstown, 04001054

Genesee County

Saint James' Episcopal Church, 405 E. Main St., Batavia, 04001062

Lewis County

Forest Presbyterian Church, 4109 Center St., Lyon Falls, 04001060

Saratoga County

Clifton Park Center Baptist Church and Cemetery, 713 Clifton Park Center Rd., Clifton Park Center, 04001055

Schenectady County

Vale Cemetery and Vale Park, 907 State St., Nott Terrace, Schenectady, 04001053

Schoharie County

Hilton, Peter A., House, 6605 NY 10, Beekman Corners, 04001063

Seneca County

United Methodist Church, 21 E. Williams St., Waterloo, 04001057

St. Lawrence County

Hepburn Library, 1 Hepburn St., Norfolk, 04001056

Steuben County

Hallock, George W., House, (Bath Village MRA) 16 W. William St., Bath, 04001052

Sullivan County

Town and Country Building, 1 N Main St., Liberty, 04001061

Yates County

First Presbyterian Church, 31 Main St., Dundee, 04001058

Oregon

Linn County

Archibald, Steven and Elizabeth, Farmstead, 31888 Wirth Rd., Tangent, 04001068

Wigle Cemetery, Belts Dr., Harrisburg, 04001067

Marion County

Gordon House, 879 W. Main St., Siverton, 04001066

Multnomah County

Mount Tabor Park, 6325 W.E. Division St., Portland, 04001065

A request for REMOVAL has been made for the following resources:

Arkansas

Benton County

Methodist Church (Benton County MRA), AR 112 and AR 264, Cave Spring, 87002373

Chicot County

Walker House (Thompson, Charles L., Design Collection TR), 606 Main St. Dermott, 82000799

Crawford County

Cedar Creek Bridge (Historic Bridges of Arkansas MPS), AR 000649 over Cedar Cr., Rudy vicinity, 95000649

Crawford County Road 32d Bridge

(Historic Bridges of Arkansas MPS), Co Rd. 32d over Cove Cr., Natural Dam vicinity, 95000650

Lee Creek Bridge (Historic Bridges of Arkansas MPS) AR 220, over Lee Creek Cove City vicinity, 90000504

Greene County

Big Slough Ditch Bridge (Historic Bridges of Arkansas MPS) Co. Rd. 855 Brighton vicinity, 00000629

Eight Mile Creek Bridge (Historic Bridges of Arkansas MPS) AR 135, over Eight Mile Creek Paragould vicinity, 90000524

Sebastian County

Jenny Lind Bridge (Historic Bridges of Arkansas MPS) Howard Hill School Rd. Jenny Lind, 90000530

Union County

SAU at El Dorado (Thompson, Charles L., Design Collection TR) Summit at Block Sts. El Dorado, 82000939

Washington County

Wyman Bridge (Historic Bridges of Arkansas MPS) Co. Rd. 38, over West Fork of the White River Fayetteville vicinity, 90000526

North Dakota

Barnes County

Rainbow Arch Bridge (Historic Roadway Bridges of North Dakota MPS) Main St., E., across the Sheyenne River Valley City, 97000170

Cass County

Smith, Chesebro, House (North Side Fargo MRA) 1337 Broadway Fargo, 86003744

Grand Forks BPOE Lodge, Golden Block (Downtown Grand Forks MRA) 12 N. 4th St. Grand Forks, 82001314

Clifford Annes (Downtown Grand Forks MRA) 407–411 DeMers Ave. Grand Forks, 82001319

Dinnie Block (Downtown Grand Forks MRA) 109 N. 3rd. Ave. Grand Forks, 82001321

Electric Construction Co. Building (Downtown Grand Forks MRA) 16 S. 4th St. Grand Forks, 82001322

Flatiron Building (Downtown Grand Forks MRA) 323 Kittson Ave. Grand Forks, 82001324

Red River Valley Brick Co. (Downtown Grand Forks MRA) 215 S. 3rd St. Grand Forks, 82001335

Traill County

Portland Park Bridge (Historic Roadway Bridges of North Dakota MPS) Across the S branch of the Goose River, unnamed Co. Rd. NE edge of Portland Portland vicinity, 97000191

Texas

Dallas County

Ownby, Jordan C., Stadium (Georgian Revival Buildings of Southern Methodist University TR) 5900 Ownby Dr. Dallas, 80004093

[FR Doc. 04–20354 Filed 9–7–04; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. NAFTA–103–7 and NAFTA–103–8]

Certain Textile Articles: Effect of Modifications of NAFTA Rules of Origin for Goods of Canada and Mexico (Inv. No. NAFTA–103–7) and Certain Textile Articles: Effect of Modifications of NAFTA Rules of Origin for Goods of Canada (Inv. No. NAFTA–103–8)

AGENCY: United States International Trade Commission.

ACTION: Institution of investigations and request for written submissions.

EFFECTIVE DATE: September 1, 2004.

SUMMARY: Following receipt of two requests on August 20, 2004, from the United States Trade Representative (USTR) under authority delegated by the President and pursuant to section 103 of the North American Free Trade Agreement (NAFTA) Implementation Act (19 U.S.C. 3313), the Commission instituted investigations No. NAFTA–103–7, Certain Textile Articles: Effect of Modifications of NAFTA Rules of Origin for Goods of Canada and Mexico, and No. NAFTA–103–8, Certain Textile Articles: Effect of Modifications of NAFTA Rules of Origin for Goods of Canada.

FOR FURTHER INFORMATION CONTACT: Information may be obtained from Heidi Colby-Oizumi, Office of Industries (202–205–3391, *heidi.colby@usitc.gov*). For information on the legal aspects of these investigations, contact William Gearhart of the Office of the General Counsel (202–205–3091, *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of Public Affairs (202–205–1819, *margaret.olaughlin@usitc.gov*).

Background: Annex 300–B, Chapter 4, and Annex 401 of the NAFTA contain the rules of origin for textiles and apparel for application of the tariff provisions of the NAFTA. These rules are set forth for the United States in general note 12 to the Harmonized Tariff Schedule (HTS). According to the USTR's request letters, U.S. negotiators have recently reached agreements in principle with representatives of the governments of Canada and of Mexico, in the case of articles covered by investigation No. NAFTA–103–7, and the government of Canada, in the case of articles covered by investigation No. NAFTA–103–8, on proposed modifications to the rules of origin of the NAFTA. If implemented, the proposed rules of origin would apply to U.S. imports from and exports to the NAFTA parties. Section 202(q) of the North American Free Trade Agreement Implementation Act (the Act) authorizes the President, subject to the consultation and layover requirements of section 103 of the Act, to proclaim such modifications to the rules of origin as are necessary to implement an agreement with one or more of the NAFTA countries pursuant to paragraph 2 of section 7 of Annex 300–B of the Agreement. One of the requirements set out in section 103 of the Act is that the President obtain advice from the United States International Trade Commission.

In his letters, the USTR requested that the Commission provide advice on the probable effect of the proposed modification of the NAFTA rules of origin for the five affected textile articles on U.S. trade under the NAFTA, on total U.S. trade, and on domestic producers of the affected articles. As requested, the Commission will submit its advice to the USTR by October 19, 2004, and soon thereafter, issue a public version of the report with any confidential business information deleted.

The goods of Canada and Mexico covered by investigation No. NAFTA–

103–7 are (1) gimped nylon yarns (HTS heading 5606) and (2) woven fabrics of viscose rayon filament yarns (HTS 5408). The goods of Canada covered by investigation No. NAFTA–103–8 are (1) yarns spun from acid-dyeable acrylic tow (HTS 5509.31), (2) fabrics woven from yarns of combed camel hair or cashmere (HTS 5112.11.60 or 5112.19.95), and (3) pile fabrics containing dry spun acrylic fibers (HTS 5801.35). Additional information concerning the articles and the proposed modifications can be obtained by accessing the electronic version of this notice at the Commission Internet site (*http://www.usitc.gov*). The current NAFTA rules of origin applicable to U.S. imports can be found in general note 12 of the 2004 HTS (*see* ''General Notes'' link at *http://hotdocs.usitc.gov/tariff_chapters_current/toc.htm).*

Written Submissions: No public hearing is planned. However, interested parties are invited to submit written statements concerning the matters being addressed by the Commission in these investigations. Submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. To be assured of consideration by the Commission, written statements related to the Commission's reports should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on September 23, 2004. All written submissions must conform with the provisions of section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Section 201.8 of the rules requires that a signed original (or copy designated as an original) and fourteen (14) copies of each document be filed. In the event that confidential treatment of the document is requested, at least four (4) additional copies must be filed, in which the confidential business information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules do not authorize filing submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the rules (*see* Handbook for Electronic Filing Procedures, *ftp://ftp.usitc/gov/pub/reports/electronic_filing_handbook.pdf*). Persons will questions regarding electronic filing should contact the Secretary (202–205–2000 or *edis@usitc.gov*).

Any submissions that contain confidential business information (CBI) must also conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages clearly be marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the CBI be clearly identified by means of brackets. All written submissions, except for CBI, will be made available for inspection by interested parties.

The Commission may include some or all of the CBI it receives in the reports it sends to the President. However, the Commission will not publish CBI in the public version of the reports in a manner that would reveal the operations of the firm supplying the information. The public version of the reports will be made available to the public on the Commission's Web site.

The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing impaired individuals are advised that information can be obtained by contacting our 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.

List of Subjects

NAFTA, rules of origin, textiles, apparel.

Issued: September 1, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–20298 Filed 9–7–04; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of information collection under review: application for tax exempt transfer and registration of firearm.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 69, Number 114, on page 33405 on June 15, 2004, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 8, 2004. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this Information Collection:

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *Title of the form/collection:* Application For Tax Exempt Transfer and Registration of Firearm.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 5 (5320.5). Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-

profit. Other: Individuals or households and State, Local, or Tribal Government. Abstract: ATF F 5 (5320.5) is used to apply for permission to transfer a National Firearms Act (NFA) firearm exempt from transfer tax bases on statutory exemptions. The information on the form is used by NFA Branch personnel to determine the legality of the application under Federal, State and local law.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 7,888 respondents, who will complete the form within approximately 4 hours.

(6) *An estimate of the total burden (in hours) associated with the collection:* There is an estimated 379,896 total burden hours associated with this collection.

If additional information is required, contact: Brenda E. Dyer, Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: August 23, 2004.

Brenda E. Dyer,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 04–20282 Filed 9–7–04; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day notice of information collection under review: application for Federal Firearms License.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 69, Number 73, page 20038 on April 15, 2004, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 8, 2004. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Federal Firearms License.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 7 (5310.12). Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: Individuals or households. Abstract: The form is used when applying for a Federal firearms license as a dealer, importer, or manufacturer. The information requested on the form establishes eligibility for the license. The information collection has been revised and among the changes are the option to pay the fee for the license by credit card, the title and the estimated burden.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 13,000 respondents, who will complete the form within approximately 1 hour and 15 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 16,250 total burden hours associated with this collection.

If additional information is required contact: Brenda E. Dyer, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: August 30, 2004.

Brenda E. Dyer,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 04–20283 Filed 9–7–04; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF LABOR

Office of the Secretary

Notice of Intent to Fund the Fundacion Del Servicio Exterior Para La Paz Y La Democracia (FUNPADEM)

AGENCY: Bureau of International Labor Affairs, U.S. Department of Labor.

ACTION: Notice of Intent to award up to $2 million to the Fundacion Del Servicio Exterior Para La Paz Y La Democracia (Funpadem) under cooperative agreement #E–9–K–3–0097.

SUMMARY: The U.S. Department of Labor (USDOL), Bureau of International Labor Affairs (ILAB), intends to add up to U.S. $2 million to cooperative agreement #E–9–K–3–0097 with the Fundacion Del Servicio Exterior Para La Paz Y La Democracia (Funpadem) to strengthen labor compliance in Central America. The activities that will be implemented with the additional funds will commence no later than September 30, 2004 and continue for a period of three years until September 27, 2007. USDOL/ILAB intends to award this cooperative agreement on or after September 6, 2004. USDOL/ILAB published a Solicitation for Grant Applications (SGA 03–20) for this project in Vol. 68, No. 139 of the **Federal Register** on July 21, 2003. As a result of the competition, USDOL awarded a $6.75 million grant to Funpadem for a four year project that is set to run through September 2007.

The purpose of the additional $2 million in funds is to expand the project to include two additional countries—the Dominican Republic and Panama—that are currently being negotiated for inclusion in the Central America Free Trade Agreement (CAFTA). Because Funpadem is the only organization to have developed and validated the strategy to achieve the objectives outlined in the original SGA, is currently recognized as the entity that will be implementing the USDOL-funded project, and has developed relationships with the necessary stakeholders and partners to ensure successful implementation, Funpadem is uniquely qualified to perform the type of activity to be funded. In addition, starting a new project with a new implementer would incur unnecessary costs for the Government and a delay in the time of completion of the project. Funpadem has already established a regional office and interviewed and hired personnel who will coordinate the project activities on a regional level. These regional staff have agreed to add to their portfolios these two additional countries, and the regional office will continue to be managed out of Funpadem's current office space. If a new project was established, it would mean two additional project offices, two directors, additional technical staff for each component, as well as two additional offices with their overhead, all to achieve what the current regional office has agreed to do with no additional staff costs.

FOR FURTHER INFORMATION CONTACT: Lisa Harvey, Grant Officer. U.S. Department of Labor, Procurement Services Center, 200 Constitution Ave., NW., Room N–5416, Washington, DC 20210. Telephone: (202) 693–4570. E-mail address: *harvey.lisa@dol.gov.* All inquiries should make reference to the USDOL Central America Labor Strengthening Grant Comply and Win.

SUPPLEMENTARY INFORMATION: The project funded under the current grant (currently titled ''Cumple y Gana'' or ''Comply and Win'') has the following four objectives:

- Increase understanding of target audience in each country about national labor laws and norms.
- Create more effective and reliable Labor Ministry Inspection Systems to enforce labor laws.
- Increase and improve use of conciliation and mediation by the Ministries of Labor.
- Increase knowledge among interested parties of conciliation and mediation.

During a regular meeting of the Labor Ministers of the region, the Technical Director for this project presented the project strategy and objectives to the Labor Ministers of the region, including representatives of the Ministries of Labor of the Dominican Republic and Panama. The project strategy has also been developed with USDOL and other stakeholders in the region.

Signed at Washington, DC, this 31st day of August, 2004.

Valerie Veatch,

Director, Office of Procurement Services.

[FR Doc. 04–20313 Filed 9–7–04; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Office of the Secretary

Notice of Intent to Fund the International Labor Organization (ILO)

AGENCY: Bureau of International Labor Affairs, U.S. Department of Labor.

ACTION: Notice of Intent to award up to $10 million to the International Labor Organization (ILO) under cooperative agreement #E–9–K–4–0006.

SUMMARY: The U.S. Department of Labor (USDOL), Bureau of International Labor Affairs (ILAB), intends to fund up to U.S. $10 million under a new cooperative agreement #E–9-K–4–0006 with the International Labor Organization (ILO) for the International HIV/AIDS Workplace Education Program. The Conference Report for the FY2004 Labor-HHS-Education appropriation (Conference Report on H.R. 2673, Consolidated Appropriations Act, 2004—November 25, 2003) states that ''In implementing this agreement, the Departments and agencies should be guided by the language and instructions set forth in House Report 108–188 and Senate Report 108–81 accompanying the bill H.R. 2660.'' The Conference Report likewise states that: ''The Conference agreement includes $10,000,000 for the purpose of assisting the International Labor Organization in implementing a program to confront HIV/AIDS in the workplace.'' The activities that will be implemented with the additional funds will commence no later than September 30, 2004 and continue for a period of four years until September 26, 2008. USDOL/ILAB intends to award this cooperative agreement on or after September 6, 2004.

FOR FURTHER INFORMATION CONTACT: Lisa Harvey, Grant Officer. U.S. Department of Labor, Procurement Services Center, 200 Constitution Ave., NW., Room N–5416, Washington, DC 20210. Telephone: (202) 693–4570. E-mail address: *harvey.lisa@dol.gov.* All inquiries should make reference to the USDOL FY 2004 International HIV/AIDS Workplace Education Program.

SUPPLEMENTARY INFORMATION: The project funded will be a new cooperative agreement with the following three objectives:

- Education: to increase awareness and knowledge of HIV/AIDS by focusing on a comprehensive workplace education program(s) addressing behavior change, gender issues and linkages with care and support services.
- Policy: to improve workplace environment by assisting business and labor to develop appropriate workplace policy statements to address issues stemming from the stigma and discrimination associated with HIV/AIDS.
- Capacity: to develop the legislative framework, tripartite collaboration, and sustainability of the program by increasing the political will and capacity of social partners (government, business and labor) to respond to the epidemic.

Signed at Washington, DC, this 31st day of August, 2004.

Valerie Veatch,

Director, Procurement Services Center.

[FR Doc. 04–20312 Filed 9–7–04; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Office of the Secretary

Notice of Intent to Fund the International Rescue Committee (IRC)

AGENCY: Bureau of International Labor Affairs, U.S. Department of Labor.

ACTION: Notice of Intent to award up to $500,000 to the International Rescue Committee (IRC) under cooperative agreement #E–9–K–2–0118.

SUMMARY: The U.S. Department of Labor (USDOL), Bureau of International Labor Affairs (ILAB), intends to add up to $500,000 to cooperative agreement #E–9–K–2–0118 with the International Rescue Committee (IRC) to continue implementing a job skills and micro-enterprise development training project in Afghanistan. The activities that will be implemented with the additional funds will commence no later than September 30, 2004 and continue for a period of one year until September 29, 2005. USDOL/ILAB intends to award this cooperative agreement on or after September 6, 2004. USDOL awarded the original $3 million grant to the IRC in September 2002 for a three-year project

that was set to run through September 2005. An unexpected shortfall of funds, however, and a critical examination of the budget and implementation context led the IRC and USDOL to conclude that $3 million was sufficient for only two years of project operations. The purpose of the additional funds is to continue implementation of the project for one additional year and fulfill the Department's original plan for a three-year project.

FOR FURTHER INFORMATION CONTACT: Lisa Harvey, Grant Officer. U.S. Department of Labor, Procurement Services Center, 200 Constitution Ave., NW., Room N–5416, Washington, DC 20210. Telephone: (202) 693–4570. E-mail address: *harvey.lisa@dol.gov.* All inquiries should make reference to the USDOL cooperative agreement #E–9–K–2–0118.

Signed at Washington, DC, this 31st day of August, 2004.

Valerie Veatch,

Director, Procurement Services Center.

[FR Doc. 04–20314 Filed 9–7–04; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filled with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than September 20, 2004.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than September 20, 2004.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 27th day of August 2004.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

APPENDIX

Petitions instituted between 08/09/2004 and 08/26/2004

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
55,403	Broyhill Furniture Lenoir Chair #3 (Wkrs)	Lenoir, NC	08/09/2004	07/05/2004
55,404	Johnson Controls (Comp)	Glasgow, KY	08/09/2004	08/05/2004
55,405	Specialty Shearings Dyeing (Comp)	Greenville, SC	08/09/2004	08/02/2004
55,406	United States Can (Wkrs)	New Castle, PA	08/09/2004	08/06/2004
55,407	Delta Energy Systems (Comp)	Palm Coast, FL	08/09/2004	07/14/2004
55,408	Kokoku Wire Industries (Wkrs)	South Bend, IN	08/10/2004	08/09/2004
55,409	Elder Manufacturing (UNITE)	Dexter, MO	08/10/2004	08/06/2004
55,410	J. Royale Furniture (Comp)	Conover, NC	08/10/2004	08/04/2004
55,411	Belden Communications Division (Wkrs)	Phoenix, AZ	08/10/2004	08/03/2004
55,412	Gordon Aluminum Industries (Comp)	Schofield, WI	08/11/2004	08/09/2004
55,413	International Bearings LLC (Wkrs)	Clinton, TN	08/11/2004	08/05/2004
55,414	Klipsch LLC (AR)	Hope, AR	08/11/2004	08/09/2004
55,415	Brooke Industries (WI)	Fond du Lac, WI	08/11/2004	08/10/2004
55,416	Cerro Copper Flow (USWA)	Sauget, IL	08/11/2004	08/10/2004
55,417	Abbott Laboratories Medisense Products	Bedford, MA	08/11/2004	08/10/2004
55,418	Electronic Data Systems (NPW)	Atlanta, GA	08/11/2004	08/10/2004
55,419	Kolonaki Import (CA)	San Francisco, CA	08/11/2004	07/01/2004
55,420	Lanier Clothes (Comp)	Greenville, GA	08/11/2004	08/11/2004
55,421	Commonwealth Industries (Comp)	Kings Mountain, NC	08/11/2004	08/11/2004
55,422	Foamex LP (Comp)	Williamsport, PA	08/11/2004	08/03/2004
55,423	Granville Hosiery (Comp)	Oxford, NC	08/11/2004	08/05/2004
55,424	Degussa Corp., Silanes Plant (Wkrs)	Theodore, AL	08/11/2004	08/09/2004
55,425	LeSportsac, Inc. (Comp)	Hot Springs, NC	08/11/2004	08/10/2004
55,426	New World Pasta Co. (Comp)	Omaha, NE	08/12/2004	08/10/2004
55,427	Kincaid Furniture (Wkrs)	Taylorsville, NC	08/12/2004	08/11/2004
55,428	Alandale Industries (Wkrs)	Troy, NC	08/12/2004	08/09/2004
55,429	Medline Industries (Comp)	Monroeville, AL	08/12/2004	08/10/2004
55,430	Associated Hygienic Products (PACE)	Oconto Falls, WI	08/12/2004	07/19/2004
55,431	American Manufacturing International (NJ)	Oxford, NJ	08/12/2004	08/11/2004
55,432	Down River, LLC (Comp)	White City, OR	08/12/2004	08/10/2004
55,433	Peachtree MFN Products (Wkrs)	Braselton, GA	08/13/2004	08/13/2004
44,434	Kent Sporting Goods (USWA)	New London, OH	08/13/2004	08/03/2004
55,435	Rock-Tenn (Comp)	Aurora, IL	08/13/2004	08/02/2004
55,436	Element K LLC (NY)	Rochester, NY	08/13/2004	08/04/2004
55,437	Amot Controls/Ropermax (Wkrs)	Richmond, CA	08/13/2004	08/01/2004
55,438	Culp, Inc. (Wkrs)	Conygham, PA	08/16/2004	08/12/2004
55,439	Sun Microsystems, Inc. (Wkrs)	San Diego, CA	08/16/2004	08/04/2004

APPENDIX—Continued

Petitions instituted between 08/09/2004 and 08/26/2004

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
55,440	Elo Touch System (Comp)	Fremont, CA	08/16/2004	07/22/2004
55,441	Resistance Technology (MN)	Arden Hills, MN	08/16/2004	08/10/2004
55,442	Ocean Star International (Wkrs)	Snowville, UT	08/16/2004	08/16/2004
55,443	Cclear-Com Communications System (Wkrs)	Emeryville, CA	08/17/2004	08/16/2004
55,444	Boyhill Furniture Industries (Wkrs)	Conover, NC	08/17/2004	08/11/2004
55,445	Irwin Manufacturing Corp. (Comp)	Ocilla, GA	08/16/2004	08/13/2004
55,446	Shakespeare (Comp)	Newberry, SC	08/16/2004	08/10/2004
55,447	Juno, Inc. (MN)	Anoka, MN	08/16/2004	08/11/2004
55,448	Sheaffer Pen Co. (UAW)	Ft. Madison, IA	08/16/2004	08/09/2004
55,449	Wooslee Partners LC (MI)	Troy, MI	08/16/2004	08/03/2004
55,450	Jeld-Wen of Everett (Wkrs)	Everett, WA	08/16/2004	08/13/2004
55,451	Lawrence Hardware LLC (Wkrs)	Sterling, IL	08/16/2004	07/28/2004
55,452	United States Gypsum Co. (Wkrs)	Tawas City, MI	08/16/2004	07/29/2004
55,453	Prudential (Wkrs)	Dresher, PA	08/16/2004	08/12/2004
55,454	Pennsylvania House (USWA)	Lewisburg, PA	08/16/2004	08/13/2004
55,455	Innovex, Inc. (Comp)	Maple Plain, MN	08/17/2004	08/12/2004
55,456	Five Rivers Electronic Innovations, LLC	Jefferson City, TN	08/17/2004	08/13/2004
55,457	World Kitchen (Wkrs)	Massillon, OH	08/17/2004	08/12/2004
55,458	Decrane Cabin Interiors (Comp)	Tucson, AZ	08/17/2004	08/06/2004
55,459	Plastic Engineered Components (Comp)	El Paso, TX	08/17/2004	08/12/2004
55,460	Top-Flite Golf Co. (Wkrs)	Chicopee, MA	08/17/2004	08/11/2004
55,461	Airey-Thompson Co., Inc. (CA)	Los Angeles, CA	08/17/2004	08/02/2004
55,462	International Textile Group (Comp)	Raeford, NC	08/17/2004	08/16/2004
55,463	Rajala Lumber (Wkrs)	Deer River, MN	08/17/2004	08/13/2004
55,464	RPM Technology (Comp)	Fort Collins, CO	08/17/2004	08/11/2004
55,465	Diolen Industrial Fibers, Inc. (Comp)	Scottsboro, AL	08/17/2004	08/16/2004
55,466	WSGM Holding, LLC (NPS)	Burlington, NC	08/17/2004	08/09/2004
55,467	Precision Moulding Co. (Comp)	Cottonwood, CA	08/17/2004	08/16/2004
55,468	Teleflex (Wkrs)	Lebanon, VA	08/18/2004	08/10/2004
55,469	Stork Prints America (Comp)	Charlotte, NC	08/18/2004	08/13/2004
55,470	Thomas and Betts (Comp)	Dedham, MA	08/18/2004	08/12/2004
55,471	Schweiger (Wkrs)	Jefferson, WI	08/18/2004	08/18/2004
55,472	Schneider Electric/Square D (Wkrs)	Monroe, NC	08/19/2004	08/12/2004
55,473	Beaird Industries (Wkrs)	Shreveport, LA	08/19/2004	08/18/2004
55,474	Ecodyne MRM, Inc. (Comp)	Massiollon, OH	08/19/2004	08/09/2004
55,475	Synthetic Thread Co., Inc. (UNITE)	Bethlehem, PA	08/19/2004	08/19/2004
55,476	Toro Irrigation and Consumer Products (Comp)	El Paso, TX	08/19/2004	08/17/2004
55,477	Screen Specialty Shop (Wkrs)	West Jefferson, NC	08/19/2004	08/09/2004
55,478	Ingersoll Cutting Tool Co. (Wkrs)	Rockford, IL	08/19/2004	08/09/2004
55,479	Tyco Safety Products (Comp)	Westminster, MA	08/19/2004	08/11/2004
55,480	Conduit Pipe Products Co. (Wkrs)	W. Jefferson, OH	08/19/2004	08/09/2004
55,481	Durite Manufacturing (Comp)	Green Bay, WI	08/20/2004	08/17/2004
55,482	TI Automotive (Comp)	Cass City, MI	08/20/2004	08/18/2004
55,483	Siemens Energy and Automation (Wkrs)	Modesto, CA	08/20/2004	08/18/2004
55,484	Toro Irrigation and Consumer Products (Comp)	El Paso, TX	08/20/2004	08/17/2004
55,485	American Italian Pasta (Comp)	Excelsior Spring, MO	08/20/2004	08/19/2004
55,486	Visteon Systems, LLC (IUECWA)	Connersville, IN	08/20/2004	08/18/2004
55,487	Custom Sewing Co., Inc. (Wkrs)	Lawrenceburg, TN	08/20/2004	08/16/2004
55,488	Bridal Original (IL)	Collinsville, IL	08/20/2004	08/19/2004
55,489	Brite Star Mfg., Co. (Wkrs)	Philadelphia, PA	08/20/2004	08/13/2004
55,490	Federal Mogul Corp. (Comp)	LaGrange, GA	08/20/2004	08/18/2004
55,491	Tubbs Snowshoes Co. (Comp)	Stowe, VT	08/20/2004	08/10/2004
55,492	Harte-Hanks Market Intelligence (MI)	Sterling Hgts., MI	08/20/2004	08/19/2004
55,493	Zenith Logistics, LLC (Comp)	Macon, GA	08/23/2304	08/20/2304
55,494	Raylon Corporation (The) (Comp)	New York, NY	08/23/2304	08/20/2304
55,495	Tesco Engineering (Wkrs)	Auburn Hills, MI	08/23/2304	08/19/2304
55,496	Honeywell (MI)	Boyne City, MI	08/23/2304	08/16/2304
55,497	Imlay City Plastics (Comp)	Imlay City, MI	08/23/2304	08/20/2304
55,498	American Xtal Technology (Comp)	Fremont, CA	08/23/2004	08/20/2004
55,499	Marshall Erdman (UIBC)	Waunakee, WI	08/23/2004	08/20/2004
55,500	Arlee Home Fashion (Wkrs)	Mountain Grove, MO	08/24/2004	08/18/2004
55,501	Sandvik Special Metals LLC (Comp)	Kennewick, WA	08/24/2004	08/20/2004
55,502	Schott North America (UFCW)	Duryea, PA	08/24/2004	08/22/2004
55,503	Gear Research (Comp)	Grand Rapids, MI	08/24/2004	08/23/2004
55,504	PPC Insulators (IBT)	Knoxville, TN	08/24/2004	08/20/2004
55,505	Belden CDT (Comp)	Essex Junction, VT	08/24/2004	08/17/2004
55,506	Group Lacasse LLC (Comp)	Henderson, TX	08/25/2004	08/24/2004
55,507	Aerus, LLC (Comp)	Bristol, VA	08/25/2004	08/24/2004
55,508	EDM Corp. (Comp)	Piqua, OH	08/26/2004	08/25/2004
55,509	Friday Services (Comp)	Asheville, NC	08/26/2004	08/23/2004

APPENDIX—Continued

Petitions instituted between 08/09/2004 and 08/26/2004

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
55,510	Fey Automotive Products (Wkrs)	Irwindale, CA	08/26/2004	08/17/2004
55,511	Cherry Electrical Products (Wkrs)	Pleasant Prairi, WI	08/26/2004	08/24/2004
55,512	Kimble Glass (USWA)	Warsaw, IN	08/26/2004	08/25/2004
55,513	Peerless Pottery (Comp)	Rockport, IN	08/26/2004	08/24/2004

[FR Doc. 04–20339 Filed 9–7–04; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,108]

Cosom Sporting Goods, Inc., Thorofare, NJ; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of July 28, 2004, a petitioner requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The determination was signed on July 15, 2004. The Department's Notice was published in the **Federal Register** on August 3, 2004 (69 FR 46575).

The Department reviewed the request for reconsideration and has determined that the petitioner has provided additional information. The Department will conduct further investigation to determine whether the workers are eligible to apply for TAA.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed in Washington, DC, this 25th day of August, 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4–2097 Filed 9–7–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment And Training Administration

[TA–W–55,045]

Merrow Machine Company, Newington, Connecticut; Notice of Negative Determination Regarding Application for Reconsideration

By application of July 24, 2004, International Union of Electronic, Electrical, Salaried, Machine and Furniture Workers -Communications Workers of America, Local No. 249 requested administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on July 13, 2004, and published in the **Federal Register** on August 3, 2004 (69 FR 46574).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petition for the workers of Merrow Machine Company, Newington, Connecticut engaged in production of industrial sewing machines was denied because the ''contributed importantly'' group eligibility requirement of section 222 of the Trade Act of 1974, as amended, was not met. The ''contributed importantly'' test is generally demonstrated through a survey of the workers' firm's customers. The survey revealed no increase of imports of industrial sewing machines during the relevant period. The subject firm did not import industrial sewing machines in the relevant period nor did it shift production to a foreign country.

The petitioner alleges that the subject company shipped products to several foreign countries, including China, Russia and Japan, thus workers of the subject firm should be eligible for TAA.

As trade adjustment assistance is concerned exclusively with whether imports or a shift in production to a trade impacted country causes layoffs of petitioning worker groups, the above-mentioned allegation regarding subject firm's exports of products is irrelevant.

A company official was requested to provide the additional list of all the remaining customers which were not surveyed during the original investigation. All customers provided by a company official during the reconsideration represent foreign firms.

The petitioner further alleges that the subject firm lost its business due to an impact of the foreign competition on textile industry.

In order to establish import impact, the Department must consider imports that are like or directly competitive with those produced at the subject firm. The Department conducted a survey of the subject firm's major declining domestic customers regarding their purchases of industrial sewing machines. The survey revealed that the declining customers did not import industrial sewing machines during the relevant period.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration ofthe Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC this 26th day of August, 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4–2096 Filed 9–7–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–54,987]

Remington Products Company, a Division of Rayovac Corporation, Including Leased Workers of Impact Personnel, Accountants, Inc., Mid-State Technical and Power Recruiting, Bridgeport, CT; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on June 25, 2004, applicable to workers of Remington Products, including leased workers of Impact Personnel, Accountants, Inc., Mid-State Technical and Power Recruiting, Bridgeport, Connecticut. The notice was published in the **Federal Register** on August 3, 2004 (69 FR 46576).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of electric shavers.

New information from the State shows that Remington Products was purchased by Rayovac Corporation and is now known as Remington Products Company, a division of Rayovac Corporation. Information also shows that as of April 2004, workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for Rayovac Corporation.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–54,987 is hereby issued as follows:

All workers of Remington Products Company, a division of Rayovac Corporation, including leased workers of Impact Personnel, Accountants, Inc., Mid-State Technical, and Power Recruiting, Bridgeport, Connecticut, engaged in employment related to the production of electric razors, who became totally or partially separated from employment on or after May 26, 2003, through June 25, 2006, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed in Washington, DC this 30th day of August, 2004.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4–2095 Filed 9–7–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–54,657]

Sterling and Adams Bentwood, Inc., a Division of Leggett & Platt Corp., Including Leased Workers of Carolina Personnel and Atwork Temp Services, Thomasville, North Carolina; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on April 22, 2004, applicable to workers of Sterling and Adams Bentwood, Inc., including leased workers of Carolina Personnel and Atwork Temp Services, Thomasville, North Carolina. The notice was published in the **Federal Register** on June 2, 2004 (69 FR 31137).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of curved plywood parts for furniture.

New information from the company shows that some of the workers separated from employment at the subject firm had their wages reported under the unemployment insurance (UI) tax account for the parent company, Leggett & Platt Corp.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–54,657 is hereby issued as follows:

All workers of Sterling and Adams Bentwood, Inc., a division of Leggett & Platt Corp., including leased workers of Carolina Personnel and Atwork Temp Services, Thomasville, North Carolina, who became totally or partially separated from employment on or after March 22, 2003, through April 22, 2006, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed in Washington, DC this 27th day of August, 2004.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4–2093 Filed 9–7–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment And Training Administration

[TA–W–54,974]

Tarkett, Inc., Whitehall, Pennsylvania; Notice of Negative Determination Regarding Application for Reconsideration

By letter of August 4, 2004, the petitioner requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA). The negative determination was signed on June 16, 2004. Department's notice of determination was published in the **Federal Register** on July 7, 2004 (69 FR 40983).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The initial petition was denied because the subject worker group did not produce an article within the meaning of section 222(3) of the Act. The Department determined that the workers sold imported sheet vinyl flooring and provided administrative and information technology (IT) support for the sales team.

Information supplied in the initial investigation indicate that production of sheet vinyl flooring at the subject facility ceased completely in 1999, that sheet vinyl flooring has not been made domestically since 1999, and that workers at the subject facility are engaged in the sale of sheet vinyl flooring produced entirely in Canada.

The investigation also revealed that sales, marketing, and customer service functions are being performed at the subject facility, and that certain sales and IT positions moved to Canada.

The petitioner alleges that their job functions are being performed by workers at an affiliated Canadian facility. The petitioner infers that the same circumstances that supported a previous certification for the subject firm (TA–W–39,469; signed July 31, 2001) should support the current application.

The petitioner also alleges that the subject worker group supports an affiliated, TAA–certified facility (Tarkett, Inc., Newburgh, New York; signed March 24, 2003; TA–W–50,982). The petitioner further alleges that the closing of the New York site contributed to worker separations at the subject facility.

The petitioner has not presented any new facts or made any allegation that facts used in determining TAA eligibility were erroneous or that there was a misinterpretation of facts. Thus, the Department reaffirms the determination that the workers at the subject firm do not produce an article within the meaning of Section 222(3) of the Trade Act 1974.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 26th day of August, 2004.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E4–2094 Filed 9–7–04; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, (19 U.S.C. 2273), the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the periods of August 2004.

In order for an affirmative determination to be made and a certification of eligibility to apply for directly-impacted (primary) worker adjustment assistance to be issued, each of the group eligibility requirements of section 222(a) of the Act must be met.

I. Section (a)(2)(A)—all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B)—both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;
2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or
3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance as an adversely affected secondary group to be issued, each of the group eligibility requirements of section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that criteria (a)(2)(A)(I.C.)(increased imports) and (a)(2)(B)(II.B) (No shift in production to a foreign country) have not been met.

TA–W–55,171; TW Metals, Flat Steel Processing Facility, Cambridge, OH.

TA–W–55,323; Promark International, d/b/a Smith-Victor Corporation, Griffith, IN.

TA–W–55,216; ITW Insulation Systems, Nitro, WV.

TA–W–55,351; D.T. Swiss, Inc., Grand Junction, CO.

TA–W–55,252; Fiberglass Products, Inc., d/b/a FPI Systems, North Haven, CT.

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–55,265; ATI Research Silicon Valley, Inc., Product Test Group, Santa Clara, CA.

TA–W–55,230 & A; GGS Information Services, Technical Publication Division, York, PA and Book Services Division, York, PA.

TA–W–55,381; Med Data, Inc., Seattle, WA.

TA–W–55,261; Sony Electronics, Inc., AOEM Service Center, Farmington Hills, MI.

TA–W–55,281; Dan River Factory Stores (#6), Commerce, GA.

TA–W–55,295; Teletech Customer Care Management (Colorado), Inc., a div. of Teletech Holdings, Inc., North Hollywood, Los Angeles, CA.

The investigation revealed that criterion (a)(2)(A)(I.A) and (a)(2)(B)(II.A) (no employment decline) has not been met.

TA–W–55,336; Sunrise Medical, Fresno, CA.

TA–W–55,233; Meadwestvaco Corp., including leased workers of D&H Associates, Inc., and Proserv, Inc., Escanaba Mill, Escanaba, MI.

TA–W–55,267; Alltrista Consumer Products Co., Cloquet Div., Cloquest, MN.

TA–W–55,207; American Greetings Corp., Envelope Department, Lafayette, TN.

The investigation revealed that criterion (a)(2)(A)(I.B) (Sales or production, or both, did not decline) and (a) (2)(B)(II.B) (has shifted production to a country not under the free trade agreement with U.S.) have not been met.

TA–W–55,353; Big Joe Manufacturing Co., Wisconsin Dells, WI.

The investigation revealed that criteria (2) has not been met. The workers firm (or subdivision) is not a supplier or downstream producer to trade-affected companies.

TA–W–55,255; Pinnacle Steel Processing, Inc., Jefferson City, TN.

The investigation revealed that criteria (a)(2)(A) (I.C) (increased imports) and (II.C) (has shifted production to a foreign country) have not been met.

TA–W–55,364; Andersen 2000, Inc., Peachtree City, GA.

TA–W–55,235; Wyeth Pharmaceuticals, including leased workers of Kelly Scientific Resources and Kelly Services, Marietta, PA.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of (a) (2) (A) (increased imports) of Section 222 have been met.

TA–W–55,219; Good Will Sewing Co., San Francisco, CA: June 25, 2003.

TA–W–55,180; Rainbow Swimwear, Inc., Brooklyn, NY: May 26, 2003.

TA–W–55,341; Express Personnel Services, employed at SR Telecom, Redmond, WA: July 26, 2003.

TA–W–55,183; Advantage Technologies, Inc., Plymouth, MI: June 23, 2003.

TA–W–55,379; Invisible Technologies, Inc., including leased workers of Pro Resources, Kelly Services and People Link, Garrett, IN: August 2, 2003.

TA–W–55,326; Sumitomo Electric Wiring Systems, Inc., Scottsville Plant #2, Scottsville, KY: July 27, 2003.

TA–W–55,306; Elastic Corporation of America, Inc., Columbiana, AL: July 20, 2003.

TA–W–55,293; Sunrise Medical HHG, Avon Lake Div., including on-site leased workers from Spherion, Avon Lake, OH: July 21, 2003.

TA–W–55,407; Delta Energy Systems, Inc., including leased workers of Randstad North America, Palm Coast, FL: July 14, 2003.

TA–W–55,387; Hartwell Industries, Inc., Hartwell, GA: July 31, 2003.

TA–W–55,376; Teva Pharmaceuticals USA, Mexico, MO: August 3, 2003.

TA–W–55,158; Globalware Solutions, including leased workers of International Temps, Inc., Haverhill, MA: June 9, 2003.

TA–W–55,193; Kitco, Division of Specialty Elastomers Technologies, Inc., Bluffton, IN: June 30, 2003.

TA–W–55,156; Georgia-Pacific Corp., Consumer Products Div., Green Bay Broadway Facility, including on-site leased workers from Encadria Staffing Solutions, Green Bay, WI: June 7, 2003.

TA–W–55,243; 5 B's, Inc., Barnesville, OH: June 15, 2003.

TA–W–55,388; Pelstar LLC, Bridgeview, IL: August 4, 2003.

TA–W–55,269; Meridian Automotive Systems, Inc., including on-site Leased workers from Accuforce Staffing, Lenoir, NC: July 16, 2003.

The following certifications have been issued. The requirements of (a) (2) (B) (shift in production) of Section 222 have been met.

TA–W–55,253; Christiana Industries, Vernon Hills, IL: May 18, 2003.

TA–W–55,346; Hamilton Beach/Proctor Silex, Inc., Southern Pines, NC: July 19, 2003.

TA–W–55,354; Knight Textile Corp., Saluda, SC: July 16, 2004.

TA–W–55,359; Brown & Willamson Tobacco Corp., Wilson Leaf Div., Wilson, NC: July 30, 2003.

TA–W–55,355; Advance Transformer, a div. of Philips Lighting, Boscobel, WI: August 13, 2004.

TA–W–55,431; American Manufacturing International, Inc., Oxford, NJ: August 11, 2003.

TA–W–55,383; Rockwell Automation, Eau Claire, WI: July 20, 2003.

TA–W–55,279; Telect, Inc., including leased workers of Volt Services Group, Liberty Lake, WA: August 20, 2004.

TA–W–55,055; Invista, S.A.R. L., formerly doing business as Invista Dupont, Nylon Div., a subsidiary of Koch Industries, including on-site leased workers from Chattanooga General Services, Inc., and Stratus, Inc., 4501 North Access Rd, Chattanooga, TN: June 7, 2003.

TA–W–55,307; Dorsey Trailers, Flatbed div., Elba, AL: July 20, 2003.

TA–W–55,262; JDS Uniphase Corp., including leased workers of Manpower and Ciber, Rochester, MN: June 25, 2003.

TA–W–55,221; EGS Electrical Group, Sola/Hevi-Duty div., Rainsville, AL: July 8, 2003.

TA–W–55,385; Morse Automotive Corp., Arkadelphia, AR: August 5, 2003.

TA–W–55,322; Coats American, Inc., Marble, NC: July 27, 2003.

TA–W–55,240; Rubbermaid, Inc., Rubbermaid Home Products Division, Jackson, MO: July 9, 2003.

TA–W–55,338; C&D Technologies, Inc., Motive Power Division, Huguenot, NY: July 20, 2003.

TA–W–55,325; GLP Acquisitions, LLC, Great Lakes Plastics Div., a wholly owned subsidiary of Glastic Corp., Salem, MI: July 12, 2003.

TA–W–55,324; Mandell Industries, Inc., Oceanside, NY: July 26, 2003.

Negative Determinations for Alternative Trade Adjustment Assistance

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of section 246(a)(3)(A)(ii) of the Trade Act must be met.

In the following cases, it has been determined that the requirements of section 246(a)(3)(ii) have not been met for the reasons specified.

The Department has determined that criterion (1) of Section 246 has not been met. Workers at the firm are 50 years of age or older.

TA–W–55,341; Express Personnel Services, Employed at SR Telecom, Redmond, WA.

TA–W–55,354; Knight Textile Corp., Saluda, SC.

The Department has determined that criterion (2) of section 246 has not been

met. Workers at the firm possess skills that are easily transferable.

TA–W–55,183; Advantage Technologies, Inc., Plymouth, MI.

Since the workers are denied eligibility to apply for TAA, the workers cannot be certified eligible for ATAA.

TA–W–55,323; Promark International, d/b/a Smith-Victor Corp., Griffith, IN.

TA–W–55,351; D.T. Swiss, Inc., Grand Junction, CO.

TA–W–55,252; Fiberglass Products, Inc., d/b/a FPI Systems, North Haven, CT.

TA–W–55,261; Sony Electronics, Inc., AOEM Service Center, Farmington Hills, MI.

TA–W–554,281; Dan River Factory Stores (#16), Commerce, GA.

TA–W–55,295; Teletech Customer Care Management (Colorado), Inc., a division of Teletech Holdings, Inc., North Hollywood, Los Angeles, CA.

TA–W–55,207; American Greetings Corp., Envelope Department, Lafayette, TN.

TA–W–55,255; Pinnacle Steel Processing, Inc., Jefferson City, TN.

TA–W–55,353; Big Joe Manufacturing Co., Wisconsin Dells, WI.

TA–W–55,364; Andersen 2000, Inc., Peachtree City, GA.

TA–W–55,235; Wyeth Pharmaceuticals, including leased workers of Kelly Scientific Resources and Kelly Services, Marietta, PA.

Affirmative Determinations for Alternative Trade Adjustment Assistance

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of section 246(a)(3)(A)(ii) of the Trade Act must be met.

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determinations.

In the following cases, it has been determined that the requirements of section 246(a)(3)(ii) have been met.

I. Whether a significant number of workers in the workers' firm are 50 years of age or older.

II. Whether the workers in the workers' firm possess skills that are not easily transferable.

III. The competitive conditions within the workers' industry (*i.e.*, conditions within the industry are adverse).

TA–W–55,243; 5 B's, Inc., Barnesville, OH: June 15, 2003.

TA–W–55,269; Meridian Automotive Systems, Inc., including on-site leased worker from Accuforce Staffing, Lenoir, NC: July 16, 2003. Wash N Wear, Gallatin, TN: June 30, 2003.

TA–W–55,324; Mandell Industries, Inc., Oceanside, NY: July 26, 2003.

TA–W–55,325; GLP Acquisitions, LLC, Great Lakes Plastics Div., a wholly owned subsidiary of Glastic Corporation, Salem, MI: July 12, 2003.

TA–W–55,388; Pelstar LLC, Bridgeview, IL: August 4, 2003.

TA–W–55,335; Falcon Products, Inc., Belmont, MS: July 21, 2003.

TA–W–55,156; Georgia-Pacific Corporation, Consumer Products Div., Green Bay Broadway Facility, including on-site leased workers from Encadria Staffing Solutions, Green Bay, WI June 7, 2003.

TA–W–55,338; C&D Technologies, Inc., Motive Power Division, Huguenot, NY: July 20, 2003.

TA–W–55,240; Rubbermaid, Inc., Rubbermaid Home Products Division, Jackson, MO: July 9, 2003.

TA–W–55,332; Coats American, Inc., Marble, NC: July 27, 2003.

TA–W–55,193; Kitco, division of Specialty Elastomers Technologies, Inc., Bluffton, IN: June 30, 2003.

TA–W–55,158; Globalware Solutions, including leased workers of International Temps, Inc., Haverhill, MA: June 9, 2003.

TA–W–55,376; Teva Pharmaceuticals USA, Mexico, MO: August 3, 2003.

TA–W–55,385; Morse Automotive Corp., Arkadelphia, AR: August 5, 2003.

TA–W–55,387; Hartwell Industries, Inc., Hartwell, GA: July 31, 2003.

TA–W–55,407; Delta Energy Systems, Inc., including leased workers of Randstad North America, Palm Coast, FL: July 14, 2003.

TA–W–55,221; EGS Electrical Group, Sola/Hevi-Duty Division, Rainsville, AL: July 8, 2003.

TA–W–55,262; JDS Uniphase Corp., including leased workers of Manpower and Ciber, Rochester, MN: June 25, 2003.

TA–W–55,307; Dorsey Trailers, Flatbed Div., Elba, AL: July 20, 2003.

TA–W–55,293; Sunrise Medical HHG, Avon Lake Division, including on-site leased workers from Spherion, Avon Lake, OH: July 21, 2003.

TA–W–55,306; Elastic Corporation of America, Inc., Columbiana, AL: July 20, 2003.

TA–W–55,326; Sumitomo Electric Wiring Systems, Inc., Scottsville Plant #2, Scottsville, KY: July 27, 2003.

TA–W–55,383; Rockwell Automation, Eau Claire, WI: July 20, 2003.

TA–W–55,431; American Manufacturing International, Inc., Oxford, NJ: August 11, 2003.

TA–W–55,055; Invista, S.A.R.L., formerly Doing Business as Invista Dupont, Nylon Division, a subsidiary of Koch Industries, including on-site leased workers from Chattanooga General Services, Inc., and Stratus, Inc., 4501 North Access Road, Chattanooga, TN: June 7, 2003.

TA–W–55,355; Advance Transformer, a division of Philips Lighting, Boscobel, WI: August 13, 2004.

TA–W–55,359; Brown & Williamson Tobacco Corporation, Wilson Leaf Division, Wilson, NC: July 30, 2003.

TA–W–55,379; Invisible Technologies, Inc., including leased workers of Pro Resources, Kelly Services and People Link, Garrett, In: August 2, 2003.

I hereby certify that the aforementioned determinations were issued during the months of August 2004. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 27, 2004.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E4–2098 Filed 9–7–04; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (04–109)]

NASA Advisory Council, Task Force on International Space Station Operational Readiness; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: The National Aeronautics and Space Administration announces an open meeting of the NASA Advisory Council (NAC), Task Force on International Space Station Operational Readiness (IOR).

DATE: Thursday, September 30, 2004, 1 p.m.—2 p.m. eastern standard time.

ADDRESSES: NASA Headquarters, 300 E Street, SW., Room 7U22, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Todd F. McIntyre, Office of External

Relations, (202) 358–4621, National Aeronautics and Space Administration, Washington, DC 20546–0001.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the seating capacity of the room. Five seats will be reserved for members of the press. The agenda for the meeting is as follows:

- To assess the operational readiness of the International Space Station to support a new crew.
- To assess the Russian flight team's preparedness to accomplish the Expedition Ten mission.
- To assess the health and flight readiness of the Expedition Ten crew.

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide the following information: full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, phone); title/position of attendee. To expedite admittance, attendees should provide identifying information in advance by contacting Todd F. McIntyre via e-mail at *Todd.McIntyre-1@nasa.gov* or by telephone at (202) 358–4621 by September 27, 2004. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

R. Andrew Falcon,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 04–20352 Filed 9–7–04; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 04–08]

NASA Advisory Council, Aeronautics Research Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Aeronautics Research Advisory Committee (ARAC).

DATES: Wednesday, September 29, 2004, 8:30 a.m. to 5 p.m.; and Thursday, September 30, 2004, 8:30 a.m. to 12 noon.

ADDRESSES: National Aeronautics and Space Administration, 300 E Street, SW., Room 9H40, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mrs. Mary-Ellen McGrath, Office of Aeronautics Research, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–4729.

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:

- Opening Remarks
- NASA Transformation
- Agency Mission Strategic Planning
- Joint Planning and Development Office Update
- Revision of Committee and Subcommittees
- Program Overviews
- Closing Comments

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide the following information: full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); employer/affiliation information (name of institution, address, county, phone); and title/position of attendee. To expedite admittance, attendees can provide identifying information in advance by contacting Mary-Ellen McGrath via e-mail at *mary.E.mcgrath@nasa.gov* or by telephone at (202) 358–4729. Persons with disabilities who require assistance should indicate this.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

R. Andrew Falcon,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 04–20332 Filed 9–7–04; 8:45 am]

BILLING CODE 7510–01–P

THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meetings of Humanities Panel

AGENCY: The National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Daniel Schneider, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meetings 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 discussion of information given in confidence to the agency by the grant applicants. Because the proposed meetings will consider information that is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential and/or information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), and (6) of section 552b of Title 5, United States Code.

1. *Date:* September 20, 2004.
Time: 9 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Landmarks of American History Workshops, submitted to the Division of Education Programs at the August 6, 2004 deadline.

2. *Date:* September 21, 2004.
Time: 9 a.m. to 5 p.m.
Room: 315.
Program: This meeting will review applications for Landmarks of American History Workshops, submitted to the Division of Education Programs at the August 6, 2004 deadline.

3. *Date:* September 21, 2004.
Time: 9 a.m. to 5 p.m.
Room: 415.
Program: This meeting will review applications for Brittle Books, submitted to the Division of Preservation and Access at the July 15, 2004 deadline.

4. *Date:* September 22, 2004.

Time: 9 a.m. to 5 p.m.

Room: 315.

Program: This meeting will review applications for Landmarks of American History Workshops, submitted to the Division of Education Programs at the August 6, 2004 deadline.

5. *Date:* September 24, 2004.

Time: 9 a.m. to 5 p.m.

Room: 415.

Program: This meeting will review applications for Native American History and Culture, submitted to the Division of Preservation and Access at the July 15, 2004 deadline.

6. *Date:* September 28, 2004.

Time: 9 a.m. to 5 p.m.

Room: 415.

Program: This meeting will review applications for Linguistics, submitted to the Division of Preservation and Access at the July 15, 2004 deadline.

Daniel Schneider,

Advisory Committee Management Officer.

[FR Doc. 04–20265 Filed 9–7–04; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

Agenda

TIME AND DATE: 9:30 a.m., Tuesday, September 14, 2004.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza, SW., Washington, DC 20594.

STATUS: The one item is Open to the public.

MATTER TO BE CONSIDERED:

5299N Most Wanted Safety Recommendations Program—2004 Update on State Issues.

News Media Contact: Telephone: (202) 314–6100.

Individuals requesting specific accommodations should contact Ms. Carolyn Dargan at (202) 314–6305 by Friday, September 10, 2004.

The public may view the meeting via a live or archived webcast by accessing a link under ''News & Events'' on the NTSB home page at *www.ntsb.gov.*

FOR FURTHER INFORMATION CONTACT: Vicky D'Onofrio, (202) 314–6410.

Dated: September 3, 2004.

Vicky D'Onofrio,

Federal Register Liaison Officer.

[FR Doc. 04–20393 Filed 9–3–04; 10:56 am]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 030–36567, 030–34261; License Nos. 27–23914–01E, 42–23850–02E, EA–03–187]

In the Matter of 21st Century Technologies, Inc., Las Vegas, NV; Order Imposing Civil Monetary Penalty

21st Century Technologies, Inc. (Licensee) is the holder of Exempt Distribution License No. 27–23914–01E, issued by the Nuclear Regulatory Commission (NRC or Commission) on May 19, 2004.[1] The license authorizes the Licensee to distribute products containing byproduct material (*i.e.*, tritium) in accordance with the conditions specified therein.

An inspection and investigation of the Licensee's activities were completed in October 2003. The results of the inspection and investigation indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (notice) was issued to the Licensee by letter dated April 13, 2004. The notice stated the nature of the violations, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violation ($6,000).

The Licensee responded to the notice in a letter dated May 11, 2004. In its response, the Licensee admitted the violations, provided qualifying information with respect to several of the examples, contested the classification of the violations as a Severity Level III problem, contested the NRC's application of its civil penalty assessment process, and requested remission or mitigation of the proposed civil penalty. The licensee's letter also described 21st Century's plans to correct and prevent recurrence of the violations.

After consideration of the Licensee's response, and for the reasons discussed in the Appendix to this Order, the NRC concludes that the severity level of the violations was appropriately determined, that the civil penalty assessment process was correctly followed, and that the licensee has not provided a basis for reducing the severity level of the violations or for mitigating the proposed civil penalty. Therefore, the NRC concludes that the civil penalty proposed for the violations designated in the notice should be imposed by Order.

[1] Prior to May 19, 2004, the company held License No. 42–23850–02E, Docket No. 030–34261, and was based in Haltom City, Texas.

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *it is hereby ordered that:*

The Licensee pay a civil penalty in the amount of $6,000 within 30 days of the date of this Order, in accordance with the payment methods described in NUREG/BR–0254. In addition, at the time of making the payment, the licensee shall submit a statement indicating when and by what method payment was made, to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a ''Request for an Enforcement Hearing'' and shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov* and also to the Office of the General Counsel either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.*

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

Whether on the basis of the violations admitted by the Licensee, this Order should be sustained.

Dated this 30th day of August 2004.

For the Nuclear Regulatory Commission.

Frank J. Congel,

Director, Office of Enforcement.

Appendix To Order Imposing Civil Monetary Penalty—EA–03–187 Evaluation and Conclusion

On April 13, 2004, a Notice of Violation and Proposed Imposition of Civil Penalty (notice) was issued to the Licensee for violations identified during an NRC inspection and investigation. The Notice stated the nature of the violations, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violations ($6,000).

The Licensee responded to the notice in a letter dated May 11, 2004. In its response, the Licensee admitted the violations that resulted in the civil penalty, provided qualifying information with respect to several of the examples, contested the classification of the violations as a Severity Level III problem, contested the NRC's application of its civil penalty assessment process, and requested remission or mitigation of the proposed civil penalty.

The NRC's evaluation of the licensee's response, and conclusions regarding the licensee's requests are as follows:

Summary of Licensee's Response & Request for Remission or Mitigation of the Penalty

1. Severity Level III should not be assigned to actions where there is no clear knowledge on a licensee's part that the actions taken are in violation of the license and the licensee has a rational basis for conducting licensing activities, even though those activities turn out to be outside the scope of the license. Licensee contends that five of the seven examples included in the violations assessed a civil penalty are due to misinterpretation and misunderstanding of the license provisions, and states that reasonable minds can differ on these issues notwithstanding the fact that the NRC has the final word.

2. The licensee takes exception to NRC's statement that ''The number of examples of these violations, and the extended time period over which they occurred, represent a programmatic concern with the potential to impact radiological safety.'' The licensee cites a reference in NRC's Enforcement Policy to not citing licensees for failing to report events the licensee is unaware of, and draws a parallel here by stating ''A licensee should not be cited for a programmatic failure unless the licensee was actually aware that it was not following the licensing program or if licensee believed in good faith that it was following the licensing program.''

3. The licensee understands the NRC staff to have previously agreed that none of the license infractions impacted or potentially impacted public health and safety. This appears to be inconsistent with the letter of April 13 where it expressed ''a programmatic concern with the potential to impact radiological safety.''

4. The licensee acknowledges that two examples of the violations assessed a civil penalty were not the result of misinterpretation and misunderstanding of license provisions, but argues that these do not support a finding of a programmatic failure because they are too few in number and because they may have been the result of employee sabotage.

5. The NRC should not have considered ''Identification'' credit in the civil penalty assessment process because the standard of considering previous escalated enforcement during the past 2 years or past 2 inspections, whichever is longer, is directed toward nuclear power plant inspections or inspections that occur on an annual or near annual basis, and not to situations involving inspections that occur every 5 years.

6. Although the NRC identified the violations in this case, credit for identification should be given to the licensee because, under the circumstances, the licensee's actions related to identification were not unreasonable.

7. Licensee should be given credit for prompt and comprehensive action because it took immediate actions necessary upon discovery of each violation to assure compliance with the license, and, in a timely manner, developed and is implementing the lasting actions designed to prevent recurrence of the violations at issue, actions that are appropriately comprehensive to prevent occurrence of violations with similar root causes.

8. The licensee states that special circumstances exist that warrant the exercise of discretion to reduce the severity level of the violations. These include the significance of the violations, the clarity of the requirement, the overall sustained performance of the licensee, and other relevant circumstances. The licensee repeats many of its previous arguments, including its assertion that it was operating in good faith relative to compliance with the license, and that it has taken extensive corrective action to assure long-term compliance. The licensee states, ''Licensee believes that there is a sufficient lace (sic) of clarity about the license requirements to justify a reduction of the assignment of Severity Level III to Level IV and elimination of the fine for civil penalty.''

NRC Evaluation of Licensee's Responses & Request for Remission or Mitigation of Penalty

1. The licensee is essentially saying that Severity Level III should not be assigned where the licensee did not know it was violating NRC requirements. If the NRC had been able to show the licensee knew it was violating NRC requirements, and continued to do so, the NRC could have characterized the violations as willful non-compliances, and could have considered assigning a higher severity level to the violations, in accordance with Section IV.A.4 of the Enforcement Policy. The specific severity level example that NRC relied upon (Enforcement Policy, Supplement VI, C.8) does not reference willfulness and supports a Severity Level III determination without regard to willfulness. In addition, in determining severity level, the NRC also considered the fact that the violations impacted the ability of the NRC to perform its regulatory function, in accordance with Section IV.A.5 of the Enforcement Policy.

The alleged ''lack of clarity'' in the license does not justify a reduction in the assigned Severity Level III. The NRC staff does not agree that reasonable minds would differ as to the meaning of License Condition 10. The licensee asserted that it relied on Attachment 16 to the license as authorizing distribution of several products which the NRC found in this action to have been distributed in violation of the license. License Condition 10 authorized certain types of products and explicitly referred to specified attachments for details regarding the authorized products. The license, however, nowhere referenced Attachment 16 with respect to any authorized product. License Condition 10 was crafted and submitted by 21st Century as a license amendment after discussions between the former 21st Century President and NRC staff. The former President of 21st Century stated at the predecisional enforcement conference that he had misunderstood the license and that he was ''guilty of probably not being real smart in reading licenses''. 21st Century had every opportunity to seek clarification from the NRC as to what the license allowed prior to modifying its products and distributing them. Moreover, 21st Century was the subject of prior escalated enforcement in 1996, and as a result was well aware that only those products explicitly authorized by the license could be distributed by the company. The appropriate response to any perceived lack of clarity in the license was for the licensee to obtain clarification. Instead, the licensee failed to have systems in place to assure compliance with the license, and failed to seek any necessary clarification prior to modifying its products and distributing them.

2. The licensee is responsible for assuring that it is complying with the conditions of the license. In addition, a programmatic concern does not rest on whether the licensee was aware it was operating in noncompliance. As discussed in item 1 above, if the NRC had been able to show that the licensee was aware it was operating in noncompliance, the violations could have been characterized as willful non-compliances, and the NRC could have considered assigning a higher severity level. Adopting the licensee's views would encourage licensees to remain ignorant of NRC requirements.

3. NRC has acknowledged that the violations did not result in any actual safety consequences. NRC has not stated, however, that there were no potential safety consequences. As we stated at the predecisional enforcement conference, the NRC has a responsibility to assure that licensees who distribute radioactive material to members of the public, do so in a manner which provides reasonable confidence that the products are safe. NRC reviews the engineering designs and safety features of

such products before allowing them to be distributed. By distributing products that had not been reviewed and approved by NRC, 21st Century circumvented the very process that is designed to assure safety, and thereby created a potential for safety consequences.

4. The NRC's Office of Investigations (OI) conducted a comprehensive investigation into the violations. OI found no evidence of employee sabotage and the licensee has not provided any such evidence. If the NRC had found evidence of employee sabotage as the cause of the violations, we would have held 21st Century accountable nonetheless, and could have considered assigning a higher severity level to the violations, in accordance with Section IV.A.4 of the Enforcement Policy. NRC licensees are accountable for the violations committed by their employees, and appropriate enforcement action may be taken therefor. *Advanced Medical Systems, Inc.,* 39 NRC 285, 311–12 (1994), *aff'd. Advanced Medical Systems, Inc.* v. *NRC,* 61 F. 3d 903 (6th Cir. 1995). *See also* Enforcement Policy, Section VII.B.6.

5. The ''two years or two inspection'' criterion was added to the civil penalty assessment process in 1995. In the June 30, 1995 **Federal Register** notice announcing this and other Enforcement Policy changes, the NRC said this particular change was made to focus additional attention on ''situations of greater concern (*i.e.*, where a licensee has had more than one significant violation in a 2-year or two-inspection period ....'' The two-inspection period interval was adopted in recognition of the fact that some licensees, such as 21st Century Technologies, Inc., are inspected at intervals that exceed two years.

6. There is no basis to agree with the licensee's assertion that it should be given credit for ''Identification'' as the licensee did not in fact identify any of the violations itself. Moreover, 21st Century was the subject of previous escalated enforcement action in 1996 for unauthorized distribution of licensed material, and was repeatedly told verbally and in writing that no products could be distributed that were not explicitly authorized by the license. Despite that previous enforcement action, the licensee failed to put a program in place to identify non-compliances.

7. While the licensee has laid out an extensive set of long-term corrective actions, the point the NRC made in denying credit for prompt and comprehensive corrective action was that the licensee was still developing these corrective actions at the time of the enforcement conference, about two years after NRC became involved in pointing out the violations to the licensee. While the licensee may have taken timely short-term actions to stop the violations as they were identified, the licensee did not consider long-term comprehensive action to improve its oversight of licensed activities until it hired a consultant just prior to the predecisional enforcement conference. Accordingly, the licensee's corrective actions overall were not prompt.

8. There is no basis to grant 21st Century's request for mitigation and a reduction in the severity level of the violations, due to the claimed ''special circumstances'' of significance of the violations, lack of clarity of the requirement, overall sustained performance of the licensee, ''good faith'' (non-willful) nature of the violations, or extensive corrective action. The significance of the violations does not justify mitigation because the Severity Level III classification was appropriate and in accordance with the Enforcement Policy. *See* Items 1–4, above. There was no lack of clarity in the pertinent license condition. The licensee's admitted failure to understand its own license does not reduce the significance of the violations. *See* Item 1, above. The licensee's assertion that its overall sustained good performance justifies mitigation is not supported by the facts or the Enforcement Policy. The 1996 enforcement action in conjunction with the subject current violations indicates the opposite of sustained good performance. Moreover, the Enforcement Policy nowhere states that the assigned severity level may be reduced because of sustained good performance. The licensee's assertion that it deserves mitigation because the violations were committed in ''good faith'' (no willfulness) is unjustified. *See* Items 1–2, above. Nor would any corrective actions justify a reduction in the assigned Severity Level III. Corrective actions are considered in determining whether the base civil penalty should be increased or decreased. *See* Enforcement Policy, Section VI.C.2.c. The NRC staff did consider the licensee's corrective actions and appropriately determined that credit for prompt and comprehensive corrective actions was not warranted. *See* Item 7, above.

NRC Conclusion

The NRC concludes that the severity level of the violations was appropriately determined, that the civil penalty assessment process was correctly followed, and that the licensee has not provided a basis for reducing the severity level of the violations or for mitigating the proposed civil penalty. Therefore, the staff recommends that the civil penalty proposed for the violations in the notice should be imposed by Order.

[FR Doc. 04–20299 Filed 9–7–04; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–498 and 50–499]

STP Nuclear Operating Company, et al.; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of STP Nuclear Operating Company (the licensee) to withdraw its June 21, 2004, application for proposed amendment to Facility Operating License No. NPF–76 and Facility Operating License No. NPF–80 for the South Texas Project, Units 1 and 2, respectively, located in Matagorda County, Texas.

The proposed amendment would have revised the Technical Specifications to extend the steam generator inspection interval.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on July 20, 2004 (69 FR 43463). However, by letter dated August 12, 2004, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated June 21, 2004, and the licensee's letter dated August 12, 2004, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams/html.*

Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 30th day of August, 2004.

For the Nuclear Regulatory Commission.

David H. Jaffe,

Senior Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 04–20301 Filed 9–7–04; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–02]

Notice and Solicitation of Comments Pursuant to 10 CFR 20.1405 and 10 CFR 50.82(b)(5) Concerning Proposed Action to Decommission the University of Michigan Ford Nuclear Reactor (FNR)

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has received an application from the University of Michigan dated June 23, 2004, for a license amendment approving its proposed decommissioning plan for the FNR (Facility License No. R–28) located in Ann Arbor, Michigan.

In accordance with 10 CFR 20.1405, the Commission is providing notice and soliciting comments from local and

State governments in the vicinity of the site and any Indian Nation or other indigenous people that have treaty or statutory rights that could be affected by the decommissioning. This notice and solicitation of comments is published pursuant to 10 CFR 20.1405, which provides for publication in the **Federal Register** and in a forum, such as local newspapers, letters to State or local organizations, or other appropriate forum, that is readily accessible to individuals in the vicinity of the site.

Comments should be provided within 30 days of the date of this notice to Patrick M. Madden, Chief, Research and Test Reactors Section, New, Research and Test Reactors Program, Division of Regulatory Improvement Programs, Mail Stop O12–G13, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Further, in accordance with 10 CFR 50.82(b)(5), notice is also provided to interested persons of the Commission's intent to approve the plan by amendment, subject to such conditions and limitations as it deems appropriate and necessary, if the plan demonstrates that decommissioning will be performed in accordance with the regulations in this chapter and will not be inimical to the common defense and security or to the health and safety of the public.

A copy of the application is available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at (the Public Electronic Reading Room) *http://www.nrc.gov/reading-rm/adams.html.*

Dated in Rockville, Maryland, this 31st day of August, 2004.

For the Nuclear Regulatory Commission.

Patrick M. Madden,

Section Chief, Research and Test Reactors Section, New Research and Test Reactors Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 04–20300 Filed 9–7–04; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Reclearance of a Revised Information Collection: OPM Forms 1496 and 1496A

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for reclearance of a revised information collection. OPM Forms 1496 and 1496A, Application for Deferred Retirement (Separations before October 1, 1956) and Application for Deferred Retirement (Separations on or after October 1, 1956) are used by eligible former Federal employees to apply for a deferred Civil Service annuity. Two forms are needed because there was a major revision in the law effective October 1, 1956; this affects the general information provided with the forms.

Approximately 3,000 OPM Forms 1496 and 1496A will be completed annually. We estimate it takes approximately 1 hour to complete both forms. The annual burden is 3,000 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or via e-mail to *mbtoomey@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 30 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—Ronald W. Melton, Deputy Assistant Director, Retirement Services Program, Center for Retirement and Insurance Services, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3305, Washington, DC 20415–3540; and Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

For Information Regarding Administrative Coordination—Contact: Cyrus S. Benson, Team Leader, Publication Team, RIS Support Services/Support Group, (202) 606–0623.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 04–20323 Filed 9–7–04; 8:45 am]

BILLING CODE 6325–38–P

POSTAL SERVICE

Sunshine Act Meting

TIMES AND DATES: 11 a.m., Monday, September 13, 2004; 8:30 a.m., Tuesday, September 14, 2004.

PLACE: Boston Massachusetts, at the Hotel Commonwealth, 500 Commonwealth Avenue, in the Esplanade Room.

STATUS: September 13—11 a.m. (Closed); September 14—8:30 a.m. (Open)

MATTERS TO BE CONSIDERED:

Monday, September 13—11 a.m. (Closed)

1. Office of Inspector General Fiscal Year 2005 Budget.
2. Financial Update.
3. Fiscal Year 2005 Integrated Financial Plan Briefing.
4. Rate Case Planning
5. Strategic Planning.
6. Personnel Matters and Compensation Issues.

Tuesday, September 14—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, July 19–20, 2004.
2. Remarks of the Postmaster General and CEO.
3. Committee Reports.
4. Board of Governors Bylaw Amendments.
5. Postal Rate Commission Fiscal Year 2005 Budget.
6. Fiscal Year 2005 Annual Performance Plan-Government Performance and Results Act.
7. Fiscal Year 2005 Operating Plan.
8. Fiscal Year 2005 Capital Investment Plan.
9. Preliminary Fiscal Year 2006 Appropriation Request.
10. Capital Investments.

a. 210 automatic Induction Systems for AFSM 100.

b. Integrated Dispatch and Receipt.

c. Cargo Vans Modification Request.

d. Atlantic City, New Jersey, Main Post Office.

11. Report on the Northeast Area and Boston District.
12. Tentative Agenda for the November 4, 2004, meeting in Washington, DC.

CONTACT PERSON FOR MORE INFORMATION: William T. Johnstone, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, S.W., Washington, DC 20260–1000. Telephone (202) 268–4800.

William T. Johnstone,

Secretary.

[FR Doc. 04–20418 Filed 9–3–04; 1:42 pm]

BILLING CODE 7710–13–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50298; File No. SR–NYSE–2004–41]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto by the New York Stock Exchange, Inc. To Amend Section 303A of the NYSE Listed Company Manual Relating to Corporate Governance

August 31, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 3, 2004, the New York Stock Exchange, Inc. (''NYSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in items I, II, III below, which items have been prepared by the NYSE. The NYSE submitted Amendment No. 1 to the proposal on August 30, 2004.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to amend section 303A of the NYSE Listed Company Manual (''Listed Company Manual'') to make (i) clarifying language changes consistent with interpretations that have been provided by the Exchange in response to questions and published Frequently Asked Questions (''FAQs''), and (ii) changes to section 303A.02(b)(iii) to align it more closely with the similar standard in place at the other listing markets.

The text of the proposed rule change appears below. Proposed additions are in *italics*; proposed deletions are in brackets.

* * * * *

Listed Company Manual

* * * * *

303A Corporate Governance Standards

General Application

Companies listed on the Exchange must comply with certain standards regarding corporate governance as codified in this Section 303A. Consistent with the NYSE's traditional approach, as well as the requirements of the Sarbanes-Oxley Act of 2002, certain provisions of Section 303A are applicable to some listed companies but not to others.

Equity Listings

Section 303A applies in full to all companies listing common equity securities, with the following exceptions:

Controlled Companies

A *listed* company of which more than 50% of the voting power is held by an individual, a group or another company need not comply with the requirements of sections 303A.01, .04 or .05. A controlled company that chooses to take advantage of any or all of these exemptions must disclose that choice, that it is a controlled company and the basis for the determination in its annual proxy statement or, if the company does not file an annual proxy statement, in the company's annual report on Form 10–K filed with the SEC. Controlled companies must comply with the remaining provisions of Section 303A.

Limited Partnerships and Companies in Bankruptcy

Due to their unique attributes, limited partnerships and companies in bankruptcy proceedings need not comply with the requirements of Sections 303A.01, .04 or .05. However, all limited partnerships (at the general partner level) and companies in bankruptcy proceedings must comply with the remaining provisions of Section 303A.

Closed-End and Open-End Funds

The Exchange considers the significantly expanded standards and requirements provided for in Section 303A to be unnecessary for closed-end and open-end management investment companies that are registered under the Investment Company Act of 1940, given the pervasive Federal regulation applicable to them. However, closed-end funds must comply with the requirements of Sections 303A.06, .07(a) and (c), and .12. Note, however, that in view of the common practice to utilize the same directors for boards in the same fund complex, closed-end funds will not be required to comply with the disclosure requirement in the second paragraph of the Commentary to 303A.07(a), which calls for disclosure of a board's determination with respect to simultaneous service on more than three public company audit committees. However, the other provisions of that paragraph will apply.

Business development companies, which are a type of closed-end management investment company defined in Section 2(a)(48) of the Investment Company Act of 1940 that are not registered under that Act, are required to comply with all of the provisions of Section 303A applicable to domestic issuers other than Sections 303A.02 and .07(b). For purposes of Sections 303A.01, .03, .04, .05, and .09, a director of a business development company shall be considered to be independent if he or she is not an ''interested person'' of the company, as defined in Section 2(a)(19) of the Investment Company Act of 1940.

As required by Rule 10A–3 under the Exchange Act, open-end funds (which can be listed as Investment Company Units, more commonly known as Exchange Traded Funds or ETFs) are required to comply with the requirements of Sections 303A.06 and .12(b) *and (c).*

Rule 10A–3(b)(3)(ii) under the Exchange Act requires that each audit committee must establish procedures for the confidential, anonymous submission by employees of the listed issuer of concerns regarding questionable accounting or auditing matters. In view of the external management structure often employed by closed-end and open-end funds, the Exchange also requires the audit committees of such companies to establish such procedures for the confidential, anonymous submission by employees of the investment adviser, administrator, principal underwriter, or any other provider of accounting related services for the management company, as well as employees of the management company. This responsibility must be addressed in the audit committee charter.

Other Entities

Except as otherwise required by Rule 10A–3 under the Exchange Act (for example, with respect to open-end funds), Section 303A does not apply to passive business organizations in the form of trusts (such as royalty trusts) or to derivatives and special purpose securities (such as those described in Sections 703.16, 703.19, 703.20 and 703.21). To the extent that Rule 10A–3 applies to a passive business organization, listed derivative or special purpose security, such entities are

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated August 27, 2004, and accompanying Form 19b–4 (''Amendment No. 1''). Amendment No. 1 changed the proposal from a filing submitted pursuant to section 19(b)(3)(A) of the Act to a proposal filed pursuant to section 19(b)(2) of the Act, made certain changes to the description of the proposal, and replaced the original filing in its entirety.

required to comply with Sections 303A.06 and .12(b).

Foreign Private Issuers

Listed companies that are foreign private issuers (as such term is defined in Rule 3b–4 under the Exchange Act) are permitted to follow home country practice in lieu of the provisions of this Section 303A, except that such companies are required to comply with the requirements of Sections 303A.06, .11 and .12(b) *and (c).*

Preferred and Debt Listings

Section 303A does not generally apply to companies listing only preferred or debt securities on the Exchange. To the extent required by Rule 10A–3 under the Exchange Act, all companies listing only preferred or debt securities on the NYSE are required to comply with the requirements of Sections 303A.06 and .12(b) *and (c).*

Effective Dates/Transition Periods

Except for Section 303A.08, which became effective June 30, 2003, listed companies will have until the earlier of their first annual meeting after January 15, 2004, or October 31, 2004, to comply with the new standards contained in Section 303A, although if a *listed* company with a classified board would be required (other than by virtue of a requirement under Section 303A.06) to change a director who would not normally stand for election in such annual meeting, the *listed* company may continue such director in office until the second annual meeting after such date, but no later than December 31, 2005. In addition, foreign private issuers will have until July 31, 2005[,] to comply with the new audit committee standards set out in Section 303A.06, *and will not be required to provide the written affirmations required by Section 303A.12(c) until after that date.* As a general matter, the existing audit committee requirements provided for in Section 303 continue to apply to listed companies pending the transition to the new rules.

Companies listing in conjunction with their initial public offering will be permitted to phase in their independent nomination and compensation committees on the same schedule as is permitted pursuant to Rule 10A–3 under the Exchange Act for audit committees, that is, one independent member at the time of listing, a majority of independent members within 90 days of listing and fully independent committees within one year. Such companies will be required to meet the majority independent board requirement within 12 months of listing. For purposes of Section 303A other than Sections 303A.06 and .12(b), a company will be considered to be listing in conjunction with an initial public offering if, immediately prior to listing, it does not have a class of common stock registered under the Exchange Act. The Exchange will also permit companies that are emerging from bankruptcy or have ceased to be controlled companies within the meaning of Section 303A to phase in independent nomination and compensation committees and majority independent boards on the same schedule as companies listing in conjunction with an initial public offering. However, for purposes of Sections 303A.06 and .12(b), a company will be considered to be listing in conjunction with an initial public offering only if it meets the conditions of Rule 10A–3(b)(1)(iv)(A) under the Exchange Act, namely, that the company was not, immediately prior to the effective date of a registration statement, required to file reports with the SEC pursuant to Section 13(a) or 15(d) of the Exchange Act.

Companies listing upon transfer from another market have 12 months from the date of transfer in which to comply with any requirement to the extent the market on which they were listed did not have the same requirement. To the extent the other market has a substantially similar requirement but also had a transition period from the effective date of that market's rule, which period had not yet expired, the company will have the same transition period as would have been available to it on the other market. This transition period for companies transferring from another market will not apply to the requirements of Section 303A.06 unless a transition period is available pursuant to Rule 10A–3 under the Exchange Act.

References to Form 10–K

There are provisions in this Section 303A that call for disclosure in a *listed* company's Form 10–K under certain circumstances. If a *listed* company subject to such a provision is not a company required to file a Form 10–K, then the provision shall be interpreted to mean the annual periodic disclosure form that the *listed* company does file with the SEC. For example, for a closed-end fund, the appropriate form would be the annual Form N–CSR. If a *listed* company is not required to file either an annual proxy statement or an annual periodic report with the SEC, the disclosure shall be made in the annual report required under Section 203.01 of the Listed Company Manual.

1. Listed companies must have a majority of independent directors.

Commentary: Effective boards of directors exercise independent judgment in carrying out their responsibilities. Requiring a majority of independent directors will increase the quality of board oversight and lessen the possibility of damaging conflicts of interest.

2. In order to tighten the definition of ''independent director'' for purposes of these standards:

(a) No director qualifies as ''independent'' unless the board of directors affirmatively determines that the director has no material relationship with the listed company (either directly or as a partner, shareholder or officer of an organization that has a relationship with the company). Companies must *identify which directors are independent and* disclose *the basis for* th*at*[ese] determination[s].

Commentary: It is not possible to anticipate, or explicitly to provide for, all circumstances that might signal potential conflicts of interest, or that might bear on the materiality of a director's relationship to a listed company [(references to ''company'' would include any parent or subsidiary in a consolidated group with the company)]. Accordingly, it is best that boards making ''independence'' determinations broadly consider all relevant facts and circumstances. In particular, when assessing the materiality of a director's relationship with the *listed* company, the board should consider the issue not merely from the standpoint of the director, but also from that of persons or organizations with which the director has an affiliation. Material relationships can include commercial, industrial, banking, consulting, legal, accounting, charitable and familial relationships, among others. However, as the concern is independence from management, the Exchange does not view ownership of even a significant amount of stock, by itself, as a bar to an independence finding. *The identity of the independent directors and* [T]*t*he basis for a board determination that a relationship is not material must be disclosed in the *listed* company's annual proxy statement or, if the company does not file an annual proxy statement, in the company's annual report on Form 10–K filed with the SEC. In this regard, a board may adopt and disclose categorical standards to assist it in making determinations of independence and may make a general disclosure if a director meets these standards. Any determination of independence for a director who does not meet these standards must be specifically explained. A company must disclose any standard it adopts. It may

then make the general statement that the independent directors meet the standards set by the board without detailing particular aspects of the immaterial relationships between individual directors and the company. In the event that a director with a business or other relationship that does not fit within the disclosed standards is determined to be independent, a board must disclose the basis for its determination in the manner described above. This approach provides investors with an adequate means of assessing the quality of a board's independence and its independence determinations while avoiding excessive disclosure of immaterial relationships.

(b) In addition, *a director is not independent if*:

(i) *The* [A] director [who] is, *or has been within the last three years,* an employee *of the listed company*, or [whose] *an* immediate family member is*, or has been within the last three years,* an executive officer,[1] of the listed company [is not independent until three years after the end of such employment relationship].

Commentary: Employment as an interim Chairman or CEO *or other executive officer* shall not disqualify a director from being considered independent following that employment.

(ii) *The* [A] director [who] *has* receive[s]*d*, or [whose] *has an* immediate family member *who has* receive[s]*d*, *during any twelve-month period within the last three years,* more than $100,000 [per year] in direct compensation from the listed company, other than director and committee fees and pension or other forms of deferred compensation for prior service (provided such compensation is not contingent in any way on continued service)[, is not independent until three years after he or she ceases to receive more than $100,000 per year in such compensation].

Commentary: Compensation received by a director for former service as an interim Chairman or CEO *or other executive officer* need not be considered in determining independence under this test. Compensation received by an immediate family member for service as a*n* [non-executive] employee of the listed company *(other than an executive officer)* need not be considered in determining independence under this test.

(iii) *(A)* The [A] director [who is affiliated with or employed by,] or *an* [whose] immediate family member is *a current partner of a firm that is the company's internal or external auditor; (B) the director is a current employee of such a firm; (C) the director has an immediate family member who is a current employee of such a firm and who participates in the firm's audit, assurance or tax compliance (but not tax planning) practice; or (D) the director or an immediate family member was within the last three years (but is no longer)* [affiliated with or employed in a professional capacity by,] *a partner or employee of such a firm and personally worked on the listed company's audit within that time* [company's a present or former internal or external auditor of the company is not ''independent'' until three years after the end of the affiliation or the employment or auditing relationship].

Commentary: For purposes of this Section 303A.02(b)(iii) only, the term ''immediate family member'' shall mean a spouse, minor child or stepchild, or an adult child or stepchild sharing a home with the director.

(iv) *The* [A] director *or an immediate family member* [who] is*, or has been within the last three years,* employed[, or whose immediate family member is employed,] as an executive officer of another company where any of the listed company's present executive officers *at the same time* serve*s or served* on that company's compensation committee [is not ''independent'' until three years after the end of such service or the employment relationship].

(v) The [A] director [who] is a[n] *current* [executive officer or an] employee, or [whose] *an* immediate family member is a[n] *current* executive officer, of a company that [makes] *has made* payments to, or receive[s]*d* payments from, the listed company for property or services in an amount which, in any [single] *of the last three* fiscal year*s*, exceeds the greater of $1 million, or 2% of such other company's consolidated gross revenues[, is not ''independent'' until three years after falling below such threshold].

Commentary: In applying the test in Section 303A.02(b)(v), both the payments and the consolidated gross revenues to be measured shall be those reported in the last completed fiscal year of such other company. The look-back provision for this test applies solely to the financial relationship between the listed company and the director or immediate family member's current employer; a listed company need not consider former employment of the director or immediate family member. [Charitable] *Contributions to tax exempt* organizations shall not be considered ''[companies] *payments*'' for purposes of Section 303A.02(b)(v), provided however that a listed company shall disclose in its annual proxy statement, or if the listed company does not file an annual proxy statement, in the company's annual report on Form 10–K filed with the SEC, any [charitable] *such* contributions made by the listed company to any [charitable] *tax exempt* organization in which *any independent* [a] director serves as an executive officer if, within the preceding three years, contributions in any single fiscal year *from the listed company to the organization* exceeded the greater of $1 million, or 2% of such [charitable] *tax exempt* organization's consolidated gross revenues. Listed company boards are reminded of their obligations to consider the materiality of any such relationship in accordance with Section 303A.02(a) above.

General Commentary to Section 303A.02(b): *Other than with respect to Section 303A.02(b)(iii),* a[A]n ''immediate family member'' includes a person's spouse, parents, children, siblings, mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law, and anyone (other than domestic employees) who shares such person's home. When applying the look-back provisions in Section 303A.02(b), listed companies need not consider individuals who are no longer immediate family members as a result of legal separation or divorce, or those who have died or become incapacitated.

In addition, references to the ''company'' would include any parent or subsidiary in a consolidated group with the company.

Transition Rule. Each of the above standards contains a three-year ''look-back'' provision. In order to facilitate a smooth transition to the new independence standards, the Exchange will phase in the ''look-back'' provisions by applying only a one-year look-back for the first year after adoption of these new standards. The three-year look-backs provided for in Section 303A.02(b) will begin to apply only from and after [insert the date which is the first anniversary of the effective date of this listing standard] *November 4, 2004.*

As an example, until [insert the date which is the day prior to the first anniversary of the effective date of this listing standard] *November 3, 2004*, a *listed* company need look back only one year when testing compensation under Section 303A.02(b)(ii). Beginning [[insert the date which is the first anniversary of the effective date of this listing standard]] *November 4, 2004*, however, the *listed* company would

[1] *For purposes of Section 303A, the term ''executive officer'' has the same meaning specified for the term ''officer'' in Rule 16a–1(f) under the Securities Exchange Act of 1934.*

need to look back the full three years provided in Section 303A.02(b)(ii).

3. To empower non-management directors to serve as a more effective check on management, the non-management directors of each *listed* company must meet at regularly scheduled executive sessions without management.

Commentary: To promote open discussion among the non-management directors, companies must schedule regular executive sessions in which those directors meet without management participation. ''Non-management'' directors are all those who are not [company] *executive* officers [(as that term is defined in Rule 16a–1(f) under the Securities Act of 1933)], and includes such directors who are not independent by virtue of a material relationship, former status or family membership, or for any other reason.

Regular scheduling of such meetings is important not only to foster better communication among non-management directors, but also to prevent any negative inference from attaching to the calling of executive sessions. [There need not be a single presiding director] *A non-management director must preside over each executive session of the non-management directors, although the same director is not required to preside* at all executive sessions of the non-management directors. If one director is chosen to preside at *all of* these meetings, his or her name must be disclosed in the *listed* company's annual proxy statement or, if the company does not file an annual proxy statement, in the company's annual report on Form 10–K filed with the SEC. Alternatively, *if the same individual is not the presiding director at every meeting,* a *listed* company [may] *must* disclose the procedure by which a presiding director is selected for each executive session. For example, a *listed* company may wish to rotate the presiding position among the chairs of board committees.

In order that interested parties may be able to make their concerns known to the non-management directors, a *listed* company must disclose a method for such parties to communicate directly with the presiding director or with the non-management directors as a group. *Such disclosure must be made in the listed company's annual proxy statement or, if the company does not file an annual proxy statement, in the company's annual report on Form 10–K filed with the SEC.* Companies may, if they wish, utilize for this purpose the same procedures they have established to comply with the requirement of Rule 10A–3 (b)(3) under the Exchange Act, as applied to listed companies through Section 303A.06.

While this Section 303A.03 refers to meetings of non-management directors, if that group includes directors who are not independent under this Section 303A, listed companies should at least once a year schedule an executive session including only independent directors.

4. (a) Listed companies must have a nominating/corporate governance committee composed entirely of independent directors.

(b) The nominating/corporate governance committee must have a written charter that addresses:

(i) The committee's purpose and responsibilities—which, at minimum, must be to: Identify individuals qualified to become board members, consistent with criteria approved by the board, and to select, or to recommend that the board select, the director nominees for the next annual meeting of shareholders; develop and recommend to the board a set of corporate governance [principles] *guidelines* applicable to the corporation; and oversee the evaluation of the board and management; and

(ii)An annual performance evaluation of the committee.

Commentary: A nominating/corporate governance committee is central to the effective functioning of the board. New director and board committee nominations are among a board's most important functions. Placing this responsibility in the hands of an independent nominating/corporate governance committee can enhance the independence and quality of nominees. The committee is also responsible for taking a leadership role in shaping the corporate governance of a corporation.

If a *listed* company is legally required by contract or otherwise to provide third parties with the ability to nominate directors (for example, preferred stock rights to elect directors upon a dividend default, shareholder agreements, and management agreements), the selection and nomination of such directors need not be subject to the nominating committee process.

The nominating/corporate governance committee charter should also address the following items: Committee member qualifications; committee member appointment and removal; committee structure and operations (including authority to delegate to subcommittees); and committee reporting to the board. In addition, the charter should give the nominating/corporate governance committee sole authority to retain and terminate any search firm to be used to identify director candidates, including sole authority to approve the search firm's fees and other retention terms.

Boards may allocate the responsibilities of the nominating/corporate governance committee to committees of their own denomination, provided that the committees are composed entirely of independent directors. Any such committee must have a published committee charter.

5. (a) Listed companies must have a compensation committee composed entirely of independent directors.

(b) The compensation committee must have a written charter that addresses:

(i) The committee's purpose and responsibilities—which, at minimum, must be to have direct responsibility to:

(A) Review and approve corporate goals and objectives relevant to CEO compensation, evaluate the CEO's performance in light of those goals and objectives, and, either as a committee or together with the other independent directors (as directed by the board), determine and approve the CEO's compensation level based on this evaluation; and

(B) Make recommendations to the board with respect to non-CEO *executive officer* compensation, *and* incentive-compensation [plans] and equity-based plans *that are subject to board approval*; and

(C) Produce a compensation committee report on executive *officer* compensation as required by the SEC to be included in the *listed* company's annual proxy statement or annual report on Form 10–K filed with the SEC;

(ii) An annual performance evaluation of the compensation committee.

Commentary: In determining the long-term incentive component of CEO compensation, the committee should consider the *listed* company's performance and relative shareholder return, the value of similar incentive awards to CEOs at comparable companies, and the awards given to the listed company's CEO in past years. To avoid confusion, note that the compensation committee is not precluded from approving awards (with or without ratification of the board) as may be required to comply with applicable tax laws (*i.e.,* Rule 162(m)). *Note also that nothing in Section 303A.05(b)(i)(B) is intended to preclude the board from delegating its authority over such matters to the compensation committee.*

The compensation committee charter should also address the following items: Committee member qualifications; committee member appointment and removal; committee structure and

operations (including authority to delegate to subcommittees); and committee reporting to the board.

Additionally, if a compensation consultant is to assist in the evaluation of director, CEO or [senior] executive *officer* compensation, the compensation committee charter should give that committee sole authority to retain and terminate the consulting firm, including sole authority to approve the firm's fees and other retention terms.

Boards may allocate the responsibilities of the compensation committee to committees of their own denomination, provided that the committees are composed entirely of independent directors. Any such committee must have a published committee charter.

Nothing in this provision should be construed as precluding discussion of CEO compensation with the board generally, as it is not the intent of this standard to impair communication among members of the board.

6. Listed companies must have an audit committee that satisfies the requirements of Rule 10A–3 under the Exchange Act.

Commentary: The Exchange will apply the requirements of Rule 10A–3 in a manner consistent with the guidance provided by the Securities and Exchange Commission in SEC Release No. 34–47654 (April 1, 2003). Without limiting the generality of the foregoing, the Exchange will provide companies the opportunity to cure defects provided in Rule 10A–3(a)(3) under the Exchange Act.

7. (a) The audit committee must have a minimum of three members.

Commentary: Each member of the audit committee must be financially literate, as such qualification is interpreted by the *listed* company's board in its business judgment, or must become financially literate within a reasonable period of time after his or her appointment to the audit committee. In addition, at least one member of the audit committee must have accounting or related financial management expertise, as the *listed* company's board interprets such qualification in its business judgment. While the Exchange does not require that a listed company's audit committee include a person who satisfies the definition of audit committee financial expert set out in Item 401*(h)* [(e)] of Regulation S–K, a board may presume that such a person has accounting or related financial management expertise.

Because of the audit committee's demanding role and responsibilities, and the time commitment attendant to committee membership, each prospective audit committee member should evaluate carefully the existing demands on his or her time before accepting this important assignment. Additionally, if an audit committee member simultaneously serves on the audit committees of more than three public companies, and the listed company does not limit the number of audit committees on which its audit committee members serve *to three or less*, then in each case, the board must determine that such simultaneous service would not impair the ability of such member to effectively serve on the listed company's audit committee and disclose such determination in the *listed* company's annual proxy statement or, if the company does not file an annual proxy statement, in the company's annual report on Form 10–K filed with the SEC.

(b) In addition to any requirement of Rule 10A–3(b)(1), all audit committee members must satisfy the requirements for independence set out in Section 303A.02.

(c) The audit committee must have a written charter that addresses:

(i) The committee's purpose—which, at minimum, must be to:

(A) Assist board oversight of (1) the integrity of the *listed* company's financial statements, (2) the *listed* company's compliance with legal and regulatory requirements, (3) the independent auditor's qualifications and independence, and (4) the performance of the *listed* company's internal audit function and independent auditors; and

(B) Prepare an audit committee report as required by the SEC to be included in the *listed* company's annual proxy statement;

(ii) An annual performance evaluation of the audit committee; and

(iii) The duties and responsibilities of the audit committee—which, at a minimum, must include those set out in Rule 10A–3(b)(2), (3), (4) and (5) of the Exchange Act , as well as to:

(A) At least annually, obtain and review a report by the independent auditor describing: the firm's internal quality-control procedures; any material issues raised by the most recent internal quality-control review, or peer review, of the firm, or by any inquiry or investigation by governmental or professional authorities, within the preceding five years, respecting one or more independent audits carried out by the firm, and any steps taken to deal with any such issues; and (to assess the auditor's independence) all relationships between the independent auditor and the *listed* company;

Commentary: After reviewing the foregoing report and the independent auditor's work throughout the year, the audit committee will be in a position to evaluate the auditor's qualifications, performance and independence. This evaluation should include the review and evaluation of the lead partner of the independent auditor. In making its evaluation, the audit committee should take into account the opinions of management and the *listed* company's internal auditors (or other personnel responsible for the internal audit function). In addition to assuring the regular rotation of the lead audit partner as required by law, the audit committee should further consider whether, in order to assure continuing auditor independence, there should be regular rotation of the audit firm itself. The audit committee should present its conclusions with respect to the independent auditor to the full board.

(B) *Meet to review and* discuss the *listed* company's annual audited financial statements and quarterly financial statements with management and the independent auditor, including *reviewing* the company's *specific* disclosures under ''Management's Discussion and Analysis of Financial Condition and Results of Operations';

(C) Discuss the *listed* company's earnings press releases, as well as financial information and earnings guidance provided to analysts and rating agencies;

Commentary: The audit committee's responsibility to discuss earnings releases, as well as financial information and earnings guidance, may be done generally (i.e., discussion of the types of information to be disclosed and the type of presentation to be made). The audit committee need not discuss in advance each earnings release or each instance in which a *listed* company may provide earnings guidance.

(D) Discuss policies with respect to risk assessment and risk management;

Commentary: While it is the job of the CEO and senior management to assess and manage the *listed* company's exposure to risk, the audit committee must discuss guidelines and policies to govern the process by which this is handled. The audit committee should discuss the *listed* company's major financial risk exposures and the steps management has taken to monitor and control such exposures. The audit committee is not required to be the sole body responsible for risk assessment and management, but, as stated above, the committee must discuss guidelines and policies to govern the process by which risk assessment and management is undertaken. Many companies,

particularly financial companies, manage and assess their risk through mechanisms other than the audit committee. The processes these companies have in place should be reviewed in a general manner by the audit committee, but they need not be replaced by the audit committee.

(E) Meet separately, periodically, with management, with internal auditors (or other personnel responsible for the internal audit function) and with independent auditors;

Commentary: To perform its oversight functions most effectively, the audit committee must have the benefit of separate sessions with management, the independent auditors and those responsible for the internal audit function. As noted herein, all listed companies must have an internal audit function. These separate sessions may be more productive than joint sessions in surfacing issues warranting committee attention.

(F) Review with the independent auditor any audit problems or difficulties and management's response;

Commentary: The audit committee must regularly review with the independent auditor any difficulties the auditor encountered in the course of the audit work, including any restrictions on the scope of the independent auditor's activities or on access to requested information, and any significant disagreements with management. Among the items the audit committee may want to review with the auditor are: Any accounting adjustments that were noted or proposed by the auditor but were ''passed'' (as immaterial or otherwise); any communications between the audit team and the audit firm's national office respecting auditing or accounting issues presented by the engagement; and any ''management'' or ''internal control'' letter issued, or proposed to be issued, by the audit firm to the *listed* company. The review should also include discussion of the responsibilities, budget and staffing of the *listed* company's internal audit function.

(G) Set clear hiring policies for employees or former employees of the independent auditors; and

Commentary: Employees or former employees of the independent auditor are often valuable additions to corporate management. Such individuals' familiarity with the business, and personal rapport with the employees, may be attractive qualities when filling a key opening. However, the audit committee should set hiring policies taking into account the pressures that may exist for auditors consciously or subconsciously seeking a job with the company they audit.

(H) Report regularly to the board of directors.

Commentary: The audit committee should review with the full board any issues that arise with respect to the quality or integrity of the *listed* company's financial statements, the company's compliance with legal or regulatory requirements, the performance and independence of the company's independent auditors, or the performance of the internal audit function.

General Commentary to Section 303A.07(c): While the fundamental responsibility for the *listed* company's financial statements and disclosures rests with management and the independent auditor, the audit committee must review: (A) Major issues regarding accounting principles and financial statement presentations, including any significant changes in the company's selection or application of accounting principles, and major issues as to the adequacy of the company's internal controls and any special audit steps adopted in light of material control deficiencies; (B) analyses prepared by management and/or the independent auditor setting forth significant financial reporting issues and judgments made in connection with the preparation of the financial statements, including analyses of the effects of alternative GAAP methods on the financial statements; (C) the effect of regulatory and accounting initiatives, as well as off-balance sheet structures, on the financial statements of the *listed* company; and (D) the type and presentation of information to be included in earnings press releases (paying particular attention to any use of ''pro forma,'' or ''adjusted'' non-GAAP, information), as well as review any financial information and earnings guidance provided to analysts and rating agencies.

(d) Each listed company must have an internal audit function.

Commentary: Listed companies must maintain an internal audit function to provide management and the audit committee with ongoing assessments of the company's risk management processes and system of internal control. A *listed* company may choose to outsource this function to a third party service provider other than its independent auditor.

General Commentary to Section 303A.07: To avoid any confusion, note that the audit committee functions specified in Section 303A.07 are the sole responsibility of the audit committee and may not be allocated to a different committee.

8. No change.

9. Listed companies must adopt and disclose corporate governance guidelines.

Commentary: No single set of guidelines would be appropriate for every *listed* company, but certain key areas of universal importance include director qualifications and responsibilities, responsibilities of key board committees, and director compensation. Given the importance of corporate governance, each listed company's website must include its corporate governance guidelines and the charters of its most important committees (including at least the audit, and if applicable, compensation and nominating committees). [Each] *The listed* company['s] *must state in its annual proxy statement or, if the company does not file an annual proxy statement, in the company's* annual report on Form 10-K filed with the SEC [must state] that the foregoing information is available on its website, and that the information is available in print to any shareholder who requests it. Making this information publicly available should promote better investor understanding of the *listed* company's policies and procedures, as well as more conscientious adherence to them by directors and management.

The following subjects must be addressed in the corporate governance guidelines:

- Director qualification standards. These standards should, at minimum, reflect the independence requirements set forth in Sections 303A.01 and .02. Companies may also address other substantive qualification requirements, including policies limiting the number of boards on which a director may sit, and director tenure, retirement and succession.
- Director responsibilities. These responsibilities should clearly articulate what is expected from a director, including basic duties and responsibilities with respect to attendance at board meetings and advance review of meeting materials.
- Director access to management and, as necessary and appropriate, independent advisors.
- Director compensation. Director compensation guidelines should include general principles for determining the form and amount of director compensation (and for reviewing those principles, as appropriate). The board should be aware that questions as to directors' independence may be raised when directors' fees and emoluments exceed

what is customary. Similar concerns may be raised when the *listed* company makes substantial charitable contributions to organizations in which a director is affiliated, or enters into consulting contracts with (or provides other indirect forms of compensation to) a director. The board should critically evaluate each of these matters when determining the form and amount of director compensation, and the independence of a director.

• Director orientation and continuing education.

• Management succession. Succession planning should include policies and principles for CEO selection and performance review, as well as policies regarding succession in the event of an emergency or the retirement of the CEO.

• Annual performance evaluation of the board. The board should conduct a self-evaluation at least annually to determine whether it and its committees are functioning effectively.

10. Listed companies must adopt and disclose a code of business conduct and ethics for directors, officers and employees, and promptly disclose any waivers of the code for directors or executive officers.

Commentary: No code of business conduct and ethics can replace the thoughtful behavior of an ethical director, officer or employee. However, such a code can focus the board and management on areas of ethical risk, provide guidance to personnel to help them recognize and deal with ethical issues, provide mechanisms to report unethical conduct, and help to foster a culture of honesty and accountability.

Each code of business conduct and ethics must require that any waiver of the code for executive officers or directors may be made only by the board or a board committee and must be promptly disclosed to shareholders. This disclosure requirement should inhibit casual and perhaps questionable waivers, and should help assure that, when warranted, a waiver is accompanied by appropriate controls designed to protect the *listed* company. It will also give shareholders the opportunity to evaluate the board's performance in granting waivers.

Each code of business conduct and ethics must also contain compliance standards and procedures that will facilitate the effective operation of the code. These standards should ensure the prompt and consistent action against violations of the code. Each listed company's website must include its code of business conduct and ethics. [Each] *The listed* company['s] *must state in its annual proxy statement or, if the company does not file an annual proxy statement, in the company's* annual report on Form 10–K filed with the SEC [must state], that the foregoing information is available on its website and that the information is available in print to any shareholder who requests it.

Each *listed* company may determine its own policies, but all listed companies should address the most important topics, including the following:

• Conflicts of interest. A ''conflict of interest'' occurs when an individual's private interest interferes in any way—or even appears to interfere—with the interests of the corporation as a whole. A conflict situation can arise when an employee, officer or director takes actions or has interests that may make it difficult to perform his or her company work objectively and effectively. Conflicts of interest also arise when an employee, officer or director, or a member of his or her family, receives improper personal benefits as a result of his or her position in the company. Loans to, or guarantees of obligations of, such persons are of special concern. The *listed* company should have a policy prohibiting such conflicts of interest, and providing a means for employees, officers and directors to communicate potential conflicts to the *listed* company.

• Corporate opportunities. Employees, officers and directors should be prohibited from (a) taking for themselves personally opportunities that are discovered through the use of corporate property, information or position; (b) using corporate property, information, or position for personal gain; and (c) competing with the company. Employees, officers and directors owe a duty to the company to advance its legitimate interests when the opportunity to do so arises.

• Confidentiality. Employees, officers and directors should maintain the confidentiality of information entrusted to them by the *listed* company or its customers, except when disclosure is authorized or legally mandated. Confidential information includes all non-public information that might be of use to competitors, or harmful to the company or its customers, if disclosed.

• Fair dealing. Each employee, officer and director should endeavor to deal fairly with the company's customers, suppliers, competitors and employees. None should take unfair advantage of anyone through manipulation, concealment, abuse of privileged information, misrepresentation of material facts, or any other unfair-dealing practice. *Listed* [C]*c*ompanies may write their codes in a manner that does not alter existing legal rights and obligations of companies and their employees, such as ''at will'' employment arrangements.

• Protection and proper use of company assets. All employees, officers and directors should protect the company's assets and ensure their efficient use. Theft, carelessness and waste have a direct impact on the *listed* company's profitability. All company assets should be used for legitimate business purposes.

• Compliance with laws, rules and regulations (including insider trading laws). The *listed* company should proactively promote compliance with laws, rules and regulations, including insider trading laws. Insider trading is both unethical and illegal, and should be dealt with decisively.

• Encouraging the reporting of any illegal or unethical behavior. The *listed* company should proactively promote ethical behavior. The company should encourage employees to talk to supervisors, managers or other appropriate personnel when in doubt about the best course of action in a particular situation. Additionally, employees should report violations of laws, rules, regulations or the code of business conduct to appropriate personnel. To encourage employees to report such violations, the *listed* company must ensure that employees know that the company will not allow retaliation for reports made in good faith.

11. Listed foreign private issuers must disclose any significant ways in which their corporate governance practices differ from those followed by domestic companies under NYSE listing standards.

Commentary: Foreign private issuers must make their U.S. investors aware of the significant ways in which their [home country] *corporate governance* practices differ from those [followed by] *required of* domestic companies under NYSE listing standards. However, foreign private issuers are not required to present a detailed, item-by-item analysis of these differences. Such a disclosure would be long and unnecessarily complicated. Moreover, this requirement is not intended to suggest that one country's corporate governance practices are better or more effective than another. The Exchange believes that U.S. shareholders should be aware of the significant ways that the governance of a listed foreign private issuer differs from that of a U.S. listed company. The Exchange underscores that what is required is a brief, general summary of the significant differences, not a cumbersome analysis.

Listed foreign private issuers may provide this disclosure either on their web site (provided it is in the English language and accessible from the United States) and/or in their annual report as distributed to shareholders in the United States in accordance with Sections 103.00 and 203.01 of the Listed Company Manual (again, in the English language). If the disclosure is only made available on the web site, the annual report shall so state and provide the web address at which the information may be obtained.

12. (a) Each listed company CEO must certify to the NYSE each year that he or she is not aware of any violation by the company of NYSE corporate governance listing standards*, qualifying the certification to the extent necessary*.

Commentary: The CEO's annual certification [to the NYSE that, as of the date of certification, he or she is unaware of any violation by the company of] *regarding* the NYSE's corporate governance listing standards will focus the CEO and senior management on the *listed* company's compliance with the listing standards. Both this certification to the NYSE, *including any qualifications to that certification,* and any CEO/CFO certifications required to be filed with the SEC regarding the quality of the *listed* company's public disclosure, must be disclosed in the company's annual report to shareholders or, if the company does not prepare an annual report to shareholders, in the company's annual report on Form 10–K filed with the SEC.

(b) Each listed company CEO must promptly notify the NYSE in writing after any executive officer of the listed company becomes aware of any material non-compliance with any applicable provisions of this Section 303A.

(c) Each listed company must submit an executed Written Affirmation annually to the NYSE. In addition, each listed company must submit an interim Written Affirmation each time a change occurs to the board or any of the committees subject to Section 303A. The annual and interim Written Affirmations must be in the form specified by the NYSE.

13. The NYSE may issue a public reprimand letter to any listed company that violates a NYSE listing standard.

Commentary: Suspending trading in or delisting a *listed* company can be harmful to the very shareholders that the NYSE listing standards seek to protect; the NYSE must therefore use these measures sparingly and judiciously. For this reason it is appropriate for the NYSE to have the ability to apply a lesser sanction to deter companies from violating its corporate governance (or other) listing standards. Accordingly, the NYSE may issue a public reprimand letter to any listed company, regardless of type of security listed or country of incorporation, that it determines has violated a NYSE listing standard. For companies that repeatedly or flagrantly violate NYSE listing standards, suspension and delisting remain the ultimate penalties. For clarification, this lesser sanction is not intended for use in the case of companies that fall below the financial and other continued listing standards provided in Chapter 8 of the Listed Company Manual or that fail to comply with the audit committee standards set out in Section 303A.06. The processes and procedures provided for in Chapter 8 govern the treatment of companies falling below those standards.

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The NYSE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A.Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On November 4, 2003, the Commission approved Section 303A of the Listed Company Manual.[4] Section 303A sets out the Exchange's corporate governance requirements applicable to listed companies. Since the date that Section 303A was approved, the Exchange staff has received numerous phone calls and e-mail requests for clarification and interpretations of these standards. Many of the questions and interpretive requests focused on similar issues or specific language that was causing confusion. Most have related to Section 303A.02(b), which establishes five bright line tests that directors must satisfy in order to be eligible to be deemed independent for purposes of board and committee membership.

On January 29, 2004, the Exchange posted a series of FAQs relating to Section 303A on the Exchange's Web site at *http://www.nyse.com*. The Exchange subsequently updated these FAQs on February 13, 2004, to provide further clarification and additional interpretations.

Based on the FAQs and the NYSE's experiences in working with listed companies and their legal counsels on issues and questions related to Section 303A, the Exchange has noted several issues which need clarification or, in one case, change.

The following outlines the proposed amendments to Section 303A of the Listed Company Manual:

Section 303A.02—Independence definition

The Exchange proposes to amend Section 303A.02(a) of the Listed Company Manual to clarify that companies are required to identify which of their directors have been deemed independent. The Exchange has been of the opinion that the existing language strongly implied that obligation, but believes it is appropriate to make the language explicit to remove any ambiguity.

The Exchange proposes to amend Section 303A.02(b)(i) of the Listed Company Manual to add a definition of the term ''executive officer.'' The Exchange also proposes to make minor cleanup changes throughout Section 303A to provide consistency when utilizing this term. Additionally, the Exchange proposes to amend the commentary to Sections 303A.02(b)(i) and (ii) to clarify that service as an interim executive officer (and not just an interim Chairman or CEO, as currently provided) will not trigger the look-back provisions in those sections.

The Exchange proposes to amend Section 303A.02(b) of the Listed Company Manual to reformulate the wording of the bright line independence tests to more accurately reflect how the applicable look-back periods should be applied. The Exchange also believes the reformulated language is considerably easier to read and understand.

One of the most significant language difficulties presented was in Section 303A.02(b)(ii) of the Listed Company Manual, which precludes independence where a director or family member receives more than $100,000 in direct compensation. The wording suggested that under certain circumstances the look-back period might be as long as four years. The revised formulation would make clear that the period should not be longer than 36 months.

The Exchange proposes to revise the *Commentary* to Section 303A.02(b)(v) of the Listed Company Manual to clarify

[4] *See* Securities Exchange Act Release No. 48745 (November 4, 2003), 68 FR 64154 (November 12, 2003) (SR–NYSE–2002–33).

the treatment of contributions under this test. The language as originally adopted referred to ''charitable organizations.'' According to the Exchange, it has become clear through discussions with listed company representatives that a company can have business relationships (as a vendor, for example) with a charitable organization, and the Exchange believes there is no reason why payments related to such business relationships should not be covered by the test in (b)(v). What the Exchange intended to distinguish, and to cover with disclosure under the *Commentary*, are ''contributions≥ made to a charitable or tax exempt organization.

The NYSE is proposing a change to the substance of Section 303A.02(b)(iii) of the Listed Company Manual, which precludes independence where a director or family member is employed by, or affiliated with, a present or former internal or external auditor. According to the NYSE, a number of companies are finding directors precluded from independence because of past personal or family member affiliations with an auditing firm, even though the person involved never worked on the listed company account. The Exchange notes that the standards of the Nasdaq Stock Market, Inc. (''Nasdaq'') and the American Stock Exchange LLC (''Amex'') are more narrow than the current NYSE standard. For example, the Nasdaq and Amex standards implicate only former partners or employees of the audit firm who worked on the company's audit. Accordingly, the Exchange proposes to revise its standard so that it would cover any director or immediate family member who is a current partner of the audit firm, any director who is a current employee of the audit firm, any immediate family member who is a current employee of the audit firm participating in the firm's audit, assurance or tax compliance (but not tax planning) practice, and any former partner or employee of the audit firm who personally worked on the listed company's audit during the past three years. Finally, the Exchange states that to avoid what many believed to be the overbroad definition of ''immediate family member'' in connection with this standard, the definition of that term for purposes only of Section 303A.02(b)(iii) would be revised to parallel the description of family member utilized by the Commission in Exchange Act Rule 10A–3(e)(8).[5]

As a result of the proposed change to Section 303A.02(b)(iii) of the Listed Company Manual, there is a category of person that would not have been impacted by existing Section 303A.02(b)(iii) that would be precluded from independence under the revised standard, namely, a director with a family member who is a current partner of the audit firm. Under the existing standard, such a family member did not impact the director's independence if the family member did not act in ''a professional capacity'' at the audit firm. Under the revised standard, any family member who is a current partner of the audit firm would preclude the director from being considered independent. To avoid suddenly changing the status of a current director, the Exchange would give companies until their first annual meeting after January 1, 2005, to replace a director who was independent under the NYSE's existing rule but not under the revised rule.

Section 303A.03—Requirements for Non-Management Directors

The Exchange proposes to revise Section 303A.05(b) of the Listed Company Manual to clarify that a non-management director must preside over each executive session of the non-management directors, although the same director is not required to preside at all executive sessions of the non-management directors.

Section 303A.05—Requirements for Compensation Committees

The Exchange proposes to revise Section 303A.05(b) of the Listed Company Manual to clarify that the non-CEO compensation on which the committee should focus is that of the executive officers. The Exchange also proposes to make clear that the board has the ability to delegate its authority to approve non-CEO executive officer compensation to the compensation committee.

Section 303A.07—Duties of the Audit Committee

The Exchange proposes to revise Section 303A.07(c)(iii)(B) of the Listed Company Manual to clarify that the audit committee must meet to review and discuss the company's financial statements and must review the company's specific Management's Discussion and Analysis disclosures.

Sections 303A.09 and .10—Disclosures of Guidelines and Codes

The Exchange proposes to amend Sections 303A.09 and .10 of the Listed Company Manual to specify that the disclosure must be in the annual proxy statement (or, if the company does not file a proxy statement, then in the Form 10–K), in order to be consistent with the other disclosure requirements of Section 303A.

Section 303A.11—Foreign Private Issuer Disclosures

The Exchange proposes to amend Section 303A.11 of the Listed Company Manual to clarify that foreign private issuers are required to provide disclosure of the significant differences between the Section 303A requirements and the actual corporate governance practices of the foreign private issuer, as opposed to the general corporate governance practices of the foreign private issuer's home country.

Section 303A.12—Certifications and Affirmations

The Exchange proposes to amend the language of Section 303A.12 of the Listed Company Manual to clarify that any qualifications to the annual CEO certification must be specified and disclosed. The Exchange also proposes to add Section 303A.12(c) to specifically require that companies submit Annual and Interim Written Affirmations to the NYSE. The NYSE believes this clarifies the Exchange's intention to carry forward the written affirmation requirement currently found in Section 303 of the Listed Company Manual. Proposed Section 303A.12(c) is the mechanism by which listed companies would be required to provide the NYSE with ongoing details of compliance or non-compliance with Section 303A. The proposed changes would also amend the General Application of Section 303A of the Listed Company Manual to specify that listed Exchange Traded Funds that are open-end management investment companies, foreign private issuers, and preferred and debt listed companies (to the extent such companies must comply with Section 303A.06 of the Listed Company Manual) would be required to submit the Annual and Interim Written Affirmations.

2. Statutory Basis

The NYSE states that the basis for the proposed rule change under the Act is the requirement under Section 6(b)(5) under the Act[6] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

[5] 17 CFR 240.10A–3(e)(8).

[6] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve such proposed rule change, as amended; or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2004–41 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–NYSE–2004–41. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2004–41 and should be submitted on or before September 29, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E4–2090 Filed 9–7–04; 8:45 am]

BILLING CODE 8010–01–P

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–50296; File No. SR–PCX–2004–49]

Self-Regulatory Organizations; Pacific Exchange, Inc; Order Approving a Proposed Rule Change To Amend Rules Governing the Archipelago Exchange by Adding a New Order Modifier Entitled ''Don't Arb Me''

August 31, 2004.

On June 3, 2004, the Pacific Exchange, Inc. (''PCX'' or ''Exchange''), through its wholly owned subsidiary, PCX Equities, Inc. (''PCXE''), filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its rules governing the Archipelago Exchange (''ArcaEx''), the equities trading facility of PCXE, to add a new order type entitled the ''Don't Arb Me'' modifier. The proposed rule change was published for comment in the **Federal Register** on July 28, 2004.[3] The Commission received no comment letters on the proposal. This order approves the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[4] In particular, the Commission believes that the proposed rule change is consistent with section 6(b)(5) of the Act,[5] which requires, among other things, that the rules of the Exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and, in general, to protect investors and the public interest. In addition, the Commission believes that the proposed rule change is consistent with provisions of section 11A(a)(1)(C)(i) of the Act,[6] which states that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure economically efficient execution of securities transactions.

Specifically, the Commission believes that the proposal should promote increased efficiency and effectiveness in the Exchange's market operation and enhanced investment choices available to investors over a broad range of trading scenarios. The Commission also believes that allowing the Exchange to implement the ''Don't Arb Me'' modifier should facilitate enhanced order interaction and foster price competition. In addition, the Commission notes that the ''Don't Arb Me'' modifier was developed in response to Exchange participants' requests for the additional functionality.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change, as amended, (SR–PCX–2004–49) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. E4–2091 Filed 9–7–04; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 50054 (July 21, 2004), 69 FR 45104.

[4] In approving this proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78k–1(a)(1)(C)(i).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #P047; Amendment #3]

State of Kansas

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective August 18, 2004, the above numbered Public Assistance declaration is hereby amended to include Rooks and Woodson Counties in the State of Kansas as disaster areas due to damages caused by severe storms, flooding and tornadoes occurring on June 12, 2004, and continuing through July 25, 2004.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is October 4, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59008.)

Dated: August 30, 2004.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 04–20303 Filed 9–7–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #P048; Amendment #1]

Commonwealth of Kentucky

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective August 19, 2004, the above numbered Public Assistance declaration is hereby amended to include Shelby County in the Commonwealth of Kentucky as a disaster area due to damages caused by severe storms and flooding occurring on July 13, 2004, and continuing through July 15, 2004.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is October 5, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59008.)

Dated: August 31, 2004.

Cheri L. Cannon,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 04–20304 Filed 9–7–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #P049]

State of Nevada

As a result of the President's major disaster declaration for Public Assistance on August 26, 2004, the U.S. Small Business Administration is activating its disaster loan program only for private non-profit organizations that provide essential services of a governmental nature. I find that Carson City County in the State of Nevada constitutes a disaster area due to damages caused by wildland fire occurring on July 14 through July 27, 2004. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 25, 2004, at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 419004, Sacramento, CA 95841–9004.

The interest rates are:

	Percent
For Physical Damage:	
Non-profit organizations without credit available elsewhere	2.750
Non-profit organizations with credit available elsewhere	4.875

The number assigned to this disaster for physical damage is P04905.

(Catalog of Federal Domestic Assistance Program Nos. 59008.)

Dated: August 31, 2004.

Cheri L. Cannon,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 04–20305 Filed 9–7–04; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #P046; Amendment #1]

State of New York

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective August 18, 2004, the above numbered Public Assistance declaration is hereby amended to include Hamilton County in the State of New York as a disaster area due to damages caused by severe storms and flooding occurring on May 13, 2004, and continuing through June 17, 2004.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is October 4, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59008.)

Dated: August 30, 2004.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 04–20302 Filed 9–7–04; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for revisions to OMB-approved information collections and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Building, Room 10235, 725 17th St., NW., Washington, DC 20503. Fax: 202–395–6974.

(SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1338 Annex Building, 6401 Security Blvd., Baltimore, MD 21235. Fax: 410–965–6400.

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–0454 or by writing to the address listed above.

1. Contact with the Representative Payee and Contact with Beneficiary—0960–0639. SSA will use the SSA–

L4945, Contact with the Representative Payee, and SSA–L4947, Contact with Beneficiary, to inform respondents and conduct quality reviews of payments made under the titles II and XVI (Old-Age, Survivors and Disability Insurance/ Supplemental Security Income) programs. Cases for the review will be selected randomly and the information solicited will be used for verification of payment data on record in the claims folder and SSA's Master Beneficiary Record. Form SSA–L4945 will be used to notify Representative Payees who have the responsibility of managing payments for an SSA Beneficiary that the case has been selected for the review process and to request the required information. Form SSA–L4947 will be used to notify beneficiaries that their case has been selected for the review process and request the needed information. Both letters contain information that must be verified and returned to SSA under the review process. The respondents are beneficiaries and representative payees for beneficiaries receiving title II and title XVI benefits.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 200.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 50 hours.

2. Early Intervention Project/ Employment Services Provider Survey/ 0960–NEW.

Background

The Employment Services Provider Survey is being conducted as part of a process demonstration authorized by the Ticket to Work and Work Incentives Improvement Act of 1999. The process demonstration, Early Intervention (EI), will provide employment services and supports to certain applicants for Social Security disability insurance.

The purpose of the Early Intervention Project is to encourage applicants to begin the return to work process immediately after the onset of a disability. Many experts believe early intervention to be one of the most important factors in successful rehabilitation. Therefore, EI will immediately focus on a person's ability to work as opposed to proving they are unable to work as they do during the existing title II disability determination process. The proposed process demonstration is necessary to test the instruments and procedures targeted towards these objectives.

The EI Survey

Beginning in early 2005, EI will be piloted in three states. In New Mexico, EI will be piloted in the Albuquerque, Roswell/Carlsbad/Hobbs and Clovis areas. In Vermont, EI will be piloted throughout the entire state. In Wisconsin, EI will be piloted in the following counties: Green, Jefferson, Rock, Walworth, and Waukesha.

Information collected through the IE survey will be used by SSA for the purposes of project design, implementation and evaluation. The information will assist in designing how linkages are formed between participants and providers for EI. SSA's EI project staff will use the information to identify appropriate employment service providers for project participants. Project evaluators will use the information collected from the survey as a baseline assessment of the provider market in each area. The respondents to the IE survey are employment service providers in the pilot states.

Type of Request: New information collection.

Number of Respondents: 150.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 75 hours.

II. The information collection listed below has been submitted to OMB for clearance. Your comments on the information collection would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

1. Authorization for the Social Security Administration to Obtain Account Records from a Financial Institution—20 CFR 416.200 and 416.203—0960–0293. Form SSA–4641–U2 provides financial institutions with the customer's authorization to disclose records. Responses to the questions are used, in part, to determine whether resource requirements are met in the Supplemental Security Income program. The respondents are financial institutions (banks, savings and loans, credit unions, *etc.*).

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 500,000.

Frequency of Response: 1.

Average Burden per Response: 6 minutes.

Estimated Annual Burden: 50,000 hours.

Dated: September 1, 2004.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 04–20264 Filed 9–7–04; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974 as Amended; Computer Matching Program (SSA/ Department of Veterans Affairs (VA) Veterans Benefit Administration (VBA) Match Number 1008

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a renewal of a computer matching program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a renewal of a computer matching program that SSA will conduct with VBA.

DATES: SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice either by telefax to (410) 965–8582 or writing to the Associate Commissioner for Income Security Programs, 245 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Income Security Programs as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), amended the Privacy Act (5 U.S.C. § 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a

system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: August 23, 2004.

Martin H. Gerry,

Deputy Commissioner for Disability and Income Security Programs.

(SSA Match 1008)
Notice of Computer Matching Program (SSA/ Department of Veterans Affairs (VA) Veterans Benefit Administration (VBA) Match Number 1008

A. PARTICIPATING AGENCIES

SSA and VBA.

B. PURPOSE OF THE MATCHING PROGRAM

The purpose of this matching program is to establish conditions for VBA as the source agency, to disclose VA compensation and pension payment data to the SSA, the recipient agency. This disclosure will provide SSA with information necessary to identify certain Supplemental Security Income (SSI) and Special Veterans Benefit (SVB) recipients under Title XVI and Title VIII of the Social Security Act (''Act'') respectively who receive VA-administered benefits, and to update their SSI/SVB records to reflect the presence of such payments.

The disclosure will also enable SSA to efficiently implement a Medicare outreach program mandated by Section 1144 of Title XI of the Act. Information disclosed by the VA will enable SSA to identify income limits for certain individuals and to determine their potential eligibility for Medicare Savings Programs (MSP) and enable SSA, in turn, to identify these individuals to the States.

C. AUTHORITY FOR CONDUCTING THE MATCHING PROGRAM

The legal authority for SSA to conduct this matching activity is contained in sections 1631(e)(1)(B) and 1631(f) of the Act, 42 U.S.C. 1383(e)(1)(B) and 1383(f)(SSI), and section 806(b) of the Act, 42 U.S.C 1006(b)(SVB) and section 1144 of the Act, 42 U.S.C § 1320b-14. SSA is required to verify declarations of applicants for and recipients of SSI payments before making a determination of eligibility or payment amount. Section 1631(f) of the Act (42 U.S.C. § 1383(f)(SSI) cited above requires Federal agencies to provide SSA with information necessary to verify SSI eligibility or benefit amounts or to verify other information related to these determinations.

CATEGORIES OF RECORDS AND INDIVIDUALS COVERED BY THE MATCHING AGREEMENT

VBA will disclose to SSA the data file as described below: VBA will provide SSA with electronic files containing compensation and pension payment data from its system of records entitled the Compensation, Pension, Education and Rehabilitation Records-VA (58VA21/22). SSA will then match VBA data with SSI/SVB payment information maintained in its system of records entitled Supplemental Security Income Record and Special Veterans Benefits (SSA/OEEAS 60–0103) most recently published at 66 FR 11079, dated 02/21/2001. Routine use 21 of 58VA21/22 and routine use 3 of 60–0103 permit disclosure of the subject records for matching purposes.

INCLUSIVE DATES OF THE MATCH

The matching agreement for this program shall become effective no sooner than 40 days after notice of the matching program is sent to Congress and the Office of Management and Budget (OMB) or 30 days after publication of this notice in the **Federal Register** whichever is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 04–20322 Filed 9–7–04; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 4826]

Culturally Significant Objects Imported for Exhibition; Determinations: ''Queen of Sheba: Legend and Reality, Treasures of the British Museum''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985; 22 U.S.C. 2459], Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition, ''Queen of Sheba: Legend and Reality, Treasures of the British Museum,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the exhibition or display of the exhibit objects at the Bowers Museum of Cultural Art, Santa Ana, California, from on or about October 17, 2004, to on or about March 24, 2005, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information or a list of exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is United States Department of State, SA–44, Room 700, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: August 31, 2004.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 04–20338 Filed 9–7–04; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

Office of the Secretary

Delegation of Authority No. 247–1; Delegation of Authorities From the Secretary of State to the Chief Information Officer

By virtue of the authority vested in me as Secretary of State, including the authority of Section 1 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2651a), I hereby delegate to the Chief Information Officer the authority to perform all functions that are, or in the future may be, required by the Federal Information Security Management Act of 2002 (44 U.S.C. 3541–3549) or any other statute, regulation, executive order, or other provision of law to be delegated by the head of agency to the agency's Chief Information Officer.

Any reference in this delegation of authority to any provision of law shall be deemed to be a reference to such provision of law as amended from time to time.

The Chief Information Officer may, to the extent consistent with law, redelegate such functions and authorize their successive redelegation, in consultation with the Under Secretary of Management.

Delegation of Authority No. 225 (Delegation of Paperwork Reduction Act Responsibilities) dated September 11, 1998, and Delegation of Authority No. 226 (Delegation of Responsibilities for the Collection of Information from the Public Under the Paperwork Reduction Act) dated October 13, 1998, shall continue in full force and effect until modified, amended, or terminated by appropriate authority.

Delegation of Authority No. 247 (Delegation of Responsibilities Under the Government Information Security Reform Act) is hereby revoked.

Except to the extent inconsistent with this delegation of authority, all other delegations of authority and all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued or entered into with respect to any function affected by this delegation of authority and not revoked, superseded, or otherwise made inapplicable before the effective date of this delegation of authority, shall continue in full force and effect until modified, amended, or terminated by appropriate authority.

The exercise by the Chief Information Officer of the authorities prescribed herein, prior to the effective date of this delegation of authority, is hereby confirmed and ratified.

This delegation of authority shall be published in the **Federal Register**.

Dated: August 14, 2004.

Colin L. Powell,

Secretary of State, Department of State.

[FR Doc. 04–20337 Filed 9–7–04; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. OST–2004–18488]

Notice of Request for Renewal of a Previously Approved Collection

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for renewal and comment. The ICR describes the nature of the information collection and its expected cost and burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 25, 2004 [FR Vol 69, No. 122, page 35703]. No comments were received.

DATES: Comments must be submitted on or before October 8, 2004. A comment to OMB is most effective if OMB receives it within 30 days of publication. You may fax comments to OMB at (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: David Walterscheid, Realty Specialist, FHWA HQ Office of Real Estate Services—HEPR, 555 Zang Street, Room 400, Lakewood, Co. 80228–2583, (303) 969–5772, ext. 333, (303) 969–6727 (fax).

SUPPLEMENTARY INFORMATION: Office of the Secretary (OST).

Title: Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs.

OMB Number: 2105–0508.

Affected Public: State highway agencies, local government highway agencies, and airport sponsors receiving financial assistance for expenditures of Federal Funds on acquisition and relocation payments and required services to displaced persons.

Estimated Number of Respondents: 1,443 for file maintenance and 52 state highway agencies for statistical reports.

Annual Estimated Burden: 25,000 hours.

Abstract: This regulation implements amendments to 42 U.S.C. 4602 *et. seq.* concerning acquisition of real property and relocation for displaced persons for Federal and federally-assisted programs. It prohibits the provision of relocation assistance and payments to persons not legally in the United States (with certain exceptions). The information collected consists of a certification of residency status from affected persons to establish eligibility for relocation assistance and payments. Displacing agencies will require each person who is to be displaced by a Federal or federally-assisted project, as a condition of eligibility for relocation payments or advisory assistance, to certify that he or she is lawfully present in the United States.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information collection; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

All responses to this notice will be summarized and included in the request for OMB approval.

Issued in Washington, DC on August 31, 2004.

Michael A. Robinson,

Information Collection Clearance Officer.

[FR Doc. 04–20327 Filed 9–7–04; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending August 27, 2004

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for

each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2004–18980.

Date Filed: August 25, 2004.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 15, 2004.

Description: Application of St. Barth Commuter requesting a foreign air carrier permit authorizing it to engage in the carriage of persons, property and mail in charter foreign air transportation between St. Martin, St. Barthelemy, Guadeloupe and Martinique in the French West Indies and San Juan, Puerto Rico and St. Croix and St. Thomas in the U.S. Virgin Islands.

Docket Number: OST–2004–18974.

Date Filed: August 25, 2004.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 15, 2004.

Description: Application of Paradigm Air, Inc. requesting a certificate of public convenience and necessity to authorize it to engage in interstate charter air transportation of persons, property, and mail.

Docket Number: OST–2004–18976.

Date Filed: August 25, 2004.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 15, 2004.

Description: Application of Paradigm Air, Inc. requesting a certificate of public convenience and necessity to authorize it to engage in foreign charter air transportation of persons, property and mail between any point or points in the United States, its territories and possessions, or the District of Columbia, and any other point or points outside the United States, its territories and possessions. Paradigm Air also seeks the right to hold itself out and trade as ''Paradigm Air.''

Andrea M. Jenkins,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. 04–20326 Filed 9–7–04; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Docket Number FRA–2004–18741

Applicant: Union Pacific Railroad Company, Mr. Phil Abaray, Chief Engineer—Signals, 1416 Dodge Street, Room 1000, Omaha, Nebraska 68179–1000.

The Union Pacific Railroad Company seeks approval of the proposed modification of the traffic control system at milepost 211.9, on the Valley Subdivision, Roseville Area, at Tehama, California. The proposed changes consist of the conversion of power-operated switch No. 159A to hand operation, equipped with a switch circuit controller, and relocation of controlled signal No. 162R to the north of switch No. 159A, so that the switch is no longer within the limits of the control point.

The reason given for the proposed changes is that the track accessed by switch No. 159A will only be used occasionally as a storage track and the controlled power-operated switch machine is no longer needed, and since there is no available route through switch 159A, signal 162R will be moved northward, nearer the power-operated crossover it protects.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA wishes to inform all potential commenters that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (volume 65, number 70; pages 19477–78), or you may visit *http://dms.dot.gov.*

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on August 31, 2004.

Grady C. Cothen, Jr.,

Acting Associate Administrator for Safety.

[FR Doc. 04–20257 Filed 9–7–04; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2004–18945]

Notice of Receipt of Petition for Decision That Nonconforming 2000 Cadillac Deville Passenger Cars, Manufactured From August 1, 1999, through December 31, 2000, Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2000 Cadillac Deville passenger cars, manufactured from August 1, 1999, through December 31, 2000, are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2000 Cadillac Deville passenger cars, manufactured from August 1, 1999, through December 31, 2000, that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are

capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is October 8, 2004.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 a.m. to 5 p.m.) Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (volume 65, number 70; pages 19477–78), or you may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Automobile Concepts, Inc. (''AMC''), of Miami, Florida (Registered Importer 01–278), has petitioned NHTSA to decide whether nonconforming 2000 Cadillac Deville passenger cars, manufactured from August 1, 1999, through December 31, 2000, are eligible for importation into the United States. The vehicles which AMC believes are substantially similar are 2000 Cadillac Deville passenger cars, manufactured from August 1, 1999, through December 31, 2000, that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 2000 Cadillac Deville passenger cars, manufactured from August 1, 1999, through December 31, 2000, to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

AMC submitted information with its petition intended to demonstrate that non-U.S. certified 2000 Cadillac Deville passenger cars, manufactured from August 1, 1999, through December 31, 2000, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2000 Cadillac Deville passenger cars, manufactured from August 1, 1999, through December 31, 2000, are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 101 *Controls and Displays,* 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic and Electric Brake Systems,* 106 *Brake Hoses,* 108 *Lamps, Reflective Devices and Associated Equipment,* 109 *New Pneumatic Tires,* 113 *Hood Latch System,* 114 *Theft Protection,* 116 *Motor Vehicle Brake Fluids,* 118 *Power Operated Window, Partition, and Roof Panel Systems,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 212 *Windshield Mounting,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 225 *Child Restraint Anchorage Systems,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that non-U.S. certified 2000 Cadillac Deville passenger cars, manufactured from August 1, 1999, through December 31, 2000, comply with the Bumper Standard found in 49 CFR part 581.

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 110 *Tire Selection and Rims:* a tire placard must be installed to ensure compliance with the standard.

Standard No. 111 *Rearview Mirrors:* installation of U.S.-model passenger side rearview mirror, or inscription of the required warning statement on the face of the passenger side rearview mirror.

Standard No. 208 *Occupant Crash Protection:* inspection of all vehicles and replacement of non U.S. model components with U.S.-model components to ensure compliance with the standard.

The petitioner states that the automatic restraint system installed in these vehicles consists of dual front airbags and knee bolsters.

The petitioner also states that the vehicles have combination lap and shoulder belts at the outboard front and rear seating positions. These seat belt systems are self-tensioning and are released by means of a single red push-button.

Standard No. 209 *Seat Belt Assemblies:* inspection of all vehicles and replacement of non U.S. model seat belt assemblies with U.S.-model components.

Standard No. 210 *Seat Belt Assembly Anchorages:* inspection of all vehicles and replacement of non U.S. model seat belt anchorage assemblies with U.S.-model components.

The petitioner also states that all vehicles will be inspected prior to importation to assure compliance with the Theft Prevention Standard at 49 CFR part 541 and that U.S.-model antitheft components will be installed, if necessary, to achieve compliance with that standard.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicles near the left windshield post to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 a.m. to 5 p.m.) It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the

closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 04–20259 Filed 9–7–04; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2004–18946]

Notice of Receipt of Petition for Decision That Nonconforming 1998 Toyota 4-Runner Multipurpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1998 Toyota 4-Runner multipurpose passenger vehicles are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1998 Toyota 4-Runner multipurpose passenger vehicles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is October 8, 2004.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 a.m. to 5 p.m.) Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (volume 65, number 70; pages 19477–78), or you may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Sunshine Car Import (''SCI'') of Ft. Myers, Florida (Registered Importer 01–289) has petitioned NHTSA to decide whether nonconforming 1998 Toyota 4-Runner multipurpose passenger vehicles are eligible for importation into the United States. The vehicles which SCI believes are substantially similar are 1998 Toyota 4-Runner multipurpose passenger vehicles that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1998 Toyota 4-Runner multipurpose passenger vehicles to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

SCI submitted information with its petition intended to demonstrate that non-U.S. certified 1998 Toyota 4-Runner multipurpose passenger vehicles as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1998 Toyota 4-Runner multipurpose passenger vehicles are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic and Electric Brake Systems,* 106 *Brake Hoses,* 111 *Rearview Mirrors,* 113 *Hood Latch System,* 114 *Theft Protection,* 116 *Motor Vehicle Brake Fluids,* 118 *Power-Operated Window, Partition, and Roof Panel Systems,* 119 *New Pneumatic Tires for Vehicles Other than Passenger Cars,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Mounting,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* installation of entire U.S.-model instrument cluster.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* inspection of all vehicles and replacement of non U.S.-model components with U.S.-model components to ensure compliance with the standard.

Standard No. 120 *Tire Selection and Rims for Motor Vehicles Other than Passenger Cars:* a tire information placard must be installed to ensure compliance with the standard.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of a seatbelt warning buzzer, warning lamp and associated wiring, and (b) inspection of all vehicles, and replacement of non U.S.-model components with U.S.-model components to ensure compliance with the standard.

The petitioner states that the passive restraint system used in these vehicles consists of dual front airbags and knee bolsters.

The petitioner also states that the vehicles have combination lap and shoulder belts at the outboard front and rear outboard seating positions as well as a rear center lap belt. These manual systems are automatic, self-tensioning, and are released by means of a single red push-button.

Standard No. 214 *Side Impact Protection*: inspection of all vehicles and installation, on vehicles that are not already so equipped, of door beams that are identical in materials and craftsmanship to U.S.-model components.

Standard No. 301 *Fuel System Integrity*: (a) Installation of a U.S.-model fuel filler cap, and (b) inspection of all vehicles and installation, on vehicles that are not already so equipped, of U.S. model components needed to achieve compliance with the standard.

The petitioner also states that all vehicles will be inspected prior to importation to assure compliance with the Theft Prevention Standard at 49 CFR part 541, and that antitheft devices will be installed, if necessary, to comply with that standard.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicles near the left windshield post to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW., Washington, DC 20590. (Docket hours are from 9 a.m. to 5 p.m.) It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 04–20260 Filed 9–7–04; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–04–18757]

Pipeline Safety: Petition for Waiver; Columbia Gas Transmission

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

ACTION: Notice; petition for waiver to install fiberglass reinforced polyethylene pipe.

SUMMARY: Columbia Gas Transmission (Columbia) has petitioned the Research and Special Programs Administration's Office of Pipeline Safety (RSPA/OPS) for a waiver of the pipeline safety regulations to install fiberglass reinforced polyethylene pipe in its high pressure natural gas storage field operations.

DATE: Persons interested in submitting written comments on the waiver proposed in this notice must do so by October 8, 2004. Late-filed comments will be considered so far as practicable.

ADDRESSES: You may submit written comments by mailing or delivering an original and two copies to the Dockets Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. The Dockets Facility is open from 10 a.m. to 5 p.m., Monday through Friday, except on Federal holidays when the facility is closed. Alternatively, you may submit written comments to the docket electronically at the following Web address: *http://dms.dot.gov.*

All written comments should identify the docket and notice numbers stated in the heading of this notice. Anyone who wants confirmation of mailed comments must include a self-addressed stamped postcard. To file written comments electronically, after logging on to *http://dms.dot.gov,* click on ''Comment/Submissions.'' You can also read comments and other material in the docket at *http://dms.dot.gov.* General information about our pipeline safety program is available at *http://ops.dot.gov.*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: James Reynolds by phone at (202) 366–2786, by fax at (202) 366–4566, by mail at DOT, RSPA, OPS, 400 Seventh Street, SW., Washington, DC 20590, or by e-mail at *james.reynolds@rspa.dot.gov.*

SUPPLEMENTARY INFORMATION: Columbia has petitioned RSPA/OPS for a waiver from compliance with 49 CFR 192.53(c), 192.121, 192.123, and 192.619(a) to allow for installation and operation of fiberglass reinforced polyethylene pipe in its high pressure natural gas storage field operations. Columbia believes that fiberglass reinforced polyethylene pipe represents both a technological and economical alternative to conventional steel pipe currently used in high pressure gas storage fields. Columbia's petition and supporting materials are available in the docket.

Columbia seeks to demonstrate the viability of spooled composite products in regulated, high—pressure gas service and proposes to install approximately 4,200 feet of 4-inch Fiberspar® spooled, non-metallic composite line pipe in its Dundee Storage Field.

Columbia seeks approval to use the following design formula from API 15HR:

$P_r = S_s \times S_f \times (R_0^2 - R_i^2)/(R_0^2 + R_i^2)$

Where:

P_r = Design Pressure Rating, psig

S_s = 95 percent Lower Confidence Limit (LCL) of the Long-Term Hydrostatic Strength (LTHS) @ 20 years per ASTM D 2992, Procedure B, psig

S_f = 0.67 service (design) factor per API 15 HR.

R_0 = radius of the pipe at the outside of the minimum reinforced wall thickness, inches

R_i = radius of the pipe at the inside of the minimum reinforced wall thickness, inches

Columbia's Dundee Storage Field is located in Schulyer County, New York. The storage field covers approximately 15,130 acres and includes 135 wells and 26.8 miles of 4-inch through 16-inch diameter pipeline operating at a maximum allowable operating (MAOP) pressure of 825 psig.

Within the storage field, Columbia has identified a group of five storage wells and six pipelines to serve as installation sites for the fiberglass reinforced polyethylene pipe. Because the five wells have a history of producing low levels of hydrogen sulfide (H_2S), Columbia is proposing to replace the existing steel pipelines with Fiberspar® spooled line pipe.

The current location of the Dundee Storage Field is predominately abandoned hay fields with no dwellings or High Consequence Areas (HCA)

within the defined class location. Future construction near the storage field includes a proposed road crossing and two stream crossings. The storage facility impacts four parcels of land and two individual landowners. The new pipe installation will also include a location for cleaning ball launchers and receivers, alcohol injection points, blow offs valves, fittings, and line valves.

Within the Dundee Storage Field, Columbia is proposing to identify five locations for installation of Fiberspar® pipe and inspection. The inspections will include non-destructive and destructive testing. Non-destructive testing will focus on material composition and degradation of the fiberglass matrix, while destructive testing will be a hydrotest to burst. The burst pressure will be compared to the manufacturer's burst test and to 95 percent of the LCL of the LTHS.

The five inspections will be scheduled for 1, 2.5, 5, 7.5, and 10 years post installation of the fiberglass reinforced polyethylene pipe. Each inspection will involve, at a minimum, the removal of a ten foot segment. The segment will be replaced using mechanical couplings and fiberglass reinforced polyethylene line pipe. Columbia will select the exact locations of the inspections based on previous sampling data, including elevation, leak history, and H_2S concentration. Based on the results of the five inspections, Columbia intends to schedule future inspections beyond the ten year inspection period. Specifically, Columbia intends to seek validation of the product life cycle and LTHS basis beyond the 20 year rating per ASTM D 2992 procedure.

Fiberspar® will offer training and certification to Columbia's Dundee field operations staff, training center staff, engineers, and technical staff on the qualification of joining methods unique to that application and installation of Fiberspar® spooled fiberglass pipe. Fiberspar® will also develop a written installation procedure for Columbia's staff and oversee staff members performing covered tasks during the initial installations.

Columbia is requesting a waiver from §§ 192.53(c), 192.121, 192.123, and 192.619(a) for its high pressure natural gas pipeline because it believes that fiberglass reinforced polyethylene pipe is:

- well suited for storage well line applications;
- non-metallic to eliminate internal corrosion; and
- impervious to acid gas corrosion caused by H_2S.

Columbia also contends that fiberglass reinforced polyethylene pipe will:

- Eliminate the need for cathodic protection equipment such as rectifiers, ground beds, insulation joints, test stations, and anodes;
- eliminate coating repairs; and
- reduce the need for pipe joining.

Columbia believes fiberglass reinforced polyethylene pipe is both a technological and economical alternative to conventional steel well lines and deserves a closer examination for use within the pipeline industry. RSPA/OPS is publishing this notice in the **Federal Register** to provide an opportunity for public comment. At the conclusion of the comment period, RSPA/OPS will make a determination on the proposed waiver and publish its decision in the **Federal Register**.

Authority: 49 App. U.S.C. 60118(c) and 2015; and 49 CFR 1.53

Issued in Washington, DC on September 1, 2004.

William H. Gute,

Acting Associate Administrator for Pipeline Safety.

[FR Doc. 04–20331 Filed 9–7–04; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Open Meeting of the Financial Literacy and Education Commission

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of open meeting.

SUMMARY: This notice announces the third meeting of the Financial Literacy and Education Commission, established by the Financial Literacy and Education Improvement Act (Title V of the Fair and Accurate Credit Transactions Act of 2003).

DATES: The third meeting of the Financial Literacy and Education Commission will be held on Wednesday, September 22, 2004 beginning at 10:30 a.m.

ADDRESSES: The Financial Literacy and Education Commission meeting will be held in the Cash Room at the U.S. Department of the Treasury, located at 1500 Pennsylvania Avenue, NW., Washington, DC. To be admitted to the Treasury building, an attendee must RSVP by providing his or her name, organization, phone number, date of birth, Social Security number and country of citizenship to the Department of the Treasury by e-mail at: *FLECrsvp@do.treas.gov*, or by telephone at: (202) 622–1783 (not a toll-free number) not later than 5 p.m. on Wednesday, September 15, 2004.

FOR FURTHER INFORMATION CONTACT: For additional information regarding admittance to the Treasury building, contact Michael Schutt by e-mail at: *michael.schutt@do.treas.gov* or by telephone at (202) 622–5770 (not a toll-free number).

Additional information regarding the Financial Literacy and Education Commission and the Department of the Treasury's Office of Financial Education may be obtained through the Office of Financial Education's Web site at: *http://www.treas.gov/financialeducation*.

SUPPLEMENTARY INFORMATION: The Financial Literacy and Education Improvement Act, which is Title V of the Fair and Accurate Credit Transactions Act of 2003 (the ''FACT Act'') (Pub. L. 108–159), established the Financial Literacy and Education Commission (the ''Commission'') to improve financial literacy and education of persons in the United States. The Commission is composed of the Secretary of the Treasury and the head of the Office of the Comptroller of the Currency; the Office of Thrift Supervision; the Federal Reserve; the Federal Deposit Insurance Corporation; the National Credit Union Administration; the Securities and Exchange Commission; the Departments of Education, Agriculture, Defense, Health and Human Services, Housing and Urban Development, Labor, and Veterans Affairs; the Federal Trade Commission; the General Services Administration; the Small Business Administration; the Social Security Administration; the Commodity Futures Trading Commission; and the Office of Personnel Management. The Commission is required to hold meetings that are open to the public every four months, with its first meeting occurring within 60 days of the enactment of the FACT Act. The FACT Act was enacted on December 4, 2003.

The third meeting of the Commission, which will be open to the public, will be held in the Cash Room at the Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC. The room will accommodate 80 members of the public. Seating is available on a first-come basis. Participation in the discussion at the meeting will be limited to Commission members, their staffs, and/or special guest presenters.

Dated: September 1, 2004.

Wayne A. Abernathy,

Assistant Secretary of the Treasury.

[FR Doc. 04–20325 Filed 9–7–04; 8:45 am]

BILLING CODE 4810–25–P

Corrections

Federal Register

Vol. 69, No. 173

Wednesday, September 8, 2004

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 296

[Docket No. MARAD–2004–18489]

RIN 2133–AB62

Maritime Security Program

Correction

Rule document 04-19322 was inadvertently published in the Proposed Rules section in the Issue of Tuesday, August 24, 2004, appearing on page 51987. It should have appeared in the Rules and Regulations section

[FR Doc. C4–19322 Filed 9–7–04; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Wednesday,
September 8, 2004

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Parts 31 and 32

2004–2005 Refuge-Specific Hunting and Sport Fishing Regulations; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 31 and 32

RIN 1018–AT40

2004–2005 Refuge-Specific Hunting and Sport Fishing Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service adds 10 new refuges and wetland management districts to the list of areas open for hunting and/or sport fishing programs and increases the activities available at 7 other refuges. We also develop pertinent refuge-specific regulations for those activities and amend certain regulations on other refuges that pertain to migratory game bird hunting, upland game hunting, big game hunting, and sport fishing for the 2004–2005 season.

DATES: This rule is effective August 31, 2004.

FOR FURTHER INFORMATION CONTACT: Leslie A. Marler, (703) 358–2397; Fax (703) 358–2248.

SUPPLEMENTARY INFORMATION: The National Wildlife Refuge System Administration Act of 1966 closes national wildlife refuges to all uses until opened. The Secretary of the Interior (Secretary) may open refuge areas to any use, including hunting and/or sport fishing, upon a determination that such uses are compatible with the purposes of the refuge and National Wildlife Refuge System (Refuge System or we) mission. The action also must be in accordance with provisions of all laws applicable to the areas, developed in coordination with the appropriate State fish and wildlife agency(ies), consistent with the principles of sound fish and wildlife management and administration, and otherwise in the public interest. These requirements ensure that we maintain the biological integrity, diversity, and environmental health of the Refuge System for the benefit of present and future generations of Americans.

We annually review refuge hunting and sport fishing programs to determine whether to include additional refuges or whether individual refuge regulations governing existing programs need modifications, deletions, or additions. Changing environmental conditions, State and Federal regulations, and other factors affecting fish and wildlife populations and habitat may warrant modifications to refuge-specific regulations to ensure the continued compatibility of hunting and sport fishing programs and to ensure that these programs will not materially interfere with or detract from the fulfillment of refuge purposes or the Refuge System's mission.

Provisions governing hunting and sport fishing on refuges are in Title 50 of the Code of Federal Regulations in part 32 (50 CFR part 32). We regulate hunting and sport fishing on refuges to:

- Ensure compatibility with refuge purpose(s);
- Properly manage the fish and wildlife resource(s);
- Protect other refuge values;
- Ensure refuge visitor safety; and
- Provide opportunities for quality wildlife-dependent recreation.

On many refuges where we decide to allow hunting and sport fishing, our general policy of adopting regulations identical to State hunting and sport fishing regulations is adequate in meeting these objectives. On other refuges, we must supplement State regulations with more-restrictive Federal regulations to ensure that we meet our management responsibilities, as outlined in the ''Statutory Authority'' section. We issue refuge-specific hunting and sport fishing regulations when we open wildlife refuges to migratory game bird hunting, upland game hunting, big game hunting, or sport fishing. These regulations list the wildlife species that you may hunt or fish, seasons, bag or creel limits, methods of hunting or sport fishing, descriptions of areas open to hunting or sport fishing, and other provisions as appropriate. You may find previously issued refuge-specific regulations for hunting and sport fishing in 50 CFR part 32. In this rulemaking, we are also standardizing and clarifying the existing language of these regulations.

Plain Language Mandate

In this rule we made some of the revisions to the individual refuge units to comply with a Presidential mandate to use plain language in regulations; as such, these particular revisions do not modify the substance of the previous regulations. These types of changes include using ''you'' to refer to the reader and ''we'' to refer to the Service, using the word ''allow'' instead of ''permit'' when we do not require the use of a permit for an activity, and using active voice.

Statutory Authority

The National Wildlife Refuge System Administration Act (Administration Act) of 1966 (16 U.S.C. 668dd–668ee, as amended) and the Refuge Recreation Act (Recreation Act) of 1962 (16 U.S.C. 460k–460k–4) govern the administration and public use of refuges.

Amendments enacted by the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act) build upon the Administration Act in a manner that provides an ''organic act'' for the Refuge System similar to those that exist for other public Federal lands. The Improvement Act serves to ensure that we effectively manage the Refuge System as a national network of lands, waters, and interests for the protection and conservation of our Nation's wildlife resources. The Administration Act states first and foremost that we focus Refuge System mission on conservation of fish, wildlife, and plant resources and their habitats. The Improvement Act requires the Secretary, before allowing a new use of a refuge, or before expanding, renewing, or extending an existing use of a refuge, to determine that the use is compatible. The Improvement Act established as the policy of the United States that wildlife-dependent recreation, when compatible, is a legitimate and appropriate public use of the Refuge System, through which the American public can develop an appreciation for fish and wildlife. The Act established six wildlife-dependent recreational uses, when compatible, as the priority general public uses of the Refuge System. These uses are: hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

The Recreation Act authorizes the Secretary to administer areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that doing so is practicable and not inconsistent with the primary purpose(s) for which Congress and the Service established the areas. The Recreation Act requires that any recreational use of refuge lands be compatible with the primary purpose(s) for which we established the refuge and not inconsistent with other previously authorized operations.

The Administration Act and Recreation Act also authorize the Secretary to issue regulations to carry out the purposes of the Acts and regulate uses.

We develop specific management plans for each refuge prior to opening it to hunting or sport fishing. In many cases, we develop refuge-specific regulations to ensure the compatibility of the programs with the purpose(s) for which we established the refuge and the Refuge System mission. We ensure initial compliance with the Administration Act and the Recreation

Act for hunting and sport fishing on newly acquired refuges through an interim determination of compatibility made at or near the time of acquisition. These regulations ensure that we make the determinations required by these acts prior to adding refuges to the lists of areas open to hunting and sport fishing in 50 CFR part 32. We ensure continued compliance by the development of comprehensive conservation plans, specific plans, and by annual review of hunting and sport fishing programs and regulations.

Response to Comments Received

In the June 30, 2004, **Federal Register** (69 FR 39552), we published a proposed rulemaking identifying refuges and their proposed hunting and/or fishing programs and invited public comments. We published corrections to the proposed rule on July 14, 2004 (69 FR 42127) and on July 23, 2004 (69 FR 43964). We reviewed and considered all comments received by July 30, 2004, following a 30-day comment period.

We received five comments on the proposed rule: Three in opposition to the openings, one with specific concerns about a particular refuge, and one ''neither for nor against hunting and fishing per se'' but with specific concerns about the content of the rule. Of the five comments, one came from an individual and four represented nongovernment organizations.

Comment: One commenter felt the figures on retail trade from this change in the economic analysis section of the rule [addition of refuges to the list of refuges open to hunting and fishing] are misleading, inaccurate, and irrelevant. The major source of money/spending is bird watching, a peaceful pursuit. In the same vein, another commenter felt that there is far more money spent by nonconsumptive users (birdwatchers) than by consumptive users (hunters/anglers).

Response: The inclusion of the estimated economic impacts to retail trade and small businesses are not irrelevant because these data are necessary to comply with the Regulatory Flexibility Act. We base the estimated impacts to retail trade in Table 3 upon: (1) The expected additional fishing and/or hunting days, and (2) the average expenditures per day for anglers and hunters. These data are depicted in Tables 1 and 2. We base the estimate for the expected additional fishing and/or hunting days upon the refuge's best available information. We base the estimate for the average daily expenditures upon the ''2001 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation.'' Although proportionately to their numbers, hunters generate more revenue than nonconsumptive users. The Administration Act authorizes us, when compatible, to allow both consumptive and nonconsumptive activities, regardless of economic benefit. While bird watching and other nonconsumptive recreational activities do generate economic activity, they are not the subject of this proposed rulemaking. No changes were made to the regulation as a result of this comment.

Commenter: A commenter observed that ''65% of refuges are open to gratify the demands of 4.56% of the United States population.'' They felt that allowing the hunting/fishing, therefore, is not in the public interest.

Response: Those refuges that have found hunting and fishing to be compatible activities with the purpose(s) for which the refuge was established have determined that allowing those activities are in the public interest. Additionally, the Administration Act identifies hunting as one of the priority general public uses that should be facilitated when found to be compatible. The proportion of the public that participates in these activities is not the subject of this regulation. No changes were made to the regulation as a result of this comment.

Comment: A commenter felt that lead shot used by hunters is a detriment to the environment.

Response: We implemented a nationwide conversion to nontoxic shot for waterfowl hunting beginning with the 1991–1992 hunting season. In the December 4, 1995, **Federal Register** (60 FR 62035), we issued final regulations adopting requirements to use nontoxic shot to hunt wildlife species other than waterfowl and coots on certain refuges beginning with the 1996–1997 hunting season. In the September 3, 1998, **Federal Register**, we identified refuges subject to the rule. Regulations contained in 50 CFR part 32 prohibit the use or possession of toxic shotgun pellets by upland game hunters on WPAs and certain other areas (refuges or areas within refuges) of the Refuge System to the extent needed to protect against significant lead exposure to migratory birds. We delineated these areas on maps, leaflets and/or signs (available at each refuge headquarters or posted at each refuge) or as stated in refuge-specific regulations. We specifically identify the shot allowed in areas of the Refuge System by reference to the shot identified in 50 CFR 20.21(j). The only species that we allow hunters to use slugs and shot containing lead are for turkey and deer, unless specifically prohibited by the refuge. The shot used in deer hunting is too large to be ingested by waterfowl and not normally used in wetland areas. No changes were made to the regulation as a result of this comment.

Comment: A commenter felt that the Service has erred in categorically excluding the proposed rule from National Environmental Policy Act (NEPA) review and that an Environmental Impact Statement (EIS) should have been prepared.

Response: We disagree with the statement that the Service should have prepared an EIS for the opening of the refuges to hunting and fishing covered by this rulemaking. Each individual refuge, when making a determination as to whether or not to allow hunting and/or fishing, complies with NEPA when preparing an ''opening package.'' For each of the refuges included in the rulemaking, we prepared Environmental Assessments and determined that EISs were unnecessary. No changes were made to the regulation as a result of this comment.

Comment: A commenter felt that dogs should not be used to hunt/kill/follow/torment any wildlife.

Response: On some refuges we allow dogs to point, flush, or retrieve game. This allows more efficient harvest of birds that may have otherwise been crippled and possibly lost to the hunter. We prohibit dog owners to allow their dogs to run loose on the refuge pursuing nongame animals. Dogs must be under the strict control of their owners at all times. No changes were made to the regulation as a result of this comment.

Comment: A commenter stated that the 1997 Improvement Act does not require us to open refuges to hunting.

Response: No, the Act does not require us to open to hunting. However, it stipulates that hunting (along with fishing, wildlife observation and photography, and environmental education and interpretation), if found to be compatible, is a legitimate and priority general public use of a refuge that should be facilitated.

Comment: A commenter asked that we consider prohibiting bowhunting of deer, waterfowl hunting, and other forms of hunting that result in high wounding/low recovery rates of species.

Response: When we allow hunting on national wildlife refuges, our goal is to manage hunt populations and provide compatible wildlife-dependent recreation, as required by the Improvement Act. One goal of a managed hunt program is to provide a hunt that minimizes loss or crippling of animals. We do this, for instance, by encouraging use of decoys and calling

techniques which bring birds closer to the hunter, resulting in reduced crippling or loss of birds. Also, many of our refuges near urban areas that have hunt programs require hunters to ''qualify'' at an approved firing range with the weapon they will hunt with prior to hunting on the refuge.

Comment: A commenter expressed concern with the proposal to allow hunting of American woodcock on some refuges due to declining numbers of the species. The commenter further mentioned that the 1929 Migratory Bird Conservation Act (MBCA) authorized the Federal government to acquire land for migratory bird refuges to serve as ''inviolate sanctuaries'' where hunting was prohibited.

Response: We generally establish hunting programs on national wildlife refuges in accordance with State hunting regulations, although we may be more restrictive than the State. We rely, in part, on the data and professional judgment of State fish and wildlife agencies to establish hunting parameters, including seasons and bag limits, on refuges. We also rely on compatibility determinations specific to each refuge in establishing or administering hunt programs. A component of the compatibility determination that refuge managers are required to complete prior to opening to a new hunting opportunity is to consider the biological impacts of the opening on the species to be hunted. This consideration includes potential impacts to habitat and the refuge's wildlife resources.

Although we were to initially manage areas acquired under the MBCA as ''inviolate sanctuaries'', that requirement of the MBCA was amended in 1949 to allow hunting on up to 25 percent of each inviolate refuge. Another amendment in 1958 increased the total area of an inviolate refuge that could be opened for hunting up to 40 percent. Whether an area is an inviolate sanctuary is a function of the mechanism of its creation. If a refuge was acquired as an inviolate sanctuary, only 40 percent of the refuge area may be opened at one time for hunting of migratory game birds. However, if the refuge was not acquired as an inviolate sanctuary, 100 percent of the refuge area may be opened for hunting. No changes were made to the regulation as a result of this comment.

Comment: A commenter believes a 1981 Brunnell and Tait study to support a 20 percent acceptability mortality rate for bears referenced in a compatibility determination (CD) by Canaan Valley National Wildlife Refuge in West Virginia is outdated and does not adequately address the issue, since it is the refuge's only literature source.

Response: We disagree. When the CD was written in 1997, the best available information was used to make the decision. The 1981 study, at that time, was the best source to document an acceptable mortality rate. The manager also used other information to formulate sound professional judgment. The CD also cites a 1995 report by the West Virginia Department of Natural Resources (DNR) that shows the reproductive potential in the West Virginia bear population is not being limited. It was also reported that the Tucker County black bear population, as indexed by mortality, has been increasing during the past 10 years and that current (1997) West Virginia harvest regulations do not appear to be limiting the population. It should also be noted that current refuge regulations on black bear harvest are more restrictive than State regulations with a 1 week shorter gun season. A 1996 literature citation also states that black bear harvest regulations in West Virginia protect female bears with cubs by allowing firearm hunting only in December when most pregnant females and females with yearling cubs are already in winter dens. It is further stated that this has resulted in bear population expansion in the State.

In 2002, the refuge completed a preacquisition CD for hunting, which is available to the commenter for review. In this document, a West Virginia DNR conservation officer supplied comments on existing hunting use in the Main Tract, Canaan Valley. Specific to bear hunting, he stated ''the main areas for bear hunting are Cabin Mountain and the Dolly Sods area adjoining the Refuge to the southeast. Bear hunting occurs on the slopes and ridge tops, not in the CV (Canaan Valley) wetlands. Many people hunt bears with dogs over bait, although baiting is illegal. Archery hunting is probably the most popular method of bear hunting in the state and in Tucker County. There is little interest in hunting bears with dogs in the lower areas of CV for two reasons: Bears are scarce and there are few trees for dogs to tree bears.'' Current data support the low interest in bear hunting on the refuge. In the 2002–2003 hunting season, the refuge issued 94 Special Use Permits for bear hunting with 43 actual hunters. No bear were reported harvested. Last year, 2003–2004 hunter survey returns indicated that there were only 13 bear hunters on the refuge with 1 bear reported harvested. This data is based on 40 percent of hunters responding, so the number of bear harvested may be low.

Our regulations in 50 CFR 25.21(f) call for ''re-evaluation of compatibility determinations for existing wildlife-dependent recreational uses when conditions under which the use is permitted change significantly, or if there is significant new information regarding the effects of the use, or concurrently with the preparation or revision of a comprehensive conservation plan (CCP), or at least every 15 years, whichever is earlier.'' The commenter has not provided, and we are unaware of, more recent sources of information disputing that which exists in the current CD. No changes were made to the regulation as a result of this comment.

Comment: A commenter stated that the CD for Canaan Valley does not adequately address impacts to other wildlife species by bear-trailing dogs.

Response: We disagree. Again, at the time the CD was written in 1997, there was very little scientific information that showed that pursuit dogs/trailing hounds have effects on other wildlife. Even so, the manager had sufficient information to determine that the use would not materially interfere with or detract from the purpose(s) of the refuge. The refuge manager used a 1990 literature citation that addressed effects on wild turkey hens. That study represented the best available information at that time. To date, few studies have addressed this issue. The refuge is currently unaware of any definitive literature, nor did the commenter provide any source of information, that proves significant impact on nontarget wildlife populations from the use of pursuit dogs. The refuge manager reviewed literature during the preacquisition CD writing on potential impacts to black bear hunting, including: Higgins, Kristine. 1997. *Hunting dynamics, condition estimates and movements of black bears hunted with hounds in Virginia*. This report studied populations of black bear hunted with hounds and populations where hounds were prohibited. Findings included no significant difference in reproduction between the two populations (8 years of data).

The refuge does not have any information showing that pursuit dog hunting impacts nontarget wildlife populations. If literature exists past 1997, the refuge would welcome the information. When the refuge's CD is scheduled for review in 2007, the refuge manager will review the most current literature available. It should also be noted that few hunters are using trailing dogs to hunt bear in the refuge and that most bear hunters pursue their sport

with archery. The refuge is still concerned about nontarget species impacts and will address this further in the comprehensive conservation plan (CCP) in 2007. No changes were made to the regulation as a result of this comment.

Comment: A commenter questioned that Canaan Valley NWR's CD's stipulations pursuant to the use of trailing dogs do not adequately address the safety of other users of the refuge.

Response: We disagree. At the time the CD was written, the refuge did not consider hunting bear with trailing dogs to be inconsistent with public safety. Although not specifically stated, the timing of the bear hunting season in mid-December separates other refuge users temporally from this activity. There is very little visitor use of refuge trails in mid-to-late December. Roads and parking areas are usually not accessible due to snow conditions. The majority of refuge visitor use is on cross-country ski trails that we manage in cooperation with Whitegrass Ski Touring. Recent communications with Whitegrass operations confirm that road conditions limit hunter access in vicinity of ski trails and that most hunters hunt the other side of the mountain on U.S. Forest Service land.

In addition, the Refuge Hunt Plan limits locations where hunters can release dogs, such as Old Timberline and Cortland Roads. This eliminates interactions on public use trails as well as conflicts with adjacent private landowners. The no-rifle zone further provides for public safety concerns on the refuge's south end as most bear gun hunters using dogs use rifles and will not hunt in these locations, which include Beall and Freeland public use trails.

We foresee no issues with the current hunt program. Staff evaluations and monitoring are ongoing and the refuge can implement changes as needs arise. No changes were made to the regulation as a result of this comment.

Comment: A commenter felt that the CD prepared for Lake Umbagog NWR (Maine and New Hampshire) should be revised and more thoroughly completed prior to authorizing the use of trailing dogs for hunting of black bear and coyote.

Response: The refuge feels the CD for hunting at Umbagog is sufficient and a valid and pertinent document prepared with the best information available at the time in consultation with the States of Maine and New Hampshire (States), using data from both States on populations and take.

The commenter expressed concern that there is nothing to stop trailing dogs from attacking other species. Both the refuge and biologists from the States are unaware of any such cases, nor did the commenter provide or reference supporting documentation.

The commenter claims that the dogs could interfere with other compatible uses such as bird watching. The timing of the States' hunting seasons are set to minimize conflict between users. Bear hunting season occurs in the fall and winter when bird watching is minimal. While it is possible for a dog to flush a bird away from a bird watcher, the effect is temporary, and the chance of it occurring is unlikely. The refuge experiences very light bear hunting (as well as few bird watchers) during bear season. To date the refuge has never received a complaint about trailing dogs (which we limit to four dogs per hunter) impacting wildlife watching. According to New Hampshire Fish and Game, there has never been a complaint of this type at the State level either. The State of Maine also confirmed they are unaware of any conflicts between wildlife watchers and houndsmen. Maine observed that the species being run by hounds on State property (coyote, bears, and bobcat) ''are pretty secretive and have low public visibility. In addition, houndsmen try to run their dogs away from the main road systems so their dogs do not get hit crossing a road. This also lowers the probability of there being a conflict with viewers.'' The commenter did not provide or reference supporting documentation.

The commenter states they believe there are obvious impacts to refuge habitats. Prior to refuge ownership, hunting bear and coyote with trailing dogs had been occurring for many years. Both the refuge and the States have not seen any obvious impact to habitat from this activity, nor did the commenter provide or reference supporting documentation.

The commenter claims that the CD does not address potential impacts to other wildlife species by trailing dogs. As with Canaan Valley NWR, at the time the refuge wrote the CD in 2000, there was very little scientific information that showed that trailing dogs have effects on other wildlife. Dogs used to pursue bear or coyote are well trained before use, and their handlers are responsible for ensuring that the trail or track is the species targeted. It would be counterproductive to the hunt if dogs trailed nontarget species, such as Canada lynx. In the unlikely event a bear-trailing dog pursues a Canada lynx, the lynx would climb a tree and the handlers would turn dogs away, leaving the animal unharmed. Again, the commenter did not provide or reference supporting documentation.

The commenter referred to the final compatibility regulations pursuant to the Improvement Act published in 50 CFR parts 25, 26, and 29. Although the Service published these regulations in October after the refuge developed their CD in March of the same year, the compatibility standard enacted in law and applied in those regulations is the same as was in use when the CD was completed. No new information has been presented that would cause the manager to revise the CD. The refuge does not believe that the use of trailing dogs is incompatible and stands behind the CD written in 2000 and the current hunting plan. The refuge will review the CD as part of the CCP currently in development which will satisfy the review requirement for this document. No changes were made to the regulation as a result of this comment.

Comment: One commenter observed that certain portions of Anniston-Calhoun Fort McClellan Redevelopment Joint Powers Authority (the ''JPA'') land located adjacent to the Mountain Longleaf National Wildlife Refuge in Alabama (Longleaf) and certain portions of Longleaf are ''currently undergoing characterization for the presence of military munitions.'' ''Military munitions have been discovered on JPA land and on Longleaf. Entrance onto the JPA land is currently restricted by land use controls * * * [but] there is no consistent and distinctive boundary delineations, other than Service signage and old U.S. Army signs between the JPA land and Longleaf.'' The commenter is concerned that allowing the public to voluntarily enter Longleaf may result in inadvertent encroachment by members of the public onto JPA land. ''Such entry may expose these members of the public to the potential serious dangers inherent in the presence of military munitions in unknown and undisclosed locations.''

Response: The commenter is correct in stating that portions of Longleaf are contaminated with unexploded ordnance (UXO). The vast acreage once owned by the Department of Defense (DoD) has provided protection to many species and habitats that were lost in the surrounding landscape. The DoD has recently begun to divest themselves of a portion of these lands. When there is a clear public benefit to be provided by continued protection of these lands or we are legislatively instructed to do so, the Service has assumed habitat management responsibilities for many former DoD areas, as is the case at Longleaf.

Many areas where the Service has assumed habitat management

responsibilities remain closed to the public due to known contamination or because the amount or location of contamination is unknown. In the case of Longleaf, the DoD has identified those areas where we may allow public use activities. In addition, the DoD has identified and implemented those land use controls that they believe are necessary to prevent inadvertent trespass into contaminated areas.

Land use controls implemented by DoD on Longleaf are identical in almost all respects to those currently in place on the adjacent JPA land that is also open to the public and include: (1) Creation of a ''No Entry'' buffer around contaminated sites; (2) Gating or permanently barricading all access roads into the ''No Entry'' buffer; (3) Installation of UXO Warning signs at 200-foot (60-m) intervals around the ''No Entry'' buffer; (4) DoD-implemented UXO education and information program; and (5) Restricting public access to daylight hours only to avoid any inadvertent access into the ''No Entry'' buffer around contaminated sites. All hunters must sign and carry with them a hunting permit stating that they understand the rules and regulations regarding hunting on the refuge. This hunting permit contains a map showing the boundary of those areas of the refuge that may be hunted.

All land use controls identified by the DoD as necessary to prevent inadvertent trespass into contaminated areas are in place. Monitoring will be done to ensure that these land use controls remain in place and the public is protected from inadvertent trespass into contaminated areas.

Comment: A commenter asked that we remove language prohibiting commercial activities unless authorized by a Special Use Permit for Bayou Teche, Atchafalaya, Bayou Cocodrie, and Bayou Sauvage NWRs in Louisiana.

Response: After further review, we accept the changes suggested by the requestor and have revised the condition to simply prohibit commercial activities on those refuges. We similarly made that change to Delta and Big Branch Marsh NWRs in Louisiana.

Comment: A commenter questioned inclusion of language on the requirement of a Special Use Permit (SUP) for commercial guiding services on Overflow and Pond Creek NWRs in Arkansas if we do not allow those commercial activities.

Response: We contacted the refuges in question, and they concur. We have modified the language for both refuges to read as follows: ''No person will utilize the services of a guide, guide service, outfitter, club, organization, or other person who provides equipment, services, or assistance on Refuge System lands for compensation. Failure to comply with this provision subjects each hunter in the party to a fine if convicted of violation.''

Comment: A commenter questioned the completeness of a compatibility determination (CD) for Cache River NWR in Arkansas relative to the refuge allowing commercial fishing activities with an SUP.

Response: Cache River NWR has suspended, effective immediately, all commercial fishing activities on the refuge until such time as the revised CD (a 10-year document, which expired July 27, 2004) has been signed by the Regional Director. The following comments will be incorporated as an attachment to the CD currently in the approval process to provide additional detail about this activity.

We utilize commercial fishing to remove fish commonly known as rough fish from the refuge streams and oxbow lakes. The species targeted for removal include German carp, silver carp, big head carp, grass carp, black carp, buffalo, and catfish. Of the seven species listed, the five carp species are exotics, which as a group have impacted and to a degree replaced the native fisheries within the refuge and ecosystem. A recent study completed by Arkansas State University determined that 40 percent of the fisheries located in the mid and upper portion of the Cache River and its primary tributary, Bayou DeView, were carp. The overly abundant native buffalo, and to a lesser degree, catfish, also compete with other native fisheries.

One of the primary objectives of the Refuge System is to remove exotics from refuges and to restore historic native populations. Removal of these exotics and a reduction in the native rough fish population by commercial harvest is a management practice aimed at reducing the competition and adverse impacts to native species, especially during early life stages. During early developmental stages, fry from these species and native species both feed on micro and macro organisms, which are no longer available in historic concentrations due to increased water turbidity and other factors. Although humans are responsible for most of the turbidity, carp and buffalo (bottom feeders) also contribute and stir up sediments, which increases turbidity and impacts native fish nest and spawning habitat. Fishery biologists with the Service have historically recommended commercial harvest of these species to refuge managers as a management tool with the objective to increase and restore native fish populations on refuges. Commercial harvest of these species at Cache River NWR is a management activity aimed at achieving the Service mission of removal of exotics, restoration of native fish populations, and providing a native and sport fishery for the enjoyment of the public now and for future generations.

Comment: A commenter questioned whether we allow commercial turtling on White River NWR (Arkansas), and also felt that removing nongame ''rough fish species'' (by allowing commercial fishing with an SUP) appears to violate the Improvement Act's requirement to maintain a diversity of species and should be found incompatible.

Response: White River NWR does not allow commercial turtling, and we have removed that language from the regulations and added the qualifier: ''We prohibit commercial turtling on both the North and South Units year-round.'' The refuge has suspended, effective immediately, all commercial fishing activities on the refuge until such time as the revised CD (a 10-year document, which expired August 5, 2004) has been signed by the Regional Director. The following comments will be added to the CD currently in the approval process to provide additional detail about commercial fishing with an SUP.

Commercial fishing is an important management tool which is used to maintain native fish populations on natural lakes, bayous, and streams located on White River NWR.

In accordance with State regulations, commercial anglers are only allowed to remove rough or nongame fish from refuge waters. This management tool has been in practice since White River NWR was established in 1935. At that time, the goal of commercial fishing was to improve the waters for sport fisheries; however, this management practice is even more critical today than it was in the 1930's.

Today, numbers of exotic fishes are on the increase and several species, which include German carp, silver carp, bighead carp, grass carp, and black carp, have successfully invaded and established populations within refuge waters. While commercial anglers do remove native species such as catfish and buffalo through normal commercial fishing techniques, they also remove large numbers of nonnative carp (which have commercial value). The removal of these exotic species is not imperative for the long-term health of the Lower White River Ecosystem (Lower White). A recent study by Arkansas State University found that as many as 40 percent of the total fish population in the Cache River Basin consisted of carp. While the Cache River is upstream of White River, this same scenario of a 40 percent carp component appears to be similar on the Lower White as is being demonstrated by an ongoing fish study of White River NWR oxbow lakes (Arkansas Tech University).

Commercial fishing reduces competition and adverse impacts to native species, especially during early life stages of many fish. During early developmental stages, fry from these exotic species, as well as native fish species, feed on a wide array of invertebrates that in many cases are no longer present in sufficient numbers. This is due to the increased turbidity that is caused not just

from influences from upstream areas, but from bottom-foraging activity of the nonnative carp. Without proper controls, the bottom-foraging activity will, over time, continue to upset this delicate balance having long-term impacts on native fish populations throughout the basin.

Fish and Wildlife Service biologists within the Refuge System, the Service, as well as numerous State fish and wildlife agencies have recommended removal of rough fish by commercial methods as a management tool. Commercial harvest of these species at White River NWR, as well as numerous other national wildlife refuges, is a management activity aimed at achieving the Service mission of removal of exotics, restoration of native fish populations, and providing an assemblage of native fish species which will be maintained.

No change was made to the statement concerning commercial fishing with an SUP as a result of this comment, but we did remove the statement on commercial turtling with an SUP and inserted the statement prohibiting commercial turtling.

Comment: A commenter suggested that we prohibit sandhill crane hunting on Lacreek National Wildlife Refuge (Lacreek) in South Dakota due to similarity of appearance with whooping cranes.

Response: A number of safeguards exists to provide protection for whooping cranes during their migration (only one whooping crane has been observed on the Little White River Recreation Area (Area) refuge since its establishment). In the event that a whooping crane was documented using the Area, all public uses, including sandhill crane hunting, could be restricted under the authority of the Endangered Species Act of 1973 (16 U.S.C. 1531–1544) until the whooping cranes continued on their migration. Hunters wishing to hunt sandhill cranes must secure a free sandhill crane permit issued by the State either from the refuge headquarters or from a conservation officer. If a whooping crane was known to be in the area, the hunter would be notified and any temporarily closed areas indicated. The Area is also not ideal sandhill or whooping crane habitat. It is managed for recreation, including boating and fishing. The deeper waters required for these activities do not provide suitable habitat for either whooping or sandhill cranes. As a result, nearly all sandhill crane hunters avoid hunting the Area and instead spend their time hunting private cropfields where they are much more likely to encounter sandhill cranes. The remainder of Lacreek, where sandhill and whooping crane use is likely to occur, is closed to sandhill crane hunting. No change was made as a result of this comment.

Comment: A commenter observed there was no CD on file for commercial guiding, which would be required to issue an SUP, for Bill Williams River NWR (Arizona).

Response: We disagree. We are not opening the refuge to hunting guides, we are simply informing the public of the process we would require (an SUP) if an individual wanted to provide commercial hunting guide services. Regulations at 50 CFR 25.41 authorize managers to issue permits, and 50 CFR 27.97 states ''Soliciting business or conducting a commercial enterprise on any national wildlife refuge is prohibited except as may be authorized by special permit.'' The refuge is an area experiencing an increasing amount of ecotourism, and they are attempting to educate, inform, and provide notice to the public by providing the requirements in this regulation. Further, local magistrates have indicated that any violations issued for improper commercial guiding would most likely not be upheld without warning to the public. Therefore, they recommended including this language to aid in successful enforcement. The refuge is scheduled to complete its CCP in 2009. A comprehensive management plan was completed for the refuge in 1994, with requisite CD's completed for wildlife-dependent activities at that time. Since commercial guiding was not occurring (and has not occurred to date), it was not included in the CD. At such time as the refuge receives a request for that activity, they will prepare a CD. No changes were made to the regulation as a result of this comment.

Comment: A commenter felt that safety precautions, as provided in an environmental assessment (EA) prepared in 1988, in place to protect whooping cranes on Salt Plains NWR (Oklahoma), were insufficient to protect the species. The commenter feels sandhill crane hunting should be discontinued to protect the whooping cranes due to similarity of appearance.

Response: We disagree. The last sighting of a whooping crane (four in the hunt area for about 45 minutes) on the refuge was October 27, 1984. There was also a sighting on April 1, 1996, of a whooping crane flying over the hunt area or in the vicinity. The refuge closed the hunting area at that time. The majority of the whooping cranes roost on the southwest corner of Great Salt Plains Lake (8,690 acres) where we prohibit migratory bird hunting. The hunt area is located on the northeast portion of the refuge's 32,000 acres.

Staff and volunteers closely monitor the hunting areas during the time whooping cranes are migrating south. When the cranes arrive in the area, we monitor their progress. As stated in the hunt EA, we close the area immediately to hunting if a whooping crane is present. We also post whooping crane posters at the entrance to the hunt area. This helps the hunter distinguish between sandhill and whooping crane. An ESA Section 7 was completed in 1987 at Salt Plains. Whooping cranes were listed within the action area. The finding was as follows: ''Whooping crane—no direct impact. Utilization of the hunted area by whooping cranes is limited. The cranes have a tendency to feed and roost on private land surrounding the lake or in farm field C–1. Very rarely have they been reported to feed in the hunting unit and on private land adjacent to the hunted area. When whooping cranes are known to be on the refuge they will be closely monitored and on those occasions when whoopers are feeding in the hunt area, upland game and migratory bird hunting will be closed until the whooping cranes have left the refuge hunt area. Hunters will be informed of the potential of whooping cranes in the area by the use of posters placed at the check-in station.'' Final determination: hunting will not affect whooping cranes.

Historically there have been very few sandhill cranes taken on the refuge. There were none in the 2003–2004 season and only a couple in the 2002–2003 season. The commenter did not provide or reference supporting documentation, nor is the refuge aware of, any incidental take of whooping crane at this refuge. The majority of sandhill cranes are taken on private property outside the refuge. We have contacted those private landowners and placed posters in their blinds and asked them to curtail hunting if whooping cranes land on their fields.

The refuge plans to routinely review their CD concurrently with preparation of the CCP, currently in draft form. No changes were made to the regulation as a result of this comment.

Comment: A commenter feels that the CD prepared for Washita NWR (Oklahoma) fails to adequately protect whooping cranes in their migratory game bird hunting program and that we are lacking a Section 7 consultation under the Endangered Species Act. The commenter feels we should revise our regulations to terminate sandhill crane hunting.

Response: We disagree. There are very few sandhill cranes taken on the refuge. The refuge last updated and reviewed the CD upon completion of the refuge's CCP (now in draft). A Section 7 consultation was completed in 1981 and revised in 1994. This consultation

determined ''No effect'' on bald eagle, peregrine falcon, whooping crane, and interior least tern. The commenter did not provide or reference supporting documentation nor is the refuge aware of any incidental take of whooping crane at this refuge. However, due to the concerns raised by the commenter, the refuge is currently reviewing their CD. They further plan to educate the public by posting whooping crane posters at the entrance to the hunt areas and working with the State to provide hunter orientation and species identification training. No changes were made to the regulation as a result of this comment.

Comment: Two commenters felt that a 30-day public comment period was too brief and felt that more time was needed for adequate public response.

Response: We disagree. The Refuge-Specific Hunting and Sport Fishing Regulations are an annual process in which we routinely publish the proposed rule each summer with a 30-day comment period. Other than the new section (§ 32.9) dealing with specific areas of the United States Unincorporated Pacific-Insular Possession remaining closed to commercial fishing (which has been removed from this final rule for reproposal at a later date), there is nothing contained in this annual regulation outside of the scope of the annual review process where we add refuges or determine whether individual refuges need modifications, deletions, or additions made to them. We make every attempt to collect all of the proposals from the refuges nationwide and process them expeditiously to maximize the time available for public review. We believe that a 30-day comment period gives the public sufficient time to comment and allows us to establish hunting and fishing programs in time for the upcoming seasons. Many of these rules also relieve restrictions and allow the public to participate in recreational activities on a number of refuges. Even after issuance of a final rule, we accept comments, suggestions, and concerns for consideration for any appropriate subsequent rulemaking.

Effective Date

This rule is effective upon filing in the **Federal Register**. We have determined that any further delay in implementing these refuge-specific hunting and sport fishing regulations would not be in the public interest, in that a delay would hinder the effective planning and administration of the hunting and fishing programs. We provided a 30-day comment period for the June 30, 2004, proposed rule. An additional delay would jeopardize holding the hunting and/or fishing programs this year or shorten their duration and thereby lessen the management effectiveness of this regulation. This rule does not impact the public generally in terms of requiring lead time for compliance. Rather it relieves restrictions in that it allows activities on refuges that we would otherwise prohibit. Therefore, we find good cause under 5 U.S.C. 553(d)(3) to make this rule effective upon date of filing.

New Hunting and Sport Fishing Programs

In preparation for new openings, we include the following documents in each refuge's ''opening package'' (which the Region completes, the Regional Director reviews, and the refuge copies and sends to the Headquarters Office for review of compliance with the various opening requirements): (1) Step-down management plan; (2) appropriate National Environmental Policy Act (NEPA) documentation (*e.g.*, Categorical Exclusion, Environmental Assessment, or Environmental Impact Statement); (3) appropriate NEPA decision documentation (*e.g.*, Finding of No Significant Impact, Record of Decision); (4) Endangered Species Act Section 7 evaluation; (5) copies of letters requesting State and, where appropriate, Tribal involvement and the results of the request(s); (6) draft news release; (7) outreach plan; and (8) draft refuge-specific regulation. Upon approval of these documents, the Regional Director(s) is certifying that the opening of these refuges to hunting and/or sport fishing has been found to be compatible with the principles of sound fish and wildlife management and administration and otherwise will be in the public interest.

In accordance with the Administration Act and Recreation Act, we have determined that these openings are compatible and consistent with the purpose(s) for which we established the respective refuges and the Refuge System mission. A copy of the compatibility determinations for these respective refuges is available by request to the Regional office noted under the heading ''Available Information for Specific Refuges.''

We add the following hunting and sport fishing activities:

Unit	State	Migratory bird hunting	Upland game unting	Big game hunting	Sport fishing
Waccamaw	SC	X	X	X	X
Crescent Lake	NE	X			
Mountain Longleaf	AL	X	X	X	
Red River	LA	X	X	X	X
Trinity River	TX		X	X	
Cross Creeks	TN	X			
Tennessee	TN	X			
Cypress Creek	IL				X
Big Oaks	IN		X		
Big Branch Marsh	LA		X		
Savannah	GA/SC	X			
Devils Lake WMD	ND	X	X	X	X
Huron WMD	SD	X	X	X	X
Lake Andes WMD	SD	X	X	X	X
Madison WMD	SD	X	X	X	X
Sand Lake WMD	SD	X	X	X	X
Waubay WMD	SD	X	X	X	X

Lands acquired as ''waterfowl production areas,'' which we generally manage as part of wetland management districts, are open to the hunting of migratory game birds, upland game, big game, and sport fishing subject to the

provisions of State law and regulations (see 50 CFR 32.1 and 32.4). We are adding these existing wetland management districts to the list of refuges open for all four activities in part 32 this year: Huron, Lake Andes, Madison, Sand Lake, and Waubay Wetland Management Districts in South Dakota and Devils Lake Wetland Management District in North Dakota.

DeSoto National Wildlife Refuge in Iowa is closing to migratory bird hunting this year but will continue to remain open to big game hunting and sport fishing. The refuge has offered a snow-goose-only hunt for the past four seasons with poor success, so they are stopping the hunt due to very low harvest rates. Stillwater National Wildlife Refuge in Nevada is closing to sport fishing this year due to concerns over mercury contaminants in the fish.

Johnston Island National Wildlife Refuge closed to sport fishing this year. An Air Force installation exists as an ''overlay'' at Johnston Island. On June 15, 2004, the Air Force terminated its current mission and all military and civilian personnel were removed from the island. The Service also removed our personnel. The Air Force still has administrative jurisdiction and control over all the islands and Naval Defensive Sea out to 3 nautical miles, but there are no people there to engage in sportfishing, and outsiders are prohibited from entering the Naval Defensive Sea, so there is no need for recreational fishing regulations.

We are withdrawing the proposed 50 CFR 32.9 ''What specific areas of the United States Unincorporated Pacific-Insular Possessions remain closed to commercial fishing?'' We will address this issue separately at a later date. This does not alter the fact that Baker Island NWR, Howland Island NWR, Jarvis Island NWR, Kingman Reef NWR, and Palmyra Atoll NWR are closed to commercial fishing. As we stated in the **Federal Register** notice published on June 30, 2004 (69 FR 39553), the proposal was intended to more clearly display and give notice to the public of this fact. In addition, we are withdrawing the proposed modification to the portion of 50 CFR 32.71 dealing with sport fishing at Midway Atoll NWR. The regulations that currently cover this use remain unaffected; we will address this issue separately at a later date as well.

On July 30, 2004, the Alabama Department of Environmental Management (ADEM) issued an Emergency Administrative Order (Order) related to unexploded ordnance (UXO) and munitions and explosives of concern (MEC) investigations and recovery actions by the U.S. Army on portions of Mountain Longleaf National Wildlife Refuge in the State of Alabama. This Order was in response to reported violations related to the disposal of UXO and/or MEC by a U.S. Army contractor. These violations have now been documented. The ADEM Order specifically applies to prescribed burning activities on the refuge.

The Service requested from the U.S. Army a determination of whether the current Order or issues surrounding the Order would result in a change in their determination that public access may be safely allowed within the public use areas of the refuge. It has been determined that the public use areas of the refuge are not directly related to the Order. The area of the refuge that we plan to open to the public is not known or suspected to contain UXO. The areas now being reexamined under this Order are outside of the designated public use areas on the refuge.

The Service will continue to monitor the issues relating to this Order. Should new information become available that would lead us to believe that public safety may be compromised, we will close the refuge to all public uses including hunting in accordance with 50 CFR 25.21(e). Should the ADEM Order be modified in any way, we will evaluate its affect on public use on the refuge and close the refuge to the public, if necessary. Prior to opening for hunting, the refuge will work with the U.S. Army to ensure that all land use controls are properly in place and remain sufficient to protect public safety.

Medicine Lake National Wildlife Refuge in the State of Montana was inadvertently dropped from the 50 CFR 32.45 with the printing of the 2002 edition of the CFR. It is reinserted in that section in this final rule to correct this administrative error. It is still correctly listed in § 32.7 What refuge units are open to hunting and/or fishing?

The 2004–2005 hunting and sport fishing season will result in a net of seven refuges added to sport fishing and nine refuges added to hunting. This will bring our cumulative total of refuges open to hunting to 325 and refuges open to sport fishing to 282.

This document codifies in the Code of Federal Regulations all of the Service's hunting and/or sport fishing regulations that are applicable at Refuge System units previously opened to hunting and/or sport fishing. We are doing this to better inform the general public of the requirements at each refuge, to increase understanding and compliance with these requirements, and to make enforcement of these regulations more efficient. In addition to now finding these conditions in part 32, visitors to our refuges will usually find these terms and conditions reiterated in literature distributed by each refuge or posted on signs.

We have cross-referenced a number of existing regulations in 50 CFR parts 26 and 27 to assist hunting and sport fishing visitors with understanding safety and other legal requirements on refuges. This redundancy is deliberate, with the intention of improving safety and compliance in our hunting and sport fishing programs. We are not accepting public comment on the existing regulations cross-referenced in this rule for the benefit of visitors.

Fish Advisory

For health reasons, anglers should review and follow State-issued consumption advisories before enjoying recreational sport fishing opportunities on Service-managed waters. You can find information about current fish consumption advisories on the Internet at: *http://www.epa.gov/ost/fish/.*

We incorporate this regulation into 50 CFR parts 31 and 32. Part 31 contains general provisions for wildlife species management. Part 32 contains general provisions and refuge-specific regulations for hunting and sport fishing on refuges.

Regulatory Planning and Review

In accordance with the criteria in E.O. 12866, the Service asserts that this rule is not a significant regulatory action. The Office of Management and Budget (OMB) makes the final determination under E.O. 12866.

a. This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government. A cost-benefit and full economic analysis is not required. The purpose of this rule is to add 10 refuges and wetland management districts to the list of areas open for hunting and/or sport fishing programs and increase the activities available at 7 other refuges. These units are located in the States of Alabama, Georgia, Illinois, Indiana, Louisiana, Nebraska, North Dakota, South Carolina, South Dakota, Tennessee, and Texas. Sport fishing and hunting are two of the wildlife-dependent recreational uses of refuges that Congress recognized as legitimate and appropriate and directed that we should facilitate their pursuit, subject to such restrictions or regulations as may be necessary to ensure their compatibility with the purpose of each refuge. Many of the 544

existing refuges already have programs where we allow sport fishing and hunting. Not all refuges have the necessary resources and landscape that would make sport fishing and hunting opportunities available to the public. By opening these refuges to new activities, we have determined that we can make quality experiences available to the public. This rule establishes hunting and/or sport fishing programs and activities at the following refuges: Mountain Longleaf National Wildlife Refuge in Alabama, Savannah National Wildlife Refuge in Georgia and South Carolina, Cypress Creek National Wildlife Refuge in Illinois, Big Oaks National Wildlife Refuge in Indiana, Big Branch Marsh and Red River National Wildlife Refuges in Louisiana, Crescent Lake National Wildlife Refuge in Nebraska, Waccamaw National Wildlife Refuge in South Carolina, Cross Creeks and Tennessee National Wildlife Refuge in Tennessee, and Trinity River National Wildlife Refuge in Texas. We present impacts in 2003 dollars.

All wetland management districts are open to hunting and sport fishing activities until closed, and the rulemaking reflects that Devils Lake Wetland Management District in North Dakota and Huron, Lake Andes, Madison, Sand Lake, and Waubay Wetland Management Districts in South Dakota are already open to hunting of migratory game birds, upland game, big game, and sport fishing. We do not expect any change in visitation rates at these wetland management districts because recreationists currently have the option to participate in these activities. Therefore, there are no new economic impacts from these wetland management districts.

There are marginal new economic impacts anticipated from decreasing the fishing opportunities at Stillwater NWR in Nevada. They estimate that only 12 anglers a year are impacted and substitute sites are readily available. Because this impact is marginal, we do not conduct a quantitative analysis. Further, there are no impacts anticipated from decreasing the fishing opportunities at Johnston Island NWR in U.S. Unincorporated Pacific Insular Possessions because the only anglers were resident military personnel and contractors. Effective June 15, 2004, the U.S. Air Force removed all personnel from the island. Outsiders are prohibited from entering the 3 nautical mile Naval Defensive Sea surrounding Johnston Island.

Following a best-case scenario, if the refuges establishing new sport fishing and hunting programs were a pure addition to the current supply of such activities, it would mean a consumer surplus of approximately $875,000 annually and an estimated increase of 11,035 user days of hunting and 1,090 user days of sport fishing (Table 1). However, the participation trend is flat in sport fishing and hunting activities because the number of Americans participating in these activities has been stagnant since 1991. Any increase in the supply of these activities introduced by adding refuges where the activity is available will most likely be offset by other sites losing participants, especially if the new sites have higher quality sport fishing and/or hunting opportunities. Using the value of the difference in the upper and lower bounds of the 95 percent confidence interval for average consumer surplus to represent the estimate of the increase in consumer surplus for higher quality sport fishing and hunting (Walsh, Johnson, and McKean 1990 [1]) yields an estimated increase in consumer surplus of about $232,000 annually, which is a true estimate of the benefits. Consequently, this rule will have a small, measurable, beneficial economic impact on the U.S. economy.

TABLE 1.—ESTIMATED CHANGES IN CONSUMER SURPLUS FROM ADDITIONAL SPORT FISHING AND HUNTING OPPORTUNITIES IN 2004/05

Unit	Current hunting and/or fishing days (FY03)	Additional fishing days	Additional hunting days	Additional fishing and hunting days combined
Waccamaw	—	300	175	475
Crescent Lake	1,639	—	2,000	2,000
Mountain Longleaf	—	—	4,000	4,000
Red River	—	40	110	150
Trinity River	12,243	—	300	300
Cross Creeks	22,562	—	100	100
Tennessee	233,517	—	200	200
Cypress Creek	16,975	750	—	750
Big Oaks	9,188	—	150	150
Big Branch Marsh	6,835	—	4,000	4,000
Savannah	6,856	—	900	900
Total Days Per Year	309,815	1,090	11,935	13,025
Consumer Surplus per Day	.....	$63.57	$67.53	
Consumer Surplus for Quality Change	.....	$24.13	$17.27	
Change in Total Consumer Surplus	.....	$69,296	$805,923	$875,219
Change in Quality Consumer Surplus	.....	$26,306	$206,072	$232,378

Note 1: All estimates are stated in 2003 dollars.
Note 2: Fiscal year 2003 visitation numbers for Waccamaw, Mountain Longleaf, and Red River were not available.

[1] Article presented at the Western Regional Science Association Annual meeting in Molokai, Hawaii, on February 22, 1990.

b. This rule will not create inconsistencies with other agencies' actions. This action pertains solely to the management of the Refuge System. The sport fishing and hunting activities located on refuges account for approximately 1 percent of the available supply in the United States. Any small, incremental change in the supply of sport fishing and hunting opportunities will not measurably impact any other agency's existing programs.

c. This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This rule does not affect entitlement programs. There are no grants or other Federal assistance programs associated with public use of refuges.

d. This rule will not raise novel legal or policy issues. This rule opens 10 additional refuges and wildlife management districts for sport fishing and hunting programs and increases the activities available at 7 other refuges. This rule continues the practice of allowing recreational public use of refuges. Many refuges in the Refuge System currently have opportunities for the public to hunt and fish on refuge lands.

Regulatory Flexibility Act

We certify that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

Congress created the Refuge System to conserve fish, wildlife, plants, and their habitats and facilitated this conservation mission by providing Americans opportunities to visit and participate in compatible wildlife-dependent recreation, including sport fishing and hunting, as priority general public uses of refuges and to better appreciate the value of, and need for, wildlife conservation.

This rule does not increase the number of recreation types allowed in the Refuge System but establishes hunting and/or sport fishing programs on ten refuges and in wetland management districts. As a result, opportunities for wildlife-dependent recreation on refuges will increase. The changes in the amount of permitted use are likely to increase visitor activity on these refuges. But, as stated above, this is likely to be a substitute site for the activity and not necessarily an increase in participation rates for the activity. To the extent visitors spend time and money in the area of the refuge that they would not have spent there anyway, they contribute new income to the regional economy and benefit local businesses.

For purposes of analysis, we will assume that any increase in refuge visitation is a pure addition to the supply of the available activity. This will result in a best-case scenario, and we expect to overstate the benefits to local businesses. The latest information on the distances traveled for sport fishing and hunting activities indicates that more than 80 percent of the participants travel less than 100 miles from home to engage in the activity. This indicates that participants will spend travel-related expenditures in their local economies. Since participation is scattered across the country, many small businesses benefit. The 2001 National Survey of Fishing, Hunting, and Wildlife Associated Recreation identifies expenditures for food and lodging, transportation, and other incidental expenses. Using the average expenditures for these categories with the expected maximum additional participation on the Refuge System as a result of this rule yields the following estimates (Table 2) compared to total business activity for these sectors.

TABLE 2.—ESTIMATION OF THE ADDITIONAL EXPENDITURES WITH AN INCREASE OF ACTIVITIES IN 7 REFUGES AND THE OPENING OF 10 REFUGES AND WETLAND MANAGEMENT DISTRICTS TO FISHING AND/OR HUNTING FOR 2004/05

	U.S. total expenditures in 2001	Average expend. per day ($)	Current refuge expenditures w/o duplication (FY2003)	Possible additional refuge expenditures
Anglers				
Total Days Spent	557 Mil	.....	6.7 Mil	1,090
Total Expenditures	$37.0 Bil	66	$441.8 Mil	$72,395
Trip Related	$15.2 Bil	27	$181.7 Mil	$29,777
Food and Lodging	$6.1 Bil	11	$72.9 Mil	$11,949
Transportation	$3.7 Bil	7	$43.6 Mil	$7,143
Other	$5.5 Bil	10	$66.2 Mil	$10,685
Hunters				
Total Days Spent	228 Mil	.....	2.2 Mil	11,935
Total Expenditures	$21.4 Bil	94	$206.5 Mil	$1,119,139
Trip Related	$5.5 Bil	24	$52.6 Mil	$285,195
Food and Lodging	$2.5 Bil	11	$24.5 Mil	$133,027
Transportation	$1.9 Bil	8	$17.9 Mil	$97,157
Other	$1.1 Bil	5	$10.1 Mil	$55,011

Note: All estimates are in 2003 dollars.

Using a national impact multiplier for hunting activities (2.73) derived from the report ''Economic Importance of Hunting in America'' and a national impact multiplier for sport fishing activities (2.79) from the report ''Sportfishing in America'' for the estimated increase in direct expenditures yields a total economic impact of approximately $3.3 million (2003 dollars) (Southwick Associates, Inc., 2003). Since we know that most of the sport fishing and hunting occurs within 100 miles of a participant's residence, then it is unlikely that most of this spending would be ''new'' money coming into a local economy and, therefore, this spending would be offset

with a decrease in some other sector of the local economy. The net gain to the local economies would be no more than $3.3 million and most likely considerably less. Since 80 percent of the participants travel less than 100 miles to engage in hunting and sport fishing activities, their spending patterns would not add new money into the local economy and, therefore, the real impact would be on the order of $651,000 annually. The maximum increase (if all spending were new money) at most would be less than 2 percent for local retail trade spending (Table 3).

A large percentage of the retail trade establishments in the majority of affected counties qualifies as small businesses. With the small increase in overall spending anticipated from this rule, it is unlikely that a substantial number of small entities will have more than a small benefit from the increased recreationist spending near the affected refuges.

TABLE 3.—COMPARATIVE EXPENDITURES FOR RETAIL TRADE ASSOCIATED WITH ADDITIONAL REFUGE VISITATION FOR 2004/05

Unit/county(ies)	Retail trade in 1997 (2003 dollars)	Estimated maximum addition from new refuge	Addition as a percentage of total retail trade	Total number retail establish	Establish with <10 employees
Waccamaw					
Horry, SC	$2,872.0 Mil	$12,083	0.0004	2,270	1,556
Georgetown, SC	552.5 Mil	12,083	0.002	492	347
Marion, SC	247.3 Mil	12,083	0.005	212	156
Crescent Lake					
Garden, NE	11.0 Mil	188,000	1.701	21	18
Mountain Longleaf					
Calhoun, AL	1,125.8 Mil	376,000	0.033	723	489
Red River					
Natchitoches, LA	264.1 Mil	12,980	0.005	191	122
Trinity River					
Liberty, TX	506.4 Mil	28,200	0.006	257	177
Cross Creeks					
Stewart, TN	49.9 Mil	9,400	0.019	45	32
Tennessee					
Henry, TN	280.4 Mil	6,267	0.002	218	160
Humphreys, TN	127.0 Mil	6,267	0.005	100	72
Benton, TN	106.0 Mil	6,267	0.006	106	80
Cypress Creek					
Pulaski, IL	17.8 Mil	16,500	0.093	35	29
Union, IL	111.0 Mil	16,500	0.015	86	66
Alexander, IL	33.4 Mil	16,500	0.049	54	42
Big Oaks					
Jefferson, IN	322.3 Mil	4,700	0.001	218	153
Jennings, IN	156.0 Mil	4,700	0.003	100	70
Ripley, IN	226.2 Mil	4,700	0.002	168	113
Big Branch Marsh					
St. Tammany Parish, LA	1,732.8 Mil	376,000	0.022	1,068	713
Savannah					
Chatham, GA	2,828.1 Mil	28,200	0.001	1,760	1,179
Effingham, GA	190.0 Mil	28,200	0.015	114	79
Jasper, SC	88.2 Mil	28,200	0.032	95	61

Note 1: Data are from the U.S. Census Bureau's 1997 County Business Patterns & 1997 Economic Census.

Many small businesses may benefit from some increased refuge visitation. However, we expect that much of this benefit will be offset as recreationists spend the same money in a different location. We expect that the incremental recreational opportunities will be scattered, and so we do not expect that the rule will have a significant economic effect (benefit) on a substantial number of small entities in any region or nationally.

Small Business Regulatory Enforcement Fairness Act

The rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. We anticipate no significant employment or small business effects. This rule:

a. Does not have an annual effect on the economy of $100 million or more. The additional sport fishing and hunting opportunities at the 7 refuges would generate angler and hunter expenditures with a maximum economic impact estimated at $3.3 million per year (2003 dollars). Consequently, the maximum benefit of this rule for businesses both small and large would not be sufficient to make this a major rule. The impact would be scattered across the country and would most likely not be significant in any local area.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This rule will have only a slight effect on the costs of hunting and sport fishing opportunities for Americans. Under the assumption that any additional hunting and sport fishing opportunities would be quality, participants would be attracted to the refuge. If the refuge were closer to the participants' residences, then a reduction in travel costs would occur and benefit the participants. The Service does not have information to quantify this reduction in travel cost but assumes that since most people travel less than 100 miles to hunt and fish, the reduced travel cost would be small for the additional days of hunting and sport

fishing generated by this rule. We do not expect this rule to affect the supply or demand for sport fishing and hunting opportunities in the United States and, therefore, it should not affect prices for sport fishing and hunting equipment and supplies, or the retailers that sell equipment. Additional refuge hunting and sport fishing opportunities would account for less than 0.001 percent of the available opportunities in the United States.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises. This rule represents only a small proportion of recreational spending of a small number of affected anglers and hunters, approximately a maximum of $3.3 million annually in impact. Therefore, this rule will have no measurable economic effect on the wildlife-dependent recreation industry, which has annual sales of equipment and travel expenditures of $72 billion nationwide. Refuges that establish hunting and sport fishing programs may hire additional staff from the local community to assist with the programs, but this would not be a significant increase because only 10 refuges are adding new programs and only 7 refuges are increasing activities by this rule.

Unfunded Mandates Reform Act

Since this rule applies to public use of federally owned and managed refuges, it does not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with E.O. 12630, the rule does not have significant takings implications. This regulation will affect only visitors at refuges and describe what they can do while they are there.

Federalism (E.O. 13132)

As discussed in the Regulatory Planning and Review and Unfunded Mandates Reform Act sections above, this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment under E.O. 13132. In preparing this rule, we worked with State governments, and our programs are consistent to the State regulations to the degree practicable.

Civil Justice Reform (E.O. 12988)

In accordance with E.O. 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. The regulation will clarify established regulations and result in better understanding of the regulations by refuge visitors.

Energy Supply, Distribution or Use (E.O. 13211)

On May 18, 2001, the President issued E.O. 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Because this rule opens seven refuges to hunting and/or sport fishing programs and makes minor changes to other refuges open to those activities, it is not a significant regulatory action under E.O. 12866 and is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is a not a significant energy action and no Statement of Energy Effects is required.

Consultation and Coordination With Indian Tribal Governments (E.O. 13175)

In accordance with E.O. 13175, we have evaluated possible effects on federally recognized Indian tribes and have determined that there are no effects. We coordinate recreational use on refuges with Tribal governments having adjoining or overlapping jurisdiction before we propose the regulations. This regulation is consistent with and not less restrictive than Tribal reservation rules.

Paperwork Reduction Act

This regulation does not contain any information collection requirements other than those already approved by the OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) (OMB Control Number is 1018–0102). See 50 CFR 25.23 for information concerning that approval. 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.

Endangered Species Act Section 7 Consultation

We reviewed the changes in hunting and sport fishing regulations herein with regard to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1544, as amended) (ESA). For the refuges opening for hunting and/or sport fishing, we have determined that Waccamaw National Wildlife Refuge (for wood stork, red cockaded woodpecker, peregrine falcon, and bald eagle), Mountain Longleaf National Wildlife Refuge, Red River National Wildlife Refuge, Trinity River National Wildlife Refuge, Cross Creeks National Wildlife Refuge, Tennessee National Wildlife Refuge, Cypress Creek National Wildlife Refuge, Big Oaks National Wildlife Refuge, and Big Branch National Wildlife Refuge will not likely adversely affect any endangered or threatened species or designated critical habitat, and Waccamaw National Wildlife Refuge (for shortnose sturgeon, pondberry, Canby's dropwort, and American chaffseed), Savannah National Wildlife Refuge, and Crescent Lake National Wildlife Refuge will not affect any endangered or threatened species or designated critical habitat.

We also comply with Section 7 of the ESA when developing a CCP and step-down management plans for public use of refuges, and prior to implementing any new or revised public recreation program on a refuge as identified in 50 CFR 26.32. We also make determinations when required by the ESA before the addition of a refuge to the lists of areas open to hunting or sport fishing as contained in 50 CFR 32.7.

National Environmental Policy Act

We analyzed this rule in accordance with the criteria of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)) (NEPA) and 516 DM 6, Appendix 1. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement/assessment is not required.

A categorical exclusion from NEPA documentation applies to this amendment of refuge-specific hunting and sport fishing regulations since it is technical and procedural in nature and we otherwise comply with NEPA at the specific refuge units.

Prior to the addition of a refuge to the list of areas open to hunting and sport fishing in 50 CFR part 32, we develop specific management plans for the affected refuges. We incorporate these refuge hunting and sport fishing activities in refuge CCPs and/or other step-down management plans, pursuant to our refuge planning guidance in 602 FW 1, 3, and 4. We prepare CCPs and step-down plans in compliance with section 102(2)(C) of NEPA, and the Council on Environmental Quality's regulations for implementing NEPA in 40 CFR parts 1500–1508. We invite the

affected public to participate in the review, development, and implementation of these plans.

Available Information for Specific Refuges

Individual refuge headquarters retain information regarding public use programs and the conditions that apply to their specific programs and maps of their respective areas. You may also obtain information from the Regional Offices at the addresses listed below:

Region 1—California, Hawaii, Idaho, Nevada, Oregon, and Washington. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, Eastside Federal Complex, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181; Telephone (503) 231–6214.

Region 2—Arizona, New Mexico, Oklahoma, and Texas. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, P.O. Box 1306, 500 Gold Avenue, Albuquerque, New Mexico 87103; Telephone (505) 248–6804.

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1 Federal Drive, Federal Building, Fort Snelling, Minnesota 55111; Telephone (612)–713–5400.

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Atlanta, Georgia 30345; Telephone (404) 679–7154.

Region 5—Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035–9589; Telephone (413) 253–8302.

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 134 Union Blvd., Lakewood, Colorado 80228; Telephone (303) 236–8145.

Region 7—Alaska. Regional Chief, National Wildlife Refuge System, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503; Telephone (907) 786–3354.

Primary Author

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List of Subjects

50 CFR Part 31

Fish, Wildlife, Wildlife refuges.

50 CFR Part 32

Fishing, Hunting, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

■ For the reasons set forth in the preamble, we amend title 50, chapter I, subchapter C of the Code of Federal Regulations as follows:

PART 31—[AMENDED]

■ 1. The authority citation for part 31 continues to read as follows:

Authority: 5 U.S.C. 301; 43 U.S.C. 315a; 16 U.S.C. 460k, 668dd–ee, 685, 725, 690d, 715i, 664, 718(b); 48 Stat. 1270; sec. 4. 76 Stat. 654.

■ 2. Revise § 31.13 to read as follows:

§ 31.13 Do we allow commercial harvest of fishery resources?

Refuge managers may allow commercial harvest of fishery resources by issuance of a permit or by refuge-specific regulation in compliance with applicable State and Federal laws when compatible and in compliance with § 29.1 of this subchapter C.

PART 32—[AMENDED]

■ 3. The authority citation for part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd–668ee, and 715i.

§ 32.7 [Amended]

■ 4. Amend § 32.7 ''What refuge units are open to hunting and/or sport fishing?'' by:

■ a. Revising the listing of ''Blowing Wind Cave National Wildlife Refuge'' to read ''Sauta Cave National Wildlife Refuge'' and placing it in alphabetical order, alphabetically adding ''Grand Bay National Wildlife Refuge,'' and alphabetically adding ''Mountain Longleaf National Wildlife Refuge'' in the State of Alabama;

■ b. Revising the listing of ''San Francisco Bay National Wildlife Refuge'' to read ''Don Edwards San Francisco Bay National Wildlife Refuge'' and placing it in alphabetical order in the State of California;

■ c. Alphabetically adding ''Marais des Cygnes National Wildlife Refuge'' in the State of Kansas, which was previously inadvertently omitted;

■ d. Alphabetically adding ''Red River National Wildlife Refuge'' in the State of Louisiana;

■ e. Removing ''Lake Umbagog National Wildlife Refuge'' in the State of New Jersey;

■ f. Revising ''MacKay Island National Wildlife Refuge'' to read ''Mackay Island National Wildlife Refuge'' in the State of North Carolina;

■ g. Alphabetically adding ''Devils Lake Wetland Management District'' in the State of North Dakota;

■ h. Revising the listing of ''Hart Mountain National Wildlife Refuge'' to read ''Hart Mountain National Antelope Refuge'' and placing it in alphabetical order in the State of Oregon;

■ i. Alphabetically adding ''Waccamaw National Wildlife Refuge'' in the State of South Carolina;

■ j. Alphabetically adding ''Devils Lake Wetland Management District,'' ''Huron Wetland Management District,'' ''Lake Andes Wetland Management District,'' ''Madison Wetland Management District,'' ''Sand Lake Wetland Management District,'' and ''Waubay Wetland Management District,'' and revising the listing of ''Wauby National Wildlife Refuge'' to read ''Waubay National Wildlife Refuge'' in the State of South Dakota; and

■ k. Revising the listing of ''Johnston Atoll National Wildlife Refuge'' to read ''Johnston Island National Wildlife Refuge'' in the United States Unincorporated Pacific Insular Possessions.

§§ 32.20 through 32.72 [Amended]

■ 5. In §§ 32.20 through 32.72 remove the entry ''*A. Hunting of Migratory Game Birds.*'' and add in its place ''*A. Migratory Game Bird Hunting.*'' each place that it appears.

■ 6. Amend § 32.20 Alabama by:

■ a. Revising the listing of Blowing Wind Cave National Wildlife Refuge to read Sauta Cave National Wildlife Refuge, placing it in alphabetical order, and revising paragraph B.;

■ b. Revising Choctaw National Wildlife Refuge;

■ c. Revising Eufaula National Wildlife Refuge;

■ d. Revising paragraphs A. and B. of Key Cave National Wildlife Refuge;

■ e. Adding Mountain Longleaf National Wildlife Refuge; and

■ f. Revising paragraphs B., C., and D. of Wheeler National Wildlife Refuge to read as follows:

§ 32.20 Alabama.

* * * * *

Choctaw National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, raccoon, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit hunting within 100 yards (90 m) of the fenced-in Work Center Area or the refuge boat ramp.
2. Access to the Middle Swamp is by boat only. We prohibit access to the refuge from private land.
3. We prohibit marking trees and use of flagging tape, reflective tacks, and other similar marking devices.
4. You may take incidental species as listed in the refuge hunt permit during any fall hunt with those weapons legal during those hunts.
5. You must possess and carry a signed refuge hunt permit when hunting.
6. All youth hunters age 15 and younger must remain within sight and normal voice contact of an adult age 21 or older, possessing a license. Youth hunters must have passed a State-approved hunter education course. One adult may supervise no more than two youth hunters.
7. We prohibit overnight mooring or storage of boats.
8. We require hunters to check all harvested game at the conclusion of each day at one of the refuge check-out stations.
9. You may only use approved nontoxic shot (see § 32.2(k)) #4 or smaller, .22 caliber rimfire, or legal archery equipment.
10. We allow you to use dogs during the hunt, but the dogs must be under the immediate control of the handler at all times and not allowed to roam free (see § 26.21(b) of this chapter). We prohibit dogs in the Middle Swamp area of the refuge.

C. Big Game Hunting. We allow hunting of white-tailed deer and feral hog in accordance with State regulations subject to the following conditions:

1. Conditions B1 through B8 apply.
2. We require tree stand users to use a safety belt or harness.
3. We prohibit damaging trees or hunting from a tree that contains an inserted metal object (see § 32.2(i)). Hunters must remove stands from trees each day (see § 27.93 of this chapter).
4. During the spring muzzleloader hunt for feral hog, muzzleloaders must be .40 caliber or larger without scopes. We require hunters to wear hunter orange in accordance with State big game regulations except you must also wear hunter orange while on tree stands.
5. We prohibit participation in organized drives.
6. We prohibit mules and horses on all refuge hunts.
7. We prohibit hunting by aid or distribution of any feed, salt, or other mineral at any time.

D. Sport Fishing. We allow fishing in designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing year-round, except in the waterfowl sanctuary, which we close from December 1 through March 1.
2. With the exception of the refuge boat ramp, we limit access from ½ hour before legal sunrise to ½ hour after legal sunset.
3. You may use a rod and reel and pole and line. We prohibit all other methods of fishing.
4. We prohibit the taking of frogs or turtles (see § 27.21 of this chapter).
5. We prohibit bow fishing.
6. We prohibit the use of airboats, hovercraft, and inboard waterthrust boats such as, but not limited to, personal watercraft, watercycles, and waterbikes on all waters of the refuge.
7. We allow commercial fishing with the use of nets, seines, boxes, and baskets only by Special Use Permit.
8. We prohibit mooring or storing of boats from ½ hour after legal sunset to ½ hour before legal sunrise.

Eufaula National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of mourning and Eurasian-collared dove, duck, and goose on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a signed refuge hunt permit when hunting.
2. We allow dove hunting on selected areas and days during the State dove season. You may only possess approved nontoxic shotshells (see § 32.2(k)).
3. We allow goose and duck hunting in the Kennedy and Bradley Units on selected days until 12 p.m. (noon) during State waterfowl seasons. We close all other areas within the refuge to waterfowl hunting.
4. You may only possess approved nontoxic shotshells while in the field (see § 32.2(k)) in quantities of 25 or less when hunting duck or goose.
5. All youth hunters age 15 and younger must remain within sight and normal voice contact of an adult age 21 or older, possessing a license. Youth hunters must possess and carry verification of passing a State-approved hunter education course. One adult may supervise no more than two youth hunters.

B. Upland Game Hunting. We allow hunting of squirrel and rabbit on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 and A5 apply.
2. We allow squirrel and rabbit hunting on selected areas and days during the State season.
3. We prohibit dogs (see § 26.21(b) of this chapter).
4. We allow only shotguns.
5. We prohibit mooring or storing of boats from 2 hours after legal sunset to ½ hour before legal sunrise.

C. Big Game Hunting. We allow hunting of white-tailed deer and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 and B5 apply.
2. We allow both archery deer and feral hog hunting during State archery and gun seasons.
3. We close the portion of the refuge between Bustahatchee and Rood Creeks to archery hunting until November 1.
4. All youth hunters age 15 and younger must remain within sight and normal voice contact of an adult age 21 or older, possessing a license. We allow youth gun deer hunting (ages 10–16) within the Bradley Unit on weekends during October where youth age 16 or under must be supervised by an adult. Youth hunters must have passed a State-approved hunter education course. One adult may supervise no more than one youth hunter.
5. We close the portion of the refuge around the Upland Impoundment, also designated by signs reading ''Closed Seasonally November 15–February 28,'' to hunting after November 15.
6. We prohibit damaging trees or hunting from a tree that contains an inserted metal object (see § 32.2(i)). Hunters must remove stands from the trees each day (see § 27.93 of this chapter).
7. We allow access to the refuge for all hunts from 1½ hours before legal sunrise to 1½ hours after legal sunset.
8. We prohibit hunting by aid or distribution of any feed, salt, or other mineral at any time (see § 32.2(h)).
9. We prohibit participation in organized drives.
10. We prohibit mules and horses on all refuge hunts.
11. We require tree stand users to use a safety belt or harness.

D. Sport Fishing. We allow fishing in designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing, including bowfishing, from legal sunrise to legal sunset only in refuge waters other than Lake Eufaula.

2. We prohibit taking frog or turtle (see § 27.21 of this chapter) from refuge waters not connected with Lake Eufaula.

3. We adopt reciprocal license agreements between Alabama and Georgia for fishing in Lake Eufaula. Anglers fishing in refuge impounded waters must possess and carry a license for the State in which they are fishing.

5. We prohibit use of boats with motors in all refuge impounded areas.

6. Condition B5 applies.

Key Cave National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of mourning and Eurasian-collared dove on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a signed refuge hunt permit when hunting.

2. We allow hunting on designated areas from 12 p.m. (noon) to legal sunset Mondays, Tuesdays, Fridays, and Saturdays.

3. Hunters must park in designated parking areas. We prohibit parking vehicles on refuge roads or in the fields (see § 27.31 of this chapter).

4. All youth hunters age 15 and younger must remain within sight and normal voice contact of an adult age 21 or older, possessing a license. Youth hunters must have passed a State-approved hunter education course. One adult may supervise no more than two youth hunters.

5. We allow you to use dogs during the hunt, but the dogs must be under the immediate control of the handler at all times and not allowed to roam free (see § 26.21(b) of this chapter).

B. Upland Game Hunting. We allow hunting of quail, squirrel, rabbit, raccoon, and opossum on designated portions of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 and A3 through A5 apply.

2. We allow hunting on designated areas from legal sunrise to legal sunset Mondays, Tuesdays, Fridays, and Saturdays, except that you may hunt opossum and raccoon after legal sunset.

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Mountain Longleaf National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of woodcock on designated areas of the refuge in accordance with State regulations subject to the following condition: You must possess and carry a signed hunt permit when hunting.

B. Upland Game Hunting. We allow hunting of quail, squirrel, rabbit, groundhog, raccoon, opossum, beaver, and fox on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a signed refuge hunt permit when hunting.

2. We only allow hunting from legal sunrise to legal sunset.

3. We prohibit the use of dogs (see § 26.21(b) of this chapter) to hunt or pursue raccoon, opossum, or fox.

C. Big Game Hunting. We allow hunting of white-tailed deer, bobcat, coyote, feral hog, and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Condition B1 applies.

2. We prohibit damaging trees or hunting from a tree that contains an inserted metal object (see § 32.2(i)). Hunters must remove stands from trees each day (see § 27.93 of this chapter).

3. We prohibit using dogs (see § 26.21(b) of this chapter) to hunt or pursue big game.

D. Sport Fishing. [Reserved]

Sauta Cave National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge in accordance with State regulations subject to the following condition: Sauty Creek Wildlife Management Area regulations apply.

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Wheeler National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of quail, squirrel, rabbit, raccoon, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a signed refuge hunt permit when hunting.

2. You may only possess approved nontoxic shot (see § 32.2(k)) #4 or smaller, .22 caliber rimfire, or legal archery equipment.

3. You must unload and case or dismantle firearms (see § 27.42 of this chapter) before placing them in a vehicle or boat.

4. We prohibit hunting in the Triana recreation area or within 100 yards (90 m) of any public building, public road, walking trail, or boardwalk.

5. We prohibit mules and horses on all refuge hunts.

6. We allow hunting on designated areas Monday through Saturday. We prohibit hunting on Sunday.

7. All youth hunters age 15 and younger must remain within sight and normal voice contact of an adult age 21 or older, possessing a license. Youth hunters must have passed a State-approved hunter education course. One adult may supervise no more than two youth hunters.

8. We prohibit mooring or storing of boats from legal sunset to legal sunrise.

9. We prohibit marking trees and the use of flagging tape, reflective tacks, and other similar marking devices.

10. We allow the use of dogs to hunt upland game, but the dogs must be under the immediate control of the handler at all times and not allowed to run free (see § 26.21(b) of this chapter).

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions B1, B3, B4, B6, B8, and B9 apply.

2. We prohibit participation in organized drives.

3. We allow bows with broadhead arrows and flintlocks .40 caliber or larger only.

4. We prohibit damaging trees or hunting from a tree that contains an inserted metal object (see § 32.2(i)). Hunters must remove stands from trees each day (see § 27.93 of this chapter).

5. We require tree stand users to use a safety belt or harness.

6. We prohibit mules and horses on all refuge hunts.

7. We prohibit hunting by aid or distribution of any feed, salt, or other mineral at any time (see § 32.2(h)).

8. All youth hunters age 15 and younger must remain within sight and normal voice contact of an adult age 21 or older, possessing a license. Youth hunters must have passed a State-approved hunter education course. One adult may supervise no more than one youth.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit bank fishing around the shoreline of the refuge headquarters. Consult with the refuge brochure for further information.

2. We open all other refuge waters to fishing year-round unless otherwise posted.

3. We prohibit fishing in the Waterfowl Display Pool and other waters adjacent to the visitor center.

4. We prohibit airboats and hovercraft on all waters within the refuge boundaries.

5. We prohibit inboard waterthrust boats such as, but not limited to, personal watercraft, watercycles, and waterbikes on all waters of the refuge except that portion of the Tennessee River and Flint Creek from its mouth to mile marker 3.

6. We prohibit mooring and storing of boats from legal sunset to legal sunrise.

■ 7. Amend § 32.22 Arizona by:
■ a. Revising Bill Williams River National Wildlife Refuge;
■ b. Revising paragraphs A., B., and C. of Buenos Aires National Wildlife Refuge; and
■ c. Revising paragraph A.4.iv. of Havasu National Wildlife Refuge to read as follows:

§ 32.22 Arizona.

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Bill Williams River National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of mourning and white-winged dove in accordance with State regulations subject to the following conditions:

1. We only allow shotguns.

2. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

3. We only allow hunting in accordance with State regulations for the listed species.

4. We only allow hunting on the refuge in those areas south of the Bill Williams Road and east of Arizona State Rt. 95 and the south half of Section 35, T 11N-R 17W as posted.

5. Only upon specific consent from an authorized refuge employee may you retrieve game from an area closed to hunting or entry.

6. We prohibit hunting within 50 yards (45 m) of any building, road, or levee.

7. We prohibit target practice or any nonhunting discharge of firearms (see § 27.42 of this chapter).

B. Upland Game Hunting. We allow hunting of quail and cottontail rabbit in accordance with State regulations subject to the following conditions:

1. Conditions A1 and A3 through A7 apply.

2. We only allow hunting of cottontail rabbit from September 1 to the close of the State quail season.

C. Big Game Hunting. We allow hunting of desert bighorn sheep in Arizona Wildlife Management Areas 16A and 44A in accordance with State regulations subject to the following conditions:

1. Anyone for hire assisting or guiding a hunter(s) must obtain, possess, and carry a valid Special Use Permit issued by the refuge manager.

2. Conditions A3 through A7 apply.

D. Sport Fishing. We allow fishing in accordance with State regulations subject to the following conditions:

1. We close the isolated grow-out cove near the visitor center to fishing as posted.

2. We prohibit personal watercraft (PWC as defined by State law), air boats, and hovercraft on all waters within the boundaries of the refuge.

3. We designate all waters as wakeless speed zones (as defined by State law).

4. Persons fishing from a boat or other floating object must obtain, possess, and carry a current Colorado River shared jurisdiction stamp.

Buenos Aires National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, and mourning and white-winged dove on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You may only use firearms (see § 27.42 of this chapter) for the taking of legal game. You may only carry and use handguns in conjunction with a designated handgun season. We prohibit weapons in the No-Hunt Zone of the refuge headquarters, on Service property in Brown Canyon, and in the Watchable Wildlife Areas located at Arivaca Cienega and Arivaca Creek.

2. We allow stands, but you must remove them at the end of the hunt (see § 27.93 of this chapter).

3. The No-Hunt Zones include: Clark Ranch Tract, Don Honnas Tract, all Service property in Brown Canyon, Arivaca Creek from milepost 7 to Arivaca and within ¼ mile (.4 km) of the creek bed, within ¼ mile (.4 km) of all refuge residences and structures, and within a 2-mile (3.2 km) radius of both the refuge headquarters and the 10 mile (16 km) Antelope Wildlife Drive.

B. Upland Game Hunting. We allow hunting of cottontail rabbit, coyote, and skunk on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only require a refuge permit to hunt coyote during April and May. Permits are available at refuge headquarters.

2. Conditions A1 through A3 apply.

3. Hunting groups using more than four horses must possess and carry a refuge permit.

4. Each hunter using horses must provide water and feed and clear all horse manure from all campsites.

C. Big Game Hunting. We allow hunting of mule and white-tailed deer, javelina, and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You may only hunt feral hog during big game seasons. Each hunter must possess and carry a valid hunting license and big game permit for the season in progress. There is no bag limit.

2. Conditions A1 through A3 and B3 apply.

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Havasu National Wildlife Refuge

A. Migratory Game Bird Hunting.

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iv. We limit the number of shells waterfowl hunters may possess as indicated in refuge brochures.

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■ 8. Amend § 32.23 Arkansas by:
■ a. Revising Bald Knob National Wildlife Refuge;
■ b. Revising paragraphs A., B., C., D.1., and D.5., and adding paragraph D.8. of Big Lake National Wildlife Refuge;
■ c. Revising Cache River National Wildlife Refuge;
■ d. Revising Felsenthal National Wildlife Refuge;
■ e. Revising Holla Bend National Wildlife Refuge;
■ f. Revising Overflow National Wildlife Refuge;
■ g. Revising Pond Creek National Wildlife Refuge;
■ h. Revising paragraphs B., the introductory text of paragraph C., paragraphs C.1. and C.3. and paragraph D. of Wapanocca National Wildlife Refuge; and
■ i. Revising White River National Wildlife Refuge to read as follows:

§ 32.23 Arkansas.

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Bald Knob National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, coot, snipe, woodcock, and dove on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require refuge hunting permits. The permits are nontransferable, and anyone on refuge land in possession of hunting equipment must sign, possess, and carry the permits at all times.

2. We allow hunting of duck, goose, and coot daily until 12 p.m. (noon) throughout the State seasons, except for season closures on the Farm Unit during Gun Deer Hunt and for the exception provided in A3.

3. We allow hunting for goose from ½ hour before sunrise until legal sunset after the closing of the duck season in January for the remainder of the State goose season(s) and Snow, Blue, and Ross' Goose Conservation Orders.

4. We allow hunting for dove, snipe, and woodcock when their seasons correspond with duck and/or goose seasons.

5. We prohibit commercial hunting/guiding.

6. You may only possess approved nontoxic shot shells while in the field (see § 32.2(k)) in quantities of 25 or less. The possession limit includes shells located in/on vehicles and other personal equipment.

7. We prohibit hunting closer than 100 yards (90 m) to another hunter or hunting party.

8. You must remove decoys, blinds, boats, and all other equipment (see § 27.93 of this chapter) daily by 2:00 p.m.

9. Waterfowl hunters may enter the refuge parking areas at 4:45 a.m. and access the refuge at 5 a.m.

10. Hunters may leave boats with the owner's name and address permanently displayed or valid registration on the refuge from March 1 through October 31.

11. We prohibit possession of or marking trails with materials other than biodegradable paper flagging or reflective tape/tacks.

12. We prohibit building or hunting from permanent blinds.

13. We prohibit cutting of holes or manipulation of vegetation (*i.e.*, cutting bushes, mowing, weed-eating, herbicide use, etc.) and hunting from manipulated areas (see § 27.51 of this chapter).

14. We allow retriever dogs.

15. You must unload firearms (see § 27.42(b) of this chapter) when carried in/on land vehicles or boats under power.

16. We allow waterfowl hunting from roads and levees.

17. All youth hunters age 15 and younger must remain within sight and normal voice contact of an adult age 21 or older, possessing a license. For migratory bird hunting, one adult may supervise no more than two youth hunters.

18. We prohibit target practice or nonhunting discharge of firearms (see § 27.42 of this chapter).

19. We only allow vehicle use on established roads and trails (see § 27.31 of this chapter). We limit vehicle access on the Mingo Creek Unit to ATV use, only on marked ATV trails. You may use conventional vehicles on the Farm Unit from March 1 to November 14. You may only use ATVs from November 15 to February 28 for access beyond Parking Areas.

20. We prohibit entry into or hunting in waterfowl sanctuaries from November 15 through February 28.

21. You must adhere to all public use special conditions and regulations on the annual hunt brochure/permit.

22. We prohibit airboats, hovercraft, and personal watercraft (Jet Ski, etc.).

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, quail, raccoon, opossum, beaver, muskrat, nutria, armadillo, coyote, and feral hog on designated areas of the refuge in accordance with State regulations subject to the following special conditions:

1. Conditions A1, A5, A11, A15, A17 (for upland game hunting, one adult may supervise no more than two youth hunters), A18, A19, A21, and A22 apply.

2. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

3. We allow fall squirrel hunting in accordance with the State season on the Mingo Creek Unit and on the Farm Unit, except for season closure on the Farm Unit during the Gun Deer Hunt. We prohibit dogs, except for the period of January 15 through February 28. We do not open for the spring squirrel season.

4. We allow rabbit hunting in accordance with the State season on the Mingo Creek Unit and on the Farm Unit, except for season closure on the Farm Unit during the Gun Deer Hunt. We prohibit dogs, except for the period of January 15 through February 28.

5. We allow quail hunting in accordance with the State season except for season closure on the Farm Unit only during the Gun Deer Hunt. We allow dogs.

6. We allow hunting of raccoon and opossum with dogs beginning in November and continuing for up to a 3-week period. We list annual season dates in the refuge hunting brochure/permit. We prohibit pleasure running or training of dogs.

7. We prohibit the use of horses.

8. You may take beaver, muskrat, nutria, armadillo, feral hog, and coyote during any refuge hunt with the weapon allowed for that hunt.

9. We prohibit entry into or hunting in refuge waterfowl sanctuaries from November 15 to February 28.

10. We prohibit hunting from roads except by waterfowl hunters.

11. You may leave boats with the owner's name and address or valid registration permanently displayed on the refuge from March 1 through October 31.

12. We prohibit hunting from a vehicle.

13. We only allow rifles chambered for rimfire cartridges.

C. Big Game Hunting. We allow hunting of deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A5, A11, A15, A18, A19, A21, A22, and B8, B11, and B12 apply.

2. We divide the refuge into two hunting units: Farm Unit and Mingo Creek Unit.

3. The archery/crossbow hunting season for deer begins on the opening day of the State season and continues throughout the State season in the Mingo Creek Unit and Farm Unit except for the season closure on the Farm Unit during the Gun Deer Hunt. We provide annual season dates and bag limits on the hunt brochure/permit.

4. Muzzleloader hunting season for deer will begin in October and will continue for a period of up to 9 days in all hunting units with annual season dates and bag limits provided on the hunt brochure/permit.

5. The Gun Deer Hunt will begin in November and continue for a period of up to 9 days on the Farm Unit with annual season dates and bag limits provided on the hunt brochure/permit. We close the Mingo Creek Unit.

6. The fall archery/crossbow hunting season for turkey will begin on the opening day of the State season and continue throughout the State season on the Mingo Creek Unit only.

7. We prohibit spring and fall gun hunting for turkey.

8. Immediately record the zone 002 on your hunting license and later at an official check station for all deer and turkey harvested on the refuge.

9. You may only possess shotguns with rifled slugs, muzzleloaders, and legal pistols during the modern Gun Deer Hunt.

10. You may only use single-person portable deer stands.

11. We prohibit hunting from a vehicle or use of a vehicle as a deer stand.

12. You must permanently affix the owner's name and address to all deer stands on the refuge.

13. You must remove all deer stands from the Waterfowl Sanctuaries by November 14, except for stands used by Gun Deer Hunt permit holders who must remove their stands by the last day of the gun hunt. You must remove all stands from the rest of the refuge by the last day of the archery season (see § 27.93 of this chapter).

14. We prohibit the use of dogs.

15. We prohibit the possession of buckshot on all refuge lands.

16. We prohibit hunting from a mowed and/or graveled road right-of-way.

17. Refuge lands are located in State flood zone B, and we will close them to all deer hunting when the White River gauge at Augusta reaches 31 feet (9.3 m), as reported by the National Weather Service in the *Arkansas Democrat Gazette,* and reopen them when the same gauge reading in this newspaper falls to or below 19 feet (5.7 m).

18. We only allow Gun Deer Hunt permit holders on the Farm Unit during the Gun Deer Hunt.

19. We close Waterfowl Sanctuaries to all entry and hunting from November 15 to February 28, except for Gun Deer Hunt permit holders, who may hunt the sanctuary when the season overlaps with these dates.

20. An adult not less than age 21 must supervise and remain within sight and normal voice contact of hunters age 15 and under. For big game hunting, one adult may only supervise one youth.

D. Sport Fishing. We allow fishing and frogging in accordance with State regulations subject to the following conditions:

1. Conditions A5, A19, A21, and A22 apply.

2. We close waterfowl sanctuaries to all entry and fishing/frogging from November 15 to February 28. We also close the Farm Unit to all entry and fishing during the Gun Deer Hunt.

3. You may leave boats with the owner's name and address permanently displayed or valid registration on the refuge from March 1 to October 31. We prohibit use of boats from 12 p.m. (midnight) to 5 a.m. during duck season.

4. We prohibit commercial fishing.

5. We limit nighttime use to anglers fishing/frogging with fishing and/or frogging tackle only.

6. We prohibit mooring houseboats to the refuge bank on the Red River.

Big Lake National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, raccoon, nutria, coyote, beaver, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require refuge hunt permits. The permits are nontransferable and anyone on refuge land in possession of hunting equipment must sign and carry the permit at all times.

2. We prohibit firearms (see § 27.42 of this chapter) on the refuge, except during refuge squirrel, rabbit, and raccoon seasons. We provide annual season dates in the refuge hunting brochure/permit.

3. You may take nutria, beaver, and coyote during any refuge hunt with the firearm allowed for that hunt, subject to State seasons.

4. All youth hunters age 15 and younger must remain within sight and normal voice contact of an adult age 21 or older, possessing a license. For small game hunts, one adult may supervise no more than two youth hunters.

5. We prohibit target practice or any nonhunting discharge of firearms (see § 27.42 of this chapter).

6. You may take opossum during a raccoon hunt.

7. We prohibit dogs except for raccoon hunting. We prohibit pleasure running or training of dogs (see § 26.21(b) of this chapter).

8. You may only possess shotguns with approved nontoxic shot (see § 32.2(k)) and rifles firing .22 caliber rimfire ammunition.

9. You must unload and case firearms (see § 27.42(b) of this chapter) while in a vehicle, on any refuge road, parking area, or boat ramp.

10. We prohibit firearms south of Highway 18 and at the Brights Landing boat access.

11. We prohibit boats from November 1 through February 28, except on that portion of the refuge open for public fishing with electric motors and Ditch 28.

12. We prohibit hunting from mowed or gravel roads.

13. We prohibit ATVs (see § 27.31(f) of this chapter).

14. You must adhere to all public use special conditions and regulations on the annual hunt brochure/permit.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions B1, and B11 through B14 apply.

2. We allow archery/crossbow hunting for white-tailed deer. We provide annual season dates in the hunt brochure/permit.

3. Hunters may only possess long, recurve, compound, or crossbows. We prohibit possession of firearms (see § 27.42 of this chapter) by archery/crossbow hunters.

4. We prohibit dogs.

5. We prohibit possession of or marking trails with materials other than biodegradable paper/flagging or reflective tape/tacks.

6. Upon harvest of deer, hunters must immediately record the deer zone 030 on their license and later on official check station records.

7. Hunters must check out (check harvested deer) at the Hunter Information Station.

8. We only allow portable tree stands, and you must remove them daily (see § 27.93 of this chapter).

9. We prohibit driving metal or other objects into trees or hunting from trees in which objects have been driven (see § 32.2(i)).

10. We prohibit cutting, pruning, or trimming vegetation (see § 27.51 of this chapter).

11. We prohibit target practice or any nonhunting discharge of firearms (see § 27.42 of this chapter).

12. Hunters may enter the refuge no earlier than 1 hour before legal shooting time and depart no later than 1 hour after legal shooting time.

13. An adult age 21 or older must supervise and remain within sight and normal voice contact of hunters age 15 and under. For big game hunts, one adult may supervise no more than 1 youth.

D. Sport Fishing. * * *

1. We prohibit the use of limb lines and jug fishing.

* * * * *

5. We prohibit ATVs, airboats, personal watercraft, Jet Skis, and hovercraft (see § 27.31(f) of this chapter).

* * * * *

8. We prohibit possessing turtles (see § 27.21 of this chapter).

Cache River National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, coot, snipe, woodcock, and dove on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require refuge hunting permits. These permits are nontransferable, and anyone on the refuge in possession of hunting equipment must sign and carry the permit at all times.

2. We allow hunting of duck, goose, and coot daily until 12 p.m. (noon) throughout the State seasons, except for refugewide season closures during Gun Deer Hunt and the exception provided in A3.

3. We allow hunting for goose from ½ hour before legal sunrise to legal sunset after the close of duck season in January for the remainder of the State goose season(s) and Snow, Blue and Ross' Goose Conservation Order.

4. We allow hunting for dove, snipe, and woodcock when their seasons correspond with duck and/or goose seasons.

5. No person, including but not limited to, a guide, guide service, outfitter, club, or other organization, will provide assistance, services, or equipment on the refuge to any other

person for compensation unless such guide, guide service, outfitter, club, or organization has obtained a Special Use Permit from the refuge. For the purposes of this regulation, we will consider any fees or services rendered to a person for lodging, meals, club membership or similar services as compensation.

6. We prohibit hunting, taking, possessing, or attempting to take wildlife with a guide, guide service, outfitter, club, or organization providing assistance, service, or equipment who does not possess and carry the required refuge Special Use Permit.

7. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

8. You must remove decoys, blinds, boats, and all other equipment (see § 27.93 of this chapter) daily by 2 p.m.

9. Waterfowl hunters may enter the refuge parking areas at 4:45 a.m. and access the refuge at 5 a.m.

10. We prohibit boats on the refuge from 12 p.m. (midnight) to 5 a.m. during duck season.

11. We prohibit possession of or marking trails with materials other than biodegradable paper, flagging, or reflective tape/tacks.

12. We prohibit building, or hunting from, permanent blinds.

13. We prohibit cutting of holes or other manipulation of vegetation (*e.g.*, cutting bushes, mowing, weed-eating, herbicide use, and other actions) or hunting from manipulated areas (see § 27.51 of this chapter).

14. We allow retriever dogs.

15. You must unload firearms when carried in/on land vehicles or boats under power (see § 27.42(b) of this chapter).

16. We allow waterfowl hunting on flooded roads.

17. All youth hunters age 15 and younger must remain within sight and normal voice contact of an adult age 21 or older, possessing a license. For migratory bird hunting, one adult may supervise no more than two youth hunters.

18. We prohibit target practice or any nonhunting discharge of firearms (see § 27.42 of this chapter).

19. We prohibit ATVs except on established roads used by conventional vehicles on refuge lands south of Highway 38. We prohibit driving around a locked gate, barrier, or beyond a sign closing a road to vehicular traffic. We only allow vehicle use on established roads (see § 27.31 of this chapter).

20. We prohibit entry into or hunting in Waterfowl Sanctuaries from November 15 through February 28.

21. You must adhere to all public use special conditions and regulations on the annual hunt brochure/permit.

22. We close all other hunts during the Gun Deer Hunt. We only allow Gun Deer Hunt permit holders on the refuge during this hunt.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, quail, raccoon, opossum, beaver, muskrat, nutria, armadillo, coyote, and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A5, A6, A7, A11, A15, A17 (for upland game hunts, the adult may supervise no more than two youth hunters), and A18 through A21 apply.

2. Fall squirrel season corresponds with the State season on all refuge hunt units except for refugewide season closure during the Gun Deer Hunt. We prohibit dogs except during the period January 15 through February 28. We do not open for the spring squirrel season.

3. Rabbit season corresponds with the State season on all refuge hunt units except for refugewide season closure during the Gun Deer Hunt. We prohibit dogs except during the period January 15 through February 28.

4. Quail season corresponds with the State season on all refuge hunt units except for refugewide season closure during the Gun Deer Hunt. We allow dogs.

5. We allow hunting of raccoon and opossum with dogs on all refuge hunt units. We provide annual season dates in the refuge hunting brochure/permit. We prohibit pleasure running or training of dogs.

6. We allow the use of horses for raccoon and opossum hunters in refuge Hunt Unit I. We prohibit horse use in other refuge hunt units or by other refuge hunters or visitors.

7. You may take beaver, muskrat, nutria, armadillo, feral hog, and coyote during any refuge hunt with the firearm allowed for that hunt.

8. We prohibit hunting from mowed and/or graveled roads except by waterfowl hunters during flooded conditions.

9. You may leave boats with the owner's name and address or valid registration permanently displayed on the refuge from March 1 through October 31. We prohibit boats on the refuge from 12 p.m. (midnight) until 5 a.m. during the duck season.

10. We prohibit hunting from a vehicle.

11. We only allow rifles chambered for rimfire cartridges.

12. We close all other hunts during the Gun Deer Hunt. We only allow Gun Deer Hunt permit holders on the refuge during this hunt.

C. Big Game Hunting. We allow hunting of deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A5, A6, A11, A15, A18 through A21, B9, and B10 apply.

2. We divide the refuge into the following three hunting units: Unit I—refuge lands between Highway 79 and Interstate 40; Unit II—all refuge lands east of Highway 33 between Interstate 40 and Highway 18 at Grubbs, Arkansas; Unit III—all refuge lands west of Highway 33, from Interstate 40 to Highway 64.

3. Archery/crossbow hunting season for deer begins on the opening day of the State season and continues throughout the State season in all refuge hunting units except for refugewide season closure during the Gun Deer Hunt. We provide annual season dates and bag limits on the hunt brochure/permit.

4. Muzzleloader hunting season for deer will begin in October and will continue for a period of up to 9 days in all hunting units with annual season dates and bag limits provided on the hunt brochure/permit.

5. The Gun Deer Hunt will begin in November and continue for a period of up to 9 days in all hunting units with annual season dates and bag limits provided on the hunt brochure/permit.

6. The fall archery/crossbow hunting season for turkey will begin on the opening day of the State season and continue throughout the State season in Hunt Units I, III, and Unit II lands within the fall State archery/crossbow turkey zone except for refugewide season closure during the Gun Deer Hunt. We close Unit II lands outside the fall archery/crossbow turkey zone. We do not open for fall gun hunting for turkeys.

7. The spring gun hunt for turkey will begin on the opening day of the State season and continue throughout the State season in Hunt Units I and III. We close Unit II lands with the exception of those refuge lands included in the combined Black Swamp Wildlife Management Area/Cache River National Wildlife Refuge quota permit hunts administered by the State.

8. Immediately record the zone 095 on your hunting license and later at an official check station for all deer and turkey harvested on the refuge.

9. You may only possess shotguns with rifled slugs, muzzleloaders, and legal pistols during the modern Gun Deer Hunt on the Dixie Farm Unit Waterfowl Sanctuary, adjacent

waterfowl hunt area, and the Plunkett Farm Unit Waterfowl Sanctuary.

10. We only allow portable deer stands capable of being carried by a single individual.

11. We prohibit hunting from a vehicle or use of a vehicle as a deer stand.

12. You must permanently affix the owner's name and address to all deer stands on the refuge.

13. You must remove all deer stands from the waterfowl sanctuaries by November 14 and from the rest of the refuge by the last day of archery season (see § 27.93 of this chapter).

14. We prohibit the use of dogs.

15. We prohibit the possession of buckshot on all refuge lands.

16. We prohibit hunting from a mowed and/or graveled road right-of-way.

17. We will close refuge lands located in State-designated Flood Prone Region B and reopen them to all deer hunting in accordance with State-established gauge readings, when the *Arkansas Democrat Gazette* posts these gauge readings.

18. We will close refuge lands located in State-designated Flood Prone Region C to all deer hunting when the Cache River gauge at Patterson reaches 10 feet (3 m), as reported by the National Weather Service in the *Arkansas Democrat Gazette,* and reopen them when the same gauge reading in this newspaper falls to or below 8.5 feet (2.6 m).

20. We will close refuge lands located in Flood Prone Region D to all deer hunting when the White River gauge at Clarendon reaches 28 feet (8.4 m), as reported by the National Weather Service in the *Arkansas Democrat Gazette,* and reopen them when the same gauge reading in this newspaper falls to or below 27 feet (8.1 m).

21. We close all other hunts during the Gun Deer Hunt. We only allow Gun Deer Hunt permit holders on the refuge during this hunt.

22. An adult not less than age 21 must supervise and remain within sight and normal voice contact of hunters age 15 and under. For big game hunting, one adult may only supervise one youth.

D. Sport Fishing. We allow fishing and frogging in accordance with State regulations subject to the following conditions:

1. We close waterfowl sanctuaries to all entrance and fishing/frogging from November 15 to February 28. We prohibit refugewide entry and fishing during the Gun Deer Hunt.

2. Conditions A19, A21, B9, and B10 apply.

3. We require a Special Use Permit for all commercial fishing activities on the refuge.

4. We prohibit hovercraft, personal watercraft (Jet Skis, etc.), and airboats.

Felsenthal National Wildlife Refuge

A. Hunting of Migratory Game Birds. We allow hunting of duck, goose, coot, and woodcock on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunting of duck, goose, and coot during the State duck season except during scheduled quota refuge Gun Deer Hunts. We allow hunting of woodcock during the State season. Dates for quota deer hunts are typically in November, and we publish them annually in the refuge hunt brochure.

2. Hunting of duck, goose, and coot ends at 12 p.m. (noon) each day.

3. We only allow portable blinds. You must remove all duck hunting equipment (portable blinds, boats, guns, and decoys) (see § 27.93 of this chapter) from the hunt area by 1:30 p.m. each day.

4. You may only possess approved nontoxic shells (see § 32.2(k)) in quantities of 25 or less each day during waterfowl season; hunters may not discharge more than 25 shells per day.

5. We close areas of the refuge posted with ''Area Closed'' signs and identify them on the refuge hunt brochure map as a Waterfowl Sanctuary and closed to all public entry and public use during waterfowl hunting season. Exception: we open the Waterfowl Sanctuary to all authorized activities during the September teal season.

6. No person will utilize the services of a guide, guide service, outfitter, club, organization, or other person who provides equipment, services, or assistance on Refuge System lands for compensation unless the guide, guide services, outfitter, club, organization, or person has obtained a Special Use Permit from the refuge. It is the responsibility of the hunter to verify that the guide has the required Special Use Permit; failure to comply with this provision subjects each hunter in the party to a fine if convicted of this violation.

7. You must possess and carry a refuge hunt brochure permit. These hunt brochure permits are available in unlimited qualitites at the refuge office, brochure dispensers at multiple locations throughout the refuge, and at area businesses.

8. We prohibit possession and/or use of herbicides.

9. We prohibit marking trails with tape, ribbon, paint, or any other substance other than biodegradable materials.

10. We prohibit possession or use of alcoholic beverages while hunting (see § 32.2(j)). We prohibit consumption of alcohol in parking lots, on roadways, and in plain view in campgrounds.

11. All persons born after 1968 must posses a valid hunter education card in order to hunt.

12. All youth hunters age 15 and younger must remain within sight and normal voice contact of an adult age 21 or older, possessing a license. One adult may supervise no more than two youth hunters.

13. We only allow ATVs for wildlife-dependent activities such as hunting and fishing. We restrict ATVs to designated times and designated trails (see § 27.31 of this chapter) marked with signs and paint. We identify these trails and the dates they are open for use in the refuge hunt brochure. You may use horses on roads and ATV trails (when open to motor vehicle use) as a mode of transportation on the refuge for wildlife-dependent activities.

14. We prohibit hunting within 150 feet (45 m) of roads and trails (see § 27.31 of this chapter) open to motor vehicle use (including ATV trails).

15. We prohibit target practice with any weapon or any nonhunting discharge of firearms (see § 27.42 of this chapter).

16. We only allow camping at designated primitive campground sites identified in the refuge hunt brochure, and we restrict camping to individuals involved in wildlife-dependent refuge activities. Campers may stay no more than 14 days during any 30 consecutive-day period in any campground and must occupy camps daily. We prohibit all disturbances, including use of generators, after 10 p.m. You must unload all weapons (see § 26.42(b) of this chapter) within 100 yards (90 m) of a campground.

17. You may take beaver, nutria, feral hog, and coyote during any daytime refuge hunt with weapons and ammunition allowed for that hunt. There is no bag limit. You may not transport live hogs.

18. We prohibit blocking of gates and roadways (see § 27.31(h) of this chapter).

19. We allow the use of retriever dogs.

20. We require you to unload and case any firearms (see § 27.42(b) of this chapter) transported in any land vehicle, boat under power, or on horses. We define ''loaded'' as any shells in the gun or cap on a muzzleloader.

B. Upland Game Hunting. We allow hunting of quail, squirrel, rabbit, raccoon, opossum, beaver, nutria, and

coyote on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A4 through A18 and A20 apply.

2. We allow hunting on the refuge during State seasons for this zone through January 31. We list specific hunting season dates annually in the refuge hunt brochure. We close hunting during refuge quota deer hunts. We annually publish dates for these quota deer hunts in the refuge hunt brochure.

3. We do not open for spring squirrel hunting season and summer/early fall raccoon hunting season on the refuge.

4. We prohibit possession of lead ammunition except that you may use rimfire rifle lead ammunition no larger than .22 caliber for upland game hunting. We prohibit possession of shot larger than that legal for waterfowl hunting.

5. You may use dogs for squirrel and rabbit hunting from December 1 through January 31. You may also use dogs for quail hunting and for raccoon/opossum hunting during open season on the refuge for these species. At other times, you must keep dogs and other pets on a leash or confine them (see § 26.21(b) of this chapter).

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A6, A8 through A11, and A13 through A18 and A20 apply.

2. We allow archery deer hunting on the refuge from the opening of the State season for this deer management zone through January 31.

3. You must possess and carry a refuge hunt brochure permit to archery deer hunt, and multiple copies of these brochures are available at the refuge office, in brochure dispensers located at entrances throughout the refuge, and at many area businesses.

4. We close archery deer hunting during the quota deer hunts.

5. The refuge will conduct only one 2-day quota permit for the muzzleloader deer hunt (typically in October) and only two 2-day quota permits for the Gun Deer Hunts (typically in November).

6. We restrict hunt participants for quota hunts to those drawn for a quota permit. The permits are nontransferable. Hunt dates and application procedures will be available at the refuge office in July.

7. The quota muzzleloader and Gun Deer Hunt bag limit is one deer, either sex, on each hunt.

8. You must check all harvested deer during quota hunts at refuge deer check stations on the same day of the kill. We identify the check station locations in the refuge hunt brochure. Carcasses of deer taken must remain intact (except you may field dress) until checked.

9. You may only use portable deer stands. You may erect stands 2 days before each hunt, but you must remove them within 2 days after each hunt (see § 27.93 of this chapter).

10. We prohibit horses and mules during refuge quota deer hunts.

11. We open spring archery turkey hunting during the State spring turkey season for this zone. We do not open for fall archery turkey season.

12. We close spring archery turkey hunting during scheduled turkey quota gun hunts.

13. The refuge will conduct one 2-day, youth-only (age 15 and under at the beginning of the spring turkey season) quota spring turkey hunt and two 3-day quota spring turkey hunts (typically in April). Specific hunt dates and application procedures will be available at the refuge office in January. We restrict hunt participants to those selected for a quota permit, except that one nonhunting adult age 21 or older must accompany the youth hunter during the youth hunt.

14. An adult age 21 or older must accompany and be within sight or normal voice contact of hunters age 15 and under. One adult may supervise no more than one youth hunter.

D. Sport Fishing. We allow fishing, frogging, and the taking of crawfish for personal use on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A6, A8, A9, A13, A16, and A18 apply.

2. We prohibit fishing in the waterfowl sanctuary area during the waterfowl hunting season, with the exception of the main channel of the Ouachita River and the borrow pits along Highway 82. We post the Waterfowl Sanctuary area with ''Area Closed'' signs and identify those areas in refuge hunt brochures.

3. You must reset trotlines when receding water levels expose them.

4. We prohibit consumption of alcoholic beverages in parking lots, on roadways, and in plain view in campgrounds.

Holla Bend National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, raccoon, opossum, beaver, armadillo, coyote, and bobcat on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require refuge hunting permits. The permits are nontransferable, and anyone on refuge land in possession of hunting equipment must sign, possess, and carry the permits at all times.

2. You may only take all upland game mentioned above during the refuge archery season.

3. We allow gun hunting of raccoon and opossum with dogs every Thursday, Friday, and Saturday until legal sunrise during the month of February. We prohibit pleasure running or training of dogs (see § 26.21(b) of this chapter).

4. You must unload and case firearms (see § 27.42(b) of this chapter) when traveling in vehicles on refuge roads.

5. We prohibit target practice or any nonhunting discharge of firearms (see § 27.42(a) of this chapter).

6. We prohibit possession or use of alcoholic beverages.

7. We only allow ATVs for disabled hunters with a refuge ATV permit.

8. We prohibit the use of horses.

9. We prohibit hunting from a vehicle.

10. We only allow vehicle use on established roads and trails (see § 27.31 of this chapter).

C. Big Game Hunting. We allow hunting of deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions B1 and B4 through B11 apply.

2. Archery/crossbow season for deer and turkey begins October 1 and continues through November 30.

3. Spring archery/crossbow season for turkey has the same dates as the State season.

4. The firearms spring youth hunt for turkey is the same as the State. We restrict hunting to youths under age 16. One adult age 18 or older must accompany one youth hunter. We must receive applications for hunts by the last day of February.

5. We only allow portable deer stands. You may erect stands 2 days before the start of the season and must remove the stands from the refuge within 2 days after the season ends (see § 27.93 of this chapter).

6. You must permanently affix the owner's name and address to all deer stands on the refuge.

7. We prohibit the use of dogs.

8. We prohibit marking trees or trails with plastic or paint.

9. We prohibit hunting from paved, graveled, and mowed roads and mowed trails (see § 27.31 of this chapter).

10. We prohibit hunting with the aid of bait, salt, or ingestible attractant (see § 32.2(h)).

11. We prohibit all forms of organized drives.

12. You must check all game at the refuge check station.

D. Sport Fishing. We allow sport fishing in accordance with State regulations subject to the following conditions:

1. Conditions B6, B7, B8, B10, and B11 apply.

2. Waters of the refuge are only open for fishing March 1 through October 31 during daylight hours.

3. We do not require a permit to fish but do require an entrance pass to the refuge.

4. We limit free-floating fishing devices, trotlines, and tree limb devices to 20 per person. Each device must have the angler's name and address.

5. You must reset trotlines and limb lines when receding water levels expose them.

6. We prohibit leaving trotlines and other self-fishing devices overnight or unattended.

7. We only allow bow fishing during daylight hours during August.

8. We prohibit commercial fishing.

9. We prohibit possessing turtles (see § 27.21 of this chapter).

10. We prohibit hovercraft, personal watercraft (Jet Skis, etc.), and airboats.

Overflow National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, coot, and woodcock on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunting of duck, goose, and coot during the State duck season. We do not open during the September teal season. We allow hunting of woodcock during the State season.

2. Hunting of duck, goose, and coot ends at 12 p.m. (noon) each day.

3. We only allow portable blinds. You must remove portable blinds, boats, and decoys from the hunt area each day (see § 27.93 of this chapter).

4. You may only possess approved nontoxic shotshells (see § 32.2(k)) in quantities of 25 or less per day during waterfowl hunting season; hunters may not discharge more than 25 shells per day.

5. We close areas of the refuge by posting ''Area Closed'' signs and/or marking with purple paint and identifing on the refuge hunt brochure map as Sanctuary to all public entry and public use. Exception: we open the area identified as North Sanctuary on refuge hunt brochure map to all authorized public use activities from 2 days prior to opening of deer archery season through October 31.

6. No person will utilize the services of a guide, guide service, outfitter, club, organization, or other person who provides equipment, services, or assistance on Refuge System lands for compensation. Failure to comply with this provision subjects each hunter in the party to a fine if convicted of this violation.

7. We require a refuge hunt brochure permit that is available in unlimited quantities at the refuge office, brochure dispensers at multiple locations throughout the refuge, and at area businesses. You must possess and carry a signed permit when hunting on the refuge.

8. We prohibit possession and/or use of herbicides (see § 27.51 of this chapter).

9. We prohibit marking of trails with tape, ribbon, paint, or any other substance other than biodegradable materials.

10. We prohibit possession or use of alcoholic beverages while hunting (see § 32.2(j)). We prohibit consumption of alcoholic beverages in parking areas and on roadways.

11. All persons born after 1968 must possess and carry a valid hunter education card in order to hunt.

12. All youth hunters age 15 and younger must remain within sight and normal voice contact of an adult age 21 or older, possessing a license. One adult may supervise no more than two youth hunters.

13. We only allow ATVs for wildlife-dependent activities such as hunting, and we restrict them to designated times and designated trails marked with signs and paint. We identify these trails and the dates they are open for use in the refuge hunt brochure. You may use horses on roads and designated ATV trails (when open to motor vehicle use) (see § 27.31 of this chapter) as a mode of transportation on the refuge and for wildlife-dependent activities. You may use ATVs on unmarked roads and levees in the North Sanctuary beginning 2 days prior to the opening of deer archery season through October 31.

14. We prohibit hunting within 150 feet (45 m) of roads and trails (see § 27.31 of this chapter) open to motor vehicle use (including ATV trails).

15. We prohibit target practice with any weapon or any nonhunting discharge of weapons (see § 27.42 of this chapter).

16. We prohibit blocking of gates and roadways (see § 27.31(h) of this chapter).

17. You may take beaver, nutria, feral hog, and coyote during any daytime refuge hunt with weapons and ammunition legal for that hunt. There is no bag limit. We prohibit transportation of live hogs.

18. We allow retriever dogs.

19. We require you to unload and case firearms (see § 27.42(b) of this chapter) transported in any land vehicle, boat under power, or on horses. We define ''loaded'' as shells in the gun or cap on a muzzleloader.

B. Upland Game Hunting. We allow hunting of quail, squirrel, rabbit, raccoon, opossum, beaver, nutria, and coyote on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A4 through A17 and A19 apply.

2. We allow hunting during State seasons (see State regulations for the appropriate zone) for the species listed above through January 31. We list specific hunting season dates annually in the refuge hunt brochure.

3. We do not open for the spring squirrel season and summer/fall racoon hunting season.

4. We prohibit possession of lead ammunition except that you may use rimfire rifle lead ammunition no larger than .22 caliber for upland game hunting. We prohibit possession of shot larger than that legal for waterfowl hunting.

5. You may use dogs for squirrel and rabbit hunting January 1 through 31. You may also use dogs for quail hunting and for raccoon/opossum hunting during open season. At other times, you must keep dogs and other pets on a leash or confined (see § 26.21(b) of this chapter).

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow archery deer hunting on the refuge during the State season (see State regulations for appropriate zone) through January 31.

2. Conditions A5 through A11, A13 through A17, and A19 apply.

3. We allow muzzleloader deer hunting during the October State muzzleloader season for this zone (see State regulations for appropriate zone).

4. Bag limit for the October muzzleloader deer hunt is one buck and one doe.

5. We only allow portable deer stands. You may erect stands 2 days before each hunt, but you must remove them within 2 days after each hunt (see § 27.93 of this chapter).

6. We prohibit horses and mules during the muzzleloader deer hunt.

7. We allow spring archery turkey hunting during the State spring turkey season. See State regulations for appropriate zones.

8. We do not open for the fall turkey archery season and spring turkey gun season.

9. We do not open for the gun deer season and December muzzleloader deer season.

10. An adult age 21 or older must accompany and be within sight and normal voice contact of hunters age 15 and under. One adult may supervise no more than one youth hunter.

D. Sport Fishing. [Reserved]

Pond Creek National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, coot, and goose on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunting of migratory game birds during the State duck seasons, except we close during scheduled quota refuge Gun Deer Hunts. Dates for quota deer hunts are typically in November, and we publish them annually in the refuge hunt brochure. We do not open for the September teal season.

2. Hunting ends at 12 p.m. (noon) each day.

3. We only allow portable blinds. You must remove portable blinds, boats, and decoys from the hunt area each day (see § 27.93 of this chapter).

4. No person will utilize the services of a guide, guide service, outfitter, club, organization, or other person who provides equipment, services, or assistance on Refuge System lands for compensation. Failure to comply with this provision subjects each hunter in the party to a fine if convicted of this violation.

5. We require a refuge hunt brochure permit; multiple copies of this permit are available at the refuge office, brochure dispensers at multiple locations throughout the refuge, and at area businesses. You must possess and carry a signed permit when hunting on the refuge.

6. We prohibit possession and/or use of herbicides (see § 27.51 of this chapter).

7. We prohibit marking trails with tape, ribbon, paint, or any other substance other than biodegradable materials.

8. We prohibit possession or use of alcoholic beverages while hunting (see § 32.2(j)). We prohibit consumption of alcoholic beverages in parking lots, on roadways, and in plain view in campgrounds.

9. All persons born after 1968 must possess a valid hunter education card in order to hunt.

10. All youth hunters age 15 and younger must remain within sight and normal voice contact of an adult age 21 or older, possessing a license. One adult may supervise no more than two youth hunters.

11. We only allow ATVs for wildlife-dependent activities such as hunting and fishing and restrict them to designated times and designated trails marked with signs and paint (see § 27.31 of this chapter). We identify these trails and the dates they are open for use in the refuge hunt brochure. You may use horses on roads and designated ATV trails (when open to motor vehicle use) (see § 27.31 of this chapter) as a mode of transportation on the refuge for wildlife-dependent activities.

12. We prohibit hunting within 150 feet (45 m) of roads and trails (see § 27.31 of this chapter) open to motor vehicle use (including ATV trails).

13. We prohibit target practice with any weapon or any nonhunting discharge of firearms (see § 27.42 of this chapter).

14. We only allow camping at designated primitive campground sites identified in the refuge hunt brochure. We restrict camping to the individuals involved in refuge wildlife-dependent activities. Campers may stay no more than 14 days during any consecutive 30-day period in a campground and must occupy the camps daily. We prohibit all disturbances, including use of generators, after 10 p.m. You must unload all weapons (see § 27.42(b) of this chapter) within 100 yards (90 m) of a campground.

15. You may take beaver, nutria, feral hog, and coyote during any daytime refuge hunt with weapons and ammunition allowed for that hunt. We prohibit the use of dogs. There is no bag limit. You may not transport live hogs.

16. We prohibit blocking of gates and roadways (see § 27.31(h) of this chapter).

17. We allow the use of retriever dogs.

18. You must unload and case firearms (see § 27.42(b) of this chapter) transported in any land vehicle, boat under power, or on horses. We define ''loaded'' as shells in the gun or cap on a muzzleloader.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, raccoon, opossum, and beaver on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunting during State seasons (see State regulations for appropriate zone) for the species listed above through January 31. We annually list specific hunting season dates and quota Gun Deer Hunt dates in the refuge hunt brochure. We close upland game hunting during refuge quota Gun Deer Hunts.

2. We do not open to spring squirrel season and summer/early fall racoon season.

3. Conditions A4 through A16 and A18 apply.

4. We prohibit possession of lead ammunition, except that you may use rimfire rifle lead ammunition no larger than .22 caliber for upland game hunting. We prohibit possession of shot larger than that legal for waterfowl hunting.

5. You may use dogs for squirrel and rabbit hunting December 1 through January 31. You may also use dogs for raccoon/opossum hunting during open season on the refuge for these species. At other times you must keep dogs and other pets on a leash or confined (see § 26.21(b) of this chapter).

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow archery deer hunting on the refuge from the opening of the State season through January 31 (see State regulations for appropriate zone).

2. Conditions A4, A5 (for archery deer and muzzle-loader deer hunts and spring archery turkey hunts), A6 through A9, A11 through A16, and A18 apply.

3. We close archery deer hunting during the quota Gun Deer Hunts.

4. We allow muzzleloader deer hunting during the October State muzzleloader season for this deer management zone. The bag limit for the October refuge muzzleloader hunt is one buck and one doe.

5. The refuge will conduct one 2-day quota Gun Deer Hunt (typically in November).

6. We restrict hunt participants for this quota Gun Deer Hunt to those drawn for a quota permit. Hunt dates and application procedures will be available at the refuge office in July. The permits are nontransferable.

7. The quota Gun Deer Hunt bag limit is one buck and one doe.

8. You must check all deer taken during the quota hunt at the refuge deer check station on the same day of kill. You must keep carcasses of deer taken intact (you may remove entrails) until checked.

9. We prohibit horses and mules during refuge muzzleloader and quota deer hunts.

10. We open spring archery turkey hunting during the State spring turkey season for this zone. The State bag limit for this turkey hunt applies. We do not open for fall archery turkey season.

11. We close spring archery turkey hunting during scheduled turkey quota permit gun hunts.

12. The refuge will conduct one 2-day, youth-only (age 15 and younger at the beginning of the spring turkey season) quota spring turkey hunt and one 3-day spring quota turkey hunt (typically in April). Specific hunt dates and application procedures will be available in January. We restrict hunt participants on these hunts to those drawn for a quota permit, except that during the youth hunt, a nonhunting adult age 21 or older must accompany the youth hunter.

13. We prohibit the use of buckshot for gun deer hunting.

14. You may only use portable deer stands erected 2 days before each hunt, but you must remove them within 2 days after each hunt (see § 27.93 of this chapter).

15. An adult age 21 or older must accompany and be within sight and normal voice contact of hunters age 15 and under. One adult may supervise no more than one youth hunter during big game hunts.

D. Sport Fishing. We allow fishing, frogging, and the taking of crawfish for personal use on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must reset trotlines when exposed by receding water levels.

2. Conditions A4, A6, A7, A11, A14, and A16 apply.

3. We prohibit consumption of alcoholic beverages in parking lots, on roadways, and in plain view in campgrounds.

Wapanocca National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of squirrel, rabbit, raccoon, nutria, beaver, coyote, feral hog, and opossum in accordance with State regulations subject to the following conditions:

1. Conditions A1, A3, and A4 apply.

2. We allow shotguns using approved nontoxic shot (see § 32.2(k)) and .22 long-rifle caliber rifles. We prohibit possession of lead shot and .22 magnum caliber rifles.

3. We provide annual season dates for squirrel, rabbit, raccoon, and opossum hunting on the hunt brochure/permit.

4. You may take nutria, beaver, feral hog, and coyote during any refuge hunt with the firearm allowed for that hunt, subject to State seasons on these species.

5. We prohibit dogs except for raccoon hunting where we require them. We prohibit pleasure running or training of dogs.

6. We allow raccoon hunters to use horses/mules but prohibit their use by other refuge hunters and visitors.

7. We prohibit hunting from or within 50 yards (45 m) of graveled roads and within 150 yards (135 m) of refuge buildings.

C. Big Game Hunting. We allow hunting of big game on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 and A4 and B4 apply.

* * * * *

3. We specify annual season dates, bag limits, and hunting methods on the annual hunting brochure/permit.

* * * * *

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing from March 15 through October 31 from ½ hour before legal sunrise to ½ hour after legal sunset.

2. We prohibit fishing in Big Creek and other ditches that flow through the refuge.

3. We prohibit the possession or use of live carp, shad, buffalo, or goldfish for bait.

4. We prohibit the possession or use of yo-yos, jugs, or other floating containers, drops or limb lines, trotlines, or commercial fishing tackle.

5. We prohibit fishing within 100 yards (90 m) of any refuge building.

6. We allow bank fishing but you must park vehicles in designated parking areas.

7. We prohibit the taking of frogs, mollusks, and turtles (see § 27.21 of this chapter).

8. You must use the public boat ramp off Highway 77 to launch boats into Wapanocca Lake.

9. You must remove all boats daily from the refuge (see § 27.93 of this chapter). We prohibit airboats, personal watercraft, and hovercraft.

White River National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must sign, possess, and carry a refuge permit.

2. We allow duck hunting from legal sunrise until 12 p.m. (noon).

3. We allow retriever dogs.

4. You must remove blinds, blind material, and decoys (see § 27.93 of this chapter) from the refuge by 1 p.m. each day.

5. North Unit waterfowl season and youth waterfowl hunts are concurrent with State season dates.

6. You may take coot, goose, and woodcock during the State season.

7. We restrict the South Unit waterfowl season to the Jack's Bay hunt area as indicated in the general user permit. It is open every Tuesday, Thursday, Saturday, and Sunday of the concurrent State season dates.

8. Waterfowl hunters may and access the refuge no earlier than 4:30 a.m.

9. The following refuge users (age 16 or older) must sign and possess and carry a refuge general user permit and a refuge fee permit ($12.00): hunters, anglers, campers, and ATV users.

10. We prohibit boating December 1 through January 31 in the South Unit Waterfowl Hunt Area, except during designated waterfowl hunt days between 5 a.m. and 1 p.m.

11. We prohibit marking trails with materials other than biodegradable paper flagging or reflective tape/tacks.

12. We prohibit use and/or possession of alcoholic beverages while hunting (see § 32.2(j)).

13. We prohibit cutting of holes in or other manipulation of vegetation or hunting in such areas (see § 27.51 of this chapter).

14. We prohibit waterfowl hunting on Kansas Lake Area.

15. We prohibit loaded weapons in a vehicle or boat while under power (see § 27.42(b) of this chapter). We define ''loaded'' as a muzzleloader containing a cap or any type of ignition device, cartridges, or shells in a magazine, or cartridges or shells in a chamber of a weapon.

16. We allow duck hunting on specific scattered tracts of land, in accordance with the North Unit regulations. Consult the refuge office for further information.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, beaver, coyote, raccoon, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A8, A10, A11, A12, and A14 apply.

2. You may hunt rabbit and squirrel on the North Unit during the concurrent State season dates until January 31.

3. We allow dogs for hunting of rabbit and squirrel December 1 through January 31 on the North Unit.

4. You may hunt rabbit and squirrel on the South Unit from the beginning of the concurrent State season through November 30.

5. We prohibit dogs on the South Unit for the purpose of squirrel or rabbit hunting.

6. You may only possess approved nontoxic shot when hunting upland game, except turkey (see § 32.2(k)). We allow the possession of lead shot for hunting turkey.

7. We close all upland game hunts during quota modern gun and quota muzzleloader deer hunts.

8. We allow spring squirrel hunting with the concurrent State spring season dates.

C. Big Game Hunting. We allow the hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A8, A10, A11, A12, and A14 apply.

2. Archery deer and turkey seasons on the North Unit will begin with the concurrent State archery season and end January 31.

3. Archery deer and turkey seasons on the South Unit will begin with the concurrent State archery season and end November 30.

4. Modern gun quota deer season is the first 3 days of the State season for the North and South Units. We require a quota permit. You may take one deer of either sex.

5. The muzzleloader quota deer season is the first 3 days of the State season for the North and South units. We require a quota permit. You may take one deer of either sex.

6. We allow modern guns on the North Unit as per dates indicated in the general user brochure. We only allow take of one legal buck.

7. You may only hunt the North and South Unit by muzzleloader with a quota hunt permit. You may only take one deer of either sex. We list the season in the refuge hunt brochure/permit.

8. We allow muzzleloader guns on the North Unit for 6 consecutive days following the 3-day muzzleloader quota hunt.

9. State deer limits apply to archery hunting season except during the refuge muzzleloader and modern gun season.

10. We close all nonquota hunting during the quota deer hunts.

11. We do not open to the bear season on all refuge-owned lands, including those lands in Trusten Holder Wildlife Management Area.

12. If you harvest deer and turkey on the refuge, you must immediately record the zone 660 on your hunting license and later at an official check station.

13. We prohibit muzzleloader and modern gun deer hunting in the Kansas Lake Area after October 30 of each year.

14. We close refuge lands on the North Unit to all deer hunting and fall turkey hunting when the White River gauge reading at St. Charles reaches 23 feet (8.4 m), as reported by the National Weather Service in the *Arkansas Democrat Gazette,* and will reopen these lands when the same gauge reading in this newspaper falls to or below 21 feet (6.3 m).

15. We close refuge lands on the South Unit to all deer hunting and fall turkey hunting when the White River gauge reading at St. Charles reaches 23 feet (8.4 m) and the gauge at Lock and Dam # 1 reaches 145 feet (43.5 m) simultaneously as reported by news release and will reopen these lands when the same gauge reading reaches 21 feet (6.3 m) and 143 feet (42.9 m), respectively, as reported by news release.

16. We restrict access and refuge use during quota hunts to quota permit holders. We require a quota permit for all use during quota deer hunts.

17. We prohibit hunting with the aid of bait, salt, or ingestible attractant (see § 32.2(h)).

18. We prohibit the use of dogs and/or horses other than specified in the general user permit.

19. We prohibit all forms of organized drives.

20. We prohibit firearm hunting from or across roadways, levees, and maintained utility rights-of-way for deer only.

21. We prohibit hunting from a tree in which a metal object has been driven to support a hunter.

22. We prohibit leaving a hunt stand after a hunt season.

23. We prohibit target practice or any nonhunting discharge of firearms (see § 27.42 of this chapter).

24. We prohibit modern gun and muzzleloader deer hunting on Kansas Lake Area after October 30.

25. You may take beaver, nutria, and feral hog incidental to any daytime refuge hunt with weapons allowed for that hunt.

D. Sport Fishing. We allow fishing and frogging on desigated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A8 and A10 apply.

2. We allow fishing year-round in LaGrue, Essex, Prairie, Scrubgrass and Brooks Bayous, Big Island Chute, Moon and Belknap Lakes next to Arkansas Highway 1, Indian Bay, the Arkansas Post Canal and adjacent drainage ditches; those borrow ditches located adjacent to the west bank of that portion of the White River Levee north of the Arkansas Power and Light Company powerline right-of-way; and all refuge-owned waters located north of Arkansas Highway 1. We open all other refuge waters to sport fishing from March 1 through November 30 unless posted otherwise.

3. We require a refuge Special Use Permit to fish with any type tackle other than hook and line.

4. We allow frogging on all refuge-owned waters open for sport fishing as follows: We allow frogging on the South Unit from the beginning of the State season through November 30; we allow frogging on the North Unit for the entire State season.

5. We allow the use of bow and arrow for taking bullfrogs or fish by a refuge Special Use Permit.

6. We allow crawfishing.

7. We require a Special Use Permit for all commercial fishing on the refuge in addition to compliance with State regulations governing commercial fishing.

8. We allow commercial fishing on the North Unit year-round. We prohibit commercial turtling on both the North and South Units year-round.

9. We allow commercial fishing on the South Unit October 1 through November 30 and annually when the White River exceeds 23.5 feet (7 m) at the St. Charles, Arkansas gauge.

10. We prohibit take or possession of any freshwater mussels, and we do not open to mussel shelling.

11. You must reset trotlines when receding water levels expose them, and you cannot leave them unattended. The ends of trotlines must consist of a length of cotton line that extends from the points of attachment into the water.

■ 9. Amend § 32.24 California, by:

■ a. Revising paragraphs A. and B. of Colusa National Wildlife Refuge;

■ b. Revising the introductory text of paragraph A., adding paragraphs A.10. and A.11., revising the introductory text of paragraph B., and adding paragraph B.8. of Delevan National Wildlife Refuge;

■ c. Revising the name of San Francisco Bay National Wildlife Refuge to read Don Edwards San Francisco Bay National Wildlife Refuge and placing it in alphabetical order, and revising Don Edwards San Francisco Bay National Wildlife Refuge;

■ d. Revising paragraphs A. and D. of Humboldt Bay National Wildlife Refuge;

■ e. Revising paragraph A. of Merced National Wildlife Refuge;

■ f. Revising paragraphs A., B., and D. of Modoc National Wildlife Refuge;

■ g. Revising the introductory text of paragraph A., adding paragraphs A.10. and A.11., revising the introductory text of paragraph B., and adding paragraph B.8. of Sacramento National Wildlife Refuge;

■ h. Revising the introductory text of paragraph A., revising paragraph A.1., and adding paragraphs A.4. and A.5. of Salinas River National Wildlife Refuge;
■ i. Revising the introductory text of paragraphs A., revising paragraphs A.1., A.3., A.4., A.5., A.6., adding paragraph A.12, revising the introductory text of paragraph B., paragraphs B.1. and B.2., revising the introductory text of paragraph D., and revising paragraphs D.1. and D.2. of San Luis National Wildlife Refuge;
■ j. Revising paragraphs A. and B. of San Pablo Bay National Wildlife Refuge; and
■ k. Revising the introductory text of paragraph A., adding paragraphs A.7. and A.8., revising the introductory text of paragraph B., and adding paragraph B.7. of Sutter National Wildlife Refuge.

§ 32.24 California.

* * * * *

Colusa National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, moorhen, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).
2. Each hunter may not possess more than 25 shells while in the field.
3. Access to the hunt area is by foot traffic only. We prohibit bicycles and other conveyances.
4. We prohibit building or maintaining fires (see § 27.95 of this chapter), except in portable gas stoves.
5. You may only enter or exit at designated locations (see § 27.31 of this chapter).
6. Vehicles may only stop at designated parking areas (see § 27.31 of this chapter). We prohibit the dropping of passengers or equipment or stopping between designated parking areas.
7. We only allow overnight stays in vehicles, motor homes, and trailers at the check station parking area.
8. You must restrain dogs on a leash within all designated parking areas (see § 26.21(b) of this chapter).

B. Upland Game Hunting. We allow hunting of pheasant only in the free-roam areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A8 apply.
2. Mobility-impaired hunters should consult with the refuge manager for allowed conveyances.

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Delevan National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, moorhen, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

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10. We only allow overnight stays in vehicles, motor homes, and trailers at the check station parking area.
11. You must restrain dogs on a leash within all designated parking areas (see § 26.21(b) of this chapter).

B. Upland Game Hunting. We allow hunting of pheasant only in the free-roam areas of the refuge in accordance with State regulations subject to the following conditions:

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8. Conditions A10 and A11 apply.

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Don Edwards San Francisco Bay National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunting in tidal areas, including salt marshes, sloughs, mudflats, and open waters of the San Francisco Bay. Unless posted in the field and/or noted below, we allow hunting by boat in all refuge tidal areas up to the mean high-water line. We close the following tidal areas to hunting and/or shooting:

i. Newark Slough to hunting and shooting from its source to Hetch-Hetchy Aqueduct, a distance of 3½ miles (5.6 km);

ii. Dumbarton Point Marsh to the Hetch-Hetchy Aqueduct (west side of Newark Slough); and

iii. The headwaters of Mallard Slough (Artesian Slough) in the vicinity of the Environmental Education Center to hunting, as designated by posted signs.

2. We allow hunting in the nine salt evaporation ponds listed below. These ponds are surrounded by levees and were formerly part of the San Francisco Bay. We have not opened any other ponds. You may access the salt ponds by pulling your boat across the levee from the Bay.

i. Ponds R–1 and R–2 in the Ravenswood Unit. These ponds are located on the west side of the Dumbarton Bridge between Ravenswood Slough and Highway 84. You may access these ponds by foot or bicycle from either of the two trailheads off Highway 84. We prohibit hunting within 300 feet (90 m) of Highway 84.

ii. Ponds M–1, M–2, M–3, M–4, M–5, M–6, and A–19 in the Mowry Slough Unit. These ponds are located on the east side of the Bay between Mowry Slough and Coyote Creek. You may only access the ponds by boat. You may land your boat at specific points on the Bay side of the levee as designated by refuge signs. We prohibit hunting within 300 feet (90 m) of the Union Pacific Railroad track.

3. We only allow walk-in hunting at the Ravenswood Unit northwest of the Dumbarton Bridge. You must only access all other areas by boat.
4. At the Ravenswood Unit only, we only allow portable blinds or construction of temporary blinds of natural materials that readily decompose. We prohibit collection of these natural materials from the refuge. You must remove portable blinds (see § 27.93 of this chapter) at the end of each day. Temporary blinds become available for general use on a first-come, first-served basis on subsequent days. We prohibit permanent blinds, pit blinds, or digging into the levees. We prohibit entry into closed areas of the refuge prior to hunting season in order to scout for hunting sites or to build blinds.
5. You must remove all decoys, boats, and other personal property from the refuge at the end of each day. You must remove all trash, including shotshell hulls, when leaving hunting areas (see §§ 27.93 and 27.94 of this chapter).
6. Hunters may enter closed areas of the refuge to retrieve downed birds, provided they leave all weapons in a legal hunting area. We encourage the use of retriever dogs. You must keep your dog(s) under the immediate control of the handler at all times (see § 26.21(b) of this chapter).
7. We prohibit target practice on the refuge or any nonhunting discharge of firearms (see § 27.42 of this chapter).
8. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).
9. You must keep firearms unloaded (see § 27.42(b) of this chapter) until you are within the designated hunt area.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing from land at the Coyote Creek Lagoon in Fremont, the Faber-Laumeister Unit in East Palo Alto, the Dumbarton Fishing Pier, and along the San Francisco Bay shoreline within ½ mile (0.8 km) of the Dumbarton Fishing Pier. We also allow fishing from boats in the Bay and major slough channels. We close Mallard Slough to boats from March 1 through August 31, and we close Mowry Slough from March

15 to June 15. We prohibit fishing in salt evaporation ponds or marshes.

2. We open fishing areas daily (except we close the Dumbarton Fishing Pier and adjacent shoreline on Thanksgiving, Christmas, and New Year's Day). We open the Dumbarton Fishing Pier from 7 a.m. to 6 p.m. November 1 through March 31 and 7 a.m. to 8 p.m. April 1 through October 31. We open Coyote Creek Lagoon and Faber-Laumeister Unit from legal sunrise to legal sunset.

3. We prohibit the collection of bait of any type from the refuge except from the Dumbarton Fishing Pier, where it is legal to collect bait for noncommercial purposes.

4. We prohibit the use of balloons to float hooks and bait farther than hand casting.

5. We prohibit personal watercraft (*e.g.*, Jet Skis, waterbikes) on the refuge.

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Humboldt Bay National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, common moorhen, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require adults age 18 or older to accompany youth hunters age 16 and under. No more than three youth hunters may accompany one adult hunter.

2. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

3. We prohibit public access into or through closed areas and designate closed areas as nonretrieval zones.

4. You may only use portable blinds in the free-roam hunting areas (*i.e.*, all hunt areas except Salmon Creek Unit).

5. You must remove all blinds, decoys, shell casings, and other personal equipment and refuse from the refuge at the end of each day (see §§ 27.93 and 27.94 of this chapter) .

6. We require hunters to restrain dogs inside vehicles except when using them for authorized hunting purposes (see § 26.21(b) of this chapter).

7. On the Salmon Creek Unit, we allow hunting on Tuesdays and Saturdays (except Federal holidays), and hunters must possess and carry a valid daily refuge permit. We issue refuge permits prior to each hunt by random drawing conducted at the check station 1½ hours before legal shooting time.

8. On the Salmon Creek Unit, you may only possess approved nontoxic shotshells (see § 32.2(k)) in quantities of 25 or less per day.

9. On the Salmon Creek Unit, we restrict hunters to within 100 feet (30 meters) of the assigned hunt site except for placing and retrieving decoys, retrieving downed birds, or traveling to and from the parking area. You must unload firearms (see § 27.42(b) of this chapter) while transporting them between the parking lot and designated blind sites.

10. We open the waters of Hookton Slough (including Teal Island) and White Slough (including Egret Island) to hunting on Saturdays, Sundays, Wednesdays, Federal holidays, and the opening and closing day of the State waterfowl hunting season. We have not opened the portion of the Hookton Slough unit between the dike and Hookton Road to hunting and firearms. We have not opened the boat dock on the Hookton Slough Unit to hunting and firearms and restrict use to nonmotorized boats only.

11. We open the Table Bluff Unit (southwest corner of South Bay) to hunting.

12. We open portions of the Eureka Slough and Jacoby Creek Units to hunting. We designate the Eureka Slough and Jacoby Creek Units as boat access only. On the Eureka Slough and Jacoby Creek Units, we prohibit hunting within 100 yards (90 meters) of Highway 101.

* * * * *

D. Sport Fishing. We allow fishing on the refuge in accordance with State regulations subject to the following condition: We allow fishing from the designated shoreline trail and dock (for nonmotorized boats only) at the Hookton Slough Unit from legal sunrise to legal sunset, only using pole and line or rod and reel.

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Merced National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, and moorhen on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must unload firearms (see § 27.42(b) of this chapter) before transporting them between parking areas and blind sites. Unloaded means that no ammunition is in the chamber or magazine of the firearm.

2. You may only possess approved nontoxic shotshells (see § 32.2(k)) in quantities of 25 or less per day after leaving the parking lot.

3. Each hunter must remain inside his or her assigned blind, except for placing decoys, retrieving downed birds, and traveling to and from the parking area. We prohibit shooting from outside the blind.

4. Dogs must remain under the immediate control of their owners at all times (see § 26.21(b) of this chapter).

* * * * *

Modoc National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, moorhen, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. On the opening weekend of the hunting season, hunters must possess and carry a refuge permit issued through random drawing to hunters with advance reservations only.

2. After the opening weekend of the hunting season, we only allow hunting on Tuesdays, Thursdays, and Saturdays. Hunters must check-in and out of the refuge by using self-service permits. Hunters must completely fill out the ''Refuge Hunt Permit'' portion of the permit and deposit it in the drop box prior to hunting. The hunter must possess and carry the ''Record of Kill'' portion of the permit while on the refuge and turned in prior to exiting the hunting area.

3. In the designated spaced blind area, you must remain within 50 feet (15 m) of the established blind stake for the blind assigned to you.

4. We require adults age 18 or older to accompany youth hunters age 15 and under.

5. You may only possess approved nontoxic shotshells (see § 32.2(k)) in quantities of 25 or less after leaving the parking area.

6. In the free-roam hunting areas, you may only use portable blinds or blinds constructed of vegetation.

7. You must remove all blinds, decoys, shell casings, other personal equipment, and refuse from the refuge at the end of each day (*see* §§ 27.93 and 27.94 of this chapter).

8. Hunters must enter and exit the hunting area from the two designated hunt parking lots, which we open 1½ hours before legal sunrise and close 1 hour after legal sunset each hunt day.

9. We only allow access to the hunt area by foot, bicycle, and nonmotorized cart. We prohibit bicycles in the hunt area during the opening weekend of the hunting season.

B. Upland Game Hunting. We allow hunting of pheasant on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We limit hunting to junior hunters only, age 15 or under, possessing a valid State Junior Hunting License and refuge Junior Pheasant Hunt Permit.

2. We require adults age 18 or older to accompany junior hunters.

3. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

4. Hunters must enter and exit the hunting area from the two designated hunt parking lots.

* * * * *

D. Sport Fishing. We allow fishing only on Dorris Reservoir in accordance with State regulations subject to the following conditions:

1. We prohibit fishing from October 1 through January 31.

2. We only allow fishing from legal sunrise to legal sunset.

3. We only allow walk-in access to Dorris Reservoir from February 1 through March 31.

4. We only allow use of boats on Dorris Reservoir from April 1 through September 30.

Sacramento National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, moorhen, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

* * * * *

10. We only allow overnight stays in vehicles, motor homes, and trailers at the check station parking area.

11. You must restrain dogs on a leash within all designated parking areas (see § 26.21(b) of this chapter).

B. Upland Game Hunting. We allow hunting of pheasant only in the free-roam areas on the refuge in accordance with State regulations subject to the following conditions:

* * * * *

8. Conditions A10 and A11 apply.

* * * * *

Salinas River National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, and moorhen on a hunt area along the Salinas River on the southeast portion of the refuge, as designated by posted signs, in accordance with State regulations subject to the following conditions:

1. You may only possess approved nontoxic shotshells while on the refuge (see § 32.2(k)) in quantities of 25 or less.

* * * * *

4. We only allow dogs engaged in hunting activities on the refuge during the waterfowl season. Hunters must keep their dog(s) under their immediate control at all times (see § 26.21(b) of this chapter). We prohibit training of dogs on the refuge. We prohibit other domesticated animals or pets.

5. We prohibit target practice on the refuge or any nonhunting discharge of weapons (see § 27.42 of this chapter).

* * * * *

San Luis National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, moorhen, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You may only use portable blinds, temporary blinds constructed of natural materials, or existing concrete blinds. We prohibit cutting or breaking woody vegetation (see § 27.51 of this chapter).

* * * * *

3. You must dismantle any temporary blinds constructed of natural materials at the end of each day.

4. You may only hunt snipe within the free-roaming portion of the San Luis Unit waterfowl hunting area.

5. You may only possess approved nontoxic shotshells (see § 32.2(k)) in quantities of 25 or less after leaving your assigned parking lot or boat launch.

6. We prohibit dropping of passengers or equipment or stopping between designated parking areas. You must return your permits to the check stations immediately upon completion of your hunt and prior to using any tour routes or leaving the refuge vicinity.

* * * * *

12. Dogs must remain under the immediate control of their owners at all times (see § 26.21(b) of this chapter).

B. *Upland Game Hunting.* We allow hunting of pheasants on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You may only possess approved nontoxic shotshells (see § 32.2(k)) in quantities of 25 or less while in the field.

2. Dogs must remain under the immediate control of their owners at all times (see § 26.21(b) of this chapter).

* * * * *

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow fishing from legal sunrise to legal sunset, except on that portion of the San Joaquin River's south (left descending) bank within the West Bear Creek Unit designated as open for fishing 24 hours per day.

2. We only allow the use of pole and line or rod and reel to take gamefish, and anglers must attend their equipment at all times.

* * * * *

San Pablo Bay National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Unless posted in the field and/or noted below, we only allow hunting in the open waters of San Pablo Bay and its navigable sloughs. We have not opened the following areas to hunting:

i. Lower Tubbs Island; ii. Lower Tubbs Setback;

iii. Cullinan Ranch Unit; and

iv. Within 300 feet (90 m) of Highway 37.

2. You may only hunt from a boat or a floating blind. We prohibit walk-in hunting on the refuge.

3. You may only possess approved nontoxic shotshells (see § 32.2(k)) in quantities of 25 or less while in the field.

4. You must remove all decoys, boats, and other personal property from the refuge at the end of each day (see § 27.93 of this chapter). Hunters must remove all trash, including shotshell hulls, when leaving hunting areas (see § 27.94 of this chapter).

5. We allow temporary floating blinds on the refuge subject to refuge manager approval. We allow blind installation beginning on October 1, but hunters must remove blinds (see § 27.93 of this chapter) by February 1. Temporary floating blinds become available for general use on a first-come, first-served basis on subsequent days. We prohibit entry to closed areas of the refuge prior to the hunting season in order to scout for hunting sites.

6. We only allow dogs engaged in hunting activities on the refuge during waterfowl season. We prohibit other domesticated animals or pets. Hunters must keep their dog(s) under their immediate control at all times (see § 26.21(b) of this chapter). We prohibit training of dogs on the refuge.

7. We prohibit digging into levees or slough channels.

8. We prohibit target practice on the refuge or any nonhunting discharge of firearms (see § 27.42 of this chapter).

9. We allow foot access through the refuge to the State's Tolay Creek Unit for waterfowl hunting. You must unload and either break down or case all shotguns (see § 27.42(b) of this chapter) while in transit through the refuge.

B. Upland Game Hunting. We allow hunting of pheasant only in areas of the Tolay Creek Unit designated by posted signs in accordance with State regulations subject to the following conditions:

1. You may only hunt on Wednesdays, Saturdays, and Sundays.

2. You may only possess approved nontoxic shotshells (see § 32.2(k)) in quantities of 25 or less while in the field.

3. You may only access the Tolay Creek Unit by foot or bicycle.

4. We only allow dogs engaged in hunting activities on the refuge during pheasant season. We prohibit other domesticated animals or pets.

* * * * *

Sutter National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, moorhen, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

* * * * *

7. We only allow overnight stays in vehicles, motor homes, and trailers at the check station parking area.

8. You must restrain dogs on a leash within all designated parking areas (see § 26.21(b) of this chapter).

B. Upland Game Hunting. We only allow hunting of pheasant in the free-roam areas of the refuge in accordance with State regulations subject to the following conditions:

* * * * *

7. Conditions A7 and A8 apply.

* * * * *

■ 10. Amend § 32.28 Florida by:
■ a. Revising Arthur R. Marshall Loxahatchee National Wildlife Refuge;
■ b. Revising Cedar Keys National Wildlife Refuge;
■ c. Revising Hobe Sound National Wildlife Refuge;
■ d. Revising paragraphs B., C., and D. of Lower Suwannee National Wildlife Refuge;
■ e. Revising paragraphs A. and D. of Merritt Island National Wildlife Refuge;
■ f. Revising St. Marks National Wildlife Refuge;
■ g. Revising paragraphs C. and D. of St. Vincent National Wildlife Refuge; and
■ h. Revising Ten Thousand Islands National Wildlife Refuge to read as follows:

§ 32.28 Florida.

* * * * *

Arthur R. Marshall Loxahatchee National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a signed refuge waterfowl hunt permit while hunting.

2. We allow hunting in the interior of the refuge south of latitude line 26.27.130. We have not opened to hunting from the perimeter canal or levee and those areas posted as closed.

3. The refuge open waterfowl season is concurrent with the State season. The refuge does not participate in any early experimental seasons. Hunters may only take duck and coot.

4. We do not open to hunting on Mondays, Tuesdays, and Christmas Day.

5. Refuge hunting hours are from ½ hour before legal sunset to 1 p.m. Hunters may enter the refuge no earlier than 5 a.m. and must be off the refuge by 3 p.m.

6. Hunters must only enter and leave the refuge at the Headquarters Area (Boynton Beach) and the Hillsboro Area (Boca Raton) (see § 27.31 of this chapter).

7. Hunters must unload and case or dismantle firearms (see § 27.42(b) of this chapter) when outside of hunting area and when en route to or from the hunting area. Hunters may only use no greater than .10 gauge shotguns. We prohibit all other firearms or weapons (see §§ 27.42 and 27.43 of this chapter).

8. We only allow temporary blinds of native vegetation. We prohibit the taking, removing, or destroying of refuge vegetation (see § 27.51 of this chapter).

9. Hunters must remove decoys and other personal property (see § 27.93 of this chapter) from the hunting area each day.

10. We encourage the use of dogs to retrieve dead or wounded waterfowl. Dogs must remain under the immediate control of the owner at all times (see § 26.21(b) of this chapter). We prohibit pets at all other times.

11. A hunter must complete a daily bag report card and place it in an entrance fee canister each day.

12. All youth hunters age 15 and younger must remain within sight and normal voice contact of an adult age 21 or older, possessing a license. Youth hunters must have completed a hunter education course.

13. We only allow boats equipped with outboards or electric motors and nonmotorized boats. We prohibit airboats, Hovercraft, and personal watercraft (Go Devils, Jet Skis, jet boats, and Wave Runners). We recommend all boats operating within the hunt area fly a 12 inch by 12 inch (30 cm x 30 cm) orange flag, 10 feet (3 m) above the vessel's waterline.

14. We prohibit motorized vehicles of any type on the levees and undesignated routes (see § 27.31 of this chapter).

15. For emergencies or to report violations, contact law enforcement personnel at 561–936–4100.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow fishing from legal sunrise to legal sunset.

2. Special black bass regulations are in effect within the boundaries of the refuge. The daily creel limit is five black bass per person, per day, where only one bass may be over 14 inches (35 cm) in length.

3. We allow fishing south of a line of latitude of 26.27.130 and in the rim canal in the rest of the refuge. We prohibit fishing in Management Compartments A, B, and C, and those areas posted as closed to fishing or the public.

4. We only allow the use of rods and reels and poles and lines, and anglers must attend them at all times.

5. We prohibit commercial fishing and the taking of frogs, turtles, and other wildlife (see § 27.21 of this chapter).

6. We prohibit the possession or use of cast nets, seines, trot lines, jugs, gigs, and other fishing devices.

7. Anglers may only launch boats at the Headquarters Area (Boynton Beach), the Hillsboro Area (Boca Raton), and 20 Mile Bend (West Palm Beach).

8. We only allow boats equipped with outboards or electric motors and nonmotorized boats. We prohibit airboats, Hovercraft, personal watercraft (Go Devils, Jet Skis, jet boats, and Wave Runners). We recommend that all boats operating within the hunt area fly a 12 inch by 12 inch (30 cm x 30 cm) orange flag, 10 feet (3 m) above the vessel's waterline.

9. We prohibit motorized vehicles of any type on the levees and undesignated routes (see § 27.31 of this chapter).

10. For emergencies or to report violations, contact law enforcement personnel at 561–936–4100. Law enforcement officers monitor VHF Channel 16.

Cedar Keys National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. You may fish in salt water year-round in accordance with State regulations subject to the following condition: We will close a 300 foot (90 m) buffer zone beginning at mean high tide line and extending into the waters around Seahorse Key to all public entry from March 1 through June 30.

* * * * *

Hobe Sound National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow fishing from legal sunrise to legal sunset.

2. We allow salt water fishing along the Atlantic Ocean and Indian River Lagoon year-round in accordance with State regulations.

3. We prohibit commercial fishing and the taking of frogs, turtles, and other wildlife (*see* § 27.21 of this chapter).

4. We prohibit motorized vehicles of any type on the fire roads, undesignated routes, and areas posted as closed (*see* § 27.31 of this chapter).

5. For emergencies or to report violations, contact law enforcement personnel at 561–936–4100. Law enforcement officers monitor VHF Channel 16.

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Lower Suwannee National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of gray squirrel, armadillo, opossum, rabbit, raccoon, coyote, and beaver on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require hunters to possess and carry signed refuge hunt permits for all hunts.

2. We designate open and closed refuge hunting areas on the map in the refuge hunt permit that the hunter must possess and carry.

3. You must park vehicles in a manner that does not block roads or gates (*see* § 27.31(h) of this chapter).

4. We prohibit the use of ATVs (*see* § 27.31(f) of this chapter).

5. We prohibit horses.

6. We prohibit possession of a loaded firearm or bow and arrow (see § 27.42(b) of this chapter) while on a refuge road right-of-way designated for motorized vehicle travel or in any vehicle or boat. We define ''loaded'' as shells in the chamber or magazine or percussion cap on a muzzleloader, or arrow notched in a bow.

7. We prohibit hunting from refuge roads open to public vehicle travel.

8. We prohibit construction of permanent blinds or stands.

9. In addition to State hunter education requirements, an adult (parent or guardian) age 21 or older must supervise and must remain within sight of and in normal voice contact of the youth hunter age 15 and under. Parents or adult guardians are responsible for ensuring that youth hunters do not engage in conduct that would constitute a violation of the refuge regulations. An adult can supervise no more than two youth hunters.

10. We prohibit all commercial activities, including guiding or participating in a guided hunt.

11. We prohibit target practice or any nonhunting discharge of firearms (see § 27.42 of this chapter).

12. We prohibit marking any tree or other refuge feature with flagging, litter, paint, or blaze.

13. We allow marking trails with reflective markers, but you must remove the markers (see §§ 27.93 and 27.94 of this chapter) at the end of the refuge deer-hunting season.

14. Hunters utilizing the refuge are subject to inspection of licenses, permits, hunting equipment, bag limits, vehicles, and their contents, during compliance checks by refuge or State law enforcement officers.

15. Hunters must be at their vehicles by 1 hour after legal shooting time.

16. The refuge upland game hunting season opens on the Monday after the Florida State Central Management Zone general gun (antlered deer and wild hog) season closes, and it ends on February 28.

17. You may only possess .22 caliber rimfire (but not .22 magnum caliber) firearms (see § 27.42 of this chapter) or shotguns with shot no larger than #4 common.

18. We allow night hunting in accordance with State regulations for raccoon and opossum on Friday and Saturday nights from legal sunset until legal sunrise during the month of February.

C. Big Game Hunting. We allow hunting of big game on designated areas of the refuge in accordance with State regulations subject to the following conditions.

1. Conditions B1 through B15 apply.

2. We prohibit use of hunting and tracking dogs.

3. We require quota hunt permits (issued through a random draw) for the limited deer gun hunt and limited youth Gun Deer Hunt. They cost the participants selected $12.50.

4. Quota hunt permits are nontransferable.

5. Hunters may only use archery equipment, in accordance with State archery regulations, during the refuge archery season.

6. Hunters may only use muzzleloading firearms (see § 27.42 of this chapter), in accordance with State muzzleloader regulations, during the refuge muzzleloader season.

7. We prohibit hunting from a tree in which a metal object has been driven.

8. You may leave temporary tree stands on the refuge starting on the last weekend of August, but you must remove them by the last day of the general gun-hunting season (see § 27.93 of this chapter).

9. All hunters (including all persons accompanying hunters) must wear a minimum of 500 square inches (3,250 cm^2) of fluorescent orange visible above the waistline while hunting during all refuge deer gun hunts.

10. We prohibit the use of organized drives for taking or attempting to take game.

11. The refuge general gun season begins on the opening Saturday of the Florida State Central Management Zone General Gun season and ends on the following Friday. It reopens on the Monday after the refuge limited deer season and ends on the following Sunday. The refuge general gun season lasts 14 days.

12. The refuge limited either-sex deer hunt is on the second Saturday and Sunday of the State Central Management Zone General Gun season. This coincides with the opening of the State's either-sex hunt, deer-hunting season.

13. The youth limited Gun Deer Hunt is the Saturday and Sunday following the close of the refuge general gun season.

14. During the limited youth hunt, an adult age 21 or older must accompany the youth hunter but only the youth hunter may hunt and handle the firearm.

15. We confine the limited youth hunt to the Levy County portion of the refuge, and hunters must access the refuge from Levy County Road 347.

16. We allow hunting of deer (except spotted fawns), feral hog (no size or bag limit), gray squirrel, rabbit, armadillo, opossum, raccoon, beaver, and coyote during the archery season.

17. Hunters may take deer with one or more antlers at least 5 inches (12.5 cm) in length visible above the hairline and feral hog (no bag or size limit) during the muzzleloader and general-gun season.

18. Hunters may take one legal deer of either sex and hog (no size or bag limit) during the limited deer gun hunt and limited youth Gun Deer Hunt.

19. We prohibit all other public entry or use of the hunting area during the limited gun and youth deer hunts. During the limited gun hunt, the Dixie Mainline road will remain open to all

public vehicles, but we prohibit firearms except for permit holders.

20. Hunters must check all game harvested during the limited deer gun hunt and limited youth Gun Deer Hunt at a refuge check station.

21. You may only take turkey during the State spring turkey hunting season.

22. You may only take bearded turkeys during the spring turkey hunt.

23. Shooting hours for spring turkey begin ½ hour before legal sunrise and end at 1 p.m.

24. We only allow shotguns with shot no larger than size 2 common shot or bows for spring turkey hunting.

D. Sport Fishing. We allow fishing in accordance with State regulations subject to the following conditions:

1. Anglers may only take game and nongame fish with pole and line or rod and reel.

2. We prohibit take of frogs and turtles (see § 27.21 of this chapter).

3. We prohibit leaving boats on the refuge overnight (see § 27.93 of this chapter).

4. We prohibit consumption of alcoholic beverages or possession of open alcohol containers in the public use areas of Shired Island boat launch/fishing and parking lot area and the Shell Mound fishing/recreational area.

Merritt Island National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck and coot in accordance with State regulations subject to the following conditions:

1. You must possess and carry a current signed refuge permit at all times while hunting on the refuge.

2. You must purchase and possess and carry a quota permit if you are hunting in areas 1 or 4 from the beginning of the regular season through December 31.

3. You may hunt Wednesdays, Saturdays, Sundays and the following holidays: Thanksgiving, Christmas, and New Year's Day within the State waterfowl season.

4. You may hunt in four designated areas of the refuge as delineated in the refuge hunting regulations map. Hunters may not enter the restricted areas of the Kennedy Space Center.

5. You may hunt from ½ hour before legal sunrise until 1 p.m.

6. You may enter no earlier than 4 a.m. for the purpose of hunting.

7. We require all hunters to successfully complete a State-approved hunter education course.

8. We require an adult, age 18 or older, to supervise hunters under the age 18.

9. We prohibit accessing a hunt area from Black Point Wildlife Drive, Playalinda Beach Road, or Scrub Ridge Trail (see § 27.31 of this chapter).

10. We prohibit construction of permanent blinds (see § 27.92 of this chapter) or digging into dikes.

11. We prohibit hunting or shooting from any portion of a dike, road, or railroad grade.

12. We prohibit hunting within 150 yards (135 m) of SR 402 or SR 406.

* * * * *

D. Sport Fishing. We allow you to fish, crab, clam, oyster, or shrimp in designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a current, signed refuge permit at all times while on the refuge.

2. We allow fishing at night in the waters of Mosquito Lagoon, Indian River Lagoon, Banana River, and Haulover Canal.

3. We allow launching boats at night from the following refuge boat ramps: Bairs Cove, Beacon 42, and Bio Lab.

4. We prohibit crabbing or fishing from Black Point Wildlife Drive or any side road connected to Black Point Wildlife Drive except L Pond Road.

5. We prohibit launching boats, canoes, or kayaks from Black Point Wildlife Drive or any side road connected to Black Point Wildlife Drive except L Pond Road.

6. Anglers and crabbers must attend their lines.

7. We prohibit harvesting or possession of horseshoe crabs.

8. We prohibit use of personal watercraft, air thrust boats, and hovercraft.

9. Vessels must not exceed idle speed in Bairs Cove and KARS Marina or slow speed/minimum wake in Haulover Canal.

10. We prohibit motorized vessels in the Banana River within the posted ''No-Motor Zone,'' including any vessel having an attached motor or a nonattached motor capable of use (including electric trolling motor).

11. We prohibit anglers entering the restricted areas of the Kennedy Space Center.

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St. Marks National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require refuge permits for hunting the Piney Island unit. Permits are available at no cost from the refuge office. Each hunter must possess and carry a signed hunt permit when using the hunt area.

2. You must remove blinds daily (see § 27.93 of this chapter).

3. Hunters may access the hunt area by boat.

4. We allow retriever dogs to recover game.

B. Upland Game Hunting. We allow hunting of grey squirrel, rabbit, raccoon, and feral hog in accordance with State regulations subject to the following conditions:

1. We require refuge permits for hunting upland game. Permits are available at no cost from the refuge office. Each hunter must possess and carry a signed permit while participating in a hunt.

2. Hunters must wear 500 square inches (3,250 cm^2) of fluorescent orange above the waistline.

3. You may use .22 caliber rim-fired rifles, shotguns with nontoxic shot (see § 32.2(k)), or muzzleloaders. You may use shotgun slugs, buckshot, or archery equipment to take feral hogs. We prohibit the use or possession of other weapons. You must unload all firearms for transport in vehicles (uncap muzzleloaders) (see § 27.42 of this chapter).

4. We prohibit dogs in the hunt area.

5. There is no limit on the size or number of feral hogs that hunters may take.

6. We allow hunting on designated areas of the refuge. Contact the refuge office for specific dates.

7. We prohibit hunting from any named or numbered road.

8. We prohibit cleaning of game within 1,000 feet (300 m) of any developed public recreation area, game check station, or gate.

9. The refuge is only open to daylight use.

10. You must check out all game taken at a game check station.

C. Big Game Hunting. We allow hunting of white-tailed deer, feral hog, and bearded turkey in accordance with State regulations subject to the following conditions:

1. We require refuge permits, issued by lottery. Lottery applications are available at the refuge office each year beginning in July. There is a fee for permits. Permits are nontransferable. There is an additional fee for duplicate permits. Each hunter must possess and carry a signed permit when participating in a hunt.

2. Conditions B4, B5, B8, and B10 apply.

3. We prohibit hunting from any named or numbered road (with the exception of persons hunting in the mobility impaired hunt).

4. You may access the refuge hunt areas by vehicle for prehunt scouting 2

days prior to the hunt for which you are drawn. We prohibit weapons in the hunt area during the prehunt scouting (see § 27.42 of this chapter).

5. There is a two-deer limit per hunter as specified in C8 and C9 below. The limit for bearded turkey is one per day and two per hunt. There is no limit on feral hogs.

6. We prohibit the use of deer decoys.

7. We prohibit the use of flagging, paint, or blazes.

8. There are two fall archery hunts: hunters may harvest either sex deer, bearded turkey, or feral hogs during the fall archery hunts. There will be a fall archery hunt on the Panacea and Wakulla Units. We prohibit other weapons in the hunt area (see § 27.43 of this chapter). Contact the refuge office for specific dates.

9. There is a winter archery/muzzleloader hunt. Hunters may harvest doe deer, antlerless deer, bearded turkey, or feral hogs. We define ''antlerless deer'' as deer with antlers less than 1 inch above the hairline. We will give each hunter that harvests a doe deer a permit to harvest an antlered deer. Archery equipment and muzzleloaders must meet the requirements set by the State. We prohibit other weapons in the hunt area (see § 27.43 of this chapter). Contact the refuge office for specific dates.

10. There are two modern gun hunts. Modern guns must meet State requirements. We will hold one hunt on the Panacea Unit and one on the Wakulla Unit. Hunters may harvest doe deer or antlerless deer. See definition for ''antlerless deer'' in C9 above. We will give each hunter that harvests a doe deer a permit to harvest an antlered deer. You may also harvest one bearded turkey or feral hogs (no limit). Contact the refuge office for specific dates.

11. There is one mobility-impaired hunt on the Panacea Unit in the area west of Country Road 372. Hunters may harvest doe deer, antlerless deer, bearded turkey, or feral hogs. See definition for ''antlerless deer'' in C9 above. We will issue permits to those hunters that harvest a doe deer to harvest an antlered deer. Hunters may have an able-bodied hunter accompany them. You can transfer permits issued to able-bodied assistants. We limit those hunt teams to two deer per hunt. Contact the refuge office for specific dates.

12. There is one spring gobbler hunt. You may harvest one bearded turkey per day (with a limit of two turkey per hunt). You may only use shotguns to harvest turkey. Contact the refuge office for specific dates. You must unload and dismantle or case weapons (see § 27.42 of this chapter) after 1:00 p.m.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit taking blue crabs from impoundments or canals on the St. Marks Unit.

2. We only allow fishing in refuge lakes, ponds, and impoundments from legal sunrise to legal sunset.

3. We allow fishing in tidal and coastal waters 24 hours per day year-round.

4. We prohibit use of boats with motors over 10 hp on any refuge lake, pond, or impoundment.

5. We allow use of boats on impoundments on the St. Marks Unit from March 15 through October 15 each year.

6. We prohibit taking of frogs or turtles (see § 27.21 of this chapter).

7. We prohibit use of cast nets, traps, or dip nets to take fish from any lake, pond, or impoundment on the refuge.

8. You must attend all fishing equipment.

9. We prohibit bow fishing on refuge lakes, ponds, and impoundments.

10. The interior ponds and lakes on the Panacea Unit are open year-round for bank fishing. We open vehicle access to these areas from March 15 through May 15 each year. Ponds and lakes that you can access from County Road 372 are open year-round for fishing and boating.

11. We prohibit commercial boats, air-thrust boats, and personal watercraft to launch at the saltwater boat ramp on the St. Marks Unit.

12. We prohibit air-thrust boats or personal watercraft to launch from Wakulla Beach.

13. All fish must remain in a whole condition when being transported from the refuge.

St. Vincent National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer, sambar deer, raccoon, and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require refuge permits. The permits are nontransferable and must be possessed and carried while hunting. Only signed permits are valid. We only allow people with a signed refuge hunt permit on the island during the hunt periods.

2. We restrict hunting to three hunt periods: sambar deer, raccoon, and feral hog—November 18–20; and white-tailed deer, raccoon, and feral hog—December 16–18 and January 6–8. Hunters may check-in and set up camp sites and stands on November 17, December 15, and January 5. Hunters must leave the island and remove all equipment by 11 a.m. on November 21, December 19, and January 9 (see § 27.93 of this chapter).

3. Hunters must check-in at the check stations on the island. We restrict entry onto St. Vincent Island to the Indian Pass and West Pass campsites. We restrict entry during the sambar deer hunt to the West Pass Campsite. All access to hunt areas will be on foot or by bicycle from these areas.

4. We close to public entry all areas marked with eagle nesting area, shorebird closed area, or area closed signs.

5. Hunt hours are ½ hour before legal sunrise until 3 p.m. for the sambar deer hunt. All other hunt times will be in accordance with Florida Wildlife Commission regulations.

6. We restrict camping and fires (see § 27.95 of this chapter) to the two designated camping areas. We may restrict or ban fires during dry periods.

7. Hunters may set up camp after receiving their hunting permit. We allow camping beginning on the first day of the hunt period, and campers must remove all personal equipment (see § 27.93 of this chapter) from St. Vincent Island by 11 a.m. on Sunday of the hunt period.

8. You may only set up tree stands after you check-in, and you must remove them from the island at the end of the hunt (see § 27.93 of this chapter).

9. You may only retrieve game from the closed areas if accompanied by a refuge officer.

10. All youth hunters age 15 and younger must remain within sight and normal voice contact of an adult age 21 or older, possessing a license. Each adult may only supervise one youth hunter.

11. We will issue permits for the white-tailed deer December and January hunts beginning at legal sunrise on the first day of the hunt period. You must obtain permits at the check station prior to accessing the hunt area.

12. We issue permits for the sambar deer hunt by computer drawing. You may obtain applications after May 15 from the refuge office (P.O. Box 447, Apalachicola, FL 32329).

13. Primitive weapons hunters (sambar deer and January white-tailed deer hunt), when outside the campsite area, must wear a minimum of 500 square inches (3,250 cm^2) of a solid, unbroken pattern of fluorescent orange-colored material visible above the waistline.

14. We limit weapons to muzzleloaders or bow and arrow on the sambar deer hunt and the January white-tailed deer hunt. We limit the December hunt to bow and arrow. Weapons must meet all State regulations.

15. We allow only stand, still, and stalk hunting. We prohibit man drives.

16. We prohibit the use of flagging material and/or bright eyes. We prohibit defacing of plants or trees (see § 27.51 of this chapter).

17. We prohibit target practice on the refuge (see § 27.42 of this chapter). You may discharge muzzleloaders at the designated discharge area between 5 a.m. and 9 p.m.

18. Nonmovement stand hours for all hunts will be from legal morning shooting time until 9 a.m.

19. We prohibit discharging of weapons (including cap firing) in campgrounds (see § 27.42 of this chapter).

20. Weapons must have the caps removed from muzzleloaders and arrows quivered before and after legal shooting hours.

21. Hunters must check out at the check station prior to leaving the refuge at the end of their hunt. A refuge staff member or volunteer must check the campsites before the hunters leave the refuge.

22. We prohibit motorized equipment, generators, or land vehicles (except bicycles).

23. Refuge personnel must check and tag game harvested before the hunter leaves the island.

24. We prohibit littering (see § 27.94 of this chapter) and cutting of live trees (see § 27.51 of this chapter). Only dead and downed wood may be cut.

25. Bag limits:

i. Sambar deer hunt—two sambar deer, no limit on feral hog or raccoon.

ii. Archery hunt—one white-tailed deer of either sex (no spotted fawns or spike bucks), no limits on feral hogs or raccoons.

iii. Primitive weapons hunt—one white-tailed deer buck having one or more forked antlers at least 5 inches (12.5 cm) in length visible above the hairline with points greater than 1 inch (12.5 cm) in length; we issue a limited number of either-sex permits. If you have an either sex permit, the bag limit is one deer that may be antlerless or a buck legal antler configuration. There is no limit on feral hog or raccoon.

26. We prohibit bringing live game into the check station.

27. Hunters must observe quiet time in the campground between 9 p.m. and 5 a.m. We prohibit loud or boisterous behavior or activity.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You may fish from legal sunrise to legal sunset.

2. We allow boats with electric motors. You must remove all other motors from the boats and secure them to a designated motor rack with a lock and chain.

3. We prohibit the use of live minnow as bait.

4. We allow fishing on Lakes 1 and 2 and Oyster Pond from April 1 through September 30.

5. We allow fishing in Lakes 3, 4, and 5 from May 15 through September 30.

6. We prohibit leaving boats and fishing gear on the refuge overnight (see § 27.93 of this chapter).

7. We prohibit commercial fishing or the taking of frog or turtle (see § 27.21 of this chapter).

8. We only allow the use of rods and reels or poles and lines. You must attend your fishing equipment at all times.

9. You may only take fish species and fish limits authorized by State regulations.

Ten Thousand Islands National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck and coot in accordance with State regulations subject to the following conditions:

1. We allow hunting daily during the early wood duck/teal season.

2. We allow only hunting on Wednesdays, Saturdays, Sundays, Thanksgiving, Christmas, and New Year's Day within the regular State season.

3. You must possess and carry a valid, signed refuge hunt permit (free) at all times while hunting on the refuge.

4. We allow only hunting in the areas posted and shown on the refuge hunt brochure.

5. We post entry points with signs numbered 1, 2, and 3 along the south side of U.S. 41. Hunters may enter the refuge at 4 a.m. and shooting hours start ½ hour before legal sunrise. You must remove all decoys, guns, blinds, and other related equipment (see § 27.93 of this chapter) by 1 p.m. daily.

6. We prohibit hunting within 100 yards (90 m) of the south edge of U.S. 41 and the area signed around the small access road extending south from U.S. 41.

7. We prohibit pit blinds and permanent blinds (see § 27.92 of this chapter).

8. We allow and recommend prehunt scouting from legal sunrise to legal sunset.

9. You may only take duck and coot with a shotgun (no larger than a 10 gauge). We prohibit possession of handguns and long guns. We prohibit target practice on the refuge (see § 27.42 of this chapter).

10. We prohibit air-thrust boats, hovercraft, personal watercraft, and off-road vehicles at all times. We limit vessels to a maximum of a 25 hp outboard motor. We allow go-devil type motors.

11. We require all guides to purchase, possess, and carry a refuge Special Use Permit.

12. We allow and recommend use of dogs for waterfowl retrieval. Dogs must remain under the immediate control of their handlers at all times (see § 26.21(b) of this chapter). We allow dogs during prehunt scouting.

13. We allow youth hunt days in accordance with State regulations. Hunters under age 16 may hunt only with a nonhunting adult age 18 or older. Youth hunters must remain within sight and sound of the nonhunting adult.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow fishing and crabbing on the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit air-thrust boats, hovercraft, personal watercraft, and off-road vehicles in the freshwater and brackish marsh area south of U.S. 41. We limit vessels to a maximum of a 25 hp outboard motor. We allow go-devil-type motors.

2. We allow fishing in the freshwater and brackish marsh area of the refuge year-round from legal sunrise to legal sunset. You may fish the tidal and barrier island area of the refuge year-round 24 hours a day.

3. We only allow crabbing and crab pots for recreational use in the freshwater and brackish marsh area of the refuge. You may only use crab pots in accordance with State regulations. Abandoned or unchecked crab pots after 72 hours are subject to impoundment.

4. We prohibit commercial fishing and the taking of snake and frog in the freshwater and brackish marsh area of the refuge.

5. We prohibit the use of trotlines, gigs, spears, bush hooks, snatch hooks, crossbows, or bows and arrows of any type in the freshwater and brackish marsh area of the refuge.

■ 11. Amend § 32.29 Georgia, by:

■ a. Revising Banks Lake National Wildlife Refuge;

■ b. Revising paragraph C. of Blackbeard Island National Wildlife Refuge;

■ c. Revising Bond Swamp National Wildlife Refuge;

■ d. Revising paragraph C. of Harris Neck National Wildlife Refuge;
■ e. Revising Okefenokee National Wildlife Refuge;
■ f. Revising Piedmont National Wildlife Refuge;
■ g. Revising paragraphs A., B., and C. of Savannah National Wildlife Refuge; and
■ h. Revising paragraph C. of Wassaw National Wildlife Refuge to read as follows:

§ 32.29 Georgia.

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Banks Lake National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following condition: We only allow the use of pole and line or rod and reel. For more information, contact the Okefenokee National Wildlife Refuge at 912–496–7836.

Blackbeard Island National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Hunters must possess and carry signed refuge permits on their persons at all times. You may obtain information on permits and the hunt at the refuge headquarters in Savannah, Georgia.
2. Hunters must check-in no more than 1 day in advance of the opening day of each hunt. We prohibit check-in after legal sunset of the second hunt day.
3. Each hunter may place one stand on the refuge no earlier than 1 month prior to the opening day of each hunt but must remove the stand (see § 27.93 of this chapter) by the end of each hunt.
4. Hunters must check-in at the refuge dock prior to setting up camp. We require personal identification at check-in.
5. We confine hunters to the camping area until 12 p.m. (noon) of the first day of check-in; we will allow scouting from 12 p.m. (noon) until 5 p.m.
6. Within the refuge, you may only travel by foot or bicycle, except in the wilderness area where we allow only foot travel. We limit entry and exit points to the designated check stations or other specified areas. We prohibit hunters to leave by boat to reach other parts of the island.
7. You may only camp at the designated camping area.
8. You must confine fires (see § 27.95 of this chapter) to the camping area.
9. We prohibit flagging, blazing, or trail-marking devices to locate stands or for any other purpose.
10. We only allow bows. We prohibit crossbows or firearms (see §§ 27.42 and 27.43 of this chapter).
11. We prohibit the use of organized drives for taking or attempting to take deer.
12. You may take five deer of either sex and State bonus tags will be issued for two of these. There is no bag limit on feral hog.
13. Refuge personnel must check deer harvested during the scheduled hunt before hunters may remove them from the refuge.
14. Hunters must be on their stands from ½ hour before legal sunrise until 9 a.m. and from 2 hours before legal sunset until legal sunset.
15. We prohibit target practice except in designated areas (see § 27.42 of this chapter).
16. Hunters must be off the island by 12 p.m. (noon) on Sunday.
17. We close the refuge to the nonhunting public 1 day prior to and 1 day after the hunt period, as well as on hunt days.

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Bond Swamp National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting for white-tailed deer and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We coordinate hunting seasons and limits with the State and annually list them in the refuge hunting brochure.
2. We require you to possess and carry a signed refuge hunt permit while archery hunting. You may obtain this permit from the refuge office.
3. We require a refuge hunt permit and payment of a fee for the quota firearms hunts. You may obtain applications and information about the hunt drawing from the refuge office.
4. We require you to sign in once prior to each hunt at the refuge check station.
5. We allow access to the hunt area from 1 hour before legal sunrise to 1 hour after legal sunset. We prohibit overnight camping and/or parking.
6. We prohibit buckshot.
7. We prohibit flagging, blazing, painting, or any other trail-marking devices.
8. We prohibit hunting within 50 yards (45 m) of a road open to vehicle travel or within 200 yards (180 m) of a building.
9. We prohibit entry into the designated hunt area by nonhunters during the hunts.
10. We prohibit hunting or possession of weapons in public use or other areas posted ''No Hunting Zone'' or ''Area Closed'' or designated as no hunting areas on the hunt brochure map (see §§ 27.42 and 27.43 of this chapter).
11. We require you to bring any deer or hog you harvest to the refuge check station the day you kill it and before you leave the refuge.
12. We prohibit possession of field-dressed deer or hogs unless you have checked them at the refuge check station.
13. We prohibit possession of alcoholic beverages while on the refuge.
14. We prohibit target practice or any nonhunting discharge of firearms (see § 27.42 of this chapter).
15. We require each firearms hunter to wear at least 500 square inches (3,250 cm^2) of hunter orange as an outer garment above the waist.
16. We prohibit walking or trespassing on the railroad tracks to access the refuge.
17. We prohibit removal of live hog from the refuge.
18. We prohibit the use of dogs.
19. We allow the use of ATVs on refuge roads to retrieve game (see § 27.31 of this chapter), but you must obtain permission from refuge staff before using the ATV.
20. We allow limited nonmotorized portable boat access at the Stone Creek parking area.
21. We prohibit the use of organized drives for taking or attempting to take game.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing from March 15 to October 15, except on the Ocmulgee River, which is open to fishing year-round.
2. We only allow access to the refuge and fishing from legal sunrise to legal sunset.
3. We only allow fishing with pole and line or rod and reel.
4. We prohibit boats on all refuge waters, except the Ocmulgee River, where we allow boats.
5. We prohibit leaving boats or other personal equipment on the refuge overnight (see § 27.93 of this chapter).
6. The minimum size limit for largemouth bass is 14 inches (490 cm).

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Harris Neck National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer and feral

hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Hunters must possess and carry a signed refuge permit on their person at all times. We require payment of a fee for the quota gun hunt only. You may obtain information on permits, quota hunt applications, and quota hunt drawings at the refuge headquarters in Savannah, Georgia.

2. Each hunter may place one stand on the refuge during the week (Monday through Friday only) preceding each hunt, but you must remove stands by the end of each hunt (see § 27.93 of this chapter).

3. Hunters must be on their stands from ½ hour before legal sunrise until 9 a.m. and from 2 hours before legal sunset until legal sunset.

4. We prohibit use of flagging, blazing, or trail-marking devices to locate stands or for any other purpose.

5. We prohibit hunting closer than 100 yards (90 m) to State Highway 131, the refuge entrance drive, refuge headquarters, Barbour River Landing, Barbour River Road, or Gould's Cemetery.

6. We require personal identification at check-in.

7. To hunt during the morning stand hours, bow hunters must enter the refuge through the refuge entrance gate only, between 5 a.m. and 6 a.m. We will allow hunters to exit and re-enter through the entrance gate only, from 9 a.m. until 4 p.m. After 4 p.m. we prohibit entry to the refuge.

8. During the archery hunt, we will restrict vehicles to the auto tour route (see § 27.31 of this chapter) and allow two-way traffic.

9. During the archery hunt, we only allow bows.

10. We require gun hunters to check-in at the refuge headquarters between 4 a.m. and 5 a.m. and park in designated areas prior to hunting. We prohibit entry by boat.

11. You may take three deer of either sex (State bonus deer tags will be issued for two of these). There is no bag limit on feral hog.

12. During the gun hunt, you must only use shotguns with slugs 20 gauge or larger.

13. We prohibit target practice or any nonhunting discharge of firearms (see § 27.42 of this chapter).

14. Gun hunters must wear an outer garment with a minimum of 500 square inches (3,250 cm^2) of hunter-orange material above the waistline.

15. Refuge personnel must check deer harvested during refuge hunts before leaving the refuge.

16. We prohibit the use of organized drives for taking or attempting to take game.

17. We will close the refuge to the nonhunting public on all hunt days.

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Okefenokee National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. We allow the hunting of rabbit, squirrel, bobwhite quail, and turkey on the Cowhouse Unit of the refuge. The season will be consistent with the adjacent Dixon Memorial Wildlife Management Area and in accordance with State hunting regulations subject to the following conditions:

1. We only allow foot and bicycle traffic on the refuge portion of Cowhouse Island.

2. We only allow dogs to locate, point, and retrieve during quail hunts.

3. For more information, contact the refuge at 912–496–7836.

C. Big Game Hunting. We allow hunting of turkey only on the Cowhouse Island Unit of the refuge. We allow hunting of white-tailed deer and feral hog at the Suwannee Canal Recreation Area, the Pocket Unit, and Cowhouse Island Unit in accordance with State regulations subject to the following conditions:

1. In the Pocket Unit:

i. We only allow archery hunting and foot traffic.

ii. You must sign-in and out.

iii. You must remove tree stands daily (see § 27.93 of this chapter).

iv. We prohibit dogs.

2. In the Suwannee Canal Unit:

i. We only allow two ½–day hunts (dates will be announced) and shotguns with slugs or muzzleloaders.

ii. We require a refuge permit through refuge lottery, which interested parties should enter before August 31 (fee will be announced).

iii. Hunters must remain on stands from 30 minutes before legal sunrise until 9 a.m.

iv. You must sign-in and sign out.

v. You must tag your deer with special refuge tags. There is a limit of two deer of either sex.

vi. We only zone Chesser Island Hunt area to accommodate wheelchair hunters.

vii. Conditions B3, C1iii, and C1iv apply.

viii. We prohibit dogs.

3. In the Cowhouse Island Unit:

i. Dixon Memorial Wildlife Management Area rules, regulations, dates, and times apply.

ii. Conditions B1, B3, C1iii, and C1iv apply.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow motorized boats with motors 10 hp or less.

2. We prohibit possession of live bait fish.

3. We only allow the use of pole and line or rod and reel.

4. In the Suwannee Canal unit:

i. We prohibit fishing in the boat basin.

ii. We prohibit fishing in ponds and canals along the Swamp Island Drive.

iii. We reserve the porch and canal area behind the visitor center for youth age 15 and under and physically disabled.

5. Condition B3 applies.

Piedmont National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. We allow hunting of quail, squirrel, rabbit, raccoon, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit upland game hunting during refuge deer or turkey hunts.

2. We coordinate hunting seasons for raccoon and opossum with the State and annually list them in the refuge hunt brochure.

3. You must possess and carry a signed refuge hunt permit while hunting. You may obtain the permit from the refuge office.

4. We require a refuge hunt permit to hunt on the Hitchiti Experimental Forest in accordance with refuge hunting seasons and regulations.

5. We prohibit hunting or possessing weapons in areas posted ''No Hunting Zone'' or ''Area Closed'' or designated as no hunting areas on the hunt brochure map (see §§ 27.42 and 27.43 of this chapter).

6. The refuge is a day-use-only area, with the exception of legal hunting activities.

7. We allow access to the hunt area for quail, squirrel, and rabbit hunting from 1 hour before legal sunrise to 1 hour after legal sunset. We prohibit overnight camping and/or parking.

8. We allow hunting for raccoon and opossum from 6 p.m. to 6 a.m. on the days listed as open in the refuge hunt brochure.

9. We only allow .22 caliber rimfire firearms for raccoon and opossum.

10. You may use dogs on designated areas of the refuge in accordance with State regulations.

11. You must keep your dogs confined or on a leash except when hunting, and

you must remove your dogs upon your departure from the refuge (see § 26.21(b) of this chapter).

C. Big Game Hunting. We allow hunting for white-tailed deer, turkey, and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions B4, B5, and B6 apply.
2. We coordinate hunting seasons and limits with the State and annually list them in the refuge hunting brochure.
3. We require you to possess and carry a signed refuge permit while archery hunting. You may obtain this permit from the refuge office.
4. We require a refuge hunt permit and payment of a fee for the quota firearms hunts. You may obtain applications and information about the hunt drawing from the refuge office.
5. We have a special deer hunt for disabled hunters confined to wheelchairs. You may obtain information about this hunt from the refuge office.
6. We prohibit entry into designated hunt area by nonhunters during the hunts.
7. We allow access to the hunting area from 1 hour before legal sunrise to 1 hour after legal sunset. We prohibit overnight camping and/or parking except in the designated campground at Pippins Lake. You must have a refuge hunting permit to enter and use the campground.
8. We prohibit buckshot.
9. We only allow alcoholic beverages in the designated campground.
10. We prohibit flagging, blazing, painting, or any other trail-marking devices.
11. We prohibit hunting within 50 yards (45 m) of a road open to vehicle travel or within 200 yards (180 m) of a building.
12. You must bring any deer, turkey, or hog you harvest to the refuge check station intact, except entrails, the day you kill them and before you leave the refuge. We prohibit possession of dressed deer, turkey, or hog unless you have checked them at the refuge check station.
13. We prohibit ATVs on the refuge except by disabled hunters with a refuge Special Use Permit.
14. We prohibit target practice on the refuge, including the shooting of firearms or bows in the designated campground, or any nonhunting discharge of firearms (see § 27.42 of this chapter).
15. We prohibit audio equipment such as radios or other noise-making devices such as generators after 10 p.m. or before 6 a.m. in the campground (see § 27.72 of this chapter).
16. We prohibit dogs for hunting big game.
17. We prohibit the use of organized drives for taking or attempting to take game.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing from May 1 to September 30.
2. We only allow access to the refuge and fishing from legal sunrise to legal sunset.
3. You may keep the following numbers of fish each day: bass—5; channel catfish—5; sunfish or bream—15; all other species—State limit.
4. We only allow nonmotorized boats and boats with electric motors in Pond 2A and Allison Lake.
5. We limit fishing in Pond 21A to youths age 15 and under.
6. We only allow fishing with pole and line or rod and reel.
7. We prohibit leaving boats or other personal equipment on the refuge overnight (see § 27.93 of this chapter).
8. We prohibit the use of fish for bait.
9. We prohibit placing or throwing in the water feeds, grains, or other materials to chum or attract fish.
10. You must immediately release any grass carp you catch. We are using these fish to help combat an exotic weed invasion in some ponds.

Savannah National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck and coot on designated areas north of Georgia Highway 25 of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a signed refuge permit at all times while hunting on the refuge. We only require a fee for the quota youth waterfowl hunt on the Solomon Tract. Permits and quota hunt drawing information are available at the refuge headquarters in Savannah, Georgia.
2. We only allow temporary blinds. You must remove decoys and other personal property from the refuge daily (see § 27.93 of this chapter).
3. We prohibit hunting within 100 yards (90 m) of Georgia Highway 25; or in or on Middle and Steamboat Rivers and Houstown Cut, or closer than 50 yards (45 m) of the shoreline of these waterways.

B. Upland Game Hunting. We allow hunting of squirrel November 1 through November 30 on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a signed refuge permit at all times while hunting on the refuge. Permits and hunt information are available at the refuge headquarters in Savannah, Georgia.
2. We only allow .22 caliber rimfire rifles or shotguns with #2 shot or smaller for squirrel hunting.
3. We prohibit handguns.
4. We prohibit the use of dogs.
5. You may take feral hog with weapons legal for this hunt (no bag limit).
6. We require a refuge big game license.
7. We require hunters to wear an outer garment that contains a minimum of 500 square inches (3,250 cm^2) of hunter-orange material above the waistline (except during the archery-only deer hunt, the turkey hunt, and the waterfowl hunt).

C. *Big Game Hunting.* We allow hunting of white-tailed deer, turkey, and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a signed refuge permit at all times while hunting on the refuge. We require a fee for the wheelchair-dependent hunters' quota gun hunt for deer. Permits, quota hunt applications, and information about the quota hunt drawing are available at the refuge headquarters in Savannah, Georgia.
2. We allow archery hunting for deer and hog from October 1 through 31 on designated areas (consult the refuge brochure for the areas).
3. We only allow bows for deer and hog hunting during the archery hunt.
4. We allow gun hunting for deer and hog from November 1 through 30 on designated areas of the refuge. We also allow hog (only) hunting during a special 9-day hunt in March.
5. We only allow shotguns with slugs, muzzleloaders, and bows for deer and hog hunting throuhgout the designated hunt area. However, we only centerfire rifles of .22 caliber or larger north of Interstate Highway 95. We prohibit handguns.
6. You may take five deer, no more than three anterless and two antlered. There is no bag limit on feral hog.
7. Doe days for refuge lands in Georgia will only coincide with doe days set by the Georgia Department of Natural Resources for Effingham County.
8. Condition B7 applies.
9. We allow turkey hunting during a special 16-day turkey hunt in April. Turkey hunters may only harvest three gobblers.
10. We only allow shotguns with #2 shot or smaller and bows for turkey hunting in accordance with State

regulations. We prohibit possession of slugs or buckshot during turkey hunts.

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Wassaw National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Hunters must carry a signed refuge permit on their person at all times. We only require payment of a fee for the quota gun hunt for deer. You may obtain information on permits, quota hunt applications, and quota hunt drawings at the refuge headquarters in Savannah, Georgia.

2. We prohibit flagging, blazing, or trail-marking devices to locate stands or for any other purpose.

3. We prohibit the use of organized drives for taking or attempting to take game.

4. Refuge personnel must check deer harvested during scheduled hunts before hunters leave the refuge.

5. You may take five deer of either sex (State bonus tags issued for two of these). There is no bag limit on feral hog.

6. Hunters must be on their stands from ½ hour before legal sunrise until 9 a.m. and from 2 hours before legal sunset until legal sunset.

7. We prohibit target practice or any nonhunting discharge of firearms (see § 27.42 of this chapter).

8. We allow bows and muzzleloading rifles during the primitive weapons hunt.

9. We allow shotguns, 20 gauge or larger (slugs only), centerfire rifles of .22 caliber or larger, bows, and primitive weapons during the gun hunt.

10. We prohibit mooring boats to the government dock except for loading or unloading purposes.

11. Hunters must check-in at the refuge dock prior to setting up camp. We require personal identification at check-in.

12. We only allow camping at the designated camping area. You must confine fires (see § 27.95 of this chapter) to the camping area.

13. Each hunter may place one stand on the refuge no earlier than 1 month prior to the opening day of each hunt, but you must remove all stands by the end of each hunt (see § 27.93 of this chapter).

14. We require hunters to wear an outer garment that contains a minimum of 500 square inches (3,250 cm2) of hunter-orange material above the waistline.

15. Hunters may check-in at the refuge dock no more than 1 day in advance of the opening day of the hunt. We will confine hunters to the camping area until 12 p.m. (noon) of the first day of check-in; we will allow scouting from 12 p.m. (noon) until 5 p.m.

16. Hunters must be off the island the day following the last day of the hunt.

17. Within the refuge, you may only walk or use a bicycle. We prohibit hunters to leave by boat to reach other parts of the island.

18. We will close the refuge to the nonhunting public 1 day prior to, and 1 day after, the hunt period as well as on the hunt days.

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■ 12. Amend § 32.31 Idaho by:

■ a. Revising paragraphs A., B., and D. of Bear Lake National Wildlife Refuge;

■ b. Revising paragraphs A. and B. of Camas National Wildlife Refuge;

■ c. Revising paragraph A. of Grays Lake National Wildlife Refuge; and

■ d. Revising paragraphs A., B., and D. of Minidoka National Wildlife Refuge to read as follows:

§ 32.31 Idaho.

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Bear Lake National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, coot, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit air-thrust boats.

2. We allow nonmotorized and motorized boats after September 20 within the designated hunting area. We prohibit air-thrust boats.

3. You may only use portable blinds or construct temporary blinds of natural vegetation. Blinds will be available for general use on a first-come, first-served basis. You must remove portable blinds from the refuge at the end of each day (see § 27.93 of this chapter).

4. You must remove all personal property, including decoys and boats, (see § 27.93 of this chapter) from the refuge at the end of each day.

B. Upland Game Hunting. We allow hunting of pheasant, grouse, partridge, and cottontail rabbit on designated areas of the refuge in accordance with State regulations subject to the following condition: You may only possess approved nontoxic shotshells while in the field (see § 32.2(k)).

* * * * *

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit boats in the fishing area.

2. We prohibit use and possession of lead weights or sinkers.

Camas National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, coot, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit public entry onto the refuge prior to 1 hour before legal hunting hours.

2. You may only use portable blinds or construct temporary blinds of natural vegetation. Blinds will be available for general use on a first-come, first-served basis. You must remove portable blinds (see § 27.93 of this chapter) at the end of each day.

3. You may only transport firearms (see § 27.42 of this chapter) on the hunter access roads.

4. You must remove all personal property (see § 27.93 of this chapter), including decoys, from the refuge at the end of each day.

B. Upland Game Hunting. We allow hunting of pheasant, grouse, and partridge on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You may only possess approved nontoxic shotshells while in the field (see § 32.2(k)).

2. You may only transport firearms (see § 27.42 of this chapter) on the hunter access roads.

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Grays Lake National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, coot, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow nonmotorized boats.

2. You may only use portable blinds or construct temporary blinds of natural vegetation. Blinds will be available for general use on a first-come, first-served basis. You must remove portable blinds (see § 27.93 of this chapter) at the end of each day.

3. We only allow hunters and dogs to retrieve game in designated hunting areas.

4. You must remove all personal property, including decoys and boats, (see § 27.93 of this chapter) from the refuge at the end of each day.

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Minidoka National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, coot, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow hunters and dogs to retrieve game in designated hunting areas.

2. You may only use portable blinds or construct temporary blinds of dead natural vegetation. Blinds will be available for general use on a first-come, first-served basis. You must remove portable blinds (see § 27.93 of this chapter) at the end of each day. We prohibit use of rock piles above the high-water mark for blind construction. We prohibit pit blinds (see § 27.92 of this chapter).

3. We only allow vehicle parking in designated parking lots.

4. On West Hunting Area (Lake Walcott), we allow hunting on the uplands and over water within 100 yards (90 m) of the shoreline. We only allow use of boats for retrieval of game.

5. On East Hunting Area (Tule Island), we allow boats during the waterfowl hunting season.

B. Upland Game Hunting. We allow hunting of pheasant, grouse, partridge, and cottontail rabbit on designated areas of the refuge in accordance with State regulations subject to the following condition: You may only possess approved nontoxic shotshells while in the field (see § 32.2(k)).

* * * * *

D. Sport Fishing. We allow fishing on the refuge in accordance with State regulations and subject to the following conditions:

1. We allow bank fishing year-round. We only allow vehicle access (see § 27.31 of this chapter) to shoreline fishing areas on designated routes.

2. We allow ice fishing in accordance with State regulations. We prohibit motor vehicles (see § 27.31 of this chapter) on the ice.

3. We restrict boat fishing to designated areas as specified below:

i. On Lake Walcott, we allow boats from April 1 through September 30 within the area marked by buoys and posted signs.

ii. On Gifford Springs, we allow boats within the area marked by posted signs during the open sport fishing season.

iii. On Smith Springs, we allow boats within the area marked by posted signs during the open sport fishing season.

4. We allow use of float tubes at all times and locations except south of the southern buoy line on Lake Walcott.

■ 13. Amend § 32.32 Illinois by:

■ a. Adding paragraph A.4. of Chautauqua National Wildlife Refuge;

■ b. Revising Cypress Creek National Wildlife Refuge;

■ c. Revising Great River National Wildlife Refuge;

■ d. Revising Middle Mississippi River National Wildlife Refuge;

■ e. Revising Port Louisa National Wildlife Refuge;

■ f. Revising Two Rivers National Wildlife Refuge; and

■ g. Revising paragraph A.1., adding paragraphs A.6., A.7., revising paragraphs B.1., adding paragraph B.6., revising paragraph C.1., and adding paragraph D.3. of Upper Mississippi River National Wildlife and Fish Refuge to read as follows:

§ 32.32 Illinois.

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Chautauqua National Wildlife Refuge

A. Migratory Game Bird Hunting.

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4. Hunters must remove boats, decoys, and portable blinds (see § 27.93 of this chapter) at the end of each day.

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Cypress Creek National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, coot, woodcock, dove, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require hunters to possess and carry a free refuge hunting permit while hunting on the refuge.

2. We prohibit leaving boats on the refuge overnight (see § 27.93 of this chapter).

3. We prohibit outboard motors larger than 10 hp.

3. We prohibit the use of paint, flagging, reflectors, tacks, or other manmade materials to mark trails or hunting locations.

4. Dove hunting:

i. We allow dove hunting beginning on September 1 and continuing on the following Mondays, Wednesdays, and Saturdays throughout the State season.

ii. We only allow all dove hunting from field borders.

iii. We prohibit dove hunting within 100 yards (90 m) of roadways.

iv. We prohibit hunters from possessing guns while retrieving downed doves from field interiors.

5. We only allow the use of portable or temporary blinds. Hunters must remove all blinds and decoys (see § 27.93 of this chapter) from the refuge at the end of each day.

6. On the Bellrose Waterfowl Reserve:

i. We prohibit duck hunting.

ii. You may only hunt goose following the closure of the State duck hunting season.

iii. We only allow goose hunting on Tuesdays, Thursdays, Saturdays, and Sundays.

iv. We allow hunting from ½ hour before legal sunrise until 1 p.m.

v. Hunters must exit the Reserve by 2 p.m.

vi. We prohibit entry to the Reserve prior to 4:30 a.m.

vii. We prohibit hunting during the special snow goose seasons after closure of the regular goose seasons.

viii. We prohibit construction or use of pit blinds (see § 27.92 of this chapter).

ix. We prohibit hunting within 100 yards (90 m) of any private property boundary.

x. All hunting parties must be at least 200 yards (180 m) apart.

xi. All hunters must sign in and out and report daily harvest at the hunter registration station.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, bobwhite quail, raccoon, opossum, red fox, grey fox, and coyote on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, and A3 apply.

2. We prohibit hunting after legal sunset, except we only allow raccoon and opossum hunting after legal sunset on refuge lands north of Perks Road.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, A3, and A5 apply.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Condition A2 applies.

2. We prohibit the use of trotlines, jogs, yo-yos, nets, or any commercial fishing equipment except in areas where State regulation authorizes commercial tackle.

3. We prohibit the use of more than two poles per angler and more than two hooks or lures per pole.

4. We prohibit possession of bass less than 15 inches (37.5 cm) in length from refuge ponds.

5. We prohibit possession of more than six channel catfish from refuge ponds.

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Great River National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of waterfowl and coot on the Long Island Division of the refuge in accordance with State regulations subject to the following condition: We only allow hunting from blinds constructed on sites posted by the Illinois Department of Natural Resources.

B. Upland Game Hunting. We allow hunting of small game, furbearers,

turkey, and game birds on Long Island Division and Fox Island of the refuge in accordance with State regulations subject to the following conditions:

1. You may only possess approved nontoxic shot while hunting for upland game except turkey (see § 32.2(k)). We allow possession of lead shot for hunting turkey.

2. We only open Long Island Division and Fox Island Division for upland game hunting from ½ hour before legal sunrise until ½ hour after legal sunset.

3. We only allow turkey hunting on the Fox Island Division during the State spring seasons, including youth season. We do not open to fall turkey hunting.

4. We close Fox Island Division to all hunting and nonhunting entry from October 16 through December 31, except the Division is open to deer hunting as described below in C2.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated portions of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow the use of portable stands, and hunters must remove them from the refuge at the end of each day (see § 27.93 of this chapter).

2. On the Fox Island Division, we only allow hunting during the ''Antlerless-Only'' portion of the State firearms deer season.

3. On the Delair Division, we only allow muzzleloader hunting subject to the following conditions:

i. You must possess and carry a refuge permit.

ii. We require hunters to check-in and out of the refuge each day.

iii. We require hunters to record all harvested deer with refuge staff before removing them from the refuge.

iv. Shooting hours end at 3 p.m. each day.

v. Hunters must park all vehicles only in designated parking areas.

D. Sport Fishing. We allow fishing on the Long Island and Fox Island Divisions of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit the taking of turtle and frog (see § 27.21 of this chapter).

2. On the Fox Island Division, we only allow bank fishing along any portion of the Fox River from January 1 through October 15.

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Middle Mississippi River National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds on the Meissner and Wilkinson Island Division in accordance with State regulations subject to the following conditions:

1. We only allow portable blinds.

2. Hunters must remove blinds, decoys, and other equipment (see § 27.93 of this chapter) from the refuge at the end of each day.

B. Upland Game Hunting. We allow hunting of small game, furbearers, turkey, and nonmigratory game birds on the Meissner, Harlow, and Wilkinson Island Divisions in accordance with State regulations subject to the following conditions:

1. We only allow hunting of furbearers from legal sunrise to legal sunset.

2. You may only possess approved nontoxic shot while hunting upland game, except turkey (see § 32.2(k)).

C. Big Game Hunting. We allow hunting of white-tailed deer on the Harlow, Meissner, and Wilkinson Island Divisions in accordance with State regulations subject to the following conditions:

1. We only allow archery hunting on the Harlow and Meissner Divisions.

2. We only allow the use of portable stands, and hunters must remove them from the refuge at the end of each day (see § 27.93 of this chapter).

D. Sport Fishing. We allow fishing on the Harlow and Wilkinson Island Divisions in accordance with State regulations subject to the following conditions:

1. We prohibit the taking of turtle and frog (see § 27.21 of this chapter).

2. We only allow fishing from legal sunrise to legal sunset.

3. Anglers must remove all fishing devices (see § 27.93 of this chapter) at the end of each day's fishing.

Port Louisa National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds on the Big Timber Division in accordance with State regulations subject to the following conditions:

1. Hunters must remove boats, decoys, and portable blinds (see § 27.93 of this chapter) at the end of each day.

2. We allow portable blinds on a daily basis at any location on first-come, first-served basis.

3. We prohibit hunting on the Louisa, Horseshoe Bend, and Keithsburg Divisions.

B. Upland Game Hunting. We allow hunting of upland game only on Big Timber, Keithsburg, and Horseshoe Bend Divisions in accordance with State regulations subject to the following conditions:

1. You may only possess approved nontoxic shot (see § 32.2(k)) while hunting upland game. You may use lead shot to hunt turkey. We allow shotgun slug or muzzleloading rifle for hunting coyotes.

2. We only allow squirrel hunting on the Keithsburg Division from the beginning of the State season to September 15.

3. We allow hunting on the Horseshoe Bend Division from September 1 until September 14 and from December 1 until February 28. We allow spring turkey hunting.

4. We allow hunting on the Big Timber Division from September 1 until February 28. We allow spring turkey hunting.

C. Big Game Hunting. We allow hunting of white-tailed deer only on Big Timber and Horseshoe Bend Divisions in accordance with State regulations subject to the following conditions:

1. We only allow the use of portable stands, and hunters must remove them at the end of each day (see § 27.93 of this chapter).

2. We close Horseshoe Bend Division to all public access from September 15 until December 1.

D. Sport Fishing. We allow fishing in accordance with State regulations subject to the following conditions:

1. We prohibit the taking of turtle or frog (see § 27.21 of this chapter).

2. We only allow fishing from legal sunrise to legal sunset.

3. We close the following Divisions to all public access: Louisa Division—September 14 until February 1; Horseshoe Bend Division—September 14 until December 1; Keithsburg Division—September 15 until January 1.

4. Anglers must remove boats and all other fishing devices (see § 27.93 of this chapter) at the end of each day's fishing.

5. We only allow motor boats on Horseshoe Bend Division for fishing during the periods when flood water enables access from the river over the levee.

Two Rivers National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds only on the Apple Creek Division in accordance with State regulations subject to the following conditions:

1. We only allow portable blinds.

2. Hunters must remove boats, decoys, and portable blinds (see § 27.93 of this chapter) at the end of each day.

B. Upland Game Hunting. We allow upland game hunting only on the Apple Creek Division and the portion of the Calhoun Division east of the Illinois River Road in accordance with State regulations subject to the following conditions:

1. You may only possess approved nontoxic shot while hunting, except

turkey (see § 32.2(k)). We allow possession of lead shot for turkey hunting.

2. We allow hunting from legal sunrise to legal sunset.

C. Big Game Hunting. We allow hunting of white-tailed deer on the Apple Creek Division and the portion of the Calhoun Division east of the Illinois River Road in accordance with State regulations subject to the following condition: We only allow the use of portable stands, and hunters must remove them at the end of each day (see § 27.93 of this chapter).

D. Sport Fishing. We allow fishing on the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit the taking of turtle or frog (see § 27.21 of this chapter).

2. We only allow fishing from legal sunrise to legal sunset.

3. From October 15 through December 31, we close the Batchtown, Calhoun, Gilbert Lake, and Portage Island Divisions, and the portion of the Calhoun Division north and west of the Illinois River Road to all public access.

4. Anglers must remove boats and all other fishing devices (see § 27.93 of this chapter) at the end of each day.

5. We only allow boats on the Gilbert Lake Division for fishing during those periods when flood water enables access from the river over the levee.

Upper Mississippi River National Wildlife and Fish Refuge

A. Migratory Game Bird Hunting. * * *

1. In areas posted ''Area Closed'' or ''No Hunting Zone,'' we prohibit hunting of migratory game birds at all times. In addition to areas posted ''No Hunting Zone,'' we prohibit hunting within 50 yards (45 m) of the Great River Trail at Thomson Prairie, within 150 yards (135 m) of the Great River Trail at Mesquaki Lake, and within 400 yards (360 m) of the Potter's Marsh area in Pool 13.

* * * * *

6. For Pools 12, 13, and 14, we allow the following: hunting from boat blinds or scull boats; construction of permanent blinds from dimensional lumber (however, we prohibit use of nonbiodegradable materials such as metal, plastic, or fiberglass); and use of willow, cattail, bulrush, lotus, arrowhead vegetation, and dead wood on the ground for blind building and camouflage. We prohibit cutting or removing any other trees or vegetation (see § 27.51 of this chapter). Hunters must place an identification card with name, address, and telephone number inside the permanent blind. Blinds not occupied by 1 hour before legal sunrise are available on a first-come, first-served basis.

i. ***Iowa:*** Hunters may hunt from the shoreline or wade. You may build permanent blinds anytime during the year anywhere within the pools on the Iowa side.

ii. ***Illinois*** (excluding Potter's Marsh Management Zone): Hunters may select permanent blind sites with a blind site marker beginning at 8 a.m. on the first Saturday in August. We prohibit occupying, improving, building a blind, or placing building materials on the site or in the adjacent area prior to this time. The blind site marker must include the name, address, date, time and telephone number of person(s) selecting the site. Hunters must completely build and camouflage the blind by September 1 or must remove the site selection marker (see § 27.93 of this chapter). All blinds must be a minimum of 4 by 8 feet (120 by 240 cm) in size and at least 200 yards (180 m) from each other. Scull boat and boat blinds must be at least 200 yards (180 m) from permanent blinds. Only during the early teal or goose season do we allow hunters to hunt by standing or wading in the water.

7. We allow the use of hunting dogs, provided the dogs remain under the immediate control of the hunter at all times (see § 26.21(b) of this chapter).

B. Upland Game Hunting. * * *

1. In areas posted ''No Hunting Zone,'' we prohibit possession of firearms at all times (see § 27.42 of this chapter). In addition to areas posted ''No Hunting Zone,'' we prohibit hunting within 50 yards (45 m) of the Great River Trail at Thomson Prairie, within 150 yards (135 m) of the Great River Trail at Mesquaki Lake.

* * * * *

6. We allow the use of hunting dogs provided the dogs remain under the immediate control of the hunter at all times (see § 26.21(b) of this chapter).

C. Big Game Hunting. * * *

1. Condition B1 applies.

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D. Sport Fishing. * * *

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3. For the purpose of determining length limits, slot limits, and daily creel limits, the impounded areas of Spring Lake, Duckfoot Marsh, and Pleasant Creek in Pool 13 are part of the Mississippi River site-specific State regulations.

■ 14. Amend § 32.33 Indiana by:

■ a. Revising paragraph B. of Big Oaks National Wildlife Refuge;

■ b. Revising paragraphs B., the introductory text of paragraph C., paragraph C.1., C.2., and C.5., adding paragraphs C.6., C.7., and C.8., and revising paragraph D. of Muscatatuck National Wildlife Refuge; and

■ c. Revising Patoka River National Wildlife Refuge and Management Area to read as follows:

§ 32.33 Indiana.

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Big Oaks National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of squirrel in accordance with State regulations subject to the following condition: We require a refuge permit.

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Muscatatuck National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of quail, rabbit and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit discharge of firearms (see § 27.42 of this chapter) within 100 yards (90 m) of an occupied dwelling.

2. We only allow hunting from legal sunrise to legal sunset.

3. We prohibit hunting from the beginning of the second State muzzleloader deer season through the end of the year.

4. You must possess and carry a refuge permit for turkey hunting.

5. We only allow turkey hunting on weekdays from ½ hour before legal sunrise until 12 p.m. (noon).

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a refuge permit during the second State muzzleloader season. We allow archery hunting following the second muzzleloader season.

2. We only allow bow and arrow and muzzleloaders, except that hunters with a State handicapped hunting license may use crossbows.

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5. Refuge hours are 6 a.m. to 6 p.m. during the deer hunts.

6. Hunters may only take one deer per day from the refuge.

7. Refuge personnel must check deer harvested during scheduled hunts before hunters leave the refuge.

8. We prohibit entry into the designated hunt area by nonhunters during the second State muzzleloader season.

D. Sport Fishing. We allow fishing on designated areas of the refuge in

accordance with State regulations subject to the following conditions:

1. We allow bank fishing by wading in the water and from nonmotorized boats on Stanfield Lake from May 15 through October 15. We prohibit the use of boats at other times and in other refuge waters.

2. We only allow fishing with rod and reel or pole and line.

3. We allow fishing on Richart Lake during periods as posted in the spring and fall.

4. The minimum size limit for largemouth black bass taken from refuge waters is 14 inches (35 cm).

5. We allow ice fishing on Stanfield Lake and other fishing areas designated by signs and when ice conditions permit.

6. We allow fishing from legal sunrise to legal sunset.

7. You may take frog and turtle by hook and line from legal sunrise to legal sunset.

8. We allow ''Belly boat''-type inflatables as long as the occupant's feet remain in contact with the bottom.

Patoka River National Wildlife Refuge and Management Area

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds on designated areas of the refuge and the White River Wildlife Management Areas in accordance with State regulations subject to the following conditions:

1. We only allow the use of portable blinds or temporary blinds constructed of native vegetation. Hunters must remove all portable blinds and dismantle temporary blinds (see § 27.93 of this chapter) at the end of each day.

2. We only allow motorboats on Snakey Point Marsh east of the South Fork River and the Patoka River. You must operate motorboats at no-wake speed. We open other waters to hand-powered or battery-driven motors. We prohibit airboats.

3. You must remove boats and decoys (see § 27.93 of this chapter) at the end of each day.

4. We do not open Cane Ridge Wildlife Management Area to all hunting.

B. Upland Game Hunting. We allow hunting of bobwhite quail, cottontail rabbit, squirrel (grey and fox), pheasant, turkey (spring only), red and grey fox, coyote, opossum, and raccoon in accordance with State regulations subject to the following conditions:

1. You may only possess approved nontoxic shot while hunting, except while hunting for turkey (see § 32.2(k)).

2. You must possess and carry a refuge permit for furbearer hunting.

3. We allow dogs for hunting provided the dog is under the immediate control of the hunter at all times (see § 26.21(b) of this chapter).

C. Big Game Hunting. We allow hunting of white-tailed deer in accordance with State regulations subject to the following conditions:

1. We prohibit construction or use permanent tree stands or blinds (see § 27.92 of this chapter). We only allow portable stands.

2. Condition A4 applies.

D. Sport Fishing. We allow fishing in accordance with State regulations subject to the following conditions:

1. We allow fishing from legal sunrise to legal sunset, except on the Patoka River.

2. We only allow fishing with rod and reel or pole and line.

3. The minimum size limit for largemouth bass on Snakey Point Marsh is 14 inches (35 cm).

4. You must possess and carry a refuge permit to take bait fish, crayfish, snapping turtle, and bull frog.

5. Condition A2 applies.

6. Anglers must remove boats (see § 27.93 of this chapter) at the end of each day.

■ 15. Amend § 32.34 Iowa by:

■ a. Revising paragraph A., the introductory text of paragraph C., paragraph C.1., and adding paragraph D.8. of Desoto National Wildlife Refuge;

■ b. Revising paragraphs B. and C. of Neal Smith National Wildlife Refuge; and

■ c. Revising Union Slough National Wildlife Refuge to read as follows:

§ 32.34 Iowa.

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DeSoto National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

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C. Big Game Hunting. We allow archery and muzzleloader hunting of white-tailed deer on designated areas of the refuge in accordance with State of Iowa and Nebraska regulations subject to the following conditions:

1. You must possess and carry refuge permits for archery hunting at all times while hunting.

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D. Sport Fishing. * * *

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8. We prohibit taking or possession of turtle or frog at any time (see § 27.21 of this chapter).

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Neal Smith National Wildlife Refuge

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B. Upland Game Hunting. We allow hunting of ring-necked pheasant, bobwhite quail, cottontail rabbit, and squirrel on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a refuge permit.

2. You may only possess approved nontoxic shot (see § 32.2(k)) while hunting for any permitted bird or other small game.

3. We allow hunting of upland game from 8 a.m. to 4:30 p.m. during the dates posted at the refuge.

4. All hunters must cover their head and chest with one or more of the following articles of visible, external, solid-blaze-orange clothing: a hat, vest, coat, jacket, sweatshirt, sweater, shirt, or coveralls.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a refuge permit.

2. We only allow portable stands, and hunters must remove them at the end of each day (see § 27.93 of this chapter).

3. We only allow hunter access from ½ hour before legal sunrise until ½ hour after legal sunset.

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Union Slough National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, coot, rail (Virginia and sora only), woodcock, and snipe on the Buffalo Creek Bottoms and Schwob Marsh units of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunters on the refuge from 1 hour before legal sunrise until ½ hour after legal sunset.

2. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

3. We allow boats or other floating devices. We allow gasoline and electric motors. We prohibit the use of air-thrust boats. You may not leave boats unattended.

4. You may construct blinds using manmade materials or natural vegetation found on the refuge. We prohibit bringing plants or their parts onto the refuge (see § 26.52 of this chapter).

5. You must remove boats, decoys, and blinds (see § 27.93 of this chapter) from the refuge at the end of each day.

6. We allow the use of hunting dogs provided that the dogs remain under the immediate control of the hunter at all times (see § 26.21(b) of this chapter).

7. We prohibit entry into any closed area to retrieve downed game, unless the hunter has received written permission from the refuge manager.

8. We prohibit hunting on road rights-of-way on any portion of the refuge not open to hunting. The road right-of-way extends to the center of the road.

B. Upland Game Hunting. We allow hunting of pheasant, gray partridge, rabbit (cottontail and jack), squirrel (fox and gray), groundhog, raccoon, opossum, fox, coyote, and crow on Buffalo Creek Bottoms, Schwob Marsh, and the Core Area in accordance with State regulations subject to the following conditions:

1. We only allow hunting in the Core Area during the dates posted at the Refuge Headquarters.

2. You may only possess approved nontoxic shot while in the field (see § 32.2(k)). We prohibit possession of shotgun slugs.

3. Hunters may only enter the refuge from 8 a.m. until 4:30 p.m.

4. Conditions A6, A7, and A8 apply.

C. Big Game Hunting. We allow hunting of deer and turkey on Buffalo Creek Bottoms, Schwob Marsh, and the Core Area in accordance with State regulations subject to the following conditions:

1. Condition B1 and A8 apply.

2. Deer hunters in the Core Area must possess a valid State deer hunting license and an unfilled deer transportation tag.

3. We only allow deer hunters to enter the refuge from ½ hour before legal sunrise until ½ hour after legal sunset.

4. Deer hunters may only possess shot shells that shoot a single projectile (*i.e.*, slugs).

5. We prohibit turkey hunting in the Core Area at all times.

6. We only allow turkey hunters to enter the refuge from ½ hour before legal sunrise until ½ hour after legal sunset.

7. Turkey hunters may only possess approved nontoxic shot while in the field.

8. We allow the use of temporary stands, blinds, platforms, or ladders. You may construct blinds using manmade materials or natural vegetation found on the refuge. We prohibit bringing plants or their parts onto the refuge (see § 27.52 of this chapter).

9. You must remove decoys, stands, blinds, platforms, and ladders from the refuge at the end of each day (see § 27.93 of this chapter).

10. We prohibit entry into any closed area to retrieve downed game, unless the hunter has received written permission from the refuge manager.

D. Sport Fishing. We allow sport fishing from the County Road A–40 right-of-way and in Buffalo Creek south of County Road 320th Street in accordance with State regulations subject to the following conditions:

1. We allow fishing from April 15 through September 30.

2. We allow fishing from legal sunrise to legal sunset.

3. We prohibit the use of boats, canoes, or other floating devices.

4. We prohibit the use or possession of lead terminal tackle.

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■ 16. Amend § 32.35 Kansas by:

■ a. Revising Flint Hills National Wildlife Refuge;

■ b. Revising Kirwin National Wildlife Refuge;

■ c. Revising Marais des Cygnes National Wildlife Refuge; and

■ d. Revising Quivira National Wildlife Refuge to read as follows:

§ 32.35 Kansas.

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Flint Hills National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, mourning dove, rail, woodcock, and common snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow waterfowl hunting on portions of the refuge on the south side of the Neosho River.

2. We prohibit hunting or possession of weapons on the Neosho River.

3. We prohibit shooting from or over roads and parking areas.

4. We only allow portable blinds and blinds made from natural vegetation. We prohibit the construction or use of permanent blinds and/or pits (see § 27.92 of this chapter).

5. We prohibit leaving decoys unattended at any time.

6. Dogs must be under the owner's immediate control at all times (see § 26.21(b) of this chapter).

7. We prohibit hunters or dogs retrieving game in areas closed to hunting.

8. We allow crow hunting on designated areas of the refuge subject to the following conditions:

i. We prohibit the use of centerfire rifles and pistols on the refuge;

ii. We close hunting areas on the north side of the Neosho River to all hunting from November 1 through March 1; and

iii. Conditions A2, A3, and A7 apply.

B. Upland Game Hunting. We allow hunting of pheasant, quail, prairie chicken, rabbit, and squirrel on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A2, A3, A6, A7, A8i, and A8ii apply.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow shotguns, muzzleloading firearms (see § 27.42 of this chapter), and archery equipment for deer hunting.

2. We prohibit the use of deer game tags on the refuge.

3. We do not open for deer hunting during the extended white-tailed deer antlerless season in January.

4. We require the use of approved nontoxic shot for turkey hunting (see § 32.2(k)).

5. Dogs used during the fall turkey season must be under the owner's immediate control at all times (see § 26.21(b) of this chapter).

6. Conditions A2, A3, A7, and A8ii apply.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We do not open areas on the north side of the Neosho River to all fishing from November 1 through March 1, except for the Dove Roost pond and the Upper Burgess marsh.

2. We only allow fish bait collecting for personal use. We prohibit digging or habitat disturbance (see § 27.51 of this chapter).

Kirwin National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, merganser, coot, mourning dove, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You may only possess six shells per day in the area from the Quillback Cove parking lot to the No Hunting Zone boundary east of Dogtown.

2. You may use natural vegetation to construct a temporary blind.

3. You may use portable hunting blinds.

4. We prohibit construction or use of any permanent blind.

5. We prohibit digging or using holes or pits for blinds.

6. We prohibit retrieval of waterfowl from an area closed to waterfowl hunting.

7. We only allow waterfowl hunting by boat in Bow Creek. You may not create a wake while in Bow Creek.

8. We only allow motorized vehicles on designated roads, parking lots,

campgrounds, and boat ramps (see § 27.31 of this chapter).

9. We prohibit the use of ATVs or snowmobiles on the refuge (see § 27.31(f) of this chapter).

10. We prohibit commercial guiding on the refuge.

B. Upland Game Hunting. We allow hunting of pheasant, quail, prairie chicken, squirrel, and rabbit on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You may only possess bow and arrow or shotguns no larger than 10 gauge on the refuge.

2. We only allow hunting of rabbit and squirrel during that portion of the State small game season that occurs during the State upland game season.

3. You may only possess six shells per day in the area from the Quillback Cove parking lot to the ''Closed to Hunting'' boundary east of Dogtown.

4. We prohibit retrieval of upland game from an area closed to upland game hunting.

5. Conditions A8, A9, and A10 apply.

C. Big Game Hunting. We allow hunting of deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow archery hunting of deer.

2. Deer hunters must obtain a free refuge permit and possess and carry a signed permit in the field while hunting.

3. You may use portable tree stands and hunting blinds provided that you install them no more than 7 days prior to the season and remove them no later than 2 days after the season (see § 27.93 of this chapter).

4. We prohibit construction or use of any permanent stand or blind (see § 27.92 of this chapter).

5. We prohibit digging or using holes or pits for blinds.

6. You may use natural vegetation to construct a temporary blind.

7. Archery hunters with a valid refuge permit may retrieve deer from an area closed to deer hunting. You must receive consent from a refuge employee prior to entering the closed area.

8. We prohibit retrieving turkey from an area closed to turkey hunting.

9. Conditions A8, A9, and A10 apply.

D. Sport Fishing. We allow fishing on the refuge in accordance with State regulations subject to the following conditions:

1. We allow access to Kirwin Reservoir by foot to bank or ice fish.

2. We only allow motorized vehicles on designated roads, parking lots, campgrounds, and boat ramps (see § 27.31 of this chapter). We prohibit motorized vehicles on the ice.

3. We allow motorized boating in the main body of Kirwin Reservoir and in Bow Creek. You must not create a wake in Bow Creek or within 100 yards (90 m) of any shoreline or island in the main body of Kirwin Reservoir. We prohibit motorized boats in the Solomon Arm of Kirwin Reservoir.

4. We allow motorless boats in the Solomon Arm of Kirwin Reservoir from August 1 through October 31.

5. We prohibit access within 100 yards (90 m) of a nesting endangered or threatened species.

6. We allow noncommercial collection of bait fish in accordance with State regulations.

7. You must obtain a free Special Use Permit prior to conducting a fishing tournament on the refuge.

8. We prohibit disposal of fish cleanings on the refuge (see § 27.94 of this chapter).

9. Conditions A9 and A10 apply.

Marais des Cygnes National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, rail, snipe, woodcock, and mourning dove on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Hunters must remove decoys (see § 27.93 of this chapter) daily.

2. We restrict outboard motor use to the westernmost 5½ miles (8.8 km) of the Marais des Cygnes River. You may only use nonmotorized boats and electric trolling motors on remaining waters in designated areas of the refuge.

3. We prohibit discharge of firearms (see § 27.42 of this chapter) within 150 yards (135 m) of any residence or other occupied building.

B. Upland Game Hunting. We allow hunting of cottontail rabbit, squirrel, and bobwhite quail on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Condition A3 applies.

2. We prohibit rimfire rifles and pistols.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Deer and spring turkey hunters must possess and carry a refuge permit.

2. We prohibit centerfire rifles and pistols.

3. Condition A3 applies.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following condition: Condition A2 applies.

Quivira National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, Virginia and Sora rail, mourning dove, and common snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We open refuge hunting areas September 1 through February 28.

2. We may close refuge hunting areas to hunting without notice when whooping crane are present or emergencies arise.

3. We post refuge hunting areas as ''Public Hunting Areas'' and delineate them on the refuge hunting brochure map.

4. We allow hunters to enter the refuge 1 hour before legal shooting hours, and they must exit the refuge up to 1 hour past legal shooting hours.

5. We prohibit hunting from or across any road, trail, or parking area.

6. Hunters must park in designated parking areas.

7. We only allow portable devices or temporary blinds of natural vegetation. We prohibit construction of permanent blinds or pits (see § 27.92 of this chapter).

8. We prohibit the retrieval of game from areas closed to hunting.

9. We prohibit the use of boats, canoes, or other watercraft.

B. Upland Game Hunting. We allow hunting of pheasant, quail, squirrel, and rabbit on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A6, and A8 apply.

2. We only allow shotguns for hunting on the refuge.

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow fishing on all waters on the refuge in accordance with State regulations subject to the following conditions:

1. You may take fish species listed in the State fishing regulations. We prohibit taking of frog, snake, or any other wildlife (see § 27.21 of this chapter).

2. We prohibit the use of trotlines and setlines.

3. We prohibit the use of seines for taking bait.

4. We prohibit fishing from water control structures and bridges.

5. We restrict fishing in the designated ''Kid's Pond,'' approximately ¼ mile (.4 km) WSW of headquarters, to youth age 14 and under, and to a parent and/or guardian age 18 or older accompanying a youth.

6. The bag limit for the Kid's Pond is one fish per day.

7. We prohibit the use of boats, canoes, or other watercraft.

■ 17. Amend § 32.36 Kentucky by:
■ a. Revising Clarks River National Wildlife Refuge; and
■ b. Revising Reelfoot National Wildlife Refuge to read as follows:

§ 32.36 Kentucky.

* * * * *

Clarks River National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of mourning dove, woodcock, common snipe, Canada and snow goose, coot, and waterfowl listed in 50 CFR 10.13 under DUCKS on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. The refuge is a day-use area only, with the exception of legal hunting/fishing activities.

2. We prohibit the use of motorized off-road vehicles (*e.g.*, ATVs) on the refuge (see § 27.31(f) of this chapter).

3. We prohibit target practice on refuge property (see § 27.42 of this chapter).

4. We prohibit the use of mules and horses on all refuge hunts.

5. You must possess and carry a valid refuge permit while hunting on the refuge.

6. To retrieve or track game from a posted closed area of the refuge, the hunter must first request permission from the refuge manager at 270–527–5770 or refuge officer at 1–888–261–2000.

7. We prohibit the use of flagging tape, reflective tacks, or other devices used to identify paths to and mark tree stands, blinds, or other areas.

8. We close those portions of abandoned railroad tracks within the refuge boundary to vehicle access (see § 27.31 of this chapter).

9. No person will discharge a firearm within 100 feet (90 m) of any public roadways running through or adjoining refuge property.

10. Waterfowl hunters must pick up decoys and equipment, unload firearms (see § 27.42(b) of this chapter), and be out of the field by 2 p.m. daily during the State waterfowl season.

11. You may only use portable or temporary blinds that must be removed (see § 27.93 of this chapter) from the refuge each day.

12. We close, as posted, the Sharpe-Elva Water Management Unit from November 1 through March 15 to all entry with the exception of drawn permit holders and their guests.

13. We only allow waterfowl hunting on the Sharpe-Elva Water Management Unit on Saturdays and Sundays during the State waterfowl season. We only allow hunting by individuals in possession of a refuge draw permit and their guests. State regulations and the following conditions apply:

i. Application procedures and eligibility requirements are available from the refuge office.

ii. We allow permit holders and up to three guests to hunt their assigned provided blind on the designated date. We prohibit guests in the blind without the attendance of the permit holder.

iii. We prohibit selling, trading, or bartering of permits. The permit is nontransferable.

iv. You may place decoys out Saturday morning at the beginning of the hunt, and you must remove them by Sunday at the close of the hunt (see § 27.93 of this chapter).

v. We prohibit watercraft in Sharpe-Elva Water Management Unit.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, quail, raccoon, opossum, crow, red and gray fox, bobcat, and coyote on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A12 apply.

2. You may not kill or cripple a game animal without making a reasonable effort to retrieve the animal and include it in your daily bag limit.

3. You may only use rimfire rifles, shotguns, and legal archery equipment for taking upland game.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A9, A12, and B2 apply.

2. We only allow the use of portable and climbing stands. You may place stands in the field (not attached to trees—see § 32.2(i)) no earlier than 2 weeks prior to the opening of deer season, and you must remove them from the field within 1 week after the season closes (see § 27.93 of this chapter). The hunter's name and address must appear on all stands left in the field.

3. You must remove stands from the tree when not in use, or they will be subject to confiscation (see § 27.93 of this chapter). We prohibit the use of any tree stand left attached and unattended.

4. You must use safety belts at all times when occupying the tree stands.

5. We prohibit organized deer drives of two or more hunters. We define ''drive'' as: the act of chasing, pursuing, disturbing, or otherwise directing deer so as to make animals more susceptible to harvest.

D. Sport Fishing. We allow fishing on designated areas of the refuge subject to State regulations subject to the following conditions:

1. Conditions A1 through A9 and A12 apply.

* * * * *

Reelfoot National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. We allow hunting of squirrel and raccoon on the refuge in accordance with State regulations subject to the following conditions:

1. The refuge is a day-use area only, with the exception of legal hunting/fishing activities.

2. We prohibit the use of motorized off-road vehicles (*e.g.*, ATVs) on the refuge (see § 27.31(f) of this chapter).

3. We set season dates and bag limits annually and publish them in the refuge public use regulations available at the refuge office.

4. You must possess and carry a valid refuge permit and report game taken as specified within the permit.

5. We allow hunters to access the refuge no more than 2 hours before legal sunrise and no more than 2 hours after legal sunset with the exception of raccoon hunters, who we will allow access from 7 p.m. to 12 a.m. (midnight).

8. All youth hunters age 15 and younger must remain within sight and normal voice contact of an adult age 21 or older, possessing a license. One adult hunter may supervise no more than two youth hunters.

C. Big Game Hunting. We allow hunting for white-tailed deer and turkey on the refuge in accordance with State regulations subject to the following conditions:

1. Conditions B1 through B5, and B7 apply.

2. You may only participate in the refuge firearms deer and turkey hunts with a special quota permit issued through random drawing. You may obtain information on permit applications at the refuge headquarters.

3. You may only possess approved nontoxic shot while turkey hunting on the refuge (see § 32.2(k)).

4. We only allow the use of portable blinds and tree stands on the refuge. You must remove blinds, tree stands, and all other personal equipment from the refuge at the end of each day (see § 27.93 of this chapter).

5. All youth hunters age 15 and younger must remain within sight and normal voice contact of an adult age 21

or older, possessing a license. One adult hunter may supervise no more than one youth hunter.

D. Sport Fishing. We allow fishing on the refuge in accordance with State regulations subject to the following conditions:

1. We allow access to the Long Point Unit (north of Upper Blue Basin) for fishing from March 16 through November 14, and the Grassy Island Unit (south of Upper Blue Basin) for fishing from February 1 through November 14.

2. We allow fishing on the refuge from legal sunrise to legal sunset.

3. We prohibit taking of frog or turtle on the refuge (see § 27.21 of this chapter).

4. We prohibit airboats, hovercraft, or personal watercraft (Jet Skis) on any waters within the refuge boundary.

■ 18. Amend § 32.37 Louisiana by:
■ a. Revising Atchafalaya National Wildlife Refuge;
■ b. Revising Bayou Cocodrie National Wildlife Refuge;
■ c. Revising paragraphs D.1., D.3., D.6., and adding paragraphs D.7. and D.8. of Bayou Sauvage National Wildlife Refuge;
■ d. Revising Bayou Teche National Wildlife Refuge;
■ e. Revising Big Branch Marsh National Wildlife Refuge;
■ f. Revising Black Bayou Lake National Wildlife Refuge;
■ g. Revising Bogue Chitto National Wildlife Refuge;
■ h. Revising Cameron Prairie National Wildlife Refuge;
■ i. Revising Cat Island National Wildlife Refuge;
■ j. Revising Catahoula National Wildlife Refuge;
■ k. Revising D'Arbonne National Wildlife Refuge;
■ l. Revising Delta National Wildlife Refuge;
■ m. Revising Grand Cote National Wildlife Refuge;
■ n. Revising Lacassine National Wildlife Refuge;
■ o. Revising Lake Ophelia National Wildlife Refuge;
■ p. Revising Mandalay National Wildlife Refuge;
■ q. Adding Red River National Wildlife Refuge;
■ r. Revising Sabine National Wildlife Refuge;
■ s. Revising Tensas River National Wildlife Refuge; and
■ t. Revising Upper Ouachita National Wildlife Refuge to read as follows:

§ 32.37 Louisiana.

* * * * *

Atchafalaya National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, snipe, and woodcock on designated areas of the refuge subject to the following condition: Hunting must be in accordance with Sherburne Wildlife Management Area regulations.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, raccoon, opossum, nutria, muskrat, mink, fox, bobcat, beaver, and otter on designated areas of the refuge subject to the following condition: Hunting must be in accordance with Sherburne Wildlife Management Area regulations.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge subject to the following condition: Hunting must be in accordance with Sherburne Wildlife Management Area regulations.

D. Sport Fishing. We allow finfishing and shellfishing year-round in accordance with Sherburne Wildlife Management Area regulations subject to the following condition: We prohibit all commercial finfishing and shellfishing.

Bayou Cocodrie National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, coot, and woodcock on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Hunters must possess and carry a signed refuge permit.

2. We allow migratory game bird hunting on Tuesdays, Thursdays, Saturdays, and Sundays until 12 p.m. (noon) during the State season. We do not open for the special teal season and State youth waterfowl hunt.

3. We prohibit hunting within 150 feet (45 m) of the maintained rights-of-way of roads, refuge road or designated trail, building, residence, or designated public facility.

4. You must remove temporary blinds (see § 27.93 of this chapter) used for duck hunting by 12 p.m. (noon) on the last day of the State waterfowl season. You must clearly mark any stand or blind left on the refuge with the name and address of the person using the stand or blind. You must remove decoys daily.

5. We only allow dogs to locate, point, and retrieve when hunting for migratory game birds.

6. Youth hunters under age 16 must have completed a hunter education course and possess and carry evidence of completion. An adult age 21 or older must closely supervise youth hunters (within sight and normal voice contact). One adult may supervise no more than two youth hunters while hunting migratory game birds.

7. We prohibit any person or group to act as a hunting guide, outfitter, or in any other capacity that any other individual(s) pays or promises to pay directly or indirectly for services rendered to any other person or persons hunting on the refuge, regardless of whether such payment is for guiding, outfitting, lodging, or club membership.

8. We prohibit use or possession of any type of trail-marking material.

9. Coyote, beaver, feral hog, and raccoon are incidental take species and, as such, you may take them during any open hunting season only with the weapon allowed for that season, if you are a hunter having the required licenses and permits. There is no bag limit on coyote and beaver. The feral hog bag limit is 10 per year, and the raccoon bag limit is 1 per day.

10. We prohibit entering the refuge from private property and/or hunt leases; you may use only designated entry sites.

11. You must check all game taken on the refuge before leaving the refuge at one of the self-clearing check stations indicated on the map in the refuge Hunting and Fishing Regulations Brochure.

12. You must use boats to access the refuge from Bayou Cocodrie or Cross Bayou. We prohibit entering the refuge from U.S. Highway 84. You must dock all boats used to access the refuge on the banks of the refuge. Boats used to cross ''low water crossings'' at Cross Bayou may be left for a maximum of 3 days, and you must clearly mark them with the name and address of the person responsible for the boat while it is on the refuge. We only allow outboard motors in Cocodrie Bayou and tributaries accessible therefrom.

13. We only allow ATVs on designated trails (see § 27.31 of this chapter) from September 1 through the hunting season. An all-terrain vehicle (ATV) is an off-road vehicle with factory specifications not to exceed the following: weight 750 pounds (337.5 kg), length 85 inches (212.5 cm), and width 48 inches (120 cm). We restrict ATV tires to those no larger than 25 x 12 with a maximum 1 inch (2.5 cm) lug height and a maximum allowable tire pressure of 7 psi as indicated on the tire by the manufacturer.

14. We require all refuge users to sign in at a designated check station upon entering the refuge and sign out upon their departure.

15. Hunters with mobility impairments must possess and carry a valid special access permit from the

refuge to use special access ATV trails (see § 27.31 of this chapter). State requirements for ''Mobility-Impaired'' classification apply. Mobility-impaired hunters must present their State ''Disabled Hunter'' card at the refuge headquarters to apply for the refuge special access permit.

16. You may only possess approved nontoxic shot while hunting on the refuge (see § 32.2(k)). This requirement only applies to the use of shotgun ammunition.

B. Upland Game Hunting. We allow hunting of squirrel and rabbit on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow squirrel and rabbit hunting during the State season except during the open youth hunt for deer, the youth lottery hunt, the muzzleloader hunt, and the lottery deer hunt.

2. Conditions A1, A3, and A7 through A16 apply.

3. We allow the use of dogs to hunt squirrel and rabbit during that portion of the season designated as ''With/Without Dogs.'' We list specific season dates in the refuge brochure.

4. While engaged in upland game hunting, we prohibit possession of firearms (see § 27.42 of this chapter) larger than .22 caliber rimfire, shotgun slugs, or buckshot.

5. Hunters must enter the refuge no earlier than 2 hours before legal sunrise and must exit the refuge within 2 hours after legal sunset.

6. Youth hunters under age 16 must have completed a hunter education course and possess and carry evidence of completion. An adult age 21 or older must closely supervise youth hunters (within sight and normal voice contact). One adult may supervise no more than one youth hunter while hunting upland game.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A3, A7 through A16, and B5 apply.

2. The bag limit is one deer (of either sex) per day. The State season limit applies.

3. You must check all deer on the same day taken during lottery deer hunts at a staffed refuge check station.

4. Archery hunters must possess and carry proof of completion of the International Bowhunters Education Program.

5. We require a minimum of 400 square inches (2,600 cm^2) of unbroken hunter orange as the outermost layer of clothing on the chest and back, and in addition, we require a hat or cap of unbroken hunter orange. You must wear the solid hunter-orange items while in the field.

6. You may place temporary stands no more than 2 days prior to the opening of the respective season, and you must remove them by the last day of archery season (see § 27.93 of this chapter). You must clearly mark any stand left on the refuge with the name and address of the person using the stand.

7. We only allow deer hunting with modern firearms during the lottery deer hunt. We require special limited permits for the lottery deer hunt. We only allow hunters with a valid lottery deer hunt permit (must possess and carry the permit) to use the refuge during the lottery deer hunt.

8. We open archery season on the Saturday closest to October 31, and keep it open until the end of the State season, except we close the refuge to archery hunting during the refuge youth hunt, youth lottery hunt, and lottery deer hunt.

9. We allow deer hunting with muzzleloaders subject to State regulations. Specific open dates will appear in the annual Refuge Hunting and Fishing Regulations Brochure.

10. We prohibit possession or use of buckshot.

11. We prohibit possession or use of climbing spikes.

12. We prohibit possession or distribution of bait or hunting with the aid of bait, including any grain, salt, minerals, or other feed or any nonnaturally occurring attractant on the refuge (see § 32.2(h)).

13. Youth hunters under age 16 must have completed a hunter education course and possess and carry evidence of completion. An adult age 21 or older must closely supervise youth hunters (within sight and normal voice contact). One adult may supervise no more than one youth hunter while hunting big game.

D. Sport Fishing. We allow fishing on the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A11 through A15 apply.

2. You must tend trotlines daily. You must attach ends of trotlines by a length of cotton line that extends into the water.

3. We prohibit commercial fishing. Recreational fishing using commercial gear (slat traps, etc.) requires a special refuge permit (that you must possess and carry) available at the refuge office.

4. We prohibit the taking of alligator snapping turtle (see § 27.21 of this chapter).

5. We only allow fishing during daylight hours.

Bayou Sauvage National Wildlife Refuge

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D. Sport Fishing. We allow finfishing and shellfishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. The refuge is daylight use only.

* * * * *

3. We only allow sport fishing with hand-held rod and reel or hand-held rod and line. You may take bait shrimp with cast nets 8 feet (2.4 m) in diameter or less. You may take crawfish (up to 100 pounds (45 kg) per person) with wire nets up to 20 inches (50 cm) in diameter. We allow recreational crabbing with a limit of 12 dozen per person. You must attend all fishing, crabbing, and crawfishing equipment at all times.

* * * * *

6. We prohibit air-thrust boats, motorized pirogues, mud boats, and air-cooled propulsion engines on the refuge.

7. We prohibit feeding of any wildlife within the refuge.

8. We prohibit all commercial finfishing and shellfishing.

Bayou Teche National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a signed Public Use Permit while on the refuge. This permit is free and available on the front cover of the refuge's brochure.

2. We prohibit hunting in and/or shooting into or across any open field, roadway, or canal.

3. Youth hunters under age 16 must have completed a hunter education course and possess and carry evidence of completion. An adult age 21 or older must closely supervise youth hunters (within sight and normal voice contact). One adult can supervise no more than two youth hunters while hunting migratory game birds. All hunters and adult supervisors must possess and carry proof of completion of a State Hunter Education Course.

4. All hunters must have a refuge lottery hunting permit prior to hunting. You will find applications for refuge permits (that you must possess and carry) inside the refuge hunting, fishing, and public use brochures.

5. All hunters must check-in prior to hunting and check out after hunting at

a refuge self-clearing check station. You must report all game taken on the refuge when checking out by using the check card.

6. We prohibit airboats and marsh buggies (tracked vehicles) on the refuge. We restrict motorized boat use to existing canals, ditches, trenasses, ponds, and from areas marked as nonmotorized areas only.

7. We prohibit parking, walking, or hunting within 150 feet (45 m) of any active oil well site, production facility, or equipment. We also prohibit hunting within 150 feet (45 m) of any public road, refuge road, trail, building, residence, or designated public facility.

8. We prohibit feeding of any wildlife within the refuge.

9. We allow hunting until 12 p.m. (noon). We allow hunters to enter the refuge up to 2 hours before legal sunrise.

10. We open the refuge to hunting of migratory game bird on Wednesdays, Thursdays, Saturdays, and Sundays of the State waterfowl season.

11. We allow hunting in the Centerville, Garden City, Bayou Sale, North Bend—East, and North Bend—West Units through November 30. After November 30, we allow hunting in the Centerville, Garden City, and Bayou Sale Units only. We open no other units to hunting of migratory game birds.

12. We only allow dogs to locate, point, and retrieve when hunting for migratory game birds.

13. You may only possess approved nontoxic shot while hunting on the refuge (see § 32.2(k)). This requirement only applies to the use of shotgun ammunition.

B. Upland Game Hunting. We allow hunting of squirrel and rabbit on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow hunting from the start of the State squirrel and rabbit seasons until the last day of State waterfowl season in the West Zone.

2. We prohibit upland game hunting on days corresponding with refuge deer gun hunts.

3. We allow hunters to enter the refuge up to 2 hours before legal sunrise, but they must leave the refuge 1 hour after legal sunset.

4. We allow hunting 7 days a week beginning with the opening of State seasons in the Centerville, Garden City, Bayou Sale, North Bend—East, and North Bend—West Units through November 30. After November 30, we only allow hunting on Wednesdays, Thursdays, Saturdays, and Sundays in the Centerville, Garden City, and Bayou Sale Units until 12 p.m. (noon). We open no other units to hunting of upland game.

5. We prohibit dogs.

6. Conditions A1 through A8 and A13 apply.

C. Big Game Hunting. We allow the hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow hunting of deer with firearms (see § 27.42 of this chapter) during 7 specific days in November. A youth gun hunt will occur during the first weekend in November. The first of two general gun hunts will occur on the third weekend, and the final general gun hunt will occur during the final full weekend of November. These gun hunts include both Saturday and Sunday only, except the final general gun hunt will additionally include the Friday immediately before the weekend.

2. We allow hunting of deer with archery equipment from the start of the State archery season until the last day of November, except for those days that deer gun hunts occur.

3. All archery hunters must possess and carry proof of completion of the International Bowhunters Education Program.

4. We allow hunting in the Centerville, Garden City, Bayou Sale, North Bend—East, and North Bend—West Units only. We do not open the Bayou Sale Unit for all big game firearm hunts.

5. We only allow each hunter to possess 1 deer of either sex per day. State season limits apply.

6. You may take no other native or feral wildlife other than white-tailed deer while engaged in big game hunting (see § 27.21 of this chapter).

7. We prohibit possession of buckshot.

8. We require a minimum of 400 square inches (2,600 cm^2) of unbroken hunter orange as the outermost layer of clothing on the chest and back, and, in addition, we require a hat or cap of unbroken hunter orange. You must wear the solid hunter-orange items while in the field.

9. Conditions A1 through A8 and B3 apply.

D. Sport Fishing. We allow fishing in all refuge waters in accordance with State regulations subject to the following conditions:

1. We only allow recreational fishing. We prohibit all commercial fishing activity.

2. We prohibit the use of unattended nets, traps, or lines (trot, jug, bush, etc.).

3. The refuge is daylight use only.

4. We prohibit the take of turtle (see § 27.21 of this chapter).

5. Conditions A1 and A5 through A8 apply.

Big Branch Marsh National Wildlife Refuge

A. Migratory Game Bird Hunting. You may hunt duck, coot, and goose on designated areas of the refuge during the State waterfowl season in accordance with State regulations subject to the following conditions:

1. We allow waterfowl hunting on Wednesdays, Thursdays, Saturdays, and Sundays, until 12 p.m. (noon), including the special teal season and youth waterfowl hunt.

2. We do not open the refuge to goose hunting for that part of the season that extends beyond the regular duck season.

3. You must remove blinds and decoys (see § 27.93 of this chapter) by noon.

4. We only allow dogs to locate, point, and retrieve when hunting for migratory game birds.

5. You must possess and carry a valid refuge hunt permit.

6. We prohibit air-thrust boats, motorized pirogues, mud boats, and air-cooled propulsion engines on the refuge.

7. Youth hunters under age 16 must have completed a hunter education course and possess and carry evidence of completion. An adult age 21 or older must closely supervise youth hunters (within sight and normal voice contact). One adult may supervise no more than two youth hunters while hunting migratory game.

8. We only open the refuge during daylight hours.

9. We prohibit possession of buckshot, slugs, rifles, or rifle ammunition.

10. We prohibit hunting within 150 feet (45 m) of the maintained rights-of-way of roads, refuge road, trail, building, residence, designated public facility, above-ground oil and gas or electrical facilities, or from across ATV trails (see § 27.31 of this chapter).

11. You may only possess approved nontoxic shot while hunting on the refuge (see § 32.2(k)).

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, snipe, woodcock, quail, gallinule, and rail in accordance with State regulations subject to the following conditions:

1. We allow upland game hunting during the open State season using only approved nontoxic (see § 32.2(k)) shot size #4 or smaller.

2. You may only use dogs for squirrel and rabbit after the close of the State gun deer season.

3. We only allow dogs to locate, point, and retrieve when hunting for snipe, woodcock and quail.

4. Conditions A5 through A11 apply.

C. Big Game Hunting. We allow hunting of white-tailed deer and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We are open during the State season for archery hunting of deer.
2. We only allow portable stands.
3. We prohibit dogs and driving deer.
4. You may take deer of either sex for the entire archery deer season. The State season limits apply.
5. You must remove all deer stands within 14 days of the end of the refuge deer season (see § 27.93 of this chapter).
6. You may only take hogs during the refuge archery hunt with bow and arrow.
7. We prohibit possession or distribution of bait or hunting with the aid of bait, including any grain, salt, minerals or other feed or any nonnaturally occurring attractant on the refuge (see § 32.2(h)).
8. Conditions A5 through A11 apply.
9. Youth hunters under age 16 must have completed a hunter education course and possess and carry evidence of completion. An adult age 21 or older must closely supervise youth hunters (within sight and normal voice contact). One adult may supervise no more than one youth hunter while hunting big game.

D. Sport Fishing. We allow fishing in designated waters of the refuge in accordance with State regulations subject to the following conditions:

1. You may only fish during from legal sunrise to legal sunset.
2. You must only use rods and reel or pole and lines while fishing.
3. We prohibit trotlines, slat traps, jug lines, or nets.
4. We allow recreational crabbing.
5. We prohibit all commercial finfishing and shellfishing.
6. We prohibit the taking of turtle (see § 27.21 of this chapter).
7. Condition A6 applies.

Black Bayou Lake National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, coot, and woodcock on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a signed refuge hunt permit.
2. We allow hunting north of ''cemetery pipeline'' and east of the main body (permanent water) of Black Bayou Lake.
3. We allow waterfowl hunting until 12 p.m. (noon) during the State season except we do not open during the special teal season and State youth waterfowl hunt.
4. We prohibit accessing the hunting area by boat from Black Bayou Lake.
5. You may enter the refuge no earlier than 4 a.m.
6. We prohibit hunting within 150 feet (45 m) of the maintained rights-of-way of roads, from or across ATV trails (see § 27.31 of this chapter), and from above-ground oil or gas or electrical transmission facilities.
7. We prohibit leaving boats, blinds, and decoys unattended.
8. We only allow dogs to locate, point, and retrieve when hunting for migratory game birds.
9. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. One adult may supervise two youth hunters.
10. We prohibit any person or group to act as a hunting guide, outfitter, or in any other capacity that any other individual(s) pays or promises to pay directly or indirectly for services rendered to any other person or persons hunting on the refuge, regardless of whether such payment is for guiding, outfitting, lodging, or club membership.
11. We only allow ATVs on trails (see § 27.31 of this chapter) designated for their use and marked by signs. We do not open ATV trails March 1 through August 31. An all-terrain vehicle (ATV) is an off-road vehicle with factory specifications not to exceed the following: weight 750 lbs. (337.5 kg), length 85 inches (212.5 cm), and width 48 inches (120 cm). We restrict ATV tires to those no larger than 25 x 12 with a maximum of 1 inch (2.5 cm) lug height and a maximum allowable tire pressure of 7 psi as indicated on the tire by the manufacturer.

B. Upland Game Hunting. We allow hunting of quail, squirrel, rabbit, raccoon, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, A4, A6, A9, and A10 apply.
2. We prohibit possession of firearms (see § 27.42 of this chapter) larger than .22 caliber rimfire, shotgun slugs, and buckshot.
3. You may hunt raccoon and opossum from ½ hour before sunrise to ½ hour after sunset of rabbit and squirrel season and at night during December and January. You may use dogs for night hunting. We prohibit selling raccoon and opossum taken on the refuge for human consumption.
4. We allow use of dogs to hunt squirrel and rabbit after the refuge archery deer hunt.
5. We allow use of horses and mules to hunt raccoon and opossum at night only after obtaining a Special Use Permit at the refuge office.
6. We prohibit opossum and raccoon night hunters from using ATVs.
7. You may enter the refuge no earlier than 4 a.m. and must exit no later than 1 hour after legal shooting hours.
8. You may only possess approved nontoxic shot (see § 32.2(k)) while hunting on the refuge. This requirement only applies to the use of shotgun ammunition.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A4, A6, A10, A11, and B7 apply.
2. We allow archery deer hunting during October, November, and December north of ''cemetery pipeline'' and east of the main body (permanent water) of Black Bayou Lake.
3. We prohibit gun deer hunting.
4. The daily bag limit is one deer of either sex. The State season limit applies.
5. Hunters must possess and carry proof of completion of the International Bowhunters Education Program.
6. We prohibit leaving deer stands, blinds, and other equipment unattended.
7. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. One adult may supervise no more than one youth hunter.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You may enter the refuge ½ hour before legal sunrise, and you must exit no later than ½ hour after legal sunset.
2. You may only launch boats at the concrete ramp adjacent to the visitor center. We prohibit launching boats with motors greater than 50 hp. We prohibit personal watercraft (Jet Skis).
3. We prohibit trotlines, limb lines, yo-yos, traps, or nets.
4. We prohibit commercial fishing.
5. We prohibit leaving boats or other equipment on the refuge overnight (see § 27.93 of this chapter).
6. We require a boat launch fee. You must pay launch fees and fill out and

properly display your launch permit before launching boat.

7. We prohibit take of frog, turtle, and mollusk (see § 27.21 of this chapter).

8. We prohibit crossing the water hyacinth blooms in a boat.

Bogue Chitto National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, coot, and woodcock on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunting from ½ hour before legal sunrise until 12 p.m. (noon).

2. We only allow woodcock hunting using approved nontoxic shot (see § 32.2(k)) size #4 or smaller.

3. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. For waterfowl hunts, one adult may supervise two youth hunters.

4. We only allow dogs to locate, point, and retrieve when hunting for migratory game birds.

5. We require a signed refuge hunt permit.

6. We allow public hunting refuge-wide during the open State season for listed species, except for the east levee of the Pearl River Navigation Canal as indicated on refuge permit map.

7. We prohibit hunting within 150 feet (45 m) of any public road, refuge road, trail, building, residence, designated public facility or from or across above-ground oil or gas or electrical facilities.

8. We prohibit possession of slugs, buckshot, or rifle or pistol ammunition larger than .22 caliber rimfire.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, raccoon, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You may only possess approved nontoxic shot while hunting on the refuge (see § 32.2(k)). This requirement only applies to the use of shotgun ammunition.

2. You may use dogs for squirrel during a portion of the squirrel season, typically in November and from after the close of the refuge gun deer season until the end of the State squirrel season.

3. You may use dogs for rabbit during a portion of the squirrel season, typically in November and after the close of the State gun deer season.

4. You may use dogs for raccoon; the season is typically during the months of January and February.

5. We will close the refuge to hunting (except waterfowl) and camping when the Pearl River reaches 15.5 feet (4.65 m) on the Pearl River Gauge at Pearl River, Louisiana.

6. We prohibit the take of feral hog during any upland game hunts.

7. Condition A3 (upland game hunts), and A5 through A8 apply.

C. Big Game Hunting. We allow hunting of white-tailed deer, turkey, and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A3 (one adult can only supervise one youth hunter during refuge Gun Deer Hunts), A5 through A7, and B5 apply.

2. You must remove all deer stands within 14 days following the end of the refuge deer season (see § 27.93 of this chapter).

3. We typically open archery deer season (either sex) from October 1 through 31 and also for 1 to 2 weeks in January.

4. General Gun Deer Hunts are typically in November and December.

5. Primitive weapons season is typically open in December.

6. We prohibit the use of dogs.

7. We prohibit using shot larger than No. 2 during turkey season.

8. You may only take gobblers.

9. You may take hogs during refuge archery and general Gun Deer Hunts only. Additionally, you may take hogs typically during varying dates in January and February, and you must only take them with the aid of trained hog-hunting dogs from legal sunrise to legal sunset.

10. You must kill all hogs prior to removal from the refuge.

11. We prohibit possession or distribution of bait or hunting with the aid of bait, including any grain, salt, minerals, or other feed or nonnaturally occurring attractant on the refuge (see § 32.2(h)).

D. Sport Fishing. We allow fishing year-round in accordance with State regulations subject to the following conditions:

1. We only allow cotton limb lines.

2. Condition B5 applies.

3. We close the fishing ponds at the Pearl River Turnaround to fishing during the months of April, May, and June.

4. We prohibit boats in the fishing ponds at the Pearl River Turnaround.

5. We prohibit the take of turtle (see § 27.21 of this chapter).

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Cameron Prairie National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose (except Canada goose), duck, coots, snipe, and dove on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. The waterfowl hunt is a youth hunt only. We set hunt dates in September, and you may obtain information from the refuge. We will accept permit applications September 1 through October 15 and limit applications to a choice of 2 dates. We will notify successful applicants.

2. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. For waterfowl hunts, one adult may supervise two youth hunters.

3. We require every hunter to possess and carry signed refuge hunting regulations and permit.

4. You must complete a Hunter Information Card at a self-clearing check station after each hunt before leaving the refuge.

5. We allow dove hunting in designated areas on Tuesdays, Thursdays, Saturdays, and Sundays from 12 p.m. (noon) to legal sunset during the first split of State dove season only.

6. We allow snipe hunting in designated areas on Tuesdays, Thursdays, Saturdays, and Sundays from 12 p.m. (noon) to legal sunset for the remainder of the State season after closure of the waterfowl season.

7. We prohibit hunting within 150 feet (45 m) of any public road, refuge road, trail, building, residence, or designated public facility.

8. We prohibit any person or group to act as a hunting guide, outfitter, or in any other capacity that any other individual(s) pays or promises to pay directly or indirectly for services rendered to any other person or persons hunting on the refuge, regardless of whether such payment is for guiding, outfitting, lodging, or club membership.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow archery as the only form of hunting for white-tailed deer in designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry proof of completion of the International Bowhunters Education Program to bowhunt on the refuge.

2. Conditions A2 (for big game hunt, one adult may supervise no more than one youth hunter), A3, A4, A7, and A8 apply.

D. Sport Fishing. We allow fishing, boating, crabbing, and cast netting on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must fish with a rod and reel or a pole and line. We prohibit the possession of any other type of fishing gear, including limb lines, gill nets, jug lines, yo-yos or trotlines.

2. You may fish, crab, or cast net in the East Cove unit year-round from legal sunrise to legal sunset, except during the State waterfowl season and when we close the Grand Bayou Boat Bay.

3. We prohibit fishing, crabbing, or cast netting from or trespassing on refuge water control structures at any time.

4. We prohibit walking, wading, or climbing in or on the marsh, levees, or structures.

5. We allow sport fishing, crabbing, and cast netting in the Gibbstown Unit Bank Fishing Road waterways and adjacent borrow pits and the Outfall Canal from March 15 through October 15 only.

6. We only allow nonpowered boats in the Bank Fishing Road waterways.

7. We only allow recreational crabbing with cotton hand lines or dropnets up to 24 inches (60 cm) outside diameter.

8. You must attend all lines, nets, and bait and remove them from the refuge (see § 27.93 of this chapter) when you leave.

9. We allow a daily limit of five dozen crabs per boat or vehicle.

10. We allow recreational cast netting for shrimp during the Louisiana Inland Shrimp Season when we open the East Cove Unit for boats.

11. You may only use a cast net that does not exceed a 5 foot (12.5 cm) hanging radius.

12. We allow a daily limit of 5 gallons (19 L) of heads-on shrimp per boat.

13. We only allow recreational cast netting for bait year-round when we open the East Cove Unit for boats.

14. We prohibit the use of ATVs, air-thrust boats, personal motorized watercraft (Jet Skis), and air-cooled propulsion engines (go devil-style motors) in any refuge area (see § 27.31(f) of this chapter).

15. You may operate outboard motors in refuge canals, bayous, and lakes. We only allow trolling motors in the marsh.

16. Condition A8 applies.

17. We prohibit the taking of turtle (see § 27.21 of this chapter).

Cat Island National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, coot, and woodcock on designated areas of the refuge as shown on the refuge hunt brochure map in accordance with State regulations subject to the following conditions:

1. We require hunters/anglers age 16 and older to possess and carry a signed refuge hunting/fishing/ATV permit.

2. Each hunter must sign in at the refuge check station when entering and leaving the refuge.

3. The refuge opens at 4 a.m. and closes 1 hour after legal sunset.

4. We prohibit possession of firearms in areas posted as ''No Hunting Zones.''

5. You may only enter and exit the refuge from designated parking areas.

6. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult must possess and carry a refuge permit and may supervise no more than two youth hunters during waterfowl/upland game hunting.

7. We allow take of beaver, feral hog, nutria, raccoon, and coyote incidental to any refuge hunt with weapons legal for that hunt until you take the daily bag limit of game.

8. You must report all harvested game at the refuge check station upon leaving the refuge. If you harvest game at a time when the refuge is closed to vehicular traffic, you must report it to the refuge office.

9. We allow use of all-terrain vehicles on designated refuge trails (see § 27.31 of this chapter) for wildlife-dependent activities from the first Saturday in September to the last day of the State-designated rabbit season. An all-terrain vehicle (ATV) is an off-road vehicle with factory specifications not to exceed the following: weight 750 lbs. (337.5 kg), length 85 inches (212.5 cm), and width 48 inches (120 cm). We restrict ATV tires to those no larger than 25 x 12 with a maximum 1 inch (2.5 cm) lug height and a maximum allowable tire pressure of 7 psi as indicated on the tire by the manufacturer.

10. We prohibit transport of loaded weapons on an ATV (see § 27.42(b) of this chapter).

11. We prohibit hunting within 150 feet (45 m) of any public road, refuge road, trail or ATV trail, building, residence, or designated public facility.

12. We prohibit the possession or use of nonbiodegradable flagging tape.

13. We prohibit horses or mules.

14. We only allow parking in designated parking areas.

15. We prohibit camping or overnight parking on the refuge.

16. We prohibit air-thrust boats on the refuge.

17. We prohibit all other hunting during the special youth and Gun Deer Hunts.

18. We allow waterfowl hunting on Tuesdays, Thursdays, Saturdays, and Sundays until 12 p.m. (noon) during the designated State duck season, except during the refuge quota deer hunts.

19. You must remove boats, blinds, and decoys (see § 27.93 of this chapter) daily.

20. We only allow dogs to locate, point, and retrieve when hunting for migratory game birds.

B. Upland Game Hunting. We allow hunting of squirrel and rabbit on designated areas of the refuge as shown on the refuge hunt brochure map in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A17, and A19 apply.

2. We allow the use of .22 caliber or less rimfire rifles and 12 gauge or higher shotguns to hunt upland game.

3. We allow the use of squirrel and rabbit dogs from the day after the close of the State-designated deer rifle season to the end of the State-designated season. We allow up to two dogs per hunting party.

4. We require the owner's name and phone number on the collars of all dogs.

5. You may only possess approved nontoxic shot while hunting on the refuge (see § 32.2(k)). This requirement only applies to the use of shotgun ammunition.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge as shown on the refuge hunt brochure map in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A17, and A19 apply.

2. You must only hunt deer using bow and arrow during the State-designated deer season, except during the refuge quota deer hunts and the youth deer hunt.

3. You must possess and carry proof of completion of the International Bowhunter Education Course to archery hunt on the refuge.

4. You must only use portable deer stands. Deer stands must have the owner's name, address, and phone number clearly printed on the stand.

5. We prohibit the use of dogs to trail wounded deer.

6. You may only take one deer of either sex per day during the deer

season. State season limits apply. During the deer quota hunts, you may only take one deer of either sex during the quota hunt weekend.

7. We require a minimum of 400 square inches (2,600 cm^2) of unbroken hunter orange as the outermost layer of clothing on the chest and back, and in addition we require a hat or cap of unbroken hunter orange.

8. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult must possess and carry a refuge permit and may supervise no more than one youth hunter.

D. Sport Fishing. We allow fishing on designated areas of the refuge as shown on the refuge hunting and fishing brochure map in accordance with State regulations subject to the following conditions:

1. We prohibit commercial fishing or commercial crawfishing.

2. Conditions A1, A3, A4, A9 (on the open portions of Wood Duck ATV Trail for wildlife-dependent activities throughout the year), A13 through A16, and A19 apply.

3. We only allow hook and line to catch bait fish.

4. We prohibit slat traps or hoop nets on the refuge.

5. You may use trotlines and yo-yos on the refuge. The ends of trotlines must consist of a length of cotton line that extends from the points of attachment into the water. You must attend yo-yos (within sight) at all times.

6. We prohibit possession of cleaned or processed fish on the refuge.

7. We allow recreational crawfishing on the refuge with either traps or nets April 1 through July 31, according to State regulations regarding trap requirements and licensing. The harvest limit is 100 pounds (45 kg) per vehicle or boat per day.

8. You must attend all crawfish traps and nets at all times and may not leave them on the refuge overnight. We allow up to and not exceeding 20 traps per angler on the refuge.

9. We prohibit harvest of frog or turtle on the refuge (see § 27.21 of this chapter).

Catahoula National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds only on designated areas of the Bushley Bayou Unit in accordance with State hunting regulations subject to the following conditions:

1. Hunters must possess and carry a signed refuge hunting permit. Prior to entering and leaving the hunt area, we require hunters to sign in and out at designated locations as indicated on the refuge hunt/fish permit.

2. We allow goose, duck, and coot hunting on the Bushley Bayou Unit on Tuesdays, Thursdays, Saturdays, and Sundays only, from ½ hour before official sunrise until 12 p.m. (noon).

3. We open the refuge to hunters 2 hours before official sunrise for migratory game bird hunting.

4. We allow ATVs on ATV trails (see § 27.31 of this chapter) designated on the refuge hunt/fish permit from September 1 through the end of rabbit season. We open Bushley Creek, Black Lake, Boggy Bayou, Round Lake, Dempsey Lake Roads, and that portion of Minnow Ponds Road at Highway 8 to Green's Creek Road and then south to Green's Creek Bridge to ATVs year-round. We only allow ATVs for wildlife-dependent activities. We define an ATV as an off-road vehicle (not legal for highway use) with factory specifications not to exceed the following: weight 750 lbs. (337.5 kg), length 85 inches (212.5 cm), and width 48 inches (120 cm). We restrict ATV tires to those no larger than 25 x 12 with a maximum 1 inch (2.5 cm) lug height and a maximum allowable tire pressure of 7 psi as indicated on the tire by the manufacturer.

5. We require hunters to remove all portable blinds, boats, decoys, and other personal equipment (see § 27.93 of this chapter) from the refuge by 1 p.m. daily.

6. We prohibit all migratory game bird hunting during deer-gun and muzzleloader hunts.

7. We prohibit hunting or shooting within 150 feet (45 m) of any public road, refuge road, ATV trail, building, residence, or designated public facility. We prohibit parking, walking, or hunting with 150 feet (45 m) of any active oil well site, production facility, or equipment.

8. We prohibit the use of air-thrust boats, inboard water-thrust boats, or personal watercraft. We only allow nonmotorized boats, boats with electric motors, or boats with a motor of 10 hp or less on Black Lake, Dempsey Lake, Long Lake, Rhinehart Lake, and Round Lake.

9. We prohibit the use of mules or horses.

10. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult must possess and carry a refuge permit and may supervise no more than two youth hunters.

11. You may only possess approved nontoxic shot while in the field (see § 32.2(k)). This requirement only applies to the use of shotgun ammunition.

12. We prohibit the possession of buckshot, slugs, or rifle ammunition larger than .17 caliber rimfire while engaged in migratory game bird hunts.

13. We prohibit any person or group to act as a hunting guide, outfitter, or in any other capacity that any other individual(s) pays or promises to pay directly or indirectly for services rendered to any other person or persons hunting on the refuge, regardless of whether such payment is for guiding, outfitting, lodging, or club membership.

14. We prohibit marking areas or trails with tape, paint, paper, flagging, or any other material.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, raccoon, and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A4 (at the Bushley Bayou Unit), and A7 through A13 apply.

2. At the Headquarters Unit, we only allow squirrel, rabbit, raccoon, and feral hog hunting from the first day of the State squirrel season through October 31.

3. At the Bushley Bayou Unit, we allow squirrel, rabbit, raccoon, and feral hog hunting in accordance with the State season.

4. We open the refuge to hunters from 2 hours before legal sunrise until 2 hours after legal sunset.

5. At the Headquarters Unit, we only allow ATV use year-round on the Muddy Bayou Road.

6. We prohibit squirrel, rabbit, and raccoon hunting during deer-gun and muzzleloader hunts.

7. We prohibit the use of airboats, inboard water-thrust boats, or personal watercraft. We only allow nonmotorized boats, boats with electric motors, or boats with a motor of 10 hp or less on Black Lake, Dempsey Lake, Long Lake, Rhinehart Lake, and Round Lake of the Bushley Bayou Unit and Duck Lake, Cowpen Bayou, Willow Lake, and the Highway 28 and 84 borrow pits of the Headquarters Unit.

8. At the Headquarters Unit, we close upland game hunting during high water conditions with an elevation of 42 feet (12.6 m) or above as measured at the Corps of Engineers river gauge at Archie or the center of the lake gauge on Catahoula Lake. At the Bushley Bayou Unit, we close upland game hunting during high water conditions with an

elevation of 44 feet (13.2 m) or above as measured at the Corps of Engineers river gauge at Archie or center of the lake gauge on Catahoula Lake.

C. Big Game Hunting. We allow hunting of white-tailed deer and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A4 (at the Bushley Bayou Unit), A7 through A9, A12, A13, and B4 through B8 (big game hunting) apply.

2. At the Bushley Bayou Unit, we allow deer-archery hunting during the State archery season, except when closed during deer-gun and deer-muzzleloader hunts. We allow either-sex muzzleloader hunting during the first segment of the State season for Area 1, weekdays only (Monday through Friday) and the third weekend in December. We allow either-sex, deer-gun hunting for the Friday, Saturday, and Sunday immediately following Thanksgiving Day and for the second weekend following Thanksgiving Day.

3. At the Headquarters Unit, we allow deer-archery hunting during the State archery season, except when closed during the deer-gun hunt south of the French Fork of the Little River. We only allow either-sex, deer-gun hunting on the Friday and Saturday immediately following Thanksgiving Day on the area south of the French Fork of the Little River.

4. We allow portable stands and climbing stands, but hunters must remove them from the refuge daily (see § 27.93 of this chapter).

5. We prohibit possession of buckshot.

6. We require a minimum of 400 square inches (2,600 cm^2) of unbroken hunter orange as the outermost layer of clothing on the chest and back, and in addition we require a hat or cap of unbroken hunter orange. You must wear the solid hunter-orange items while in the field.

7. You may only take one deer per day during any refuge deer hunt. The State season limits apply.

8. We prohibit organized drives for deer and/or hog.

9. Archery hunters must possess and carry proof of completion of the International Bowhunters Education Program.

10. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult must possess and carry a refuge permit and may supervise no more than one youth hunter.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A4 (at the Bushley Bayou Unit), A12 (as a fishing guide), B5, and B7 apply.

2. We require anglers to possess and carry at all times a signed copy of a current refuge hunting/fishing permit.

3. At the Bushley Bayou Unit, we allow fishing and crawfishing year-round. We allow trotlines, but you must tend them at least once every 24 hours and reset them when receding water levels expose them. You must attach them with a length of cotton line that extends into the water. We allow yo-yos, but you must attend and only use them from 1 hour before legal sunrise until ½ hour after legal sunset. We only allow recreational gear (slat traps, wire nets, and hoop nets) by refuge Special Use Permit and only in Bushley Creek, Big Bushley Creek, and Little Bushley Creek.

4. At the Headquarters Unit, we allow year-round fishing on Cowpen Bayou and the Highway 28 borrow pits. We open fishing on the remainder of the Headquarters Unit including Duck Lake, Muddy Bayou, Willow Lake, and the Highway 84 borrow pits from March 1 through October 31. We only allow pole and line or rod and reel fishing. We prohibit snagging.

5. We allow fishing from 1 hour before legal sunrise until ½ hour after legal sunset.

6. At the Headquarters Unit, we only allow launching of trailered boats at designated boat ramps. You may launch small, hand-carried boats at nonboat ramp sites. We prohibit dragging boats or driving vehicles (see § 27.31 of this chapter) onto road shoulders to launch boats.

7. We prohibit the taking or possession of all snakes, frogs, turtles, salamanders, and mollusks by any means (see § 27.21 of this chapter).

D'Arbonne National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, coot, and woodcock on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Hunters must possess and carry a signed refuge permit.

2. We prohibit waterfowl hunting in the ''Beanfield'' area west of Bayou D'Arbonne and between Holland's Bluff Road and the ''Big Powerline'' east of Bayou D'Arbonne. We mark prohibited areas with blue paint and signs.

3. We prohibit woodcock hunting in the ''Beanfield'' area west of Bayou D'Arbonne.

4. We allow waterfowl hunting until 12 p.m. (noon) during the State season except when closed during the special teal season and State youth waterfowl hunt.

5. Hunters may enter the refuge no earlier than 4 a.m.

6. We prohibit hunting within 150 feet (45 m) of any public road.

7. We prohibit leaving boats, blinds, and decoys unattended.

8. We only allow dogs to locate, point, and retrieve when hunting for migratory game birds.

9. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult must possess and carry a refuge permit and may supervise no more than two youth hunters.

10. We prohibit any person or group to act as a hunting guide, outfitter, or in any other capacity that any other individual(s) pays or promises to pay directly or indirectly for services rendered to any other person or persons hunting on the refuge, regardless of whether such payment is for guiding, outfitting, lodging, or club membership.

B. Upland Game Hunting. We allow hunting of quail, squirrel, rabbit, raccoon, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A6, A9, and A10 apply.

2. We prohibit hunting in the ''Beanfield'' area west of Bayou D'Arbonne after October 31.

3. We prohibit possession of firearms larger than .22 caliber rimfire, shotgun slugs, and buckshot while engaged in upland game hunting.

4. You may hunt raccoon and opossum during the daylight hours of rabbit and squirrel season and at night during December and January. You may use dogs for night hunting. You may take raccoon and opossum on the refuge, but we prohibit their sale for human consumption.

5. You may use dogs to hunt squirrel and rabbit after the last refuge Gun Deer Hunt.

6. You may only use horses and mules to hunt raccoon and opossum at night after obtaining a special permit at the refuge office.

7. Hunters may enter the refuge no earlier than 4 a.m. and must exit no later than 2 hours after legal shooting hours.

8. You may only possess approved nontoxic shot while in the field (see § 32.2(k)). This requirement only applies to the use of shotgun ammunition.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A3 (for gun deer hunting), A6, A10, and B7 apply.

2. We allow general gun deer hunting on the following days: the first consecutive Saturday and Sunday of November, the Friday, Saturday, and Sunday following Thanksgiving Day, and the second Saturday and Sunday after Thanksgiving Day. We allow archery deer hunting during the entire State season.

3. We allow a restricted Gun Deer Hunt for hunters with Class I Wheelchair Bound Permit issued by the Louisiana Department of Wildlife and Fisheries on the second consecutive Saturday and Sunday of November. Only permitted hunters may carry firearms (see § 27.42 of this chapter).

4. The daily bag limit is one antlered and one antlerless deer. The State season limit applies.

5. You must check all deer taken during general Gun Deer Hunts at a refuge check station between 7 a.m. and 7 p.m. on the same day taken unless stated otherwise in the annual refuge hunting brochure and permit.

6. Archery hunters must possess and carry proof of completion of the International Bowhunters Education Program.

7. We prohibit leaving deer stands, blinds, and other equipment unattended.

8. Deer hunters must wear hunter orange as per State deer hunting regulations on Wildlife Management Areas.

9. We prohibit hunters placing, or hunting from, stands on pine trees with white painted bands/rings.

10. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult must possess and carry a refuge permit and may supervise no more than one youth hunter.

D. Sport Fishing. We allow fishing on the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit leaving boats and other personal property on the refuge unattended.

2. You must tend trotlines daily. You must attach ends of trotlines by a length of cotton line that extends into the water.

3. We prohibit commercial fishing. Recreational fishing using commercial gear (slat traps, etc.) requires a special refuge permit (that you must possess and carry) available at the refuge office.

4. We prohibit the taking of turtle (see § 27.21 of this chapter).

Delta National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions.

1. We allow waterfowl hunting on Wednesdays, Thursdays, Saturdays, and Sundays until 12 p.m. (noon), including special teal season, youth waterfowl season, and ''light goose'' special conservation season.

2. We only allow temporary blinds. You must remove both blinds and decoys (see § 27.93 of this chapter) by 12 p.m. (noon).

3. We only allow dogs to locate, point, and retrieve when hunting for migratory game birds.

4. Hunters must possess and carry a valid refuge hunt permit.

5. We only allow hunting on those portions of the refuge that lie northwest of Main Pass and south of Raphael Pass.

6. You may only possess approved nontoxic shot while hunting on the refuge (see § 32.2(k)). We prohibit possession of buckshot, slugs, rifles, or rifle ammunition.

7. We prohibit air-thrust boats, motorized pirogues, mud boats, and air-cooled propulsion engines on the refuge.

8. We close all refuge lands between Raphael Pass and Main Pass to all entry during the State waterfowl hunting season.

9. We prohibit discharge of firearms (see § 27.42 of this chapter) within 250 yards (225 m) of buildings or worksites, such as oil or gas production facilities.

10. We allow primitive camping year-round in designated areas (see refuge map). No person or party will remain camped, nor will any campsite remain established, in excess of 14 consecutive days.

11. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult must possess and carry a refuge permit and may supervise no more than two youth hunters during waterfowl hunts.

12. We prohibit any person or group to act as a hunting guide, outfitter, or in any other capacity than any other individual(s) pays or promises to pay directly or indirectly for services rendered to any other person or persons hunting on the refuge, regardless of whether such payment is for guiding, outfitting, lodging, or club membership.

B. Upland Game Hunting. We allow hunting of rabbit on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. The refuge rabbit season opens the day after the State duck season closes and continues through the remainder of the State rabbit season.

2. We restrict hunting to shotgun only.

3. We allow dogs for rabbit hunting.

4. Conditions A4 through A12 (each adult may supervise no more than two youth hunters during upland game hunting), and A13 apply.

C. Big Game Hunting. We allow hunting of white-tailed deer and hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. For archery hunting of deer and hogs, conditions A4 through A11, A12 (each adult may supervise no more than one youth hunter during big game hunting), and A13 apply.

2. We allow archery deer hunting October 1 through 31 (either sex) and from the day after the close of the State duck season through the end of the State deer archery season.

3. Hunters must only use portable stands for archery deer hunting.

4. We prohibit dogs and driving of deer for archery deer hunting.

5. You may only take hog with archery equipment.

6. We prohibit possession or distribution of bait or hunting with the aid of bait, including any grain, salt, minerals or other feed or any nonnaturally occurring attractant on the refuge (see § 32.2(h)).

D. Sport Fishing. We allow recreational fishing and crabbing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow recreational fishing and crabbing from legal sunrise to legal sunset.

2. We prohibit all commercial finfishing and shellfishing.

3. We prohibit the use of trotlines, limblines, slat traps, jug lines, nets, or alligator lines.

4. Condition A8, A11, and A13 (fishing guide) applies.

5. We prohibit the taking of turtle (see § 27.21 of this chapter).

Grand Cote National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, coot, mourning dove, and woodcock on designated areas of the refuge on designated areas (shown on the refuge hunting brochure map) in accordance with State regulations subject to the following conditions:

1. We require hunters/anglers age 16 and older to purchase and carry a signed refuge hunting/fishing/ATV permit.

2. Hunters must fill out a free daily ''check-in'' and ''check out'' refuge hunting permit obtained at designated check stations and must properly display the associated windshield permit while in parking lots.

3. The refuge opens at 4 a.m. and closes 1 hour after legal sunset.

4. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult may supervise no more than two youth hunters during waterfowl hunts.

5. You may only enter and exit the refuge from designated parking lots.

6. We prohibit camping or parking overnight on the refuge.

7. We prohibit discharge of firearms (see § 27.42 of this chapter) except when hunting.

8. We prohibit marking of trails with nonbiodegradable flagging tape.

9. We allow use of ATVs on designated trails (see § 27.31 of this chapter) from the first Saturday in September to the last day of the State rabbit season. An ATV is an off-road vehicle with factory specifications not to exceed the following: weight 750 pounds (337.5 kg), length 85 inches (212.5 cm), and width 48 inches (120 cm). We restrict ATV tires to those no larger than 25 x 12 with a maximum 1 inch (2.5 cm) lug height and a maximum allowable tire pressure of 7 psi as indicated on the tire by the manufacturer.

10. We prohibit horses and mules.

11. We prohibit hunting within 150 feet (45 m) of any public road, refuge road, trail or ATV trail, building, residence, above-ground oil or gas or electrical transmission facilities, or designated public facility.

12. We prohibit transport of loaded weapons on an ATV (see § 27.42(b) of this chapter).

13. We prohibit blocking of gates or trails (see § 27.31(h) of this chapter) with vehicles or ATVs.

14. We prohibit ATVs on trails/roads (see § 27.31 of this chapter) not specifically designated by signs for ATV use.

15. We only allow nonmotorized boats.

16. We allow incidental take of raccoon, feral hog, beaver, nutria, and coyote while you are hunting migratory birds, upland game, or big game, with weapons legal for that hunt only.

17. We only allow waterfowl (duck, goose, coot) hunting on Wednesdays and Saturdays until 12 p.m. (noon) during the Statewide duck season.

18. We only allow the use of shotguns while waterfowl hunting.

19. We prohibit the construction or use of permanent blinds.

20. You must remove all decoys, portable blinds, and boats (see § 27.93 of this chapter) daily.

21. We only allow incidental take of mourning dove while migratory bird hunting on days open to waterfowl hunting.

22. We only allow dogs to locate, point, and retrieve when hunting for migratory game birds.

B. Upland Game Hunting. We allow hunting of rabbit on designated areas of the refuge as shown on the refuge hunting brochure map in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A16 and A20 apply.

2. We allow rabbit hunting from December 1 until the end of the Statewide season.

3. We only allow use of shotguns during designated hunts.

4. We only allow rabbit dogs after the close of the State deer rifle season.

5. We require the owner's name and phone number on the collars of all dogs.

6. You may only possess approved nontoxic shot (see § 32.2(k)) for upland game hunting. This requirement only applies to the use of shotgun ammunition.

7. We allow the use of .22 caliber or less rimfire rifles and 12 gauge or higher shotguns to hunt upland game.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge as shown on the refuge hunting brochure map in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A16 and A20 apply.

2. We allow archery-only deer hunting on the refuge from October 1 through October 31 in the Gremillion Unit, Island of the Owls Unit, and Concrete Bridge Unit (see refuge brochure).

3. The hunter must permanently attach their name, address, and phone number to all deer stands.

4. We prohibit hunters to drive deer or to use pursuit dogs. We prohibit the use of dogs to trail wounded deer.

5. We only allow archery equipment during designated seasons.

6. We require hunters to complete and possess and carry proof of completion of the International Bowhunters' Safety Course.

7. You may kill one deer of either sex per day during the deer season.

8. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult may supervise no more than two youth hunters.

D. Sport Fishing. We allow fishing and seasonal take of crawfish in designated waters of the refuge as shown on the crawfish permit map in accordance with State regulations subject to the following conditions:

1. Conditions A1, A5, A6, A8, A10, A13 through A15, and A20 (remove boats [see § 27.93 of this chapter] daily) apply.

2. We only allow fishing in Coulee Des Grues along Little California Road.

3. We only allow fishing with pole and line.

4. We prohibit leaving parking areas to fish until legal sunrise.

5. We allow fishing and crawfishing from legal sunrise to legal sunset.

6. We allow crawfishing from April 1 through July 31, subject to available water in designated areas as depicted on the crawfish permit map available at refuge headquarters.

7. We require anglers to take crawfish using pyramid nets with webbing made of cotton or nylon. We prohibit wire traps.

8. You may harvest 100 lbs. (45 kg.) of crawfish per vehicle per day.

9. We prohibit sale of crawfish taken from the refuge.

10. We prohibit glass containers on the refuge.

11. You must remove all crawfishing gear (see § 27.93 of this chapter) from refuge property after each day's visit.

12. We prohibit possession of cleaned or processed fish on the refuge.

Lacassine National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, gallinule, and coot on designated areas of the refuge in accordance with State

regulations subject to the following conditions:

1. Hunters must possess and carry a refuge hunting permit.

2. We only allow hunting on designated areas of the refuge. These areas include the marshes south of the Intracoastal Waterway and the area east of the Lacassine Bayou excluding Unit B (lottery hunt area west of Streeter Road), Unit F, and the headquarters area along Streeter Road (see refuge map).

3. We allow hunting Wednesdays through Sundays of the State teal and duck seasons (Western Zone). We close the refuge to hunting during the ''goose only'' waterfowl season. State daily and season harvest limits apply.

4. We prohibit entering the hunting area earlier than 4 a.m., and shooting hours end at 12 p.m. (noon) each day.

5. We only allow firearms (see § 27.42 of this chapter) legal for waterfowl hunting in the refuge hunting area.

6. We prohibit all boat motors, including trolling motors, in refuge marshes. We prohibit air-thrust boats and ATVs on the refuge (see § 27.31(f) of this chapter).

7. We prohibit hunting closer than 150 feet (45 m) to a canal or waterway, and hunting parties must maintain a distance of no less than 150 yards (135 m) apart.

8. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult must possess and carry a refuge permit and may supervise no more than two youth hunters during waterfowl hunts.

9. You must remove all hunting-related equipment (see § 27.93 of this chapter) immediately following each day's hunt.

10. Only selected lottery hunt applicants may hunt on the designated lottery hunt area (Unit B) of the refuge. We designate hunt days on the lottery hunt for seniors and youth of the second split of the State duck season (Western Zone). You must contact the refuge office concerning the application process.

11. We prohibit overnight camping on the refuge.

12. We prohibit possession of alcohol in the hunt areas during the hunting season.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A6, A8 (each adult may supervise no more than one youth hunter during big game hunts), A9, A11, and A12 apply.

2. We only allow archery hunting for white-tailed deer from October 1 through October 31.

3. We prohibit entrance to the hunting area earlier than 4 a.m. Hunters must leave no later than 1 hour after legal sunset.

4. Each bowhunter must possess and carry a Bowhunter Education Certificate indicating completion of the State bowhunter safety class.

5. The daily bag limit is one deer per day (either sex). The State season limits apply.

6. We prohibit hunting in the headquarters area along Nature Road and along the Lacassine Pool Wildlife Drive (see refuge map).

7. We only allow boats with motors of 25 hp or less in Lacassine Pool.

8. We prohibit boats in Lacassine Pool and Unit D from October 16 through March 14. We prohibit boats in Units A and C.

9. We allow only foot access to the Unit F area.

10. We prohibit firearms while deer hunting or scouting.

11. We allow the use of crossbows for hunters age 60 or older, or hunters with a State handicapped crossbow permit.

12. We prohibit possession or distribution of bait or hunting with the aid of bait, including any grain, salt, minerals, or other feed on any nonnaturally occurring attractant on the refuge (see § 32.2(h)).

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A11, C7, and C8 apply.

2. We allow fishing March 15 through October 15.

3. You may enter the refuge 1 hour before legal sunrise, and you must leave 1 hour after legal sunset.

4. We prohibit fishing in the headquarters display pond.

5. We prohibit bank fishing on the Lacassine Pool Wildlife Drive.

6. We prohibit air-thrust boats, ATVs, and Jet Skis on the refuge (see § 27.31(f) of this chapter).

7. We prohibit dragging or driving of boats over levees.

8. You must only launch trailered boats at the cement ramps at the public boat launches in Lacassine Pool.

9. We only allow boats powered by paddling or trolling motors in the Unit D impoundment within Lacassine Pool.

10. We prohibit motors in the refuge marshes outside of Lacassine Pool.

11. We only allow fishing with rod and reel or pole and line on refuge waters.

12. We prohibit the taking of turtle (see § 27.21 of this chapter).

Lake Ophelia National Wildlife Refuge

A. Hunting of Migratory Birds. We allow hunting of duck, goose, coot, woodcock, and snipe on designated areas of the refuge as shown on the refuge hunting brochure map in accordance with State regulations subject to the following conditions:

1. We require hunters/anglers age 16 and older to purchase and carry a signed refuge hunting/fishing/ATV permit.

2. Hunters must fill out a free daily ''check-in'' and ''check out'' refuge hunting permit obtained at designated check stations and must properly display associated windshield permit while in the parking lots.

3. The refuge opens at 4 a.m. and closes 1 hour after legal sunset.

4. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult may supervise no more than two youth hunters during waterfowl hunts.

5. You may only enter and exit the refuge from designated parking lots.

6. We prohibit camping or parking overnight on the refuge.

7. We prohibit marking of trails with nonbiodegradable flagging tape.

8. We allow use of ATVs on designated trails (see § 27.31 of this chapter) from the first Saturday in September until the last day of refuge turkey season. We define ATV as an off-road vehicle with factory specifications not to exceed the following: weight 750 lbs. (337.5 kg), length 85 inches (212.5 cm), and width-48 inches (120 cm). We restrict ATV tires to those no larger than 25 x 12 with a maximum 1 inch (2.5 cm) lug height and a maximum allowable tire pressure of 7 psi (3.15 kg) as indicated on the tire by the manufacturer.

9. We prohibit horses or mules.

10. We prohibit hunting within 150 feet (45 m) of any designated road, ATV or hiking trail, or refuge facility.

11. We prohibit transport of loaded weapons on an ATV (see § 27.42(b) of this chapter).

12. We prohibit blocking of gates or trails (see § 27.31(h) of this chapter) with vehicles or ATVs.

13. We prohibit all other hunting during special youth and muzzleloader-quota deer hunts.

14. We allow incidental take of raccoon, feral hog, beaver, nutria, and coyote while migratory bird hunting, upland game hunting, and big game hunting with weapons legal for that hunt.

15. We allow motors up to 25 hp from the first Saturday in September through January 31 in Possum Bayou (North of Boat Ramp), Palmetto Bayou, and Nicholas Lake.

16. We only allow electric-powered or nonmotorized boats in Westcut Lake, Duck Lake, Dooms Lake, Point Basse Lakes, Lake Long, and Possum Bayou (South of Boat Ramp).

17. We only allow waterfowl (duck, goose, coot) hunting on Tuesdays, Thursdays, Saturdays, and Sundays until 12 p.m. (noon) during the Statewide duck season.

18. We only allow the use of shotguns while waterfowl hunting.

19. You must remove all decoys, portable blinds, and boats (see § 27.93 of this chapter) daily.

20. We only allow dogs to locate, point, and retrieve when hunting for migratory game birds.

B. Upland Game Hunting. We allow hunting of squirrel and rabbit on designated areas of the refuge as shown on the refuge hunting brochure map in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A16 and A19 apply.

2. We allow squirrel and rabbit hunting in Hunt Unit 2B from November 1 through November 30.

3. We only allow squirrel and rabbit dogs after the close of the State deer rifle season. We allow no more than two dogs per hunting party.

4. Dog owners must place their name and phone number on the collars of all their dogs.

5. You may only possess approved nontoxic shot (*see* § 32.2(k)) for upland game hunting. This requirement only applies to the use of shotgun ammunition.

6. We allow the use of .22 caliber or less rimfire rifles and 12 gauge or higher shotguns to hunt upland game.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge as shown on the refuge hunting brochure map in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A3, A5 through 16, and A19 apply.

2. We require hunters to permanently attach their name, address, and phone number to the deer stand.

3. We allow archery hunting from November 1 to the end of the State archery season, except during the youth and muzzleloader deer hunts, when we prohibit archery hunting.

4. We allow archery deer hunting in Hunt Units 1B and 2B from October 1 through November 30.

5. We allow youth deer hunting in all units during the State youth deer season.

6. We only allow portable deer stands.

7. We prohibit the use of organized drives for taking or attempting to take game or using pursuit dogs.

8. We only allow archery equipment during designated seasons.

9. Hunters must complete, possess, and carry proof of completion of the International Bowhunters' Safety Course.

10. We prohibit the use of dogs to trail wounded deer.

11. We allow nonmotorized boats in Lake Ophelia from November 1 through 30.

12. You may kill one deer of either sex per day during the deer season, except during the deer quota hunts, when you may only kill one deer of either sex during the entire quota hunt period.

13. We require a minimum of 400 square inches (2,600 cm^2) of unbroken hunter orange as the outermost layer of clothing on the chest and back, and in addition we require a hat or cap of unbroken hunter orange during all deer gun hunts and the quota muzzleloaders deer hunts.

14. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult may only supervise one youth hunter during big game hunts.

D. Sport Fishing. We allow fishing in designated areas as described in the refuge hunting brochure in accordance with State regulations subject to the following conditions:

1. Conditions A1, A3, A5 through A9, A16, and A19 (remove boats [see § 27.93 of this chapter]) apply.

2. We allow sport fishing in Duck Lake, Westcut Lake, Possum Bayou, Lake Long, and the immediate vicinity of the Lake St. Agnes drainage culverts on the Red River.

3. We prohibit the use of gear or equipment other than hook and line to catch bait fish.

4. We allow fishing from March 1 through October 15 from legal sunrise to legal sunset.

5. You must attend yo-yos (within sight) at all times.

6. We prohibit possession of largemouth bass less than 14 inches long (35 cm) and black and white crappie less than 10 inches long (25 cm).

8. We prohibit cleaned or processed fish on the refuge.

9. We allow use of ATVs on the Duck Lake ATV trail from March 15 through October 15.

Mandalay National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds in designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunting of migratory game birds on Wednesdays and Saturdays until 12 p.m. (noon). Hunters may only enter the refuge after 4 a.m.

2. Prior to hunting, we must assign a refuge blind and issue a refuge lottery waterfowl permit to any person entering, using, or occupying the refuge for hunting migratory game birds. You may only hunt from your assigned blind.

3. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult can supervise no more than two refuge-permitted youth hunters. We require all adult supervisors and hunters of migratory game birds to possess and carry a State Hunter Safety Course certificate.

4. All hunters must check-in and check out at a refuge self-clearing check station. Each hunter must list their name and certificate number on the self-clearing check station form and deposit the form at a refuge self-clearing check station prior to hunting. Hunters must report all game taken on the refuge when checking out by using the self-clearing check station form.

5. We allow no more than three hunters to hunt from a blind at one time.

6. We prohibit firearms (see § 27.42 of this chapter) other than those used to take migratory game birds in boats or in the possession of migratory game bird hunters.

7. We prohibit air-thrust boats or marsh buggies on the refuge. We restrict motorized boat use to existing canals, ditches, trenasses, and ponds.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow the hunting of white-tailed deer and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We open the refuge to hunting of deer and hog during the State deer season, except prior to 12 p.m. (noon) on Wednesdays and Saturdays during State waterfowl seasons, when we close areas north of the Intra-Coastal Waterway to hunting of big game.

2. Hunters may only enter the refuge after 4 a.m. and must exit by 1 hour after legal sunset.

3. You may take big game with archery equipment and in accordance with State law. You may only take one deer of either sex per day, and hunters may only possess one deer. The State season limits on deer apply. There is no daily or possession limit on the number of feral hogs.

4. All hunters must possess and carry proof of completion of the International Bowhunters' Education Program when hunting.

5. We prohibit possession or distribution of bait or hunting with the aid of bait, including any grain, salt, minerals or other feed, or any nonnaturally occurring attractant on the refuge (see § 32.2(h)).

6. Condition A7 applies.

D. Sport Fishing. We allow fishing in all refuge waters in accordance with State regulations subject to the following conditions:

1. We only allow recreational fishing. We prohibit commercial fishing on the refuge.

2. We prohibit the use of unattended nets, traps, or lines (trot, jog, bush, etc.).

3. We only allow fishing in refuge canals during the period of October 1 to January 31.

4. We close the refuge to any nighttime activities unless specifically stated.

5. Condition A7 applies.

6. We prohibit the taking of turtle (see § 27.21 of this chapter).

Red River National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, coot, woodcock, and dove on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Hunters must possess and carry a signed refuge permit.

2. We allow waterfowl and woodcock hunting on all refuge lands except the areas within the Headquarters Focus Area in Bossier Parish and north of Interstate 49 within the Spanish Lake Focus Area in Natchitoches Parish.

3. We only allow dove hunting during the first 3 days of the State season on all refuge lands except the areas within the Headquarters Focus Area in Bossier Parish and north of Interstate 49 within the Spanish Lake Focus Area in Natchitoches Parish.

4. We allow waterfowl hunting until 12 p.m. (noon) during the State season.

5. Hunters may enter the refuge no earlier than 3 a.m.

6. We prohibit hunting within 150 feet (45 m) of any public road, refuge road, trail or ATV trail, residence, building, aboveground oil or gas or electrical transmission facilities, or designated public facility.

7. We prohibit leaving boats, blinds, and decoys unattended.

8. We only allow dogs to locate, point, and retrieve when hunting for migratory game birds.

9. Youth hunters age 15 and under must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult can supervise no more than two youth hunters.

10. We prohibit any person or group to act as a hunting guide, outfitter, or in any other capacity that any other individual(s) pays or promises to pay directly or indirectly for services rendered to any other person or persons hunting on the refuge, regardless of whether such payment is for guiding, outfitting, lodging, or club membership.

B. Upland Game Hunting. We allow hunting of quail, squirrel, rabbit, raccoon, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A7, and A8 apply.

2. We allow hunting on all refuge lands except the areas within the Headquarters Focus Area in Bossier Parish and north of Interstate 49 within the Spanish Lakes Focus Area in Natchitoches Parish.

3. We prohibit the possession of firearms (see § 27.42 of this chapter) larger than .22 caliber rimfire, shotgun slugs, and buckshot.

4. We allow hunting of raccoon and opossum during the daylight hours of rabbit and squirrel season. We allow night hunting during December and January, and you may use dogs for night hunting. We prohibit selling of raccoon and opossum taken on the refuge for human consumption.

5. We allow use of dogs to hunt squirrel and rabbit after the last refuge Gun Deer Hunt.

6. If you want to use horses and mules to hunt raccoon and opossum at night, you must first obtain a special permit at the refuge office.

7. Hunters may enter the refuge no earlier than 3 a.m. and no later than 2 hours after legal shooting hours.

8. Youth hunters age 15 and under must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult can supervise no more than one youth hunter.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A7, A8, and B7 apply.

2. We only allow archery hunting.

3. We allow deer hunting on all refuge lands except the areas within the Headquarters Focus Area in Bossier Parish and north of Interstate 49 within the Spanish Lake Focus Area in Natchitoches Parish.

4. The daily bag limit is one deer of either sex. The State season limit applies.

5. Archery hunters must possess and carry proof of completion of the International Bowhunters' Education Program.

6. We prohibit leaving deer stands, blinds, and other equipment unattended.

7. We prohibit hunters placing stands or hunting from stands on pine trees with white painted bands/rings.

8. Youth hunters age 15 and under must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult can supervise no more than one youth hunter.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit leaving boats and other personal property on the refuge unattended.

2. We prohibit boat launching with motors greater than 50 hp on all refuge waters.

3. You must tend trotlines daily. You must attach ends of trotlines by a length of cotton line that extends into the water.

4. We prohibit commercial fishing. Recreational fishing using commercial gear (slat traps, etc.) requires a special refuge permit (that you must possess and carry) available at the refuge office.

5. We prohibit the taking of alligator snapping turtle (see § 27.21 of this chapter).

Sabine National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose (except Canada goose), and coot on areas designated by signs stating ''Waterfowl Hunting Only'' and delineated on the refuge regulations and permit brochure map in accordance with State regulations subject to the following conditions:

1. We require all hunters to possess and carry a signed refuge permit.

2. We only allow waterfowl hunting on Wednesdays, Saturdays, and Sundays during the special teal season and during the regular waterfowl season.

3. We only allow hunters to enter the refuge and launch boats after 3 a.m. All participants must be out of the refuge hunt areas and back at West Cove Public Use Area by 12 p.m. (noon).

4. We prohibit hunting on Christmas Day or New Year's Day should these days fall on a designated hunt day.

5. Youth hunters age 17 and under must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult may supervise no more than two refuge-permitted youth hunters.

6. We prohibit nonhunters entering the refuge hunt areas, with the exception of youth age 15 or under experiencing the hunt with their parent or guardian.

7. You may access the hunt areas via the boat launches at the West Cove Public Use Area, by vehicle on Vastar Road, and at designated turnouts within the refuge public hunt area along State Highway 27 (see § 27.31 of this chapter). We prohibit refuge entrance through adjacent private property or using the refuge to access private property or leases.

8. We only allow launching of boats on trailers at West Cove Public Use Area. We allow hand launching of small boats along Vastar Road (no trailers permitted).

9. We prohibit dragging boats across the levee.

10. We only allow operation of outboard motors in designated refuge canals and Old North Bayou. We allow trolling motors within the refuge marshes.

11. We prohibit air-thrust boats, personal motorized watercraft (*e.g.*, Jet Skis), or boats with air-cooled propulsion engines (Go-Devil-type motors).

12. We prohibit hunting within 300 feet (90 m) of another hunter or within 150 feet (45 m) of refuge canals, public roads, buildings, above-ground oil or gas or electrical transmission facilities, or designated public facility.

13. You must only use portable blinds and those made of native vegetation. You must remove portable blinds, decoys, spent shells, and all other personal equipment (see §§ 27.93 and 27.94 of this chapter) each day.

14. We only allow dogs to locate, point, and retrieve when hunting for migratory game birds.

15. We require you to complete and return a waterfowl harvest data form to the check station or designated drop box after each hunt.

16. We prohibit any person or group to act as a hunting guide, outfitter, or in any other capacity that any other individual(s) pays or promises to pay directly or indirectly for services rendered to any other person or persons hunting on the refuge, regardless of whether such payment is for guiding, outfitting, lodging, or club membership.

17. We prohibit all-terrain vehicles (ATVs) (see § 27.31(f) of this chapter).

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow fishing, crabbing, and cast netting in designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Bank and wharf access for fishing are available year-round at the Public Use Areas along State Highway 27. You may only access the refuge by boat during the March 15 to October 15 open period.

2. We allow use of rod and reel, pole and line, or jug and line. We prohibit the use or possession of any other type of fishing gear, including limb lines, gill nets, or trot lines. We limit jug and line to 10 per boat, and you must attend them at all times. You must mark all jugs with the attendant's fishing license number and remove them (see § 27.93 of this chapter) from the refuge daily.

3. You must only launch boats with motors at the designated boat ramps at the Hog Island Gully and West Cove Public Use Areas.

4. You must launch nonmotorized boats at the 1A–1B Public Use Area.

5. We only allow operation of outboard motors in designated refuge canals, Old North Bayou, and Management Unit 3 (40 hp maximum in Unit 3). We allow trolling motors within the refuge marshes.

6. Conditions A9, A11, A16 (fishing guide), and A17 apply.

7. Crabbing: We allow crabbing in designated areas of the refuge subject to the following conditions:

i. You must only take crabs with cotton hand lines or drop nets with up to 24″ (60 cm) outside diameter.

ii. You must remove all hand lines, drop nets, and bait (see § 27.93 of this chapter) from the refuge upon leaving.

iii. We allow a daily limit on crabs of 5 dozen (60) per vehicle or boat.

8. Cast Netting: We only allow cast netting in designated areas of the refuge during the Louisiana Inland Shrimp Season subject to the following conditions:

i. We require each individual, regardless of age, to possess and carry a signed refuge cast-netting permit.

ii. An adult age 21 or older must directly supervise all youth hunters age 17 and under.

iii. We only allow cast netting from 12 p.m. (noon) to legal sunset.

iv. If you use a cast net, it must not exceed a 5 foot (1.5 m) hanging radius.

v. We only allow recreational cast netting for shrimp. You must immediately return all fish, crabs, or other incidental take (by catch) to the water before continuing to cast net.

vi. We allow a daily shrimp limit of 5 gallons (19 L) of heads-on shrimp per day, per vehicle, or per boat.

vii. Shrimp must remain in your actual custody while on the refuge.

viii. You must cast net from the bank and wharves at Northline, Hog Island Gully, and 1A–1B Public Use Areas or at sites along Hwy. 27 that provide safe access and that we do not post and sign as closed areas.

ix. We prohibit cast netting at or around the West Cove Public Use Area or on or around any boat launch.

x. You may cast net from a boat throughout the refuge except where posted and signed as closed.

xi. We prohibit reserving a place or saving a space for yourself or others by any means to include placing unattended equipment in designated cast-netting areas.

xii. We prohibit swimming in the refuge canals or wading into canals to cast net.

9. We prohibit the taking of turtle (see § 27.21 of this chapter).

Tensas River National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, coot, woodcock, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunting of duck and coot on Tuesdays, Thursdays, Saturdays, and Sundays until 12 p.m. (noon) during the State season. We prohibit migratory bird hunting during refuge gun hunts for deer.

2. We allow hunting of woodcock on designated areas of the refuge in accordance with State regulations.

3. We allow hunters to enter the refuge no earlier than 4 a.m.

4. In areas posted ''Area Closed'' or ''No Hunting Zone,'' we prohibit hunting of migratory birds at any time. We also close open fields, marked on the Public Use Regulations brochure map, to migratory bird hunting. You may obtain the Public Use Regulations brochure at the refuge headquarters in July.

5. We prohibit shooting to unload guns or muzzleloaders (see § 27.42(a) of this chapter) on the refuge at any time.

6. Hunters must remove all blind materials and decoys (see § 27.93 of this chapter) each day.

7. We allow nonmotorized boats, electric motors, and boats with motors 10 hp or less in refuge lakes, streams, and bayous. We prohibit storage of boats on the refuge, and you must remove them (see § 27.93 of this chapter) daily.

8. We require all waterfowl hunters to report their game immediately after each hunt at the check station nearest to the point of take.

9. We prohibit possession or distribution of bait or hunting with the aid of bait, including any grain, salt, minerals or other feed, or any nonnaturally occurring attractant on the refuge (see § 32.2(h)).

10. We allow all-terrain vehicle travel on designated trails (see § 27.31 of this chapter) for access typically from September 15 to the last day of the State squirrel season. We open designated trails from 4 a.m. until no later than 2 hours after legal sunset unless otherwise specified. We define an ATV as an off-road vehicle (not legal for highway use) with factory specifications not to exceed the following: weight 750 pounds (337.5 kg), length 85 inches (212.5 cm), and width 48 inches (120 cm). We restrict ATV tires to those no larger than 25 x 12 with a maximum 1 inch (2.5 cm) lug height and a maximum allowable tire pressure of 7 psi as indicated on the tire by the manufacturer. We require an affixed refuge all-terrain vehicle permit obtained from the refuge headquarters (typically in July). Disabled hunters using the refuge handicapped all-terrain trails must possess and carry the State's Disabled Hunter Permit. Additional handicapped or disabled access information will be available at the refuge headquarters.

11. We prohibit hunting within 150 feet (45 m) of any public road, refuge road, trail or ATV trail, building, residence, above-ground oil or gas or electrical transmission facilities, or designated public facility.

12. We prohibit use and possession of any type of trail-marking material.

13. We prohibit use of organized drives for taking or attempting to take game.

14. We require a refuge access permit for all migratory bird hunts. You may find permits on the front of the Public Use Regulations brochure.

15. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult can supervise no more than two youth hunters during waterfowl hunts.

B. Upland Game Hunting. We allow hunting of raccoon, squirrel, and rabbit on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow raccoon hunting beginning January 1 and typically ending the first week in February. We allow raccoon hunters to hunt from legal sunset to legal sunrise with the aid of dogs, horses, mules, and use of lights. We only allow such use of lights on the refuge at the point of kill. We prohibit all other use of lights for hunting on the refuge. Hunt dates will be available at refuge headquarters in July. We prohibit ATVs during the raccoon hunt.

2. We allow squirrel and rabbit hunting with and without dogs. We will allow hunting without dogs from the beginning of the State season and typically ending the day before the refuge deer muzzleloader hunt. We do not require wearing of hunter orange during the squirrel and rabbit hunt without dogs. Squirrel and rabbit hunting, with or without dogs, will begin the day after the refuge deer muzzleloader hunt and will conclude the last day of the State squirrel season.

3. We close squirrel and rabbit hunting during the following gun hunts for deer: refugewide youth hunt, muzzleloader hunt, and modern firearms hunts.

4. We allow hunters to enter the refuge after 4 a.m., and they must depart no later than 2 hours after legal sunset unless they are participating in the refuge raccoon hunt.

5. Conditions A5, A7, A8 (all upland game hunters), A9, A10, A11, A12, A14 (upland game hunts), and A15 (upland game hunts) apply.

6. In areas posted ''Area Closed'' or ''No Hunting Zone,'' we prohibit upland game hunting at any time.

7. We allow .22 caliber rimfire weapons for upland game. You may only possess approved nontoxic shot while on the refuge (see § 32.2(k)). This requirement only applies to the use of shotgun ammunition.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Deer archery season will begin the first Saturday in November and will conclude on the last day of the State archery season (typically January 31). We require that archery hunters, including crossbow hunters, possess and carry proof of completion of the International Bowhunters Safety course. We prohibit archery hunting during the following: refuge and youth gun hunt, muzzleloader hunt, and modern firearms hunt.

2. Deer muzzleloader season lasts 3 days, on a Friday, Saturday, and Sunday between the two refuge modern firearms hunts. We allow in-line muzzleloaders and magnified scopes.

3. We will conduct two 2-day quota modern firearms hunts for deer, typically in the months of November and December. Hunt dates and permit application procedures will be available at refuge headquarters in July. Hunters may use a muzzleloader during this hunt.

4. We will conduct a 2-day population control quota youth deer hunt in the Greenlea Bend area typically in December. Hunt dates and permit application procedures will be available at the refuge headquarters in July.

5. We will conduct a refugewide youth deer hunt the weekend before Thanksgiving Day. Each participating youth hunter must be age 8 to15 and supervised by an adult who is at least age 21.

6. You may only take one deer per day during refuge deer hunts. The State season limit applies.

7. We allow turkey hunting the first 16 days of the State turkey season. We will conduct a youth turkey hunt the Saturday and Sunday before the regular State turkey season. You may harvest two bearded turkeys per season. We allow the possession of lead shot while turkey hunting on the refuge (see § 32.2(k)). You may use nonmotorized bicycles on designated all-terrain vehicle trails (see § 27.31 of this chapter).

8. Conditions A5, A7, A8 (deer and turkey hunters), A9 through A14 (deer and turkey hunters), A15 (each adult can supervise no more than one youth hunter during big game hunts), and B4 apply.

9. In areas posted ''Area Closed'' or ''No Hunting Zone,'' we prohibit big game hunting at all times. We close

open fields, which we mark on the Public Use Regulations brochure map, during the deer muzzleloader and deer modern firearms hunts; but we open those fields for deer archery hunting. We prohibit shooting into or across any open field with a gun.

10. We allow shotguns equipped with a single piece magazine plug that allows the gun to hold no more than two shells in the magazine and one in the chamber.

11. We only allow shotgun hunters to use rifled slugs when hunting deer.

12. We prohibit possession of buckshot while on the refuge.

13. You must remove all stands, blind materials, and decoys from the refuge following each day (see § 27.93 of this chapter).

14. We require a minimum of 400 square inches (2,600 cm^2) of unbroken hunter orange as the outermost layer of clothing on the chest and back, and in addition we require a hat or cap of unbroken hunter orange. You must wear the solid hunter-orange items while in the field.

15. We prohibit possession or distribution of bait or hunting with the aid of bait, including any grain, salt, minerals or other feed, or any nonnaturally occurring attractant on the refuge (see § 32.2(h)).

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow trotlines attached with a length of cotton line that extends into the water. You must tend the trotlines at least once every 24 hours and reset them when receded waters expose them.

2. Conditions A7, A10 (the only exceptions are the Rainey Lake and Mower Woods all-terrain trails (see § 27.31 of this chapter), which are open year-round with the same time restrictions as the seasonal all-terrain trails), A12, and B4 (anglers) apply.

3. We prohibit the taking of turtle (see § 27.21 of this chapter).

Upper Ouachita National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, coot, woodcock, and dove on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Hunters must possess and carry a signed refuge permit.

2. We allow waterfowl hunting on the west side of the Ouachita River north of RCW Road. We allow waterfowl hunting on the east side of the Ouachita River outside the Mollicy levee, west of Kelby Road, and south of School Board South Road within the levee.

3. We allow woodcock hunting west of the Ouachita River. We allow woodcock hunting on the east side of the Ouachita River outside the Mollicy levee, west of Kelby Road, and south of School Board South Road within the levee.

4. We only allow dove hunting during the first 3 days of the State season east of the Ouachita River outside the Mollicy levee, west of Kelby Road, and south of School Board South Road within the levee.

5. We allow waterfowl hunting until 12 p.m. (noon) during the State season.

6. We will hold a limited lottery hunt during the State Youth Waterfowl Hunt. Application instructions are available at the refuge office.

7. Hunters may enter the refuge no earlier than 3 a.m.

8. We prohibit hunting within 150 feet (45 m) of any public road, refuge road, building, residence, above-ground oil, gas, or public facility and within 50 feet (15 m) of ATV trails (see § 27.31 of this chapter).

9. We prohibit leaving boats, blinds, and decoys unattended.

10. We only allow dogs to locate, point, and retrieve when hunting for migratory game birds.

11. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult may supervise no more than two youth hunters.

12. We prohibit any person or group to act as a hunting guide, outfitter, or in any other capacity that any other individual(s) pays or promises to pay directly or indirectly for services rendered to any other person or persons hunting on the refuge, regardless of whether such payment is for guiding, outfitting, lodging, or club membership.

B. Upland Game Hunting. We allow hunting of quail, squirrel, rabbit, raccoon, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A8, A9, and A12 (to hunt upland game) apply.

2. We allow hunting west of the Ouachita River. We allow hunting on the east side of the Ouachita River outside the Mollicy levee, west of Kelby Road, and south of School Board South Road within the levee.

3. We prohibit possession of firearms (see § 27.42 of this chapter) larger than .22 caliber rimfire, shotgun slugs, and buckshot.

4. We allow hunting of raccoon and opossum during the daylight hours of rabbit and squirrel season. We allow night hunting during December and January, and you may use dogs for night hunting. We prohibit selling of raccoon and opossum taken on the refuge for human consumption.

5. We allow use of dogs to hunt squirrel and rabbit after the last refuge Gun Deer Hunt.

6. If you want to use horses and mules to hunt raccoon and opossum at night, you must first obtain a special permit at the refuge office.

7. Hunters may enter the refuge no earlier than 3 a.m. and must exit no later than 2 hours after legal shooting hours.

8. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult may supervise no more than one youth hunter.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A8, A9, A12 (to hunt big game), and B7 apply.

2. We allow general gun deer hunting on the following days: the first consecutive Saturday and Sunday of November; the Friday, Saturday, and Sunday following Thanksgiving Day; and the second Saturday and Sunday after Thanksgiving Day. We allow archery deer hunting during the entire State season.

3. We allow deer hunting west of the Ouachita River. We allow deer hunting on the east side of the Ouachita River outside the Mollicy levee, west of Kelby Road, and south of School Board South Road within the levee.

4. The daily bag limit is one deer of either sex. The State season limit applies.

5. During general Gun Deer Hunts, you must check all deer on the day taken during general Gun Deer Hunts at a refuge check station between 7 a.m. and 7 p.m. unless stated otherwise in the annual refuge hunting brochure and permit.

6. Archery hunters must possess and carry proof of completion of the International Bowhunters' Education Program.

7. We prohibit leaving deer stands, blinds, and other equipment unattended.

8. Deer hunters must wear hunter orange as per State deer hunting

regulations on Wildlife Management Areas.

9. We prohibit hunters placing stands or hunting from stands on pine trees with white-painted bands/rings.

10. Youth hunters under age 16 must successfully complete a State-approved hunter education course. While hunting, each youth must possess and carry a card or certificate of completion. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Each adult may supervise no more than one youth hunter.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow sport fishing year-round except within the Mollicy levee. We allow fishing in the Wigeon Ponds and Reservoir March 1 through October 15, from 30 minutes before legal sunrise until 30 minutes after legal sunset.

2. We prohibit outboard motors in the Wigeon Ponds. We prohibit boat launching with motors greater than 50 hp in the Reservoir.

3. We prohibit leaving boats and other personal property on the refuge unattended.

4. You must tend trotlines daily. You must attach ends of trotlines by a length of cotton line that extends into the water.

5. We prohibit commercial fishing. Recreational fishing using commercial gear (slat traps, etc.) requires a special refuge permit (that you must possess and carry) available at the refuge office.

6. We prohibit the taking of turtle (see § 27.21 of this chapter).

■ 19. Amend § 32.38 Maine by:

■ a. Revising Lake Umbagog National Wildlife Refuge;

■ b. Revising Moosehorn National Wildlife Refuge;

■ c. Revising Petit Manan National Wildlife Refuge; and

■ d. Revising Rachel Carson National Wildlife Refuge to read as follows:

§ 32.38 Maine.

* * * * *

Lake Umbagog National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, American crow, and woodcock in accordance with State regulations, seasons, and bag limits subject to the following conditions:

1. You must wear two articles of hunter-orange clothing or material. One article must be a solid-colored hunter-orange hat; the other must cover a major portion of the torso, such as a jacket, vest, coat, or poncho and must be a minimum of 50 percent hunter orange in color (such as orange camouflage) except when hunting waterfowl.

2. We will provide permanent refuge blinds at various locations that you may reserve. You may make reservations for blinds up to 1 year in advance, for a maximum of 1 week, running Monday through Sunday during the hunting season. You may make reservations for additional weeks up to 1 week in advance, on a space-available basis. We prohibit other permanent blinds. You must remove temporary blinds, boats, and decoys (see § 27.93 of this chapter) from the refuge following each day.

3. You may use dogs to locate, point, and retrieve when hunting for migratory game birds (see § 26.21(b) of this chapter).

4. We open the refuge to hunting during the hours stipulated under each State's hunting regulations but no longer than from ½ hour before legal sunrise to ½ hour after legal sunset. We close the refuge to night hunting. You must unload all firearms (see § 27.42 of this chapter) outside of legal hunting hours.

5. We prohibit the use of all-terrain vehicles (ATVs or OHRVs) (see § 27.31(f) of this chapter).

B. Upland Game Hunting. We allow hunting of coyote, fox, raccoon, woodchuck, red and eastern gray squirrel, porcupine, skunk, snowshoe hare, ring-necked pheasant, ruffed grouse, and northern bobwhite in accordance with State regulations, seasons, and bag limits subject to the following conditions:

1. You may only possess approved nontoxic shot (see § 32.2(k)) while on the refuge.

2. We open the refuge to hunting during the hours stipulated under State hunting regulations, but no longer than from ½ hour before legal sunrise to ½ hour after legal sunset. We close the refuge to night hunting. You must unload all firearms (see § 27.42 of this chapter), and nock no arrows outside of legal hunting hours.

3. We prohibit the use of all-terrain vehicles (ATVs or OHRVs) (see § 27.31(f) of this chapter).

4. You must wear two articles of hunter-orange clothing or material. One article must be a solid-colored hunter-orange hat; the other must cover a major portion of the torso, such as a jacket, vest, coat, or poncho and must be a minimum of 50 percent hunter orange in color (such as orange camouflage) except when hunting turkey.

5. We allow hunting of coyote and snowshoe hare with dogs during State hunting seasons. Hunting with trailing dogs on the refuge will be subject to the following regulations:

i. You must equip all dogs used to hunt coyote with working radio-telemetry collars, and you must be in possession of a working radio-telemetry receiver that can detect and track the frequencies of all collars used. We do not require radio-telemetry collars for dogs used to hunt snowshoe hare.

ii. We prohibit training during or outside of dog season for coyote or hare.

iii. We allow a maximum of four dogs per hunter.

iv. You must pick up all dogs the same day you release them.

C. Big Game Hunting. We allow hunting of bear, white-tailed deer, and moose in accordance with State regulations, seasons, and bag limits subject to the following conditions:

1. We open the refuge to hunting during the hours stipulated under State hunting regulations but no longer than from ½ hour before legal sunrise to ½ hour after legal sunset. We close the refuge to night hunting. You must unload all firearms (see § 27.42 of this chapter) and nock no arrows outside of legal hunting hours.

2. We allow bear hunting with dogs during State hunting seasons. Hunting with trailing dogs on the refuge will be subject to the following regulations:

i. You must equip all dogs used to hunt bear with working radio-telemetry collars and hunters must be in possession of a working radio-telemetry receiver that can detect and track the frequencies of all collars used.

ii. We prohibit training during or outside of dog season for bear.

iii. We allow a maximum of four dogs per hunter.

iv. You must pick up all dogs the same day you release them.

3. We allow prehunt scouting of the refuge; however, we prohibit dogs and firearms (see § 27.42 of this chapter) during prehunt scouting.

4. Each hunter must wear two articles of hunter-orange clothing or material. One article must be a solid-colored hunter-orange hat; the other must cover a major portion of the torso, such as a jacket, vest, coat, or poncho and must be a minimum of 50 percent hunter orange in color (*i.e.*, orange camouflage).

5. We prohibit the use of all-terrain vehicles (ATVs or OHRVs) (see § 27.31(f) of this chapter).

6. We allow temporary tree stands and blinds, but hunters must remove them by the end of the season (see § 27.93 of this chapter). We prohibit nails, screws, or screw-in climbing pegs to build or access a stand or blind (see § 32.2(i)).

D. Sport Fishing. [Reserved]

Moosehorn National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You may enter the refuge ½ hour before legal shooting hours, and you must leave the refuge by ½ hour past legal shooting hours.

2. During firearms big game season, we require hunters to wear a minimum of 400 square inches (2,600 cm^2) of solid-colored, hunter-orange clothing or material as the outermost layer of clothing on the head, chest, and back.

3. You must only use portable tree stands, blinds, and ladders. We prohibit the use of nails, screws, or bolts to attach them to trees (see § 32.2(i)). You must clearly label any tree stand, blind, or ladder left on the refuge overnight with your name, address, phone number, and hunting license number. You must remove all tree stands, blinds, and ladders from the refuge on the last day of the muzzleloader deer season (see § 27.93 of this chapter).

4. You may only use a long, recurved or compound bow to hunt during the archery season.

5. We prohibit hunting in the following areas:

i. The South Magurrewock Area: The boundary of this area begins at the intersection of the Charlotte Road and U.S. Route 1; it follows the Charlotte Road in a southerly direction to the fishing pier and observation blind, where it turns in an easterly direction, crosses the East Branch of the Magurrewock Stream, and proceeds in a northerly direction along the upland edge of the Upper and Middle Magurrewock Marshes to U.S. Route 1 where it follows Route 1 in a southerly direction to the point of origin.

ii. The North Magurrewock Area: The boundary of this area begins where the northern exterior boundary of the refuge and Route 1 intersect; it follows the boundary line in a westerly direction to the railroad grade where it follows the boundary in a southwest direction to the upland edge of the Lower Barn Meadow Marsh; it then follows the upland edge of the marsh in a southerly direction to U.S. Route 1, where it follows Route 1 to the point of origin.

iii. The posted safety zone around the Refuge Headquarters Complex: The boundary of this area starts where the southerly edge of the Horse Pasture Field intersects with the Charlotte Road. The boundary follows the southern edge of the Horse Pasture Field, across the abandoned Maine Central Railroad grade, where it intersects with the North Fireline Road. It follows the North Fireline Road to a point near the northwest corner of the Lane Construction Tract. The line then proceeds along a cleared and marked trail in a northwesterly direction to the northern upland edge of Dudley Swamp. The line follows the shore of Dudley Swamp to the Barn Meadow Road. It proceeds south along the Barn Meadow Road to the intersection with the South Fireline Road, where it follows the South Fire line Road across the Headquarters Road to the intersection with the Mile Bridge Road. It then follows the Mile Bridge Road in a southerly direction to the intersection with the Lunn Road, then along the Lunn Road leaving the road in an easterly direction at the site of the old crossing, across the abandoned Maine Central Railroad grade to the Charlotte Road. The line follows the Charlotte Road in a northerly direction to the point of origin.

iv. The Southern Gravel Pit: The boundary of this area starts at a point where Cranberry Brook crosses the Charlotte Road and proceeds south along the Charlotte Road to the Baring/Charlotte Town Line, along the Town Line to a point where it intersects the railroad grade where it turns in a northerly direction, and follows the railroad grade to Cranberry Brook and the point of origin.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit motorized boats on Bearce and Conic Lakes.

2. We only allow fishing from ½ hour before legal sunrise to ½ hour after legal sunset.

3. We allow fishing in the following areas on the Baring Division of the refuge:

i. Bearce Lake, Conic Lake, James Pond, Ledge Pond, and Vose Pond;

ii. Clark Brook and the West Branch of the Magurrewock Stream from the outlet of the Howard Mill Flowage water control structure to the handicapped-accessible fishing pier located off the Charlotte Road; and

iii. Barn Meadow Brook, Cranberry Brook, Mahar Brook, and Moosehorn Stream.

4. We allow fishing in the following areas on the Edmunds Division of the refuge: Hobart Lake, Hobart Stream, Cranberry Brook, Crane Meadow Brook, Crane Mill Stream, and Crane Mill Flowage.

5. We prohibit fishing on the stretch of Moosehorn Stream on the Baring Division that lies west of the Charlotte Road and east of the Mile Bridge Road between March 31 and July 14.

6. We prohibit trapping of bait fish on the refuge.

Petit Manan National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, woodcock, rail, gallinule, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit erection of permanent waterfowl blinds.

2. You must remove all temporary blinds, concealment materials, boats, and decoys (see § 27.93 of this chapter) each day.

B. Upland Game Hunting. We allow hunting of upland game on designated areas in accordance with State regulations subject to the following conditions:

1. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

2. We allow only pointing and flushing dogs.

3. We prohibit the hunting of crows.

4. You may hunt coyotes from November 1 to March 31.

C. Big Game Hunting. We allow hunting of white-tailed deer and bear on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit dogs.

2. We only allow black bear hunting during the firearm season for white-tailed deer.

3. You must remove all tree stands by the last day of the white-tailed deer hunting season (see § 27.93 of this chapter).

4. We normally close the refuge to all visitors from legal sunset to legal sunrise. However, during hunting season, we allow hunters to enter the refuge ½ hour prior to legal sunrise and remain on the refuge ½ hour after legal sunset.

D. Sport Fishing. [Reserved]

Rachel Carson National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, coot, woodcock, and snipe on designated areas of the Brave Boat Harbor, Lower Wells, Upper Wells, Mousam River, Goose Rocks, and Spurwink River Divisions of the refuge in accordance with State regulations subject to the following conditions:

1. Prior to entering designated refuge hunting areas, you must obtain a refuge hunting permit, pay a recreation fee, and sign and carry the permit at all times.

2. You may only take sea duck when the State sea duck season coincides with the regular duck season.

3. You may take waterfowl by falconry during State seasons.

4. We open Designated Youth Hunting Areas to hunters age 17 and under who possess and carry a refuge hunting permit. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. The accompanying adult must possess and carry a refuge hunting permit and may also hunt.

5. We allow seasonal blinds and require a Special Use Permit. A permitted seasonal blind is available to all permitted hunters on a first-come, first-served basis. The permit holder for the blind is responsible for the removal of the blind at the end of the season and compliance with all conditions of the Special Use Permit.

6. We close the Moody, Little River, Biddeford Pool, and Goosefare Brook divisions of the refuge to all migratory bird hunting.

B. Upland Game Hunting. We allow hunting of pheasant and grouse on designated areas of the Brave Boat Harbor, Lower Wells, Upper Wells, Mousam River, Goose Rocks, Goosefare Brook, and Spurwink River Divisions of the refuge in accordance with State regulations subject to the following conditions:

1. Condition A1 applies.

2. You may take pheasant and grouse by falconry during State seasons.

3. We close the Moody, Little River, and Biddeford Pool Divisions of the refuge to all upland game hunting.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the Brave Boat Harbor, Lower Wells, Upper Wells, Mousam River, Goose Rocks, Little River, Goosefare Brook, and Spurwink River Divisions of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 and A4 apply.

2. We only allow hunting of deer with shotgun and archery. We prohibit rifles and muzzleloading firearms.

3. We allow portable, climbing, or ladder stands.

4. We close the Moody and Biddeford Pool Division of the refuge to white-tailed deer hunting.

5. We only allow archery on those areas of the Little River division open to hunting.

6. We only allow hunting of fox and coyote during daylight hours of the State firearm deer season.

7. Bow hunters with refuge permits (you must possess and carry) may apply for the special ''Wells Hunt.'' We must receive letters of interest by November 1 for consideration in a random drawing. Selected hunters must comply with regulations as set by the State.

8. You must report any harvested deer to the refuge office within 48 hours.

D. Sport Fishing. We allow recreational fishing along the shoreline on the following designated areas of the refuge in accordance with State regulations and seasons subject to the following conditions:

1. At the Brave Boat Harbor Division on the north side (York) of the stream crossing under Route 103, you may fish beginning at Route 103 then downstream to the first railroad trestle.

2. At the Moody Division on the north side of the Ogunquit River and downstream of Route 1, you may fish beginning at the refuge boundary then downstream a distance of 500 feet (150 m).

3. At the Moody Division on the east side of Stevens Brook and downstream of Bourne Avenue, you may fish beginning at Bourne Avenue then downstream to where the refuge ends near Ocean Avenue.

4. At the Lower Wells Division on the west side of the Webhannet River downstream of Mile Road, you may fish from Mile Road north to the first creek.

5. At the Upper Wells Division on the south side of the Merriland River downstream of Skinner Mil Road, you may fish beginning at the refuge boundary and then east along the oxbow to the woods.

6. At the Mousam River Division on the north side of the Mousam River downstream of Route 9, you may fish beginning at the refuge boundary and then east to a point opposite Great Hill Road. Access is from the Bridle Path along the first tidal creek.

7. At the Goosefare Brook Division on the south side of Goosefare Brook, you may fish where it flows into the Atlantic Ocean.

8. At the Spurwink River Division on the west side (Scarborough) of the Spurwink River upstream of Route 77, you may fish beginning at Route 77 and then upstream approximately 1,000 feet (300 m) to a point near the fork in the river.

9. You may launch car-top boats during daylight hours at Brave Boat Harbor Division on Chauncey Creek at the intersection of Cutts Island Road and Sea Point Road.

10. You may launch car-top boats during daylight hours at the Spurwink River Division on the upstream side of Route 77 at the old road crossing.

11. We allow fishing from legal sunrise to legal sunset.

12. We prohibit lead jigs and sinkers.

13. Anglers must attend their lines at all times.

14. We prohibit the collection of bait fish on the refuge.

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■ 20. Amend § 32.39 Maryland by:

■ a. Revising Blackwater National Wildlife Refuge;

■ b. Revising Eastern Neck National Wildlife Refuge; and

■ c. Revising Patuxent Research Refuge to read as follows:

§ 32.39 Maryland.

* * * * *

Blackwater National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require refuge permits for all hunters regardless of age. We require that permits must be in the hunter's possession along with a valid Maryland State hunting license, any required stamps, and a photo identification. Permits are nontransferable.

2. We require that hunters obtain deer hunt permits only through the mail, by mailing an application and administration fee to the refuge after applications are available in July. To obtain an application and regulations leaflet (including designated areas and map, dates of hunts, bag limits, and permit fees) for archery, youth, muzzleloader, and shotgun hunts, we require hunters to contact the refuge hunt coordinator or refuge Visitor Center, which is open from 9 a.m. to 4 p.m. daily.

3. We allow archery hunters to obtain a permit; permits are available at the Visitor Center, after the first week of September until the end of the archery season.

4. We allow walk-in youth hunters to obtain a permit at the check station on the day of the hunt.

5. A licensed or exempt-from-licensed unarmed adult, age 21 or older, must accompany youth hunters (at least age 12 but less than age 16) at all times in the field.

6. We require a physician to certify ''wheelchair-bound'' permanently disabled hunters; and an assistant, who must not use a firearm, must accompany these hunters. We require the permanently disabled certification to accompany the hunters' permit application.

7. We only allow participants possessing authorized permits to enter the hunt areas.

8. Beginning at 5 a.m., we require check-in for the youth hunts, muzzleloader hunts, and shotgun hunts.

9. At the refuge check station on the day of the kill for all firearm hunts, we require hunters to properly tag and present for examination all deer killed.

10. We require hunters to seek refuge employee assistance to retrieve deer from closed areas.

11. We do not require check-in or check out at the refuge for the archery hunt, but we require hunters to register harvested deer at one of the State check stations designated by the refuge.

12. We only allow weapons that meet State regulations (bows and arrows for archery, shotguns with slugs and/or No. 1 buckshot or larger for youth hunts and shotgun hunts, and muzzleloading rifles and muzzleloading shotguns only for muzzleloader hunts). We prohibit handguns and breech-loading rifles.

13. We only allow access to hunt areas on designated roads and parking areas indicated on hunt maps in the regulations leaflet (obtained with application by mail or at the Visitor Center) (see § 27.31 of this chapter). The only other access we allow is walk-in or bicycles. We prohibit access by boats or ATVs.

14. We only allow scouting on designated days listed in the regulations for permitted hunters.

15. We do not require check-in or check out for scouting.

16. We prohibit firearms or other weapons on the refuge when scouting.

17. We require adult hunters, age 21 or older, to accompany permitted youth hunters while scouting.

18. We require a minimum of 400 square inches (2,600 cm^2) of solid-colored daylight fluorescent-orange clothing to be worn on the head, chest, and back of all hunters during the youth, muzzleloader, and shotgun hunts.

19. We require the use of a tree stand that elevates the hunter a minimum of 8 feet (240 cm) above the ground for hunting Area B2 (except disabled hunters). We allow temporary, removable, ladder, fixed, and climbing-type tree stands that do not damage trees in all other areas (see §§ 32.2(i)).

20. We prohibit screw-in steps, spikes, or other objects that may damage trees.

21. We prohibit hunting from a permanently constructed tree stand.

22. We allow hunters to preinstall tree stands during the scouting days for use during selected hunts and to leave the tree stands in the hunting area at the hunter's discretion. We require hunters to remove all stands the last day of the refuge hunting season (we are not responsible for damage, theft, or other hunter occupancy) (see § 27.93 of this chapter).

23. We prohibit dogs in hunt areas.

24. We prohibit hunting from or shooting across a roadway where we allow vehicle traffic.

25. We prohibit driving deer during youth hunts.

26. We prohibit commercialized guiding.

D. Sport Fishing. We allow fishing and crabbing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow fishing and crabbing from April 1 through September 30 during daylight hours.

2. We restrict fishing and crabbing to boats and the Key Wallace roadway across the Little Blackwater River.

3. We require a valid State sport fishing license. We do not require a refuge permit.

4. We require anglers to attend all fish and crab lines.

5. We prohibit boat launching from refuge lands except for canoes/kayaks at the canoe/kayak ramp located near the Blackwater River Bridge on Route 335. A public launching ramp is available at Shorter's Wharf.

6. We prohibit the use of air boats on refuge waters.

Eastern Neck National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State hunting regulations subject to the following conditions:

1. We require hunters to carry a signed refuge hunt permit when scouting on the designated scouting days and when hunting. Hunters must turn in their hunt permit at the end of the hunt day or when leaving the refuge during the hunt day at the check-in station.

2. We only allow use of bow and arrows, shotguns, and muzzleloaders for deer hunting and shotguns for turkey hunting.

3. We prohibit possession of a loaded weapon (see § 27.42(b) of this chapter) on or within 50 feet (15 m) of any graveled, dirt, or paved refuge road or any designated parking area.

4. We require a minimum of 400 square inches (2,600 cm^2) of solid hunter-orange clothing or material as the outermost layer of clothing on the head, chest, and back when deer hunting.

5. You must wear a hunter-orange cap or hat when moving to or from your blind or stand when turkey hunting.

6. Each youth hunter (age 15 or under) must remain within sight and normal voice contact of an adult age 18 or older. Children must be at least age 10 to hunt on the refuge.

7. We only allow parking in designated parking areas.

8. We prohibit hunting in the No Hunting Zones; however, you may walk through these areas with an unloaded weapon (see § 27.42(b) of this chapter) (no shells in the chamber or magazine cap off of the muzzleloader).

9. For deer hunting, the legal shooting hours are from legal sunrise to legal sunset.

10. For turkey hunting, the legal shooting hours are from ½ hour before legal sunrise to 12 p.m. (noon).

11. We prohibit entry to the refuge by boats during refuge hunts.

12. We only allow persons possessing a refuge hunt permit to be on the refuge during hunting days.

13. We prohibit the use of ATVs during refuge hunts (see § 27.31(f) of this chapter).

14. We allow the use of marking tape, reflective pins, or other removable materials to mark trails to and from stands. You must remove the marking material (see § 27.93 of this chapter) at the end of your hunt day. We prohibit paint or any other permanent marker to mark trails.

D. Sport Fishing. We allow fishing and crabbing in designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing and crabbing from Eastern Neck Island bridge.

2. We only allow fishing and crabbing from April 1—September 30 during daylight hours at the Ingleside Recreation Area.

3. We only allow fishing from the Boxes Point and Duck Inn Trails during daylight hours.

4. We allow fishing and crabbing from boardwalk located adjacent to the Eastern Neck Island bridge.

Patuxent Research Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, and dove on the North Tract in accordance with State regulations subject to the following conditions:

1. We require a hunting permit.

2. We require hunters age 17 years of age or younger to have a parent or guardian countersign to receive a hunting permit. An adult, age 21 or older possessing a hunting permit, must accompany hunters age 15 and younger in the field.

3. You must check-in and out at the Hunter Control Station (HCS) and exchange your hunting permit for a daily hunting pass and a vehicle pass every time you enter or exit the refuge.

4. We will restrict you to the selected area and activity until you check out at the HCS.

5. You may only carry one shotgun in the field. We prohibit additional firearms.

6. You must wear at least a fluorescent-orange hat or cap when walking from your vehicle to your hunting site. ''Jump Shooters'' must wear at least a fluorescent-orange hat or cap while hunting. If you stop and stand, you may replace the orange hat or cap with a camouflage one.

7. We only allow the taking of Canada goose during the special September season for resident Canada goose.

8. We prohibit hunting of duck or goose during the deer firearm seasons and the early deer muzzleloader seasons that occur in October.

9. We prohibit hunting quail or dove during any deer muzzleloader or firearms seasons.

10. We require waterfowl hunters to use retrievers on any impounded waters. Retrievers must be of the traditional breeds, such as Chesapeake Bay, Golden, Labrador, etc.

11. We require dogs to be under the immediate control of their owner at all times (see § 26.21(b) of this chapter). Law enforcement officers may seize dogs running loose or unattended.

B. Upland Game Hunting. We allow hunting of turkey, bobwhite quail, grey squirrel, eastern cottontail rabbit, and woodchuck on the North Tract and turkey on the Central Tract in accordance with State regulations subject to the following conditions:

1. We require a fee hunting permit.

2. Conditions A2 and A4 apply.

3. We require hunters to check-in and out at the Hunter Control Station every time they enter or exit the refuge and exchange their hunting permit for a daily hunting pass and vehicle pass.

4. You must wear a minimum of 400 square inches (2,600 cm2) of fluorescent orange on your head, chest, and back while hunting upland game except for turkey hunting. We encourage turkey hunters to wear fluorescent orange.

5. We prohibit hunting of upland game during the firearms and muzzleloader seasons.

6. We select turkey hunting permits by computerized lottery. We will generate a computerized lottery list for the youth, disabled, mobility impaired, and general public. We require documentation for disabled and mobility-impaired hunters.

7. We require each turkey hunter to attend the a turkey clinic. See the refuge office for further information.

C. Big Game Hunting. We allow hunting of white-tailed deer in accordance with State regulations subject to the following conditions:

1. We require you to pass a proficiency test with each weapon that you desire to use prior to issuing you a hunting permit.

2. Conditions A1 through A4 apply.

3. You must wear a minimum of 400 square inches (2,600 cm^2) of fluorescent orange on your head, chest, and back while hunting. Bow hunters must follow this requirement when moving to and from the deer stand while tracking. We do not require bow hunters to wear the fluorescent orange when positioning to hunt except during the deer muzzleloader season.

4. You must use established roads, park within the selected boundary, and not block traffic.

5. We prohibit hunting on or across any road, within 50 yards (45 m) of a road, within 150 yards (135 m) of any occupied structure, or within 25 yards (22.5 m) from any designated ''No Hunting'' area. Only those with a State ''Hunt from a Vehicle Permit'' may hunt from the roadside.

6. We prohibit using dogs to hunt or track wounded deer.

7. We publish the daily and yearly bag limits and hunting dates for the North, Central, and South Tracts in July and will include them with each hunting permit.

8. North Tract: We allow shotgun, muzzleloader, and bow hunting.

i. You must use a portable tree stand equipped with a safety belt. The stand must be at least 10 feet (3 m) off the ground. You must wear the safety belt while in the tree stand. You must remove tree stands daily from the refuge (see § 27.93 of this chapter).

9. Central Tract: We allow shotgun and bow hunting in accordance with the following regulations:

i. We allow bow hunters to hunt on the Schaefer Farm.

ii. We will select hunters interested in the Central Tract hunt by a computerized lottery and assign them to a specific hunting location.

iii. Shotgun hunters must use both portable tree stands and safety belts. The stand must be at least 10 feet (3 m) off the ground.

iv. You must carry a flashlight, whistle, and a compass while hunting.

10. South Tract: We allow shotgun, muzzleloader, and bow hunting in accordance with the following regulations:

i. We prohibit entry onto fire roads.

ii. Conditions 8i and 9iv apply.

11. You must check out at the Hunter Control Station no later than 1½ hours after legal sunset.

12. All deer harvested will have a jaw extracted before leaving the refuge.

13. If you wish to track wounded deer beyond 1½ hours after legal sunset, you must report in person to the HCS or if you are hunting on the refuge's South Tract, call the HCS. The HCS will call a refuge law enforcement officer to gain consent to track. We prohibit tracking later than 2½ hours after legal sunset. We may revoke your hunting privilege if you wound a deer and do not make a reasonable effort to retrieve it. This may include next-day tracking.

D. Sport Fishing. We allow sport fishing in accordance with State hook and line fishing regulations subject to the following conditions:

1. We allow the use of earthworms as the only source of live bait.

2. We prohibit harvesting bait on the refuge.

3. You must attend all fishing lines.

4. We prohibit fishing from any bridge.

5. North Tract: We allow sport fishing at Lake Allen, Rieve's Pond, New Marsh, Cattail Pond, Bailey Bridge Marsh, and Little Patuxent River (downstream only from Bailey's Bridge) in accordance with the following regulations:

i. We require a free refuge permit (you must possess and carry) to access North Tract. If you are age 17 or younger, you must have a parent or guardian countersign to receive an access permit. A parent or legal guardian must accompany those age 15 and younger.

ii. You may take the following species: catfish, chain pickerel, black crappie, eels, sunfish, golden shiner, and large and smallmouth bass. Bass limit is one per day.

iii. You may fish year-round at Lake Allen, New Marsh, Cattail Pond, Bailey Bridge Marsh, and Little Patuxent River (downstream only from Bailey Bridge) except during the white-tailed deer firearm hunting season and the waterfowl hunting season. We also reserve the right to close Lake Allen at any time.

iv. You may fish at Rieve's Pond from February 1 to August 31 and on Sundays from September 1 to January 31.

v. We allow wading, for fishing purposes only, downstream from Bailey Bridge on the Little Patuxent River. We prohibit wading in other bodies of water.

vi. We prohibit use of any type of watercraft.

6. South Tract: We allow sport fishing at Cash Lake in accordance with the following regulations:

i. We require a free refuge fishing permit. You must carry a copy of the permit with you at all times while fishing. Organized groups may request a group permit. The group leader must carry a copy of the permit and stay with the group at all times while fishing.

ii. You must park your vehicle in the parking lot located behind Refuge Gate 8 off Maryland Highway 197 (see § 27.31 of this chapter). You must prominently display your fishing permit on your vehicle's dashboard.

iii. You may fish on Cash Lake except areas designated as closed on the fishing permit map and by posted signs stating ''No fishing beyond this point''.

iv. You may take the following fish species: catfish, black crappie, eels, sunfish, golden shiner, and chain pickerel. Chain pickerel limit is one per day.

v. You must catch and release all bass.

vi. You may fish from mid-June until mid-October.

vii. You may fish between the hours of 6 a.m. until legal sunset. We open the refuge trails (see § 27.31 of this chapter) from 8 a.m. until 5:30 p.m. daily.

viii. The permit holder may take one additional licensed adult or two youths age 15 or younger to fish on Cash Lake. The permit holder must be present for guests to fish.

ix. We prohibit boat trailers.

x. You may use watercraft for fishing in accordance with the State boating laws subject to the following conditions: You may use car-top boats 14 feet (4.2 m) or less and canoes. You may only use electric motors, 4 HP or less. We prohibit sailboats, kayaks, or inflatables.

■ 21. Amend § 32.40 Massachusetts by:

■ a. Revising Monomoy National Wildlife Refuge;

■ b. Revising Nantucket National Wildlife Refuge;

■ c. Revising Oxbow National Wildlife Refuge; and

■ d. Revising paragraph C. of Parker River National Wildlife Refuge to read as follows:

§ 32.40 Massachusetts.

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Monomoy National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow fishing in designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing on the portions of the Monomoy Islands that we do not post as closed to public use from legal sunrise to legal sunset.

2. We allow surf fishing from the Morris Island shore 24 hours a day.

Nantucket National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow fishing in accordance with State regulations subject to the following conditions:

1. We close the western refuge shoreline and beach area to surf fishing during the period of April 15 through July 31 annually, and you may not operate a vehicle on the west-facing beach and shoreline (see § 27.31 of this chapter). We only allow surf fishing on the northeast-facing shoreline during this period of time.

2. We may close the northeast-facing shoreline and beach if piping plover nesting is occurring in this portion of the refuge.

3. We require a permit for the use of over-the-sand, surf-fishing vehicles.

4. If we do not otherwise close an area because of these conditions, we allow fishing 24 hours a day.

Oxbow National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow shotgun hunting of woodcock and snipe on the portion of the refuge located south of Massachusetts Route 2 and west of the Boston and Maine Railroad tracks in accordance with State regulations subject to the following conditions:

1. We restrict vehicles to the designated parking area accessible from the Still River Depot Road (see § 27.31 of this chapter). We prohibit entry by routes other than Still River Depot Road.

2. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

B. Upland Game Hunting. We allow hunting of upland game birds, turkey, and small game on the portion of the refuge located south of Massachusetts Route 2 and west of the Boston and Maine Railroad tracks in accordance with State regulations subject to the following conditions:

1. We only allow shotguns.

2. We restrict vehicles to the designated parking area that is accessible from the Still River Depot Road (see § 27.31 of this chapter). We prohibit entry by routes other than Still River Depot Road.

3. You may only possess approved nontoxic shot while in the field, except while hunting turkey (see § 32.2(k)).

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow fishing along the banks of the Nashua River in accordance with State regulations.

Parker River National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the Plum Island portion of the refuge in accordance with State hunting regulations. You may hunt deer on designated day(s) during the regular State shotgun season subject to the following conditions:

1. We require that all hunters have a valid State hunting license, applicable deer tags, and firearms identification card (FID) or license to carry (LTC). The FID and LTC only apply to Massachusetts residents. All hunters regardless of age must possess and carry a refuge permit. This is a quota hunt, and we will randomly select a limited number of hunters from those that apply. You may apply by mail from September 1 until October 1.

2. If selected from the random drawing, you must attend a refuge-specific hunter orientation session prior to the hunt.

3. We only allow shotguns (slugs only) and shoulder-fired muzzleloaders (single projectile only) for our deer hunt.

4. You must check-in and out at the refuge entrance gatehouse.

5. We prohibit alcoholic beverages (See § 32.2(j)).

6. We prohibit hunting from the North Pool or Stage Island Observation towers.

7. We prohibit loaded firearms (see § 27.42 of this chapter) on or within 150 feet (45 m) of the refuge road.

8. You must bring all deer to the refuge deer check station located at our subheadquarters 2.5 miles (4 km) south of the refuge entrance gate. This site is an official State check station.

9. We will only allow permitted refuge hunters or those individuals hunting at Sandy Point State Reservation at the southern end of Plum Island access to the refuge or Sandy Point on the day(s) of the deer hunt.

10. We prohibit vehicular travel (emergency excepted) on refuge roads from ½ hour before legal sunrise until 8:30 a.m. We prohibit accessing the refuge after 2:30 p.m. during the deer hunt.

11. Parking regulations are subject to change and will be determined based on the number of permitted hunters and available hunt areas. We will provide this information in detail to all permitted hunters attending the required hunter-orientation session.

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■ 22. Amend § 32.41 Michigan by:

■ a. Revising paragraphs A., B., D.2., D.5., D.6., D.7., and removing paragraph D.8. of Seney National Wildlife Refuge; and

■ b. Revising paragraphs A., C., and D. of Shiawassee National Wildlife Refuge to read as follows:

§ 32.41 Michigan.

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Seney National Wildlife Refuge

A. Migratory Game Bird Hunting. We only allow hunting of woodcock and snipe on designated areas of the refuge in accordance with State regulations.

B. Upland Game Hunting. We allow hunting of ruffed grouse and snowshoe hare on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunting of snowshoe hare on Unit B during the entire State season.

2. We only allow hunting of snowshoe hare on Unit A from December 1 through March 31.

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D. Sport Fishing. * * *

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2. We allow ice fishing from January 1 through the end of February from legal sunrise to legal sunset.

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5. We allow fishing on designated refuge pools, and the Creighton, Driggs, and Manistique Rivers from May 15 through September 30 from legal sunrise to legal sunset.

6. We prohibit boats and flotation devices on the refuge pools.

7. We prohibit motorized boats on the Creighton and Driggs Rivers.

Shiawassee National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose on designated areas in accordance with State regulations subject to the following conditions:

1. You must possess and carry a refuge permit.

2. We allow goose hunting on designated cropland fields until 12 p.m. (noon) with a required checkout time of 1 p.m.

3. You may only possess approved nontoxic shotgun shells (see § 32.2(k)) in quantities of 10 or less.

4. We require hunters to stay within 50 feet (15 m) of posted site.

* * * * *

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a refuge permit.

2. Hunters must wear in a visible manner on head, chest, and back a minimum of 400 square inches (2,600 cm^2) of solid-colored hunter orange clothing or material.

3. We require that you must display a minimum of 100 square inches (650 cm^2) solid-colored, hunter-orange material on the external surface of portable blinds.

4. During muzzleloader hunts we require only guns capable of firing one round before reloading.

5. We allow hunters with a State medical permit to use crossbows.

D. Sport Fishing. We allow sport fishing on designated areas in accordance with State regulations subject to the following conditions:

1. We allow fishing by boat in navigable waterways but not within any managed refuge units.

2. We allow bank fishing from legal sunrise to legal sunset only at designated sites along the Spaulding Drain and the Tittabawassee and Cass Rivers.

■ 23. Amend § 32.42 Minnesota by:

■ a. Revising the introductory text of paragraph C. and adding paragraphs C.3. and C.4. of Agassiz National Wildlife Refuge;

■ b. Revising Fergus Falls Wetland Management District;

■ c. Revising the introductory text of paragraph A., adding paragraphs A.3. and A.4., and revising paragraphs B., the introductory text of paragraph C., and revising paragraph D. of Litchfield Wetland Management District;

■ d. Adding paragraphs B.3., C.5., and C.6. of Minnesota Valley National Wildlife Refuge;

■ e. Revising Morris Wetland Management District;

■ f. Revising the introductory text of paragraphs A. and B. and adding paragraph B.2. of Rice Lake National Wildlife Refuge;

■ g. Revising paragraph A.5. and adding paragraphs B.2., C.3., and C.4. of Sherburne National Wildlife Refuge;

■ h. Revising paragraphs A.1., B.1., B.2., C.1., and D. of Tamarac National Wildlife Refuge to read as follows:

§ 32.42 Minnesota.

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Agassiz National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer and moose on designated areas of the refuge in accordance with State regulations subject to the following conditions:

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3. We allow the use of wheeled, nonmotorized conveyance devices (*i.e.*, bikes, retrieval carts) except in the Wilderness Area.

4. We prohibit entry into the ''Closed Area''.

* * * * *

Fergus Falls Wetland Management District

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds throughout the district (except that we allow no hunting on the Townsend, Headquarters, Mavis, and Gilmore Waterfowl Production Areas (WPA) in Otter Tail County, and Larson WPA in Douglas County) in accordance with State regulations subject to the following conditions:

1. We prohibit the use of motorized boats.

2. You must remove boats, decoys, blinds, and blind materials (see § 27.93 of this chapter) brought onto the WPAs at the end of each day.

3. We allow the use of hunting dogs provided the dog is under the immediate control of the hunter at all times (see § 26.21(b) of this chapter).

B. Upland Game Hunting. We allow upland game hunting throughout the district (except that we allow no hunting on the Townsend, Headquarters, Mavis, and Gilmore WPAs in Otter Tail County, and Larson WPA in Douglas County) in accordance with State regulations subject to the following condition: Condition A3 applies.

C. Big Game Hunting. We allow big game hunting throughout the district (except that we allow no hunting on the Townsend, Headquarters, Mavis, and Gilmore WPAs in Otter Tail County, and Larson WPA in Douglas County) in accordance with State regulations subject to the following conditions:

1. We prohibit the construction or use of permanent blinds, platforms, or ladders.

2. You must remove all portable hunting stands and blinds from the area at the end of each day (see § 27.93 of this chapter).

D. Sport Fishing. We allow sport fishing throughout the district (except that we allow no fishing on the Townsend, Headquarters, Mavis, and Gilmore WPAs in Otter Tail County and Larson WPA in Douglas County) in accordance with State regulations subject to the following conditions:

1. Condition A1 applies.

2. You must remove all ice fishing structures, devices, and personal property (see § 27.93 of this chapter) brought onto the area following each day of fishing.

Litchfield Wetland Management District

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds throughout the district except we prohibit hunting on the Phare Lake Waterfowl Production Area in Renville County. All hunting is in accordance with State regulations subject to the following conditions:

* * * * *

3. We prohibit the use of motorized boats.

4. We allow the use of hunting dogs, provided the dog is under the immediate control of the hunter at all times (see § 26.21(b) of this chapter).

B. Upland Game Hunting. We allow upland game hunting throughout the district, except we prohibit hunting on the Phare Lake Waterfowl Production Area in Renville County. Hunting is in accordance with State regulations subject to the following condition: Condition A4 applies.

C. Big Game Hunting. We allow big game hunting throughout the district, except we prohibit hunting on the Phare Lake Waterfowl Production Area in Renville County. Hunting is in accordance with State regulations subject to the following conditions:

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D. Sport Fishing. We allow sport fishing throughout the district in accordance with State regulations subject to the following conditions:

1. We prohibit the use of motorized boats.

2. You must remove all ice fishing structures, devices, and personal property (see § 27.93 of this chapter) brought onto the area at the end of the day.

Minnesota Valley National Wildlife Refuge

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B. Upland Game Hunting. * * *

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3. We allow the use of .22 caliber rimfire rifles on designated areas of the refuge.

C. Big Game Hunting. * * *

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5. We prohibit the possession of centerfire rifles or handguns on the refuge.

6. We allow the use of shotguns and muzzleloaders on designated areas.

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Morris Wetland Management District

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds throughout the district except that we prohibit hunting on the designated portions of the Edward-Long Lake Waterfowl Production Area (WPA) in Stevens County in accordance with State regulations subject to the following conditions:

1. We prohibit the use of motorized boats.

2. You must remove boats, decoys, blinds, and blind materials (see § 27.93 of this chapter) at the end of each day.

3. We allow the use of hunting dogs, provided the dog is under the immediate control of the hunter at all times (see § 26.21(b) of this chapter).

B. Upland Game Hunting. We allow hunting of upland game except that we prohibit hunting on the designated portions of the Edward-Long Lake Waterfowl Production Area in Stevens County in accordance with State regulations subject to the following condition: Condition A3 applies.

C. Big Game Hunting. We allow hunting of deer throughout the district except that we prohibit hunting on the designated portions of the Edward-Long Lake Waterfowl Production Area in Stevens County in accordance with State regulations subject to the following conditions:

1. We prohibit the construction or use of permanent blinds, platforms, or ladders.

2. You must remove all portable hunting stands and blinds from the area at the end of each day (see § 27.93 of this chapter).

D. Sport Fishing. We allow fishing throughout the district except that we prohibit fishing on the designated portions of the Edward-Long Lake Waterfowl Production Area (WPA) in Stevens County in accordance with State regulations subject to the following conditions:

1. Condition A1 applies.

2. You must remove all ice fishing structures, devices, and personal property (see § 27.93 of this chapter) brought onto the WPA at the end of each day's fishing.

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Rice Lake National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of woodcock and common snipe on designated areas in accordance with State regulations subject to the following conditions:

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B. Upland Game Hunting. We allow hunting of ruffed grouse, spruce grouse, gray and fox squirrels, cottontail rabbit, and snowshoe hare on designated areas of the refuge in accordance with State regulations subject to the following conditions:

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2. We require that the visible portion of at least one article of clothing worn above the waist be blaze orange.

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Sherburne National Wildlife Refuge

A. Migratory Game Bird Hunting. * * *

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5. We prohibit hunting during the State Special Goose Hunt (the early September and late December Canada goose hunting seasons).

B. Upland Game Hunting. * * *

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2. We prohibit field possession of upland game species on areas closed to upland game hunting.

C. Big Game Hunting. * * *

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3. You must dismantle hunting blinds, platforms, and ladders made from natural vegetation at the end of each day.

4. We prohibit the possession of firearms or archery equipment on areas closed to white-tailed deer hunting.

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Tamarac National Wildlife Refuge

A. Migratory Game Bird Hunting. * * *

1. Hunting by tribal members is in accordance with White Earth Reservation regulations on those portions of the Reservation that are a part of the refuge.

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B. Upland Game Hunting. * * *

1. Hunting by tribal members is in accordance with White Earth Reservation regulations on those parts of the Reservation that are part of the refuge.

2. You may only hunt red fox, raccoon, and striped skunk from ½ hour before legal sunrise until legal sunset from September 1 through the last day of February.

* * * * *

C. Big Game Hunting. * * *

1. Hunting by tribal members is in accordance with White Earth Reservation regulations on those parts of the Reservation that are part of the refuge.

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D. Sport Fishing. We allow fishing on designated areas of the refuge between the hours of 5 a.m. and 10 p.m. in accordance with State regulations subject to the following conditions:

1. We allow fishing in North Tamarac Lake, Wauboose Lake, and Two Island Lake all year in accordance with State and/or White Earth Reservation regulations.

2. We allow fishing in Blackbird Lake and Lost Lake from the first day of the State walleye season through Labor Day under State and/or White Earth Reservation regulations.

3. We only allow bank fishing in an area 50 yards (45 m) on either side of the Ottertail River Bridges on County Roads #26 and #126 during State seasons.

4. We allow fishing in Pine Lake from December 1 until March 31.

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■ 24. Amend § 32.43 Mississippi by:

■ a. Revising Dahomey National Wildlife Refuge;

■ b. Revising paragraphs A., B., and C. of Grand Bay National Wildlife Refuge;

■ c. Revising Hillside National Wildlife Refuge;

■ d. Revising Mathews Brake National Wildlife Refuge;

■ e. Revising Morgan Brake National Wildlife Refuge;

■ f. Revising Panther Swamp National Wildlife Refuge;

■ g. Revising St. Catherine Creek National Wildlife Refuge;

■ h. Revising Tallahatchie National Wildlife Refuge; and

■ i. Revising Yazoo National Wildlife Refuge to read as follows:

§ 32.43 Mississippi.

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Dahomey National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of migratory waterfowl, coot, snipe, and woodcock on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Youth hunters age 15 and under must possess and carry a hunter safety course card or certificate. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. All hunters must possess and carry a valid, signed refuge hunting permit certifying that you understand and will comply with all regulations, and hunters must carry a State license and a signed Federal and State duck stamp on their person while hunting on the refuge. Hunters born after January 1, 1972, also must carry a Hunter Education Safety Course card or certificate. You may obtain permits at North Mississippi Refuges Complex Headquarters, 2776 Sunset Drive, Grenada, Mississippi 38901, or at the Dahomey National Wildlife Refuge Office, Box 831, Highway 446, Boyle, Mississippi 38730, or by mail from the above addresses.

2. All users may enter the refuge 2 hours before legal sunrise and must exit the refuge no later than 2 hours after legal sunset. We prohibit entering or remaining on the refuge before or after hours.

3. We only allow hunting of migratory game birds on Wednesdays, Saturdays, and Sundays, from ½ hour before legal sunrise to 12 p.m. (noon). Hunters must remove all decoys, blind material (see §27.93 of this chapter), and harvested waterfowl from the area no later than 1 p.m. each day. After duck, merganser, and coot season closes, you may hunt goose daily from ½ hour before legal sunrise until legal sunset.

4. Each hunter must obtain a daily User Information Card (pink) available at each refuge information station and follow the printed instructions on the card. Hunters must place the card in plain view on the dashboard of their vehicle so the personal information is readable. Prior to leaving the refuge, you must complete the reverse side of the card and deposit it at one of the hunter information stations. Include all game harvested, and if there is none, report ''0.''

5. We may close certain areas of the refuge for sanctuary or administrative purposes. We will mark such areas with ''No Hunting'' or ''Area Closed'' signs.

6. We prohibit handguns of all kinds.

7. Waterfowl hunters may leave boats meeting all State registration requirements on refuge water bodies throughout the waterfowl season. You must remove boats (see § 27.93 of this chapter) within 72 hours after the season closes.

8. We restrict motor vehicle use to roads designated as vehicle access roads on the refuge map (see § 27.31 of this chapter). We prohibit blocking access to any road or trail entering the refuge (see § 27.31(h) of this chapter).

9. All hunters or persons on the refuge for any reason during any open refuge hunting season must wear a minimum of 500 square inches (3,250 cm^2) of visible, unbroken, fluorescent orange-colored material above the waistline. Waterfowl hunters must comply while walking/boating to and from actual hunting area. Waterfowl hunters may remove the fluorescent orange while actually hunting.

10. We only allow dogs on the refuge when specifically authorized for hunting. We encourage the use of dogs to retrieve dead or wounded waterfowl. Dogs must remain in the immediate control of their handlers at all times (see § 26.21(b) of this chapter).

11. You must remove decoys, blinds, other personal property, and litter (see §§ 27.93 and 27.94 of this chapter) from the hunting area following each morning's hunt. We prohibit cutting or removing trees and other vegetation (see § 27.51 of this chapter). We prohibit the use of flagging, paint, blazes, tacks, or other types of markers.

12. We prohibit ATVs (see § 27.31(f) of this chapter), horses, and mules on the refuge.

B. Upland Game Hunting. We allow hunting of quail, squirrel, rabbit, beaver, nutria, raccoon, coyotes, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A4, A5, A8, and A12 apply.

2. We restrict all public use to the period beginning 2 hours before legal sunrise and ending 2 hours after legal sunset. We prohibit entering or remaining on the refuge before or after hours. We establish special provisions for raccoon hunting; contact the refuge office for details.

3. You may only possess shotguns with approved nontoxic shotgun shot (see § 32.2(k)) and .22 caliber rifles. We prohibit all handguns.

4. All hunters or persons on the refuge for any reason during any open refuge hunting season must wear a minimum of 500 square inches (3,250 cm2) of visible, unbroken, fluorescent orange-colored material above the waistline.

5. We only allow dogs on the refuge after the general Gun Deer Hunt. Dogs must remain in the immediate control of their handlers at all times (see § 26.21(b) of this chapter).

6. We prohibit cutting or removing trees and other vegetation (see § 27.51 of this chapter). We prohibit the use of flagging, paint, blazes, tacks, or other types of markers.

C. Big Game Hunting. We allow hunting of white-tailed deer, turkey, and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A4, A5, A6, A8, and A12 apply.

2. We restrict all public use to 2 hours before legal sunrise until 2 hours after legal sunset. We prohibit entering or remaining on the refuge before or after hours.

3. All hunters or persons on the refuge for any reason during any open refuge hunting season must wear a minimum of 500 square inches (3,250 cm^2) of visible, unbroken, fluorescent orange-colored material above the waistline. We do not require this for turkey hunting.

4. We prohibit dogs for any big game hunt.

5. We prohibit use or possession of any drug or device for employing such drug for hunting (see § 32.2(g)).

6. We prohibit organized drives for deer.

7. We prohibit hunting or shooting across any open, fallow, or planted field from ground level or on or across any public road, public highway, railroad, or their right-of-way during all general gun and primitive weapon hunts.

8. You may erect portable deer stands (see § 32.2i)) 2 weeks prior to the opening of archery season on the refuge, and you must remove them by January 31 (see § 27.93 of this chapter). We prohibit cutting or removing trees and other vegetation (see § 27.51 of this chapter). We prohibit the use of flagging, paint, blazes, tacks, or other types of markers.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. All anglers must possess and carry a valid, signed refuge fishing permit certifying that you understand and will comply with all regulations.

2. We close the refuge to fishing from October 1 through February 28.

3. We prohibit possession of any weapon (see § 27.42 of this chapter) while fishing on the refuge.

4. We prohibit possession or use of jugs, seines, nets, hand-grab baskets, slat traps/baskets, or any other similar devices and commercial fishing of any kind.

5. We allow trotlines, yo-yos, limb lines, crawfish traps, or any other similar devices for recreational use only. You must tag or mark these devices with your full name, full residence address including zip code, written with waterproof ink, legibly inscribed or legibly stamped on the tag. You must attend these devices a minimum of once a day. If you do not attend these devices (see § 27.93 of this chapter), you must remove them from the refuge.

6. We prohibit snagging or attempting to snag fish.

7. We allow crawfishing.

8. We only allow the taking of frog by Special Use Permit.

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Grand Bay National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, and mourning dove on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunting from 30 minutes before legal sunrise until 12 p.m. (noon) on Saturdays, Sundays, Wednesdays, and Thursdays. Hunters may enter the refuge 2 hours before legal sunrise. Hunters must remove all decoys, blind material (see § 27.93 of this chapter), and harvested waterfowl from the area no later than 1 p.m. each day.

2. You must only use portable or temporary blinds.

3. You may only possess approved nontoxic shot (see § 32.2(k)) while hunting waterfowl in the field.

4. The refuge is a day-use area only with the exception of legal hunting activities.

5. We prohibit the use of all-terrain vehicles on all refuge hunts.

6. We prohibit target practice on refuge property.

7. We prohibit mules and horses on refuge hunts.

8. We allow retrievers for waterfowl hunting. We require all dogs to wear a collar displaying the owner's name, address, and telephone number.

9. You must unload and case or dismantle firearms (see § 27.42(b) of this chapter) before transporting them in a vehicle or boat within the boundaries of the refuge or along rights-of-way for public or private land within the refuge.

10. Each hunter must possess and carry a current, signed copy of the refuge hunting permit while participating in refuge hunts.

11. Youth hunters under age 16 must possess and carry a State-approved hunter safety course card or certificate. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. An adult may supervise no more than two youths during small game hunts and one youth during big game hunts.

B. Upland Game Hunting. We allow hunting of squirrel on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A4 through A7 and A9 through A11 apply.

2. You may only possess approved nontoxic shot while hunting on the refuge (see § 32.2(k)). All shotgun ammunition must meet legal shot-size requirements. We only allow .22 caliber rimfire.

3. We prohibit the possession of dogs for squirrel hunting.

C. Big Game Hunting. We allow hunting of white-tailed deer and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A4 through A7, A9 through A11, and B3 apply.

2. We only allow hunting with bow and arrow. We prohibit the use of poisonous arrows (see § 32.2(g)). We prohibit firearms.

3. We prohibit the use or construction of any permanent tree stand. We allow portable and climbing stands, but you must remove them from the tree when not in use or they will be subject to confiscation (see § 27.93 of this chapter).

4. We prohibit hunting by organized deer drives of two or more hunters. We define ''drive'' as the act of chasing, pursuing, disturbing, or otherwise directing deer so as to make the animals more susceptible to harvest.

5. We prohibit hunting with the aid of bait (see § 32.2(h)).

* * * * *

Hillside National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, merganser, coot, and dove in accordance with State regulations subject to the following conditions:

1. We are open for hunting during the State season except during the muzzleloader deer hunt.

2. There is no early teal season.

3. We allow hunting from ½ hour before legal sunrise until 12 p.m. (noon).

4. Hunters must remove all decoys, blind material (see § 27.93 of this chapter), and harvested waterfowl from the area no later than 1 p.m. each day.

5. Youth hunters age 15 and under must possess and carry a hunter safety course card or certificate. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Hunters age 16 and older must possess and carry a valid signed refuge Public Use Permit certifying that he or she understands and will comply with all regulations. One adult may supervise no more than one youth hunter.

6. Each day before hunting, all hunters must obtain a daily User Information Card (pink) available at the hunter information stations (see refuge brochure map) and follow the printed instructions on the card. You must display this card in plain view on the dashboard of your vehicle while hunting or fishing so that the personal information is readable. Prior to leaving the refuge, you must complete the reverse side of the card and deposit it at one of the refuge information stations.

7. Failure to display the User Information Card will result in the loss of the hunter's refuge annual Public Use Permit.

8. We prohibit hunting or entry into areas designated as ''CLOSED'' (see refuge brochure map).

9. We prohibit possession of alcoholic beverages.

10. We prohibit possession of plastic flagging tape.

11. We prohibit handguns.

12. You must unload and case guns (see § 27.42(b) of this chapter) transported in/on vehicles, ATVs, and boats under power.

13. You must park vehicles in such a manner as to not obstruct roads, gates, turnrows, or firelanes (see § 27.31(h) of this chapter).

15. Valid permit holders may take the following furbearers in season incidental to other refuge hunts with legal firearms used for that hunt: raccoon, opossum, coyote, beaver, bobcat, and nutria.

16. We only allow ATVs on designated trails (see § 27.31 of this chapter) (see refuge brochure map).

17. We open for dove hunting the first and second State season. Contact the refuge headquarters for specific dates and open areas.

18. You may only take dove with shotguns shooting approved nontoxic shot.

19. You may only possess approved nontoxic shot (see § 32.2(k)) while in the field.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, quail, and raccoon on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 and A5 through A15 apply.

2. We only allow shotguns with approved nontoxic shot (see § 32.2(k)) and .22 caliber rimfire rifles for taking small game (we prohibit .22 caliber magnums).

3. We only allow dogs for rabbit and quail hunting typically during the last 2 weeks in February. Hunt dates are available at the refuge headquarters and printed in the refuge brochure. We restrict hunting to the waterfowl hunting area (see refuge brochure map).

4. During the rabbit-with-dog and quail hunts, any person hunting or accompanying another person hunting must wear at least 500 square inches (3,250 cm2) of unbroken flourescent-orange material visible above the waistline as an outer garment.

5. Beginning the first day after the deer muzzleloader hunt, we restrict hunting to the designated waterfowl hunting area (see refuge brochure map).

6. We prohibit horses and mules.

C. Big Game Hunting. We allow hunting of white-tail deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Hunts and hunt dates are available at the refuge headquarters in July, and we post them in the refuge brochure.

2. We only allow ATVs on designated trails (see § 27.31 of this chapter) beginning the second Saturday in September through February 28 (see refuge brochure map).

3. Beginning the first day after the muzzleloader hunt, we restrict hunting to the designated waterfowl hunting area (see refuge brochure map).

4. Conditions A5 through A7 and B6 apply.

5. During all gun and muzzleloader deer hunts: all participants must wear at least 500 square inches (3,250 cm2) of unbroken flourescent-orange material visible above the waistline as an outer garment while hunting and enroute to and from hunting areas; we prohibit hunting from tripods and other free-standing platforms in fields and tree plantations (during muzzleloader deer hunt); and we prohibit all other public use on the refuge.

6. We prohibit organized drives for deer.

7. We prohibit hunting from or shooting across open fields from ground level.

8. We only allow crossbows in accordance with State law.

9. You must unload guns (see § 27.42(b) of this chapter) while standing beside, in, or walking across any portion of a field, tree plantation, road, pipeline, or powerline right-of-way. We define ''a loaded gun'' as shells in the gun or percussion caps on muzzleloaders.

10. Stands adjacent to fields and tree plantations must be a minimum of 10 feet (300 cm) above ground.

11. We prohibit attaching stands to any power or utility pole.

12. You may place stands on the refuge 7 days prior to and must remove them (see § 27.93 of this chapter) by day 7 after the close of the refuge deer season.

13. You must remove stands in the January/February closed area by the last day of the muzzleloader hunt.

14. You must field-dress deer.

15. We designate check station dates and requirements in the refuge brochure.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We close all refuge waters during the muzzleloader deer hunt.

2. We allow fishing in the borrow ponds along the north levee (see refuge brochure map) throughout the year except during the muzzleloader Gun Deer Hunt.

3. We open all other refuge waters March 1 through November 15.

4. We prohibit trot lines, limb lines, jugs, seines, and traps.

5. We prohibit fishing from bridges.

6. We allow frogging during the State bullfrog season.

7. We only allow ATVs on designated trails (see § 27.31 of this chapter) (see refuge brochure map) September 15 through February 28.

Mathews Brake National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, merganser, and coot in accordance with State regulations subject to the following conditions:

1. We allow hunting during the open State season.

2. There is no early teal season.

3. Beginning the opening day of duck season, we restrict hunting to the designated waterfowl hunt area only (see refuge brochure map).

4. Youth hunters age 15 and under must possess and carry a hunter safety course card or certificate. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older.

5. During the refuge youth hunts, scheduled the first 2 weekends in January, both youth and accompanying adult may hunt. Only one adult may accompany each youth hunter.

6. We allow hunting from ½ hour before legal sunrise until 12 p.m. (noon).

7. Hunters must remove all decoys, blind material (see § 27.93 of this chapter), and harvested waterfowl from the area no later than 1 p.m. each day.

8. If you are a hunter age 16 or older, you must possess and carry a valid, signed refuge Public Use Permit certifying that you understand and will comply with all regulations.

9. Each day before hunting, each hunter must obtain a daily User Information Card (pink) available at the hunter information stations (see refuge brochure map) and follow the printed instructions on the card. You must display this card on the dashboard of your vehicle while hunting or fishing so that the personal information is readable. Prior to leaving the refuge, you must complete the reverse side of the card and deposit it at one of the refuge information stations.

10. Failure to display the User Information Card will result in the loss of the hunter's refuge annual Public Use Permit.

11. We prohibit hunting or entry into areas designated as ''CLOSED'' (see refuge brochure map).

12. We prohibit possession of alcoholic beverages.

13. We prohibit possession of plastic flagging tape.

14. We prohibit handguns.

15. You must unload and case guns (see § 27.42(b) of this chapter) transported in/on vehicles and boats under power.

16. We prohibit parking vehicles in such a manner as to obstruct roads, gates, turnrows, or firelanes (see § 27.31(h) of this chapter).

17. Valid permit holders may take the following furbearers in season incidental to other refuge hunts with legal firearms used for that hunt: raccoon, opossum, coyote, beaver, bobcat, and nutria.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, and raccoon on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A4 applies.

2. We only allow shotguns with approved nontoxic shot (see § 32.2(k)) or .22 caliber rimfire rifles for taking small game (we prohibit .22 caliber magnums).

3. We only allow dogs for rabbit hunting typically the last 2 weeks in February. Hunt dates are available at the refuge headquarters and printed in the refuge brochure. We restrict hunting to the waterfowl hunting area (see refuge brochure map).

4. During the rabbit-with-dog hunt, any person hunting or accompanying another person hunting must wear at least 500 square inches (3,250 cm^2) of unbroken flourescent-orange material visible above the waistline as an outer garment.

5. We prohibit horses and mules.

C. Big Game Hunting. We allow archery hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow archery hunting October 1 through January 31.

2. State bag limits apply.

3. Beginning the first day of duck season, we restrict hunting to the designated waterfowl hunt area only (see refuge brochure map).

4. Conditions A7 through A9 and B5 apply.

5. We prohibit organized drives for deer.

6. We only allow crossbows in accordance with State law.

7. We prohibit attaching stands to any power or utility pole.

8. You may place stands on the refuge 7 days prior to and must remove them (see § 27.93 of this chapter) by day 7 after the close of the refuge deer season.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing in all refuge waters throughout the year, except in the waterfowl sanctuary, which we close from the first day of duck season through March 15 (see refuge brochure map).

2. We prohibit trot lines, limb lines, jugs, seines, and traps.

3. We allow frogging during the State bullfrog season.

Morgan Brake National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, merganser, and coot on the refuge in accordance with State regulations subject to the following conditions:

1. We open for hunting during the State season, except we close during the muzzleloader deer hunt.

2. There is no early teal season.

3. We allow hunting from ½ hour before legal sunrise until 12 p.m. (noon).

4. Hunters must remove all decoys, blind material (see § 27.93 of this chapter), and harvested waterfowl from the area no later than 1 p.m. each day.

5. Youth hunters age 15 and under must possess and carry a hunter safety course card or certificate. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. If you are a hunter age 16 or older you must possess and carry a valid, signed refuge Public Use Permit certifying that you understand and will comply with all regulations.

6. Each day before hunting, all hunters must obtain a daily User Information Card (pink) available at each refuge information station (see refuge brochure map) and follow the printed instructions on the card. You must display this card in plain view on the dashboard of your vehicle while hunting or fishing so the personal information is readable. Prior to leaving the refuge, you must complete the reverse side of the card and deposit it at one of the refuge information stations.

7. Failure to display the User Information Card will result in the loss of the hunter's refuge annual Public Use Permit.

8. We prohibit hunting or entry into areas designated as ''CLOSED'' (see refuge brochure map).

9. We prohibit possession of alcoholic beverages.

10. We prohibit plastic flagging tape.

11. We prohibit handguns at all times.

12. You must unload and case guns (see § 27.42(b) of this chapter) transported in/on vehicles, ATVs, and boats under power.

13. We prohibit parking of vehicles in such a manner as to obstruct roads, gates, turnrows, or firelanes (see § 27.31(h) of this chapter).

14. We allow take by valid permit holders of the following in-season furbearers, incidental to other refuge hunts with legal firearms used for that hunt: raccoon, opossum, coyote, beaver, bobcat, and nutria.

15. We only allow ATVs on designated trails (see § 27.31 of this chapter) (see refuge brochure map).

16. You may only possess approved nontoxic shot while hunting on the refuge (see § 32.2(k)).

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, quail, and raccoon on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 and A5 (we only allow one adult per youth hunter), and A6 through A14 apply.

2. We only allow shotguns shooting approved nontoxic shot (see § 32.2(k)) and .22 caliber rimfire rifles for taking small game (we prohibit .22 caliber magnums).

3. We only allow dogs for rabbit and quail hunting typically during the last 2 weeks in February. Hunt dates are available at the refuge headquarters and printed in the refuge brochure. We restrict hunting to the waterfowl hunting area (see refuge brochure map).

4. During the rabbit and quail-with-dog hunt, any person hunting or accompanying another person hunting must wear at least 500 square inches (3,250 cm2) of unbroken flourescent-orange material visible above the waistline as an outer garment.

5. Beginning the first day after the deer muzzleloader hunt, we restrict hunting to the designated waterfowl hunting area (see refuge brochure map).

6. We prohibit horses.

C. Big Game Hunting. We allow hunting of white-tail deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Hunt information and dates are available both at the refuge headquarters in July and posted in the refuge brochure.

2. We only allow ATVs on designated trails (see § 27.31 of this chapter) beginning the second Saturday in September through February 28 (see refuge brochure map).

3. Beginning the first day after the muzzleloader hunt, we restrict hunting to north of Providence Road and the area west and south of Spring Branch (see refuge brochure map).

4. During all gun and muzzleloader deer hunts, all participants must wear at least 500 square inches (3,250 cm^2) of unbroken flourescent-orange material visible above the waistline as an outer garment while hunting and enroute to and from hunting areas.

5. During muzzleloader deer hunts, we prohibit all other public use.

6. We prohibit organized drives for deer.

7. We prohibit hunting from or shooting across open fields from ground level.

8. We only allow crossbows in accordance with State law.

9. We define a loaded gun as shells in the gun or percussion caps on muzzleloaders.

10. You must unload guns (see § 27.42(b) of this chapter) while standing beside, in, or walking across any portion of a field, tree plantation, road, pipeline, or powerline right-of-way.

11. During the muzzleloader deer hunt, we prohibit hunting from tripods and other free-standing platforms in fields and tree plantations.

12. Stands adjacent to fields and tree plantations must be a minimum of 10 feet (3 m) above ground.

13. We prohibit attaching stands to any power or utility pole.

14. You may place stands on the refuge 7 days prior to and must remove them (see § 27.93 of this chapter) by day 7 after the close of the refuge deer season.

15. You must remove stands in the January/February closed area by the last day of the muzzleloader hunt.

16. Hunters must field-dress their deer.

17. We designate check station dates and requirements in the refuge hunt brochure.

18. Conditions A5 through A7 and B6 apply.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We close all refuge waters during the muzzleloader deer hunt.

2. We only allow fishing in refuge waters north of Providence Road throughout the year except during the muzzleloader deer hunt.

3. We open all other refuge waters March 1 through November 15.

4. We prohibit trot lines, limb lines, jugs, seines, and traps.

5. We prohibit fishing from bridges.

6. We allow frogging during the State bullfrog season.

7. We only allow ATVs on designated trails (see § 27.31 of this chapter) (see refuge brochure map) September 15 through February 28.

8. We will post separate fishing regulations for Providence Ponds on Morgan Brake at the Morgan Brake office.

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Panther Swamp National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, merganser, and coot in accordance with State regulations subject to the following regulations:

1. We allow hunting during the open State season except we close during all Limited Permit Hunts.

2. Youth hunters age 15 and under must possess and carry a hunter safety course card or certificate. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Both youth and accompanying adult may hunt. Only one adult may accompany each youth hunter.

3. There is no early teal season.

4. We allow hunting from ½ hour before legal sunrise until 12 p.m. (noon).

5. Hunters must remove all decoys, blind material (see § 27.93 of this chapter), and harvested waterfowl from the area no later than 1 p.m. each day.

6. Each hunter age 16 and older must possess and carry a valid, signed refuge Public Use Permit certifying that they understand and will comply with all regulations.

7. Each day before hunting, all hunters must obtain a daily User Information Card (pink) available at the hunter information stations (see refuge brochure map) and follow the printed instructions on the card. You must display this card in plain view on the dashboard of your vehicle while hunting or fishing so that the personal information is readable. Prior to leaving the refuge, you must complete the reverse side of the card and deposit it at one of the refuge information stations.

8. Failure to display the User Information Card will result in the loss of the hunter's refuge annual Public Use Permit.

9. You may obtain hunt dates both at the refuge headquarters in July and posted in the refuge brochure.

10. We prohibit hunting or entry into areas designated as ''CLOSED'' (see refuge brochure map).

11. We prohibit possession of alcoholic beverages.

12. We prohibit plastic flagging tape.

13. We prohibit handguns at all times.

14. You must unload and case guns (see § 27.42(b) of this chapter) transported in/on vehicles, ATVs, and boats under power.

15. We prohibit parking of vehicles in such a manner as to obstruct roads, gates, turnrows, or firelanes (see § 27.31(h) of this chapter).

16. We allow take by valid permit holders of the following furbearers in season, incidental to other refuge hunts with legal firearms used for that hunt: Raccoon, opossum, coyote, beaver, bobcat, and nutria.

17. We only allow ATVs, beginning the second Saturday in September through February 28, on designated trails (see § 27.31 of this chapter) (see refuge brochure map).

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, quail, and raccoon on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunting during the open State season except we close during limited refuge deer hunts. You may obtain information on the hunts and hunt dates both at the refuge headquarters in July and posted in the refuge brochure.

2. Conditions A2 (squirrel hunting), A6 through A8, and A10 through A17 apply.

3. We only allow shotguns with approved nontoxic shot (see § 32.2(k)) and .22 caliber rimfire rifles for taking small game (we prohibit .22 caliber magnums). We prohibit possession of toxic shot, buckshot, and slugs.

4. We only allow dogs for rabbit hunting typically the last 2 weeks in February. You may obtain hunt dates both at the refuge headquarters and printed in the refuge brochure (see refuge brochure map for open areas).

5. During the rabbit-with-dog and quail hunts, any person hunting or accompanying another person hunting must wear at least 500 square inches (3,250 cm^2) of unbroken flourescent-orange material visible above the waistline as an outer garment.

6. Beginning the first day after the last Limited Deer Gun Hunt, we restrict hunting to the designated waterfowl hunting area (see refuge brochure map).

7. We prohibit horses.

C. Big Game Hunting. We allow hunting of white-tail deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A7, A8, A9, A17, B6, and B7 apply.

2. We may require a Limited Hunt Permit for spring turkey hunting, regular gun deer, and muzzleloader deer hunting. We issue the Limited Hunt Permit by random computer drawing. If we draw your name, there is a fee for each permit. Limited Hunt Permits are not transferable and are nonrefundable. Contact the refuge headquarters for specific requirements. The regular gun deer and muzzleloader deer hunts require a Limited Hunt Permit that we assign by random computer drawing. If we draw your name, there is a fee for each permit. Limited Hunt Permits are not transferable and nonrefundable. Contact the refuge headquarters for specific requirements, hunt, and application dates.

3. We may designate dates for youth (ages 12 to 15) turkey hunting. Contact the refuge headquarters or see the refuge

brochure for youth hunt dates. Youth hunters age 15 and under must possess and carry a hunter safety course card or certificate. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older (one youth per adult).

4. During spring turkey season we only allow ATVs on Southern Natural Gas pipeline, from Cotton's access to Tupelo Brake Duck Club boundary (see refuge brochure map).

5. You must immediately tag all harvested turkeys prior to moving them.

6. We only allow shotguns shooting approved nontoxic shot (see § 32.2(k)) and archery while turkey hunting.

7. You must immediately tag all game harvested prior to moving it during limited hunts; we provide the tags.

8. We designate check station dates and requirements in the refuge hunt brochure.

9. If you are a hunter age 16 or older, you must possess and carry a valid, signed refuge Public Use Permit or Limited Hunt Permit certifying that you understand and will comply with all regulations.

10. During all gun or muzzleloader deer hunts, all participants must wear at least 500 square inches (3,250 cm^2) of unbroken flourescent-orange material visible above the waistline as an outer garment while hunting and enroute to and from hunting areas.

11. We prohibit all other public use on the refuge during all gun and muzzleloader deer hunts.

12. We prohibit organized drives for deer.

13. We prohibit hunting from or shooting across open fields from ground level.

14. During all Limited Permit Hunts, each hunter must possess and carry only their own current permit and/or tags.

15. We only allow crossbows in accordance with State law.

16. We define a loaded gun as shells in the gun or percussion caps on muzzleloaders.

17. You must unload guns (see § 27.42(b) of this chapter) while standing beside, in, or walking across any portion of a field, tree plantation, road, pipeline, or powerline right-of-way.

18. During muzzleloader, rifle, and youth Gun Deer Hunts, we prohibit hunting from tripods and other free-standing platforms in fields and tree plantations.

19. Stands adjacent to fields and tree plantations must be a minimum of 10 feet (3 m) above ground.

20. We prohibit attaching stands to any power or utility pole.

21. You may place stands on the refuge 7 days prior to and must remove them (see § 27.93 of this chapter) by day 7 after the close of the refuge deer season.

22. You must remove stands in the January/February closed area by the last day of the muzzleloader hunt.

24. You must field-dress deer.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We close all refuge waters during limited deer gun hunts.

2. We open waters between the East and West levee, the Landside Ditch, and the portion of Panther Creek adjacent to the West Levee year-round except during limited Gun Deer Hunts.

3. We open all other refuge waters March 1 through November 15.

4. We prohibit trot lines, limb lines, jugs, seines, and traps.

5. We allow frogging during the State bullfrog season.

6. We only allow ATVs for fishing access on designated gravel roads when we close such roads to vehicular traffic.

St. Catherine Creek National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, and coot during the State season in accordance with State regulations subject to the following conditions:

1. We allow hunting in Butler Lake, Salt Lake, and Gilliard Lake from ½ hour before legal sunrise until 12 p.m. (noon) on Tuesdays, Thursdays, and Saturdays.

2. If you are a hunter age 16 or older you must possess and carry a valid, signed refuge Public Use Permit certifying that you understand and will comply with all regulations.

3. We will close waterfowl hunting in Butler Lake and Salt Lake after the Natchez River gauge reaches 28 feet (8.4 m) or higher.

4. We will close waterfowl hunting in Gilliard Lake when the Natchez River gauge reaches 32 feet (9.6 m) or higher.

5. We restrict access to Butler Lake waterfowl hunting only to Butler Lake Road.

6. Hunters must remove decoys, blind material (see § 27.93 of this chapter), and harvested waterfowl from the area no later than 1 p.m. each day.

7. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

8. You must use portable blinds.

9. All users must obtain a daily use reporting card and place it in plain view on the dashboard of their vehicle so that the personal information is readable. Users must return cards to a refuge kiosk upon departure from the refuge.

10. Hunters may enter the refuge 2 hours before legal sunrise and must exit the refuge no later than 2 hours after legal sunset. We prohibit entering or remaining on the refuge before or after hours.

11. All persons in all underway boats must wear U.S. Coast Guard-approved personal flotation devices.

12. You must hand-launch boats except at designated boat ramps, where you may trailer-launch them.

13. We only open ATV trails (see § 27.31 of this chapter) to ATV traffic during scheduled hunts and scouting periods.

14. Hunters must be age 16 or older to operate an ATV on the refuge.

15. We allow use of retrievers.

16. State bag limits apply.

17. We prohibit hunting on Thanksgiving Day, Christmas Eve, Christmas Day, and New Year's Day.

18. We prohibit the following acts: possession of alcohol; entering the refuge from private property; hunters entering from public waterways; overnight parking; parking or hunting within 150 feet (45 m) of any petroleum facility or equipment, or refuge residences and buildings; parking by hunters in refuge headquarters parking lot; and possession of hand guns on the refuge.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, raccoon, opossum, and woodcock in designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow shotguns, .22 caliber long rifles, and muzzleloading rifles under .38 caliber shooting patched round balls, except for raccoon hunting (see 4iv below). We prohibit the possession of .22 caliber magnum rifles, slugs, buckshot, or rifle ammunition larger than .22 rimfire.

2. You must wear a hunter-orange hat and upper garment when hunting in open fields or reforested areas.

3. We prohibit use of motorized boats after the Natchez River gauge reaches 28 feet (8.4 m) or higher.

4. We only allow raccoon hunting during the month of February from legal sunset to legal sunrise with the following conditions:

i. We require dogs.

ii. We prohibit hunting along/from Carthage-Linwood Road.

iii. We prohibit the use of boats and ATVs.

iv. You may only use .22 caliber rimfire rifles (no magnums).

5. You may take beaver, nutria, coyote, and bobcat incidental to the hunt.

6. Conditions A2, A7 through A14, and A16 through A18 apply.

7. We prohibit the following acts: target practice; marking trails with tape, paper, paint, or any other artificial means; and riding horses or mules.

C. Big Game Hunting. We allow deer, hog, and lottery youth turkey hunting in accordance with State regulations subject to the following conditions:

1. We only allow still hunting.

2. You may only take one deer per day: We allow residents to take one deer of either sex per day; however, we prohibit nonresidents from harvesting antlerless deer.

3. We require hunters to wear a hunter-orange hat and upper garment at all times during all muzzleloader hunts and during the youth gun hunt.

4. During late muzzleloader (after December 25) hunts, the following specific conditions apply: You may only take bucks with a minimum of 14-inch (35 cm) inside antler spread.

5. During traditional primitive weapon season, the following specific conditions apply:

i. You must only use flintlock and sidelock percussion muzzleloaders with iron sights and patched-round balls.

ii. We prohibit in-line muzzleloaders, electronic sights, scopes, fiber optic sights, and conical bullets.

iii. You must use recurve and long bows without sights.

6. Youth hunters age 15 and under must possess and carry a hunter safety course card or certificate. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older.

7. We must receive all applications for the limited youth lottery draw turkey hunt by February 28 of each year.

8. Youth (ages 10 to15) gun deer and waterfowl hunts will coincide with designated State youth hunts each year. Youth deer hunters may use any weapon deemed legal by the State except for buckshot, which we prohibit.

9. We prohibit insertion of metal objects into trees or hunting from trees that contain inserted metal objects (see § 32.2(i)).

10. We prohibit the use or possession of climbing spurs.

11. You must dismantle blinds and tripods, and you must remove stands from the tree each day. You must remove all stands, blinds, and tripods (see § 27.93 of this chapter) from the refuge before February 7 of each year.

12. You may only take feral hog with bow and arrow and muzzleloading rifles during and incidental to archery and primitive weapon deer seasons.

13. You must check all deer harvested on the refuge at one of the three self-clearing, mandatory deer check stations.

14. You must immediately field-dress all deer upon harvest.

15. State season bag limits apply.

16. Conditions A2, A7 through A14, A17, A18, B3, B5, and B7 apply.

D. Sport Fishing. We allow fishing during daylight hours only from March 1 through the last day of archery season each year in accordance with State regulations subject to the following conditions:

1. We require a public use permit for all anglers between the ages of 16 and 65.

2. We prohibit the use of ATVs (see § 27.31(f) of this chapter).

3. On the Sibley Unit, we prohibit boats north of the Ring Levee, except you may hand-launch boats in Swamp Lake during nonflood conditions.

4. An adult age 21 or older must supervise youth age 15 and under who may fish in the Kids Pond. We prohibit adults from fishing in this pond.

5. We allow bow fishing. Bow anglers must abide by State law.

6. We allow nighttime bow fishing on the refuge but only through a Special Use Permit issued by the refuge manager.

7. We prohibit the following acts: Possession of alcohol; entering the refuge from private property; overnight parking; target practice; riding horses or mules; possession or use of commercial fishing or trotline equipment, including limb lines, nets, traps, yo-yos, or jugs; and possession of any firearms (see § 27.42 of this chapter).

8. Conditions A9, A11, and A12 apply.

Tallahatchie National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of migratory waterfowl, coots, snipe, and woodcock on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Youth hunters age 15 and under must possess and carry a hunter safety course card or certificate. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. Hunters born after January 1, 1972, also must carry a Hunter Education Safety Course card or certificate. All hunters must possess and carry a valid, signed refuge Hunting Permit certifying that he or she understands and will comply with all regulations. You may obtain permits at North Mississippi Refuges Complex Headquarters, 2776 Sunset Drive, Grenada, Mississippi 38901, or at the Dahomey National Wildlife Refuge Office, Box 831, Highway 446, Boyle, Mississippi 38730, or by mail from the above addresses.

2. We restrict all public use to the period beginning 2 hours before legal sunrise and ending 2 hours after legal sunset except during the raccoon hunt. We prohibit entering or remaining on the refuge before or after hours.

3. We only allow hunting of migratory game birds on Wednesdays, Saturdays, and Sundays from ½ hour before legal sunrise and ending at 12 p.m. (noon). Hunters must remove all decoys, blind material (see § 27.93 of this chapter), and harvested waterfowl from the area no later than 1 p.m. each day. After duck, merganser, and coot season closes, we allow hunting of goose daily, during the period beginning ½ hour before legal sunrise and ending at legal sunset.

4. We prohibit public hunting north of Mississippi Highway 8.

5. Each hunter must obtain a daily User Information Card (pink) available at each refuge information station and follow the printed instructions on the card. You must display the card in plain view on the dashboard of your vehicle so that the personal information is readable. Prior to leaving the refuge, you must complete the reverse side of the card and deposit it at one of the refuge information stations. Include all game harvested, and if you harvest no game, report ''0.''

6. We may close certain areas of the refuge for sanctuary or administrative purposes. We will mark such areas with ''No Hunting'' or ''Area Closed'' signs.

7. We prohibit all handguns.

8. Waterfowl hunters may leave boats meeting all State registration requirements on refuge water bodies throughout the waterfowl season. You must remove boats (see § 27.93 of this chapter) within 72 hours after the season closes.

9. We restrict motor vehicle use to roads designated as vehicle access roads on the refuge map (see § 27.31 of this chapter). We prohibit blocking access to any road or trail entering the refuge (see § 27.31(h) of this chapter).

10. All hunters or persons on the refuge for any reason during any open refuge hunting season must wear a minimum of 500 square inches (3,250 cm^2) of visible, unbroken, fluorescent orange-colored material above the waistline. Waterfowl hunters must comply while walking/boating to and from actual hunting area. Waterfowl hunters may remove the fluorescent orange while actually hunting.

11. We only allow dogs on the refuge when specifically authorized for hunting. We encourage the use of dogs to retrieve dead or wounded waterfowl. Dogs must remain in the immediate control of their handlers at all times (see § 26.21(b) of this chapter).

12. You must remove decoys, blinds, other personal property, and litter (see §§ 27.93 and 27.94 of this chapter) from the hunting area following each morning's hunt. We prohibit cutting or removing trees and other vegetation (see § 27.51 of this chapter). We prohibit the use of flagging, paint, blazes, tacks, or other types of markers.

13. We prohibit ATVs (see § 27.31(f) of this chapter), horses, and mules on the refuge.

B. Upland Game Hunting. We allow hunting of quail, squirrel, rabbit, beaver, nutria, raccoon, coyote, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A4, A5, A6, A9, and A13 apply.

2. We restrict all public use to the period beginning 2 hours before legal sunrise and ending 2 hours after legal sunset. We prohibit entering or remaining on the refuge before or after hours. We establish special provisions for raccoon hunting; contact the refuge office for details.

3. We only allow shotguns with approved nontoxic shotgun shot (see § 32.2(k)) and .22 caliber rifles. We prohibit all handguns.

4. All hunters or persons on the refuge for any reason during any open refuge hunting season must wear a minimum of 500 square inches (3,250 cm^2) of visible, unbroken, fluorescent orange-colored material above the waistline.

5. We only allow dogs on the refuge after the general Gun Deer Hunt. Dogs must remain in the immediate control of their handlers at all times (see § 26.21(b) of this chapter).

6. We prohibit the cutting or removal of trees and other vegetation (see § 27.51 of this chapter). We prohibit the use of flagging, paint, blazes, tacks, or other types of markers.

C. *Big Game Hunting.* We allow hunting of white-tailed deer, turkey, and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A4, A5, A6, A7, A9, and A13 apply.

2. We restrict all public use to 2 hours before legal sunrise and to 2 hours after legal sunset. We prohibit entering or remaining on the refuge before or after hours.

3. All hunters or persons on the refuge for any reason during any open refuge hunting season must wear a minimum of 500 square inches (3,250 cm^2) of visible, unbroken, fluorescent orange-colored material above the waistline. We do not require this for turkey hunting.

4. We prohibit dogs for any big game hunt.

5. We prohibit use or possession of any drug or device for employing such drug for hunting (see § 32.2(g)).

6. We prohibit organized drives for deer.

7. We prohibit hunting or shooting across any open, fallow, or planted field from ground level or on or across any public road, public highway, railroad, or their rights-of-way during all general gun and primitive weapon hunts.

8. You may erect portable deer stands 2 weeks prior to the opening of archery season on the refuge, and you must remove them (see § 27.93 of this chapter) by January 31. We prohibit the cutting or removal of trees and other vegetation (see § 27.51 of this chapter). We prohibit the use of flagging, paint, blazes, tacks, or other types of markers.

D. *Sport Fishing.* We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. All anglers must possess and carry a valid, signed refuge fishing permit certifying that you understand and will comply with all regulations. You may obtain permits at North Mississippi Refuges Complex Headquarters, 2776 Sunset Drive, Grenada, Mississippi 38901, or at the Dahomey National Wildlife Refuge Office, Box 381, Highway 446, Boyle, Mississippi 38730, or by mail to the above addresses.

2. We close the refuge to fishing from October 1 through February 28.

3. We only allow bank or boat sport fishing south of Mississippi Highway 8.

4. We prohibit possession of any weapon (see § 27.42 of this chapter) while fishing on the refuge.

5. We prohibit possession or use of jugs, seines, nets, hand-grab baskets, slat traps/baskets, or any other similar devices and commercial fishing of any kind.

6. We only allow trotlines, yo-yos, limb lines, crawfish traps, or any other similar devices for recreational use. You must tag or mark them with the angler's full name and full residence address, including zip code written with waterproof ink, legibly inscribed or legibly stamped on the tag; and attend the devices a minimum of once daily. When not attended, you must remove these devices (see § 27.93 of this chapter) from the refuge.

7. We prohibit snagging or attempting to snag fish.

8. We allow crawfishing.

9. We only allow take of frog by Special Use Permit.

Yazoo National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of dove and snow goose on the refuge in accordance with State regulations subject to the following conditions:

1. If you are a hunter age 16 or older, you must possess and carry a valid, signed refuge Public Use Permit that certifies that you understand and will comply with all regulations.

2. Each day before hunting, all hunters must obtain a daily User Information Card (pink) available at each refuge information station (see refuge brochure map) and follow the printed instructions on the card. You must display this card in plain view on the dashboard of your vehicle while hunting or fishing so that the personal information is readable. Prior to leaving the refuge, you must complete the reverse side of the card and deposit it at one of the refuge information stations. Failure to display the User Information Card may result in the loss of the hunter's refuge annual Public Use Permit.

3. We only allow hunting of snow goose by Special Use Permit. Contact the refuge office for details.

4. Hunt dates are available at the refuge headquarters in July and posted in the refuge brochure.

5. Youth hunters age 15 and under must possess and carry a hunter safety course card or certificate. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. We only allow one adult per youth hunter.

6. We prohibit hunting or entry into areas designated as ''CLOSED'' (see refuge brochure map).

7. We prohibit possession of alcoholic beverages.

8. We prohibit possession of plastic flagging tape.

9. We prohibit handguns at all times.

11. You may only possess approved nontoxic shot while hunting on the refuge (see § 32.2(k)).

12. You must unload and case guns (see § 27.42(b) of this chapter) transported in/on vehicles, ATVs, and boats under power.

13. We prohibit parking of vehicles in such a manner as to obstruct roads, gates, turnrows, or firelanes (see § 27.31(h) of this chapter).

14. We allow valid permit holders to take the following furbearers in season, incidental to other refuge hunts with legal firearms used for that hunt: raccoon, opossum, coyote, beaver, bobcat, and nutria.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, and raccoon on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, A3, A5 through10, and A12 through A14 apply.

2. We only allow shotguns with approved nontoxic shot (see § 32.2(k)) and .22 caliber rimfire rifles (we prohibit .22 caliber magnums).

3. During the rabbit-with-dog hunt, any person hunting or accompanying another person hunting must wear at least 500 square inches (3,250 cm^2) of unbroken flourescent-orange material visible above the waistline as an outer garment.

4. We prohibit horses.

5. We allow hunting for rabbit on the Herron Tract, Brown Tract (east of the Sunflower River), Middleton-Miller-Zepponi Tracts, and Carter Tract. Contact refuge headquarters for hunt dates, maps, and additional information.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A2, A3, A5, B4, and B5 (we allow archery except on the Carter Tract) apply.

2. If you are a hunter age 16 or older, you must possess and carry a valid refuge annual Public Use Permit or Limited Hunt Permit that certifies that you understand and will comply with all regulations. Permits are not transferable and are nonrefundable.

3. The youth regular gun deer, muzzleloader deer, and senior citizen Gun Deer Hunts require a Limited Hunt Permit assigned by random computer drawing. If we draw your name, there is a fee for each permit. Contact the refuge headquarters for specific requirements, hunt, and application dates.

4. During all gun or muzzleloader deer hunts, all participants must wear at least 500 square inches (3,250 cm^2) of unbroken flourescent-orange material visible above the waistline as an outer garment while hunting and enroute to and from hunting areas.

5. We prohibit all other public use during all gun and muzzleloader deer hunts.

6. We prohibit organized drives for deer.

7. We prohibit hunting from or shooting across open fields from ground level.

8. During all Limited Permit Hunts, each hunter shall possess and carry only their own current permit and/or tags.

9. We only allow crossbows in accordance with State law.

10. We define a loaded gun as shells in the gun or percussion caps on muzzleloaders.

11. You must unload guns (see § 27.42(b) of this chapter) while standing beside, in, or walking across any portion of a field, tree plantation, road, pipeline, or powerline right-of-way.

12. We prohibit hunting from tripods and other free-standing platforms during muzzleloader, rifle, and youth Gun Deer Hunts in fields and tree plantations.

13. Stands adjacent to fields and tree plantations must be a minimum of 10 feet (3 m) above ground. We prohibit attaching stands to any power or utility pole. You may place stands on the refuge 7 days prior to and must remove them (see § 27.93 of this chapter) by day 7 after the close of the refuge deer season. You must remove stands in the January/February closed area by day 7 after the last deer hunt.

14. You must field dress and check all deer at refuge headquarters.

D. Sport Fishing. [Reserved]

■ 25. Amend § 32.44 Missouri by:

■ a. Revising Big Muddy National Wildlife Refuge;

■ b. Revising paragraphs C. and D. of Clarence Cannon National Wildlife Refuge; and

■ c. Revising Mingo National Wildlife Refuge to read as follows:

§ 32.44 Missouri.

* * * * *

Big Muddy National Fish and Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must remove all your blinds, boats, and decoys (see § 27.93 of this chapter) from the refuge each day except for blinds made entirely of marsh vegetation.

2. We prohibit cutting of woody vegetation (see § 27.51 of this chapter) on the refuge for blinds.

B. Upland Game Hunting. We allow upland game hunting on designated areas of the refuge in accordance with State regulations subject to the following condition: You may only possess approved nontoxic shot (see § 32.2(k)).

C. Big Game Hunting. We allow deer and turkey hunting in on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit use of tree spikes to assist in climbing trees for the purpose of hunting on the refuge (see § 32.2(i)).

2. We prohibit the construction or use of permanent blinds, platforms, or ladders at any time.

3. We prohibit hunting over or placing on the refuge any salt or other mineral blocks (see § 32.2(h)).

4. We only allow portable tree stands from September 15 through January 31. You must place your full name and address on your stands.

5. We only allow archery hunting in the portion of Boone's Crossing unit within the City of Chesterfield.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following condition: You must operate all motorized boats at no-wake speed.

Clarence Cannon National Wildlife Refuge

* * * * *

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow hunting during the State-designated Managed Deer Hunt.

2. We require hunters to check-in and out of the refuge each day.

3. We prohibit shooting at deer that are on any portion of the main perimeter levee.

4. We only allow the use of portable stands, and hunters must remove them (see § 27.93 of this chapter) at the end of each day.

5. We close the area south of Bryants Creek to deer hunting.

6. We require hunters to have all harvested deer checked by refuge personnel before removing them from the refuge.

7. You must park all vehicles in designated parking areas (see § 27.31 of this chapter).

D. Sport Fishing. We allow fishing in accordance with State regulations subject to the following conditions:

1. We prohibit the taking of turtle or frog (see § 27.21 of this chapter).

2. We only allow fishing from a boat. We prohibit bank fishing.

* * * * *

Mingo National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow waterfowl hunting on Pool 8 in accordance with State regulations subject to the following conditions:

1. We allow the use of hunting dogs, but the hunter must leash the dog or have it under strict voice command at all times (see § 26.21(b) of this chapter).

2. We allow hunting from ½ hour before legal sunrise until 1 p.m.

B. Upland Game Hunting. We allow hunting of squirrel only in the Public Hunting Area of the refuge in accordance with State regulations subject to the following conditions:

1. The refuge is open from 1½ hours before legal sunrise until 1½ hours after legal sunset.

2. We require that all hunters register at the Hunter Sign-In/Sign Out Stations and record the number of hours hunted and squirrels harvested.

3. We prohibit hunting of all other species.

4. We prohibit the use of dogs for squirrel hunting.

5. We allow squirrel hunting from the State opening day through September 30.

6. We only allow shotguns and .22 caliber rimfire rifles.

7. Shotgun hunters may only possess approved nontoxic shot while in the field (see § 32.2(k)).

C. Big Game Hunting. We allow big game hunting in the Public Hunting Area in accordance with State regulations subject to the following conditions:

1. Condition B1 applies.

2. We require that all hunters register at the Hunter Sign-In/Sign Out Stations and record the number of hours hunted and deer harvested.

3. We allow archery hunting for deer and turkey during the fall season. We prohibit the use or possession of firearms during these seasons.

4. You must possess and carry a refuge permit for the special muzzleloader deer season.

5. We allow spring turkey hunting. We only allow shotguns with approved nontoxic shot (see § 32.2(k)).

D. Sport Fishing. We allow fishing in designated areas of the refuge in accordance with State ''impounded waters'' regulations subject to the following conditions:

1. We prohibit fishing in all areas between Ditch 2 and Ditch 6 (including Ditches 3, 4, and 5) plus the moist soil units, and Monopoly Marsh from October 1 through March 1.

2. We only allow fishing in May Pond and Fox Pond with rod and reel or pole and line. Anglers may only take bass greater than 12 inches (30 cm) in length from May Pond.

3. We prohibit the use or possession of gasoline-powered boat motors. We allow the use of electric trolling motors, except that we prohibit all motors within the Wilderness Area.

4. Anglers must remove watercraft (see § 27.93 of this chapter) from the refuge at the end of each day's fishing.

5. Anglers may take nongame fish by nets and seines for personal use only from March 1 through September 30.

6. Anglers must attend trammel and gill nets at all times and plainly label them with the owners's name, address, and phone number.

7. We only allow the use of trotlines, throwlines, limb lines, bank lines, and jug lines from 1 hour before legal sunrise until 1 hour after legal sunset. Anglers must remove all fishing lines (see § 27.93 of this chapter) from the refuge at the end of each day's fishing. Anglers must mark each line with their name, address, and phone number.

8. We only allow personal use take of common snapping turtle and soft-shelled turtle using pole and line from 1 hour before legal sunrise until 1 hour after legal sunset. We require that all anglers release all alligator snapping turtle (see § 27.21 of this chapter).

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■ 26. Amend § 32.45 Montana by:

■ a. Revising paragraphs A. and B. of Benton Lake National Wildlife Refuge;

■ b. Revising Lee Metcalf National Wildlife Refuge;

■ c. Adding Medicine Lake National Wildlife Refuge, and

■ c. Revising Red Rock Lakes National Wildlife Refuge to read as follows:

§ 32.45 Montana.

* * * * *

Benton Lake National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, swan, and coot in designated areas of the refuge in accordance with State regulations subject to the following conditions (consult refuge manager prior to hunting to learn of changes or updates):

1. We prohibit access to refuge hunting areas from other than authorized refuge parking areas. We prohibit hunting on or within 25 yards (22.5 m) of dikes or roads except the marked portion of the dike between Marsh Units 5 and 6. Hunters must have a means of bird retrieval, using a boat, boots, or a trained dog, while hunting on this dike (see § 26.21(b) of this chapter).

2. We allow hunting with the opening of waterfowl season and close November 30.

3. Hunters with a documented mobility disability may reserve an accessible blind in advance by contacting a refuge officer or calling the refuge office.

4. We only allow nonmotorized boats on refuge waters.

5. We allow hunting from temporary portable blinds or blinds made from natural vegetation.

6. We prohibit the retrieval of downed game from areas closed to hunting.

7. You must unload and case all firearms (see § 27.42(b) of this chapter) when outside of the refuge hunt area on the refuge.

B. Upland Game Hunting. We allow hunting of pheasant, sharp-tailed grouse, and gray partridge in designated areas of the refuge in accordance with State regulations subject to the following conditions (consult refuge manager prior to hunting to learn of changes or updates):

1. Conditions A2, A6, and A7 apply.

2. We prohibit access to refuge hunting areas from other than authorized refuge parking areas.

3. We prohibit hunting on or within 25 yards (22.5 m) of dikes or roads except the marked portion of the dike between Marsh Units 5 and 6.

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Lee Metcalf National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, and coot from established blinds in designated areas of the refuge in accordance with State regulations subject to the following conditions (consult refuge manager prior to hunting to learn of changes or updates):

1. Hunting Access: We have numbered the blinds and assigned them to a single access point designated in the refuge hunting leaflet. Hunters must park at this access point and at the numbered parking space corresponding to a blind. Hunters must walk to the blind along mowed trails designated in the hunting leaflet. We open the access point to hunters who intend to immediately hunt on the refuge. We prohibit wildlife observation, scouting, and loitering at the access point.

2. Hunting Hours: We open the hunting area, defined by the refuge boundary fence, 2 hours before and require departure 2 hours after legal waterfowl hunting hours, as defined by the State.

3. Registration: Each hunter must record the date, his or her name, Automated License System number, date of birth, and the time checking into the hunt area at the appropriate register before hunting; must set the appropriate blind selector before and after hunting; and must record hunting data (hours hunted, the number of shots fired, and birds harvested) at the appropriate register before departing the hunting area.

4. Blind selection is on a first-come, first-served basis with the exception of the opening weekend of waterfowl season. We will distribute blind permits for the opening weekend by a public drawing. We will announce the drawing time and place in local newspapers.

5. We prohibit attempting to ''reserve'' a blind for use later in the day by depositing a vehicle or other equipment on the refuge. A hunter must be physically present in the hunting area in order to use a blind.

6. We prohibit blocking access to refuge gates (see § 27.31(h) of this chapter).

7. Hunters with a documented mobility disability may reserve an accessible blind in advance by contacting a refuge officer.

8. No more than four hunters or individuals may use a blind at one time.

9. You may only possess approved nontoxic shotshells (see § 32.2(k)) in quantities of 25 or less.

10. You must conduct all hunting from within 10 feet (3 m) of a blind.

11. All hunters must have a visible means of retrieving waterfowl such as a float tube, waders, or a dog capable of retrieving.

12. We prohibit falconry hunting.

13. We prohibit boats, fishing gear, and fires (see § 27.95 of this chapter).

14. We require dogs be on a leash at the hunter access point and when walking to and from the hunt area/blind (see § 26.21(b) of this chapter).

15. We require hunters to unload shotguns (see § 27.42(b) of this chapter) at the hunter access point and when walking to and from the hunt area/blind.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow archery hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions (consult refuge manager prior to hunting to learn of changes or updates):

1. Hunting Access: Hunters must enter and exit the hunt areas through designated archery hunting access points. We open access points to hunters intending to immediately hunt on the refuge. We prohibit wildlife observation, scouting, and loitering at access points and parking areas.

2. Condition A2 applies.

3. Registration: Each hunter must record the date, his or her name, Automated License System number, and date of birth at the appropriate register before hunting and must record hunting data (hours hunted, the number of arrows released, and deer harvested) at the appropriate register before departing the hunting area.

4. Tree Stands and Blinds: We only allow portable tree stands and blinds that must be removed each day (see § 27.93 of this chapter).

5. We prohibit preseason entry or scouting.

6. Hunters may not enter or retrieve deer from closed areas of the refuge without the consent of a refuge officer.

7. We prohibit boats, fishing gear, fires (see § 27.95 of this chapter), and firearms.

8. Hunters with a documented mobility disability may access designated locations in the hunting area to hunt from ground blinds. To access these areas, hunters must contact the refuge manager in advance to obtain a Special Use Permit.

9. We prohibit the use of any mechanized vehicle to enter or exit the hunt area; this includes bicycles.

D. Sport Fishing. We allow fishing on designated areas (Wildlife Viewing Area) of the refuge in accordance with State regulations in effect on the Bitterroot River from Tucker Crossing to Florence Bridge.

Medicine Lake National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, snipe, and dove on designated areas of the refuge in accordance with State regulations.

B. Upland Game Hunting. We allow hunting of pheasant, partridge, and sharp-tailed grouse on designated areas of the refuge in accordance with State regulations.

C. Big Game Hunting. We allow hunting of deer and antelope on designated areas of the refuge in accordance with State regulations.

D. Sport Fishing. We allow sport fishing on designated areas of the refuge in accordance with State regulations subject to posted refuge restrictions.

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Red Rock Lakes National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, and coot on designated areas of the refuge in accordance with State hunting regulations subject to the following conditions:

1. We only allow hunting on Lower Red Rock Lake and that portion of the River Marsh located directly north of Lower Red Rock Lake. We close all other areas of the refuge to hunting of goose, duck, and coot.

2. Hunters must remove all blinds, decoys, shell casings, and other personal equipment (see §§ 27.93 and 27.94 of this chapter) from the refuge each day.

3. We only allow nonmotorized boats in the hunt area east of the Lower Red Rock Lake dam. We allow boats with motors 10 hp or less west of Lower Red Rock Lake dam.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of deer, elk, moose, and pronghorn antelope on designated areas of the refuge in accordance with State hunting regulations subject to the following conditions:

1. Moose hunting on the refuge portion of Montana moose hunt zone 334 opens October 15 and runs through the end of the State moose season.

2. We restrict moose hunting to the willow bog area south of Elk Springs Creek and nearby foothills at the southeast corner of the refuge. We prohibit moose hunting in all other areas of the refuge.

3. You may hire outfitters or ranchers for the retrieval of big game.

4. We only allow retrieval of game in closed areas of the refuge with the consent of a refuge employee.

5. We prohibit use of wheeled game carts or other mechanical transportation devices for game retrieval on portions of the refuge designated as Wilderness Area.

6. We prohibit horses north of Red Rock Pass Road except for the retrieval of big game. We only allow horses for back-country access to the Centennial Mountains south of Red Rock Pass Road. We require the use of certified weed-free hay or pellets.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State fishing regulations subject to the following conditions:

1. We allow fishing from the third Saturday in May through November 30 on Odell Creek, Red Rock Creek, and Elk Springs Creek west of Elk Lake Road.

2. We allow fishing from July 15 through September 30 on Widgeon Pond, Culver Pond, MacDonald Pond, Picnic Creek, and Elk Springs Creek east of Elk Lake Road.

3. We allow fishing in open areas from ½ hour before legal sunrise to ½ hour after legal sunset.

4. We prohibit fishing on all other refuge waters.

5. You must only use pole and line or rod and reel to fish on the refuge.

6. You must use artificial lures or flies when fishing refuge waters; we prohibit bait fishing.

7. We prohibit the use or possession of lead sinkers or any lead fishing product while fishing.

8. We prohibit tubes and other flotation devices used for fishing unless posted at refuge parking areas as open.

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■ 27. Amend § 32.46 Nebraska by:

■ a. Revising paragraphs C. and D. of Boyer Chute National Wildlife Refuge;

■ b. Revising Crescent Lake National Wildlife Refuge; and

■ c. Revising Fort Niobrara National Wildlife Refuge to read as follows:

§ 32.46 Nebraska.

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Boyer Chute National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer in accordance with State regulations subject to the following condition: We require a refuge hunt permit.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow personally attended hook and line fishing and archery fishing (rough fish only) from ½ hour before legal sunrise to ½ hour after legal sunset.

2. We only allow fishing from the shoreline. We prohibit all watercraft in the Boyer Chute waterway.

3. We prohibit floating lines, limblines, trotlines, crossbows, snagging devices, nets, and spears.

4. We prohibit ice fishing.

5. We prohibit digging or netting bait, frogging, or collecting mussels.

Crescent Lake National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of waterfowl and coot in designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We close the refuge to the general public from legal sunset to legal sunrise. However, hunters may enter the designated hunting area 2 hours before legal sunrise and must be back to their vehicle in the process of leaving the refuge 2 hours after legal sunset. Official shooting hours are from ½ hour before legal sunrise until ½ hour after legal sunset for deer, coyote, and furbearer hunters; and from ½ hour before legal sunrise until legal sunset for all other hunters.

2. We only allow you to unleash dogs used to locate, point, and retrieve upland and small game and migratory birds on the refuge while hunting (see § 26.21(b) of this chapter).

3. We open the refuge to hunting from September 1 through January 31 in accordance with State regulations.

4. We allow decoys, but hunters must remove them (see § 27.93 of this chapter) at the end of each day.

5. We restrict vehicles to roads that are open to the public (see § 27.31 of this chapter). We prohibit hunters taking vehicles off of approved roads to set up blinds, decoys, or to retrieve game or for any other purposes other than emergencies. We allow parking within one vehicle length of the road.

6. We prohibit publicly organized hunts unless authorized under a Special Use Permit.

7. We only allow temporary blinds and stands, and hunters must remove them (see § 27.93 of this chapter) at the end of each day.

8. We only allow floating blinds on Island Lake. We prohibit all boats (including a floating device of any kind) on all other refuge lakes.

B. Upland Game Hunting. We allow hunting of cottontail rabbit, jack rabbit, furbearer, coyote, ring-necked pheasant, and sharp-tailed grouse on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A6 apply.

2. We prohibit baiting. We allow electronic calls for coyote and furbearer hunting.

3. Coyotes and all furbearers or their parts, if left in the field, must be left out of view of the public. Otherwise hunters must remove them from the refuge and properly dispose of them.

C. Big Game Hunting. We allow hunting of white-tailed deer and mule deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A4, A5, A6, and A7 apply.

2. We prohibit tree stands that cause damage to the tree by penetrating into the bark and tree climbing spikes or screw-in steps that penetrate beyond the outer bark of a tree (see § 32.2(i)).

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We close the refuge to the general public from legal sunset to legal sunrise. However, anglers may enter the refuge 1 hour before legal sunrise and remain until 1 hour after legal sunset.

2. We open Island Lake to fishing year-round and open Smith and Crane Lakes to fishing seasonally from November 1 through February 15. We close all other refuge lakes.

3. We prohibit the possession or use of live or dead minnows and the possession of any fish not taken lawfully from one of the refuge lakes open to fishing.

4. We only allow boating and float tubes on Island Lake. We prohibit use of internal combustion motors for boats on Island Lake; we close all other refuge lakes to boating or float tubing.

5. We prohibit leaving temporary shelters used for fishing overnight on the refuge.

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Fort Niobrara National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow fishing on the portions of the Minnechaduza Creek and downstream from Cornell Dam along the Niobrara River that flows through the refuge.

2. We prohibit the use of limb or set lines.

* * * * *

■ 28. Amend § 32.47 Nevada by:

■ a. Revising the introductory text of paragraph A., revising paragraph A.2., adding paragraphs A.3., and A.4., by revising the introductory text of paragraph B., and by revising paragraphs B.1. and B.2. of Ash Meadows National Wildlife Refuge;

■ b. Revising the introductory text of paragraph A., revising paragraph A.2., adding paragraph A.3., revising the introductory text of paragraph B., adding paragraphs B.1., and B.2., and revising paragraph D. of Pahranagat National Wildlife Refuge;

■ c. Revising Sheldon National Wildlife Refuge; and

■ d. Revising Stillwater National Wildlife Refuge to read as follows:

§ 32.47 Nevada.

* * * * *

Ash Meadows National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, moorhen, snipe, and dove on designated areas of the refuge in accordance with State regulations subject to the following conditions:

* * * * *

2. We only allow motorless boats or boats with electric motors on the refuge hunting area during the migratory waterfowl hunting season.

3. We open the refuge to the public from 1 hour before legal sunrise until 1 hour after legal sunset.

4. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

B. Upland Game Hunting. We allow hunting of quail and rabbit on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A3 and A4 apply.

2. We only allow hunting on designated days.

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Pahranagat National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, moorhen, snipe, and dove on designated areas of the refuge in accordance with State regulations subject to the following conditions:

* * * * *

2. We only allow motorless boats or boats with electric motors on the refuge hunting area during the migratory waterfowl hunting season.

3. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

B. Upland Game Hunting. We allow hunting of quail and rabbit on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow hunting on designated days.

2. Conditions A3 applies.

* * * * *

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing year-round with the exception of the North Marsh that we close October 1 to February 1.

2. We only allow motorless boats or boats with electric motors on the Upper Lake, Middle Pond, and Lower Lake.

3. We prohibit the use of boats, rubber rafts, or other flotation devices on the North Marsh.

* * * * *

Sheldon National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, and coot on the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit hunting on the following waters: Big Spring Reservoir, Catnip Reservoir, Dunfurrena Ponds, and the ''Little Sheldon'' portion of the refuge.

2. Hunters may only use boats with electric motors.

3. We only allow portable blinds and temporary blinds constructed of synthetic material.

B. Upland Game Hunting. We allow hunting of quail, grouse, and chukar on the refuge except in the following areas: The ''Little Sheldon'' portion of the refuge and around the Dunfurrena Ponds in accordance with State regulations subject to the following condition: We allow sage grouse hunting and require a State permit.

C. Big Game Hunting. We allow hunting of deer, antelope, and bighorn sheep on the refuge except in the following areas: The ''Little Sheldon'' portion of the refuge and around Dunfurrena Ponds in accordance with State regulations subject to the following conditions:

1. We allow ground blinds, and you must not construct them earlier than 1 week prior to the opening day of the legal season for which you have a valid permit.

2. You must remove blinds (see § 27.93 of this chapter) within 24 hours of harvesting an animal or at the end of the permittee's legal season.

3. You must tag blinds with the owner's name and permit number.

4. We prohibit destruction of natural vegetation (see § 27.51 of this chapter) or below-ground excavation.

D. Sport Fishing. We allow fishing in Big Spring Reservoir, Catnip Reservoir, and in the Dunfurrena Ponds in accordance with State regulations subject to the following conditions:

1. We only allow boats with electric motors.

2. We only allow individuals who are age 12 or under, age 65 or older, or disabled to fish in McGee Pond.

Stillwater National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds on designated areas of the refuge in accordance with State regulations subject to the following conditions.

1. We prohibit hunting inside the posted no hunting zone around the residence of the former Alves property.

2. We prohibit hunting inside the posted no hunting zone located south of Division Road as shown in the refuge brochure.

3. We prohibit loaded weapons (see § 27.42(b) of this chapter) inside the posted retrieval zone. The zone begins on the north edge of Division Road and extends 200 yards (180 m) northward.

4. We allow persons to transport rifles and pistols through the refuge only when unloaded and cased (see § 27.42(b) of this chapter).

5. We prohibit boating outside of the waterfowl and youth waterfowl hunting season except on Swan Check Lake where we allow nonmotorized boating all year.

6. We prohibit boats on Swan Lake, the northeast corner of North Nutgrass Lake, and the north end of Pintail Bay. We allow the use of nonmotorized carts, sleds, floating blinds, and other floating devices in these areas to transport hunting equipment and to conceal hunters, but not to transport hunters.

7. We only allow outboard motor boats on Lead Lake, Tule Lake, Goose Lake, South Nutgrass Lake, the southeast corner of North Nutgrass Lake, and south end of Pintail Bay.

8. We only allow air-thrust boats on Goose Lake, South Nutgrass Lake, the southeast corner of North Nutgrass Lake, and the south end of Pintail Bay.

9. You may not operate air-thrust boats until 1 hour after the legal shooting time on opening day of waterfowl season.

10. We require air-thrust boat owners to get a Special Use Permit from the refuge manager and to display a number on their airboats.

11. We allow nonmotorized boats on all lakes and bays except Swan Lake, the northeast corner of North Nutgrass Lake, and the north end of Pintail Bay.

12. We prohibit all-terrain vehicles on the refuge (see § 27.31(f) of this chapter).

13. We only allow parking on boat landings and designated parking areas.

14. We only allow camping in designated areas.

15. We prohibit campfires (see § 27.95 of this chapter).

B. Upland Game Hunting. We allow hunting of upland game species on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, A4, A12, A13, A14, and A15 apply.

2. Hunters must only use shotguns with approved nontoxic shot (see § 32.2(k)).

C. Big Game Hunting. We allow hunting of mule deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, A12, A13, A14, and A15 apply.

2. Hunters must only use shotguns, muzzleloading weapons, or bow and arrow.

3. We allow persons to transport centerfire rifles and pistols through the refuge only when unloaded and cased (see § 27.42(b) of this chapter).

D. Sport Fishing. [Reserved]

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■ 29. Amend § 32.48 New Hampshire by:

■ a. Revising Great Bay National Wildlife Refuge; and

■ b. Revising Lake Umbagog National Wildlife Refuge to read as follows:

§ 32.48 New Hampshire.

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Great Bay National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of waterfowl in accordance with State regulations subject to the following conditions:

1. We do not require a separate Federal permit for waterfowl hunting.

2. We only allow hunting from Great Bay up to the refuge boundary signs and hunters may not retrieve birds beyond refuge signs from the shoreline.

3. We only allow portable blinds. You must remove all decoys, blinds, and boats (see § 27.93 of this chapter) each day.

4. Waterfowl hunters may only access shorelines by boat from launching areas outside the refuge.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed deer on

designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. The deer hunt will be the first weekend of the State's either-sex season for Wildlife Management Unit M, usually held in November.

2. We close the refuge to all other public use during the hunt weekend.

3. We require refuge permits (you must possess and carry) for the deer hunt for a fee of $20.00. By lottery we draw 20 hunters for each day, for a total of 40. We also draw 20 alternate hunters.

4. A licensed and permit-holding adult who is at least age18 must accompany youth hunters up to age 16 when hunting. We charge no refuge permit fee to youth hunters.

5. Youth hunters must have successfully completed a State hunter education course.

6. We require deer hunters to wear in a visible manner on the head, chest, and back, a minimum of 400 square inches (2,600 cm^2) of solid-colored, blaze-orange clothing or material.

7. We only allow shotgun hunting with slugs. We prohibit other firearms, including handguns, at any time while on the refuge.

8. You must unload shotguns (see § 27.42(b) of this chapter) outside of legal State hunting hours and while traveling through any designated safety zone.

9. We only allow portable tree stands that hunters must remove (see § 27.93 of this chapter) at the end of the day.

10. Two weeks prior to the hunt, we will allow selected hunters a refuge permit (you must possess and carry) to scout for 4 days. Scout days are Wednesdays through Saturdays during daylight hours only.

11. You must possess and carry the refuge permit with you at all times while scouting and hunting the refuge.

12. You must check-in at the refuge electronic gate between 4:30 a.m. and 5:30 a.m. on your assigned hunt day.

13. We open the entire refuge to deer hunting, with the exception of designated safety zones and the former Weapons Storage Area.

14. In order to protect bald eagles from disturbance, we may, on a daily basis, close Woodman Point to deer hunting if significant numbers of roosting bald eagles are using the area.

15. You must park in designated parking areas and along roads up to barricades; from there, hunters must only travel by foot.

16. You must take harvested deer to the refuge office before leaving.

17. The refuge is located in Newington, New Hampshire, along the eastern shoreline of Great Bay. McIntyre Road borders the refuge to the east. The southern boundary begins approximately ¼ mile (.4 km) north of the intersection of Fabyan Point Road and McIntyre Road and continues west to the shoreline of Great Bay. The northern boundary begins approximately 150 feet (45 m) south of the intersection of McIntyre Road and Little Bay Road and continues west to the shoreline of Great Bay. The western boundary is the shoreline of Great Bay.

D. Sport Fishing. [Reserved]

Lake Umbagog National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, American crow, and woodcock in accordance with State regulations, seasons, and bag limits subject to the following conditions:

1. You must wear two articles of hunter-orange clothing or material. One article must be a solid-colored hunter-orange hat; the other must cover a major portion of the torso, such as a jacket, vest, coat, or poncho and must be a minimum of 50 percent hunter orange in color (such as orange camouflage) except when hunting waterfowl.

2. We will provide permanent refuge blinds that are available by reservation. You may make reservations for particular blinds up to 1 year in advance, for a maximum of 1 week, running Monday through Sunday during the hunting season. You may make reservations for additional weeks up to 1 week in advance, on a space-available basis. We prohibit other permanent blinds. You must remove temporary blinds, boats, and decoys (see § 27.93 of this chapter) from the refuge each day.

3. You may use dogs (see § 26.21(b) of this chapter) to retrieve, point, and flush when hunting for migratory birds.

4. We open the refuge to hunting during the hours stipulated under each State's hunting regulations but no longer than from ½ hour before legal sunrise to ½ hour after legal sunset. We close the refuge to night hunting. Hunters must unload all firearms (see § 27.42 of this chapter) outside of legal hunting hours.

5. We prohibit the use of all-terrain vehicles (ATVs or OHRVs) on refuge land (see § 27.31(f) of this chapter).

B. Upland Game Hunting. We allow hunting of coyote, fox, raccoon, woodchuck, red and eastern gray squirrel, porcupine, skunk, snowshoe hare, ring-necked pheasant, ruffed grouse, and northern bobwhite in accordance with State regulations, seasons, and bag limits subject to the following conditions:

1. We prohibit night hunting.

2. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

3. We open the refuge to hunting during the hours stipulated under State hunting regulations but no longer than from ½ hour before legal sunrise to ½ hour after legal sunset. We close the refuge to night hunting. Hunters must unload all firearms (see § 27.42 of this chapter), and nock no arrows outside of legal hunting hours.

4. We prohibit the use of all-terrain vehicles (ATVs or OHRVs) on refuge land (see § 27.31(f) of this chapter).

5. You must wear two articles of hunter-orange clothing or material. One article must be a solid-colored hunter-orange hat; the other must cover a major portion of the torso, such as a jacket, vest, coat, or poncho and must be a minimum of 50 percent hunter orange in color (such as orange camouflage) except when hunting turkey.

6. We allow hunting of coyotes and snowshoe hare with dogs during State hunting seasons. Hunting with trailing dogs on the refuge will be subject to the following regulations:

i. You must equip all dogs used to hunt coyote with working radio-telemetry collars, and you must be in possession of a working radio-telemetry receiver that can detect and track the frequencies of all collars used. We require no radio-telemetry collars for dogs used to hunt snowshoe hare.

ii. We prohibit training during or outside of dog season for coyote or hare.

iii. We allow a maximum of four dogs per hunter.

iv. You must pick up all dogs the same day you release them (see § 26.21(b) of this chapter).

C. Big Game Hunting. We allow hunting of bear, white-tailed deer, and moose in accordance with State regulations, seasons, and bag limits subject to the following conditions:

1. Conditions B3 and B4 apply.

2. We allow bear hunting with dogs during State hunting seasons. Hunting with trailing dogs on the refuge will be subject to the following conditions:

i. You must equip all dogs used to hunt bear with working radio-telemetry collars, and you must be in possession of a working radio-telemetry receiver that can detect and track the frequencies of all collars used.

ii. We prohibit training during or outside of dog season for bear.

iii. We allow a maximum of four dogs per hunter.

iv. You must pick up all dogs the same day you release them (see § 26.21(b) of this chapter).

3. We allow prehunt scouting of the refuge; however, we prohibit dogs and firearms during prehunt scouting.

4. Each hunter must wear two articles of hunter-orange clothing or material. One article must be a solid-colored hunter orange hat; the other must cover a major portion of the torso, such as a jacket, vest, coat, or poncho and must be a minimum of 50 percent hunter orange in color (such as orange camouflage).

5. We allow temporary tree stands and blinds, but you must remove them (see § 27.93 of this chapter) by the end of the season. We prohibit nails, screws, or screw-in climbing pegs to build or access a stand or blind (See § 32.2(i)).

D. Sport Fishing. [Reserved]

■ 30. Amend § 32.49 New Jersey by:

■ a. Revising Cape May National Wildlife Refuge;

■ b. Revising Edwin B. Forsythe National Wildlife Refuge;

■ c. Revising Great Swamp National Wildlife Refuge; and

■ d. Revising Wallkill River National Wildlife Refuge to read as follows:

§ 32.49 New Jersey.

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Cape May National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of waterfowl, coot, moorhen, rail, common snipe, and woodcock in accordance with State regulations subject to the following conditions:

1. We only allow hunting on those refuge tracts located west of Route 47 in the Delaware Bay Division and on those tracts north of Route 550 in the Great Cedar Swamp Division. We prohibit hunting on the Two Mile Beach Unit.

2. While hunting migratory game birds, except waterfowl, you must wear in a visible manner on your head, chest, and back a minimum of 400 square inches (2,600 cm^2) of solid-colored, hunter-orange clothing or material.

3. You must remove all hunting blind materials, boats, and decoys (see § 27.93 of this chapter) at the end of each hunting day. We prohibit permanent or pit blinds.

4. The common snipe season on the refuge begins with the start of the State early woodcock south zone season and continues through the end of the State common snipe season.

5. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed deer in accordance with State regulations subject to the following conditions:

1. We prohibit hunting on the following areas:

i. The posted ''Closed Area'' of Tract 200 in the Delaware Bay Division;

ii. The posted ''Closed Area'' in Tract 334 in the Delaware Bay Division; and

iii. The Two Mile Beach Unit.

2. During the firearms big game seasons, you must wear, in a visible manner on head, chest, and back, a minimum of 400 square inches (2,600 cm^2) of solid-colored, hunter-orange clothing or material.

D. Sport Fishing. [Reserved]

Edwin B. Forsythe National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of waterfowl, coot, moorhen, and rail on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must remove all hunting blind materials, boats, and decoys (see § 27.93 of this chapter) at the end of each hunting day. We prohibit permanent or pit blinds.

2. You may use trained dogs for the retrieval of authorized game birds (see § 26.21(b) of this chapter).

3. You may possess a maximum of 25 approved nontoxic shotshells per day in all hunting units of the Barnegat Division and a maximum of 50 approved nontoxic shotshells per day in Unit 1 of the Brigantine Division (see § 32.2(k)).

4. In Hunting Unit B of the Barnegat Division, we restrict hunting to designated sites, with each site limited to one party of hunters.

5. In Hunting Units B, D, E, and F of the Barnegat Division, we require a minimum of six decoys, and we prohibit jump shooting.

6. Access is by boat only in all Units of the Barnegat Division except Unit A South and Unit F. You may access these units by foot or boat. Access is by boat only in all Units of the Brigantine Division.

7. You may not enter hunt Units before 4 a.m.

8. No person including, but not limited to, a guide, guide service, outfitter, club, or other organization, will provide assistance, services, or equipment on the refuge to any other person for compensation unless such guide, guide service, outfitter, club, or organization has obtained a Special Use Permit from the refuge for a fee.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed deer in New Jersey Deer Management Zones 56, 57, and 58 in accordance with State regulations subject to the following conditions:

1. We require persons hunting on the refuge for the first time to attend one of the four refuge-specific hunter-orientation sessions conducted during the fall.

2. We require a State permit for the appropriate State Deer Management Zone. You must have this permit stamped and validated in person at the Brigantine or Barnegat office. Hunters will receive maps of the refuge-specific zones upon validation.

3. Hunters may enter the refuge no earlier than 2 hours before shooting time and must leave no later than 1 hour after the end of shooting time. Refuge hunting hours are consistent with State hunting hours.

4. During firearm big game season, hunters must wear in a visible manner on head, chest, and back a minimum of 400 square inches (2,600 cm^2) of solid-colored, hunter-orange clothing or material.

5. You may scout on the 2 Sundays prior to the opening day of your respective zone permit.

D. Sport Fishing. We allow fishing at the Holgate Unit, Little Beach Island, Graveling Point, Lily Lake, and the posted fishing areas along the south side of Parkertown Dock Road, North side of Cedar Run Dock Road, end of Stafford Avenue, and the middle branch of the Forked River in accordance with State regulations subject to the following conditions:

1. We close the Holgate unit and Little Beach Island during the migratory bird nesting season. We may extend the closure of the bay side portion of the Holgate Unit through October.

2. We require a Special Use Permit to fish from Little Beach Island. You may obtain permits from the refuge headquarters.

3. We only allow car-top-type launches at Lily Lake. There is no boat ramp.

4. We prohibit use of internal combustion engines on Lily Lake.

5. We will close the Forked River fishing area during zone 58 big game hunting season.

6. We will open Forked River and Lily Lake from legal sunrise until legal sunset.

7. We prohibit fishing, clamming, and crabbing from any waters within tract 122X, locally known as the AT&T properties. We close this tract to all public use.

Great Swamp National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require a State permit for the appropriate New Jersey Deer Management Zone.

2. In addition to the State permit, we require a Deer Hunting Permit (along with a fee) issued by the refuge. This permit must be stamped for validation.

3. We require refuge hunters to pass a written examination before allowing them to hunt on the refuge.

4. Hunters must wear in a visible manner on head, chest, and back a minimum of 400 square inches (2,600 cm^2) of solid-colored hunter-orange clothing or material.

5. Hunters must be in possession of refuge and State hunting permits at all times while hunting on the refuge.

6. Refuge hunting regulations, as listed in the ''Great Swamp National Wildlife Refuge Public Deer Hunt Map,'' and found in the examination, will be in effect.

D. Sport Fishing. [Reserved]

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Wallkill River National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of all migratory bird species on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a signed refuge hunt permit at all times while scouting and hunting on the refuge. We charge a fee for all hunters except youth age 16 and younger.

2. We issue one companion permit at no charge to each hunter. We allow companions to observe and call, but they cannot shoot a firearm or bow. Companion and hunters must set up in the same location.

3. We have seven hunting areas on the refuge. We allow migratory bird hunting in Areas A, D, E, and G. We close Areas C and F to migratory bird hunting. We close Area B to migratory bird hunting except we open 119 Owens Station Road to State-licensed disabled hunters. We provide maps with the refuge permit (you must possess and carry) that show these areas in detail.

4. We provide you with hunt parking areas and issue parking permits that you must clearly display in your vehicle. Hunters who park on the refuge must park in identified hunt parking areas.

5. You must wear, in a visible manner, a minimum of 400 square inches (2,600 cm^2) of solid-color, hunter-orange clothing or material on the head, chest, and back, except when hunting duck and goose.

6. You may only possess approved nontoxic shotgun shells (see § 32.2(k)) in quantities of 25 or less daily.

7. We prohibit use or erection of permanent or pit blinds. You must remove all hunting blind material, boats, and decoys (see § 27.93 of this chapter) from the refuge at the end of each hunting day.

8. We prohibit the use of all terrain vehicles (ATVs) on the refuge (see § 27.31(f) of this chapter), except if you have a State of New Jersey—disabled hunting license, have received a disabled hunting permit from the refuge, have a certificate of ATV safety class completion, and are hunting in the disabled hunter area located at 119 Owens Station Road.

9. We allow prehunt scouting, and we allow the use of dogs while hunting. However, we prohibit dogs during prehunt scouting.

10. We limit the number of dogs per hunting party to no more than two dogs.

11. We allow hunters to enter the refuge 2 hours before shooting time, and they must leave no later than 2 hours after the end of shooting time.

12. We prohibit the hunting of crows on the refuge.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, A4, A8, A9, and A11 apply.

2. We have seven hunting areas on the refuge. We allow white-tailed deer and turkey hunting in Areas A, D, E, F, and G. Area B is open for big game hunting east of the abandoned railroad bed. Also in Area B, we only allow State-licensed, disabled hunters to hunt at 119 Owens Station Road. We close Area C to big game hunting. We provide maps with the refuge permit (you must possess and carry) that show these areas in detail.

3. We require firearms hunters to wear, in a visible manner, a minimum of 400 square inches (2,600 cm^2) of solid-color, hunter-orange clothing or material on the head, chest, and back. Bow hunters must meet the same requirements when we open the firearm season. We do not require turkey hunters to wear orange at any time.

4. You must remove all stands and other hunting material (see § 27.93 of this chapter) from the refuge at the end of each day.

D. Sport Fishing. We allow fishing in designated sections of the refuge in both New York and New Jersey in accordance with State regulations subject to the following conditions:

1. We allow fishing in and along the banks of the Wallkill River and in the pond at refuge headquarters.

2. We require that anglers park in designated parking areas to access the Wallkill River through the refuge.

3. You may launch canoes, kayaks, or small boats at designated river access locations.

4. We allow fishing from legal sunrise to legal sunset.

5. We prohibit commercial fishing on the refuge.

6. We prohibit the taking of frog and turtle (see § 27.21 of this chapter).

■ 31. Amend § 32.50 New Mexico by:

■ a. Revising paragraphs A., B., and C. of Bitter Lake National Wildlife Refuge;

■ b. Revising Bosque Del Apache National Wildlife Refuge; and

■ c. Revising paragraph A. of Las Vegas National Wildlife Refuge to read as follows:

§ 32.50 New Mexico.

* * * * *

Bitter Lake National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, mourning dove, and sandhill crane on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. On the North Tract (including Salt Creek Wilderness Area and the portion of the refuge located north of U.S. Highway 70) all hunting must be in accordance with State seasons and regulations. On the Middle Tract (the portion of the refuge located between U.S. Highway 70 and U.S. Highway 380), we restrict hunting to goose, duck, sandhill crane, and American coot (no dove) in the designated public hunting area in the southern portion of the Tract that never approaches closer than 100 yards (90 m) to the public auto tour route only; we limit hunting to Tuesdays, Thursdays, and Saturdays during the period when the State seasons for that area are open simultaneously for ALL these species; and all hunting must cease at 1 p.m. (local time) on each hunt day. On the South Tract (the portion of the refuge located south of U.S. Highway 380), we only allow hunting during Special Hunts (Youth hunters [17 years of age and younger] and/or Physically Impaired) as per State seasons and regulations.

2. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

3. We prohibit pit or permanent blinds and require daily removal of all waterfowl decoys and all temporary blinds/stands (see § 27.93 of this chapter).

4. We only allow unleashed hunting/retrieving dogs on the refuge when hunters are legally present in areas where we allow hunters, only if the dogs are under the immediate control of

hunters at all times (see § 26.21(b) of this chapter), and only to pursue species legally in season at that time.

5. We do not require refuge or other special hunt permits other than those required by the State (*e.g.*, sandhill crane permits).

B. Upland Game Hunting. We allow hunting of pheasant, quail, cottontail, and jack rabbit on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. On the North Tract (including Salt Creek Wilderness Area and the portion of the refuge located north of U.S. Highway 70), all hunting must be in accordance with State seasons and regulations. On the Middle Tract (the portion of the refuge located between U.S. Highway 70 and U.S. Highway 380), we only allow pheasant hunting and restrict hunting to the designated public hunting area in the southern portion of the Tract that never approaches closer than 100 yards (90 m) from the public auto tour route; we limit hunting to Tuesdays, Thursdays, and Saturdays during the State season for the Middle Tract; and all hunting must cease at 1 p.m. (local time) on each hunt day. On the South Tract (the portion of the refuge located south of U.S. Highway 380) we only allow public hunting during Special Hunts (Youth hunters [17 years of age and younger] and/or Physically Impaired) as per State seasons and regulations.

2. Conditions A2 and A4 apply.

3. We do not require refuge or other special hunt permits other than those required by the State.

C. Big Game Hunting. We allow hunting of mule deer, white-tailed deer, and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We restrict all hunting to the North Tract (including Salt Creek Wilderness Area and the portion of the refuge located north of U.S. Highway 70) in accordance with State seasons and regulations, with the specification that we only allow hunt and take of feral hog (no bag limit) during deer hunts for that area and only with the weapon legal for deer on that day in that area.

2. Condition B3 applies.

3. We only allow use of portable blinds or stands, and require daily removal of all blinds and stands (see § 27.93 of this chapter).

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Bosque Del Apache National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of mourning and white-winged dove and light goose on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a refuge permit for hunting of light goose. The permit is available through a lottery drawing, and we must receive applications for the permit by November 30 of each year along with a $6.00 nonrefundable application fee.

2. We allow hunting of light goose on Monday, Wednesday, and Friday during the second full week of January. Hunters must report to the refuge headquarters by 4:45 a.m. each hunt day. Legal hunting hours will run from 6:45 a.m. to 10 a.m. local time.

3. We allow the use of hunting dogs for bird retrieval. You must keep dogs on a leash when not hunting (see § 26.21(b) of this chapter).

4. We prohibit hunters and dogs from retrieving dead or wounded birds in closed areas.

5. All State and Federal hunting and fishing regulations regarding methods of take, dates, bag limits, etc., apply to all hunting and fishing on the refuge, in addition to these refuge-specific regulations.

6. We prohibit canoeing, boating, or floating through the refuge on the Rio Grande.

7. We prohibit hunting any species on the Rio Grande within the refuge.

8. We prohibit falconry on the refuge.

B. Upland Game Hunting. We allow hunting of quail and cottontail rabbit on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow shotguns and bows and arrows.

2. Conditions A5 through A8 apply.

C. Big Game Hunting. We allow hunting of mule deer and oryx on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Refer to the refuge map for designated areas.

2. Hunting on the eastside of the Rio Grande is by foot or horseback only.

3. We allow oryx hunting from the east bank of the Rio Grande and east to the refuge boundary. We will allow hunters possessing a valid State special off-range permit to hunt oryx on the refuge during the concurrent State deer season. We also may establish special hunt dates each year for oryx. Contact the refuge manager for special dates.

4. Conditions A5 through A8 apply.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing on all canals within the refuge boundaries (Interior Drain, Riverside Canal, and Low Flow Conveyance Channel), and unit 25AS either from the boardwalk or from shore.

2. We allow fishing from April 1 through September 30.

3. We allow fishing from 1 hour before legal sunrise until 1 hour after legal sunset.

4. We prohibit trotlines, bows and arrows, boats or other floatation devices, seining, dip netting, traps, using bait taken from the refuge, taking of turtle (see § 27.21 of this chapter), littering, and all other activities not expressly allowed.

5. Access to the canals is via the tour loop. We prohibit fishing in closed areas of the refuge, with the exception of the Low Flow Conveyance Channel.

6. We allow frogging for bullfrog on the refuge from June 1 through August 15 in areas that are open to fishing. We only allow frogging from 1 hour before legal sunrise to 1 hour after legal sunset. Interested persons must obtain a free Special Use Permit at the refuge visitor center.

7. All State and Federal fishing regulations regarding methods of take, dates, creel limits, etc., apply to all fishing on the refuge, in addition to these refuge-specific regulations.

8. We prohibit fishing for any species on the Rio Grande within the refuge.

9. Condition A6 applies.

Las Vegas National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of mourning dove and Canada goose on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a refuge permit and pay a fee.

2. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

3. Youth hunters age 17 and under must hunt under the supervision of an adult age 21 or older.

4. We prohibit hunters and dogs from entering closed areas to retrieve birds.

5. We only allow Canada goose hunting on designated day(s) of the week as identified on the permit.

6. Shooting hours for Canada goose are from ½ hour before legal sunrise to 1 p.m. local time.

7. The bag limit for Canada goose is two.

8. For Canada goose hunting, you may only possess approved nontoxic shells (see § 32.2(k)) while in the field in quantities of six or less.

* * * * *

■ 32. Amend § 32.51 New York by:

■ a. Revising Iroquois National Wildlife Refuge; and

■ b. Revising paragraphs A., C., and D. of Montezuma National Wildlife Refuge to read as follows:

§ 32.51 New York.

* * * * *

Iroquois National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, rail, coot, gallinule, snipe, and woodcock on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. For hunting of goose, duck, and coot (only allowed on Tuesdays, Thursdays, and Saturdays):

i. We require refuge waterfowl hunting permits. We allocate permits by random drawing at the Waterfowl Hunter Check Station on Route 77 on hunt days, except that we conduct a mail-in lottery for permits issued for opening day and the first two Saturdays of the regular waterfowl season. Permits allow up to three hunters to hunt. We charge a daily fee. A hunt stand is available for physically challenged hunters possessing a Golden Access Passport. We will allocate the hunt stand in a separate random draw for opening day and by first-come, first-served basis for other hunt days. The permit will allow one helper who may also hunt.

ii. You must possess and carry a valid New York State Waterfowl Education Certificate of Qualification.

iii. You must provide and use a minimum of six decoys.

iv. We only allow hunting from ½ hour before legal sunrise to 12 p.m. (noon). All hunters must check out no later than 1 p.m. by returning the Harvest Report portion of your permit to the Waterfowl Hunter Check Station.

v. You may only possess approved nontoxic shotshells (see § 32.2(k)) in the field in quantities of 20 or less.

vi. You must hunt within 100 feet (30 m) of your designated stand unless actively pursuing crippled birds.

2. For hunting of rail, gallinule, snipe, and woodcock:

i. We require refuge daily small-game hunt permits and reports. You may obtain these self-issued permits at several kiosks located around the refuge. The hunter must complete and sign Part ''A'' and possess and carry Part ''B'' while hunting, then complete and return Part ''B'' to one of the kiosks at the end of the hunt day.

ii. You may only possess approved nontoxic shot in the field (see § 32.2(k)).

iii. We only allow hunting east of Sour Springs Road.

3. We allow youths ages 12 to 17 to hunt goose and duck on the first Sunday of the regular waterfowl season subject to the following conditions:

i. Each youth hunter must preregister at the refuge office.

ii. Each youth hunter must participate in the prehunt orientation and education program.

iii. Each youth must hunt with a preapproved, nonhunting adult (for ages 12 and 13 the parent and/or guardian must be age 21 or older; for ages 14 and up the parent and/or guardian must be age 18 or older) who must be a licensed parent or adult participating in the program.

iv. Conditions 1iv, 1v, and 1vi above apply.

B. Hunting of Upland Game. We allow hunting of ruffed grouse, gray squirrel, cottontail rabbit, pheasant, coyote, fox, raccoon, skunk, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require refuge daily small-game hunt permits and reports. You may obtain these self-issued permits at several kiosks located around the refuge. You must complete and sign Part A and possess and carry Part B while hunting, then complete and return Part B to one of the kiosks at the end of the hunt day.

2. We only allow hunting from legal sunrise to legal sunset. We prohibit night hunting.

3. We allow hunting only between October 1 and the last day of February.

4. You must only possess approved nontoxic shot (see § 32.2(k)) while in the field if hunting with a shotgun.

5. You must wear in a visible manner on head, chest, and back a minimum of 400 square inches (2,600 cm^2) of solid-colored, hunter-orange clothing or material during any firearms deer season.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. White-tailed deer:

i. We require refuge daily deer hunt permits and reports. These self-issued permits are available at several kiosks located around the refuge. You must complete and sign Part A and possess and carry Part B while hunting, then complete and return Part B to one of the kiosks at the end of the hunt day.

ii. All hunters must wear in a visible manner on head, chest, and back a minimum of 400 square inches (2,600 cm^2) of solid-colored, hunter-orange clothing or material during any firearms deer season.

iii. If you use portable tree stands, blinds, and decoys, you must remove all equipment (see § 27.93 of this chapter) from the refuge at the end of the day.

2. Turkey (only allowed during the spring season):

i. We require refuge spring turkey hunting permits. We select permittees, except youth permittees as designated below, from a mail-in, random drawing for available permits. We charge a nonrefundable application processing fee.

ii. Only youth hunters 12 to17 years of age, accompanied by a properly licensed, preapproved nonhunting adult (for youths aged 12 and 13 the parent and/or guardian must be age 21 or older; for youths ages 14 and up, the parent and/or guardian must be age 18 or older), may hunt on the refuge on the first Sunday of the season. All youth hunters must register at the refuge headquarters and attend a mandatory orientation.

iii. You may use portable blinds and decoys, but you must remove all equipment (see § 27.93 of this chapter) at the conclusion of each day.

iv. You may only scout during the 7 days immediately preceding the season. You must possess and carry your permit when scouting. We prohibit calling or possessing a call of any kind while scouting.

D. Sport Fishing. We allow fishing and frogging on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You may only fish or frog from legal sunrise to legal sunset.

2. We allow fishing or frogging in Oak Orchard Creek east of Route 63 and on other designated areas of the refuge year-round during the State season.

3. We only allow ice fishing on Ringneck Marsh from December 15 through the last day of February.

4. We allow frogging in areas open for public fishing. We prohibit guns or archery equipment to kill or capture frog.

5. We prohibit wading or the use of boats or other flotation devices, with the exception that you may use nonmotorized boats on Oak Orchard Creek east of Route 63.

6. We require that anglers remove boats, structures, or other equipment (see § 27.93 of this chapter) from the refuge after the completion of the day's fishing activities.

Montezuma National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of waterfowl on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require daily refuge permits (you must possess and carry)/ reservations.

2. We only allow hunting on Tuesdays, Thursdays, and Saturdays during the established refuge season set within the State western zone season.

3. We take telephone reservations from 8 a.m. to 8:30 a.m. on Tuesdays, Thursdays, and Saturdays for the next hunt day (except for opening day).

4. We take opening day reservations between 8 a.m. and 8:30 a.m. on the day immediately before the season opener.

5. The reservation telephone number is 315–568–4136.

6. All telephone reservations are available on a first-come, first-served basis.

7. Persons with a reservation may bring one companion.

8. Hunters reserve the parking area of their choice when making their reservations.

9. All hunters with reservations and their companions must check-in at the Route 89 Hunter Check Station at least 1 hour before legal shooting time or forfeit their reservation.

10. Forfeited reservations become available on a first-come, first-served basis to standby hunters at the Route 89 Hunter Check Station.

11. We require $10.00 per reservation fee. Hunters with either Golden Age or Access Passports receive a 50 percent discount.

12. We require motorless boats to hunt and limit hunters to one boat per reservation.

13. We select hunting sites in a free-roam system.

14. You may only possess approved nontoxic shells (see § 32.2(k)) while in the field in quantities of 15 or less.

15. We prohibit shooting from the dike.

16. Hunting ends at 12 p.m. (noon), and all hunters must check out by 1 p.m.

17. We require successful completion of the New York State Waterfowl Identification Course, the Montezuma Nonresident Waterfowl Identification Course, or a suitable nonresident State Waterfowl Identification Course to hunt the refuge.

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C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow hunting of white-tailed deer on designated portions of the refuge by archery, firearms (see § 27.42 of this chapter), or muzzleloaders during established refuge seasons set within the general State white-tailed deer season.

2. We prohibit Sunday hunting.

3. Each hunter must possess, carry, and return at day's end a valid daily hunt permit card.

4. Daily hunt permits are available at the Route 89 Hunter Check Station on a first-come, first-served basis, issued by refuge personnel or available on a self-service basis.

5. We make available 150 firearms hunt permit cards each day on a first-come, first-served basis.

6. Hunters must fill out Part A of the daily hunt permit card at check-in and leave it with refuge personnel or deposit it in the Part A box at the Route 89 Hunter Check Station.

7. The hunter must carry Part B of the daily hunt permit card while hunting the refuge.

8. The hunter must complete Part B and deposit it in the Part B box at the Route 89 Hunter Check Station by the end of the hunt day.

9. Successful opening day archery hunters must bring their deer to the Route 89 Hunter Check Station.

10. Successful firearms hunters must bring their deer to the Route 89 Hunter Check Station on the days we staff it.

11. Firearms hunters must wear in a visible manner on the head, chest, and back a minimum of 400 square inches (2,600 cm^2) of solid-blaze orange.

12. We only allow shotguns and muzzleloaders during the firearms (see § 27.42 of this chapter) season. We prohibit handguns.

13. Hunters must have all guns unloaded (see § 27.42 of this chapter) between legal sunset and legal sunrise.

14. Hunters must disassemble, lock, or case all bows after legal sunset and before legal sunrise.

15. We prohibit advance scouting.

16. We prohibit boats and canoes on refuge pools. We prohibit hunting on the open water portions of the refuge pools.

17. We prohibit ATVs (see § 27.31(f) of this chapter).

18. Hunters may only use portable tree stands and must remove them (see § 27.93 of this chapter) from the refuge each day.

19. We prohibit screw-in tree steps (see § 32.2(i)).

20. We allow firearms hunters to be on the refuge during the period that begins 1 hour before legal sunrise and ends 1 hour after legal sunset.

21. We allow archery hunters to be on the refuge during the period that begins 1 hour before legal sunrise (except for opening day) and ends 1 hour after legal sunset.

22. On opening day, we allow archery hunters on the refuge during the period that begins 2 hours before legal sunrise and ends 1 hour after legal sunset.

D. Sport Fishing. Anglers may only access the New York State Barge Canal System Waters at two sites on the refuge: The Seneca River Fishing Access Site and the May's Point Fishing Area. Anglers may either bank fish or boat fish in accordance with State regulations.

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■ 33. Amend § 32.52 North Carolina by:

■ a. Revising Alligator River National Wildlife Refuge;

■ b. Revising paragraph A. of Cedar Island National Wildlife Refuge;

■ c. Revising paragraph A. of Currituck National Wildlife Refuge;

■ d. Revising paragraph C. of Mackay Island National Wildlife Refuge;

■ e. Revising Mattamuskeet National Wildlife Refuge;

■ f. Revising paragraph D. of Pea Island National Wildlife Refuge;

■ g. Revising Pee Dee National Wildlife Refuge;

■ h. Revising Pocosin National Wildlife Refuge; and

■ i. Revising Swanquarter National Wildlife Refuge to read as follows:

§ 32.52 North Carolina.

* * * * *

Alligator River National Wildlife Refuge

A. Hunting of Migratory Birds. We allow hunting of migratory game birds on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Hunters must possess and carry a valid refuge hunting permit.

2. We prohibit construction or use of a permanent blind.

3. We close the Farming Area to waterfowl hunting.

4. Each youth hunter must remain within sight and normal voice contact of an adult age 21 or older. An adult may directly supervise (up to two) youth hunters (age 15 and under), who must have successfully completed a State-approved hunter safety course and possess and carry proof of certification.

5. We allow retrieving dogs in designated areas. We prohibit the use of dogs in the Gum Swamp Unit.

B. Upland Game Hunting. We allow upland game hunting on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 and A4 apply.

2. You may only possess approved nontoxic shot in the field (see § 32.2(k)).

3. We only allow dog training during the corresponding hunting season.

4. We require a Special Use Permit to hunt raccoon or opossum from ½ hour

after legal sunset until ½ hour before legal sunrise.

5. We allow retrieving, pointing, and flushing dogs in designated areas. We prohibit the use of dogs in the Gum Swamp Unit.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A4 (an adult may only supervise one youth hunter), and B3 applies.

2. We only allow lead buckshot and slugs.

3. We close the Hyde County portion of the refuge during State bear seasons.

4. We only allow pursuit/trailing dogs in designated areas as shown in the Hunting Regulations and Permit Map. We prohibit the use of pursuit and trailing dogs in the Gum Swamp, Parched Corn Bay/Long Shoal River, and North Stumpy Point Units.

5. Unarmed hunters may walk to retrieve stray dogs from closed areas and ''no dog hunting'' areas.

D. Sport Fishing. We allow fishing and frogging in accordance with State regulations subject to the following conditions:

1. We only allow fishing from legal sunrise to legal sunset.

2. We only allow pole and line, rod and reel, or cast net.

3. We require a Special Use Permit for fishing or frogging between legal sunset and legal sunrise.

4. You must only take frog by use of frog gigs.

Cedar Island National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of tundra swan, Canada and snow goose, brant, duck, and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunting on 400 acres (160 ha) of marsh located along the southern border of West Bay and the eastern border of West Thorofare Bay between the John Day Ditch and the Thorofare Ditch. The hunt area extends 300 feet (90 m) from the shoreline into the marsh.

2. We allow portable blinds, but you must remove them (see § 27.93 of this chapter) each day.

3. Hunters/hunt parties must not hunt closer than 150 yards (135 m) apart.

4. You may use decoys but you must remove them (see § 27.93 of this chapter) daily upon completion of your hunting.

5. We only allow hunting during the State waterfowl seasons occurring in November, December, and January.

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Currituck National Wildlife Refuge

A. Hunting of Migratory Birds. We allow hunting of swan, goose, duck, and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require a North Carolina Waterfowl Hunt Permit or a Refuge Hunt Permit. You must carry a permit while hunting on the refuge.

2. You must hunt from assigned blind location.

3. We allow hunting on Wednesdays and Saturdays during the State waterfowl season.

4. We allow hunting from ½ hour before legal sunrise to 1 p.m.

5. We allow access 1½ hours before legal shooting time, and all parties must be off the refuge by 2 p.m.

6. All hunters holding a North Carolina Waterfowl Hunt Permit must check-in at the Knotts Island Market by 5:15 a.m. on the morning of the hunt. We require no check-in for hunters holding Snow Goose Hunt Permits.

7. All guides must obtain and carry a refuge Special Use Permit to conduct guided hunts on the refuge.

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Mackay Island National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require a Refuge Deer Hunting Permit that hunters must sign and carry while hunting on the refuge.

2. We allow the use of shotguns, muzzleloading rifles/shotguns, and bows. We prohibit the use of all other rifles and pistols.

3. We allow access to hunting areas from 5 a.m. until 8 p.m.

4. We prohibit carrying a loaded firearm on or within 50 feet (15 m) of gravel roads.

5. We prohibit the marking of trees or vegetation (see § 27.51 of this chapter) with blazes, flagging, or other marking devices.

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Mattamuskeet National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow the hunting of tundra swan, snow goose, duck, and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require refuge-issued permits that you must validate at the refuge headquarters, sign, possess, and carry while hunting.

2. Each hunt participant must pay a $12.50 daily user fee.

3. We restrict hunting to designated blinds assigned by refuge personnel.

4. Hunters may only shoot crippled waterfowl from outside the assigned blind.

5. There is a 30-shell limit per blind hunter per day.

6. You may use decoys, but you must remove them (see § 27.93 of this chapter) daily upon completion of your hunt.

7. All waterfowl hunters must check out at the assigned station prior to leaving the refuge.

8. Shooting hours are from ½ hour before legal sunrise until 12 p.m. (noon). Hunting hours on the first day of the youth hunt are from 1 p.m. until legal sunset.

9. We allow the use of retrieving dogs, but dogs must be under voice command at all times (see § 26.21(b) of this chapter).

10. You must unload guns (see § 27.42(b) of this chapter) during transport through the refuge.

11. We only allow the taking of Canada goose during the State September Canada goose season subject to the following conditions:

i. We allow hunting Monday through Saturday during the State season, and we require refuge-issued permits that you must obtain at the refuge office, sign, possess, and carry while hunting.

ii. We close the following areas to hunting of Canada goose: Impoundments MI–4, MI–5, and MI–6; in Rose Bay Canal, Outfall Canal, Lake Landing Canal and Waupoppin Canal; 150 feet (45 m) from the mouth of the canals where they enter Lake Mattamuskeet; and 150 yards (135 m) from State Route 94.

iii. We allow portable blinds, but you must remove them (see § 27.93 of this chapter) daily.

12. Each youth hunter (age 16 and under) must remain within sight and normal voice contact of an adult age 21 or older. Youth hunters must have completed a State-certified hunter safety course and possess and carry the form or certificate.

B. Upland Game Hunting. [Reserved].

C. Big Game Hunting. We allow the hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. The hunter must possess and carry a signed, refuge-issued permit while hunting.

2. We close to hunting areas along the Entrance Road, MI–4 impoundment, signed areas along State Route 94, areas around the refuge headquarters, and refuge residence area.

3. Hunters may take one antlered deer and one antlerless deer per day, or two antlerless deer per day.

4. Hunters may take deer with shotgun, bow and arrow, or muzzleloading rifle/shotgun.

5. We allow hunters on the refuge from 1 hour before legal shooting time until 1 hour after legal shooting time.

6. Hunters can use boats to access hunt areas, but we prohibit hunting from a boat.

7. You must check all deer taken at the check station near refuge headquarters.

8. We prohibit erecting portable blinds and tree stands prior to the hunt, and you must remove them (see § 27.93 of this chapter) from the refuge each day.

9. Hunters must wear a minimum of 500 square inches (3,250 cm^2) of hunter-orange material above the waist that is visible from all directions.

10. An adult may only supervise one youth hunter. The youth hunter must be within sight and normal voice contact of the adult.

D. Sport Fishing. We allow fishing for game and nongame fish and the catching of blue crabs on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We are open to sport fishing, bow fishing, and crabbing from March 1 through November 1 from ½ hour before legal sunrise to ½ hour after legal sunset, except we allow bank fishing and crabbing year-round from:

i. State Route 94;

ii. The north bridge and south of the north bridge at Lake Landing;

iii. The Outfall Canal water control structure;

iv. The Central Canal bridge on Wildlife Drive; and

v. Along the west main and east main canal between Entrance Road metal bridge and Number One East Canal as posted.

2. We allow bank fishing and crabbing from the North Carolina Highway 94 causeway 24 hours per day, year-round.

3. We allow fishing boats and motors March 1 through November 1. We prohibit airboats, sailboats, Jet Skis, and windboards.

4. We prohibit bank fishing along the Entrance Road from State Route 94 to the Entrance Road metal bridge.

5. We prohibit herring dipping.

6. We allow crabbing subject to the following conditions:

i. We only allow five handlines and hand-activated traps per person. Owners must be in attendance.

ii. We prohibit crab pots.

iii. You may only possess 12 crabs per person per day.

Pea Island National Wildlife Refuge

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D. Sport Fishing. We allow fishing and crabbing in accordance with State regulations subject to the following conditions:

1. We require a nighttime fishing permit for surf fishing between ½ hour after legal sunset and ½ hour before legal sunrise.

2. We prohibit fishing and crabbing North Pond, South Pond, and New Field Pond Impoundments.

Pee Dee National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of mourning dove on designated dates and areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require all hunters to possess and carry a signed Refuge General Hunt Permit and government-issued picture ID while in the field.

2. Legal shooting hours are 12 p.m. (noon) until legal sunset.

3. Validly licensed adults, age 21 or older, holding applicable permits must accompany and supervise, remaining in sight and voice contact at all times, any youth hunters (under age 16). Each adult may supervise no more than two youth hunters. Youth hunters must possess and carry evidence of successful completion of a State-approved hunter education course.

4. We prohibit possession of a loaded firearm within 100 feet (30 m) of any vehicle or road open to vehicle traffic. We define a loaded firearm as a firearm with ammunition in the magazine or chamber, or a percussion cap in place on a muzzleloader.

5. We prohibit the discharge of a weapon (see § 27.42 of this chapter) on or across a road open to vehicle traffic.

6. We prohibit entering or crossing a ''No Hunting Zone'' or ''Closed Area''. We prohibit the discharge of a weapon (see § 27.42 of this chapter) within, into, or across a ''No Hunting Zone'' or ''Closed Area''. We require consent from refuge personnel to enter a ''No Hunting Zone'' or ''Closed Area'' for the purpose of tracking and/or retrieving legally taken game animals.

7. We prohibit the discharge of a weapon (see § 27.42(a) of this chapter) for a purpose other than to take or attempt to take legal game animals during established hunting seasons.

8. We prohibit waterfowl hunting. By virtue of and pursuant to the Migratory Bird Treaty Act of July 3, 1918, we close the following area to the pursuing, hunting, taking, capturing, or killing of migratory birds or attempting to take, capture, or kill migratory birds: All the area consisting of the bed of the Pee Dee River, bank to bank, submerged or exposed including the water thereof, from the confluence of Pressley Creek and the Pee Dee River to approximately 5 miles (8 km) downstream to the confluence of Brown Creek and the Pee Dee River. Included also are the waters surrounding Buzzard Island and that part of the Pee Dee River on the northeast side of Leak Island beginning approximately 1/4 mile (.4 km) downstream from the head of Leak Island (at the head of a small unnamed island), and continuing downstream to the main channel of the Pee Dee River and containing, in all, a total of 220 acres (88 ha).

B. Upland Game Hunting. We allow hunting of quail, rabbit, squirrel, raccoon, and opossum on designated dates and areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 and A3 through A7 apply.

2. We prohibit raccoon hunters from entering or remaining on the refuge from 1 hour before legal sunrise until 1 hour after legal sunset on established hunt dates.

3. We prohibit raccoon hunters from hunting on the night prior to the opening of a firearms deer hunt and on the nights during the deer hunt except the last night.

4. We require dogs on raccoon/opossum hunts. All dogs must wear a collar displaying the owner's name, address, and phone number.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated dates and areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 and A3 through A7 apply (for A3, adults may supervise no more than one youth hunter).

2. We require each person participating in a quota deer hunt to possess and carry a refuge Quota Deer Hunt Permit for the hunt in which he or she will be participating. Quota Deer Hunt Permits are nontransferable.

3. During deer hunts we prohibit hunters from entering the refuge earlier than 4 a.m., and they must leave the refuge no later than 2 hours after legal sunset.

4. We prohibit adults from possessing or discharging a firearm during the youth deer hunt.

5. During refuge firearms deer hunts, all participants must wear at least 500 square inches (3,250 cm^2) of unbroken, fluorescent-orange material above the waist as an outer garment while hunting and while en route to and from hunting areas.

6. During State firearms deer seasons, all archery hunters must wear at a minimum a fluorescent-orange hat while hunting and while en route to and from hunting areas.

7. We prohibit man driving for deer. We define a ''man drive'' as an organized hunting technique involving two or more individuals where hunters attempt to drive game animals from cover or habitat for the purpose of shooting, killing, or moving such animals toward other hunters.

8. We prohibit placing a tree stand on the refuge more than 3 days prior to the opening day of the deer hunt in which you will be participating. You must remove the tree stands (see § 27.93 of this chapter) by the last day of that hunt.

9. You must wear a safety belt or harness at all times when using any tree stand or climbing equipment.

10. You must check all deer killed on refuge quota deer hunts at the refuge check station on the date of kill prior to removing the animal from the refuge.

11. We prohibit the use of dogs for deer hunting.

12. We prohibit the use of plastic flagging.

13. We prohibit the use of all-terrain vehicles (ATVs) or off-highway vehicles (OHVs) (see § 27.31(f) of this chapter).

14. During refuge firearms deer hunts, we prohibit all other public use on the refuge.

D. Sport Fishing. We allow fishing on designated dates and areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit boats utilizing gasoline-powered motors.

2. You must unload and load boats by hand on all waters except those having designated launch ramps.

3. We prohibit possession or use of trotlines, set hooks, gigs, jug lines, limblines, snagging devices, nets, seines, fish traps, or other special devices.

4. We prohibit taking or attempting to take frog and turtle (see § 27.21 of this chapter).

5. We prohibit swimming.

Pocosin Lakes National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, swan, dove, woodcock, rail, and snipe in accordance with State regulations subject to the following conditions:

1. We prohibit hunting on the Davenport and Deaver tracts (which include the area surrounding the Headquarters/Visitor Center and the Scuppernong River Interpretative Boardwalk), the Pungo Shop area, New Lake, refuge lands between Lake Phelps and Shore Drive, and that portion of the Pinner Tract east of SR 1105.

2. We allow you to retrieve game from closed areas listed above with consent from a refuge employee, but we prohibit possession of any type of weapon (see § 27.42 of this chapter) in a closed area.

3. We require all hunters to possess and carry a signed, self-service refuge general hunting permit while hunting on the refuge.

4. We open the refuge for daylight-use only, except that we allow hunters to enter and remain in open hunting areas from 1½ hours before legal shooting time until 1½ half hours after legal shooting time.

5. We only allow the use of all terrain vehicles (ATVs) on designated ATV trails (see § 27.31 of this chapter) and only to transport hunters and their equipment to hunt and scout. We only allow ATV use on the ATV trails at the following times:

i. When we open the ATV trail and surrounding area to hunting;

ii. One week prior to the ATV trail and surrounding area opening to hunting; and

iii. On Sundays, when we open the ATV trail and surrounding area for hunting the following Monday.

6. You must unload and case or dismantle all weapons (see § 27.42(b) of this chapter) transported via a motorized vehicle or boat under power.

7. We only allow the use of biodegradable-type flagging. We prohibit affixing plastic flagging, dots, glow tacks, reflectors, or other materials to refuge vegetation (see § 27.51 of this chapter).

8. We prohibit migratory game bird hunting on the Pungo Unit.

9. You may only possess approved nontoxic shot (see § 32.2(k)) while migratory game bird hunting west of Evans Road.

10. We only allow the use of portable blinds and temporary blinds constructed of natural materials, but we prohibit the cutting any live vegetation on the refuge (see § 27.51 of this chapter). You must remove portable blinds (see § 27.93 of this chapter) at the end of each day.

11. We allow the use of dogs to point and retrieve migratory game birds, but they must be under your immediate control at all times (see § 26.21(b) of this chapter).

12. While hunting, we require youth hunters age 16 or younger to possess and carry proof that they successfully passed a State-approved hunter education course. Youth hunters may only hunt under the direct supervision of a licensed hunter over age 21. One licensed hunter over age 21 may supervise up to two migratory game bird youth hunters at a time.

B. Upland Game Hunting. We allow the hunting of quail, squirrel, raccoon, opossum, rabbit, beaver, nutria, and fox in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A7 apply.

2. We prohibit upland game hunting on the Pungo Unit.

3. We only allow the taking of beaver and nutria with firearms (see § 27.42 of this chapter) and only during those times when we open the area hunted to hunting of other game animals with firearms.

4. We prohibit the hunting of raccoon and opossum during, 5 days before, and 5 days after the State bear seasons. Outside of these periods, we allow the hunting of raccoon and opossum at night but only while possessing a special Refuge Nighttime Raccoon and Opossum Hunting Permit.

5. We only allow the use of shotguns and .22 caliber rim-fire rifles for hunting. We also allow disabled hunters to use crossbows while possessing the required State permit.

6. You may only possess approved nontoxic shot (see § 32.2(k)) while hunting upland game west of Evans Road.

7. We allow the use of dogs for pointing and retrieving upland game and for chasing rabbit (but not fox). The dogs must be under your immediate control at all times (see § 26.21(b) of this chapter), and we prohibit possession of buckshot or slugs while hunting with dogs.

8. You must wear 500 square inches (3,250 cm^2) of fluorescent-orange material above the waist that is visible from all sides when hunting upland game.

9. While hunting, we require that youth hunters under age 16 must possess and carry proof that they successfully passed a State-approved hunter education course. Youth hunters may only hunt under the direct supervision of a licensed hunter age 21 or older. A licensed hunter age 21 or older may directly supervise up to two upland game youth hunters at a time.

C. Big Game Hunting. We allow the hunting of deer, turkey, and boar in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A7 apply.

2. You may only hunt spring turkey if you possess and carry a valid refuge turkey hunting permit. The permits are valid only for the dates and areas shown on the permit. We require an application and a fee for these permits and hold a drawing, when necessary, to select the permittees.

3. We only allow the use of shotguns, muzzleloaders, and bow and arrow for

deer and wild boar hunting. We allow disabled hunters to use crossbows but only while possessing the required State permit.

4. You may only possess approved nontoxic shot (see § 32.2(k)) while hunting turkeys west of Evans Road and on the Pungo Unit. You may use slugs, buckshot, and muzzleloader ammunition containing lead for deer and wild boar hunting in these areas.

5. We only allow deer hunting with shotguns and muzzleloaders on the Pungo Unit while possessing a special Pungo Deer Gun-Hunt Permit issued by the refuge. These permits are valid only for the designated 2-day period shown on the permit. We set the dates of these special 2-day hunts following the publication of the State deer seasons. We require an application and a fee for these permits and hold a drawing, when necessary, to select the permittees.

6. During the special Pungo Deer Gun-Hunts, we only allow permitted hunters on the Pungo Unit. We only allow permitted hunters on the Pungo Unit from 1 hour before legal shooting time until 1 hour after legal shooting time. You must take any deer harvested during a Pungo Deer Gun-Hunt to the deer check station located at the Pungo Shop for harvest reporting and data collection.

7. We allow deer hunting with bow and arrow on the Pungo Unit during all State deer seasons prior to December 1; however, we prohibit hunting on the Pungo Unit on the designated Pungo Deer Gun-Hunts referred to above without a valid Pungo Deer Gun-Hunt Permit.

8. You must wear 500 square inches (3,250 cm^2) of fluorescent-orange material above the waist that is visible from all sides while hunting deer and wild boar in any area open to hunting these species with firearms.

9. We only allow the use of portable tree stands and require that you remove them (see § 27.93 of this chapter) at the end of each day, except that hunters with a valid Pungo Deer Gun-Hunt Permit may install a stand on the Pungo Unit the day before the start of their hunt and leave it until the end of the 2nd day of their 2-day hunt. You must tag stands left overnight on the refuge with the hunter's name, address, and telephone number.

10. While hunting, we require youth hunters (under age 16) to possess and carry proof that they successfully passed a State-approved hunter education course. Youth hunters may only hunt under the direct supervision of a licensed hunter age 21 and older. A licensed hunter age 21 and older may only supervise one big game youth hunter at a time.

D. Sport Fishing. We allow fishing in accordance with State regulations subject to the following conditions.

1. We only allow fishing in Pungo Lake and New Lake from March 1 through October 31, except that we close Pungo Lake and the entire Pungo Unit to fishing during the special 2-day Pungo Deer Gun Hunts in late September and October.

2. We only allow fishing from the bank in the Pungo Unit; we prohibit use of boats in this area. We prohibit leaving a boat anywhere on the refuge overnight.

3. We only allow fishing from legal sunrise to legal sunset.

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Swanquarter National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow the hunting of tundra swan, snow goose, brant, duck, and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunting on refuge marshlands that include Great Island, Marsh Island, and all of the refuge marshlands adjacent to Juniper Bay eastward to West Bluff Bay.

2. We prohibit hunting within the 27,000 acre (10,800 ha) Presidential Proclamation Area as posted.

3. We allow portable blinds. You must remove blinds (see § 27.93 of this chapter) each day.

4. We prohibit hunters/hunt parties from hunting closer than 150 yards (135 m) apart.

5. You may use decoys, but you must remove them (see § 27.93 of this chapter) daily upon completion of your hunt.

6. We allow hunting during the State waterfowl season occurring in November, December, and January.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. [Reserved]

■ 34. Amend § 32.53 North Dakota by:

■ a. Revising Arrowwood National Wildlife Refuge;

■ b. Revising Audubon National Wildlife Refuge;

■ c. Revising paragraph C. of Chase Lake National Wildlife Refuge;

■ d. Adding Devils Lake Wetland Management District;

■ e. Revising J. Clark Salyer National Wildlife Refuge;

■ f. Revising paragraph B. of Lake Alice National Wildlife Refuge;

■ g. Revising Lake Ilo National Wildlife Refuge;

■ h. Revising Lake Nettie National Wildlife Refuge;

■ i. Revising Long Lake National Wildlife Refuge;

■ j. Revising Slade National Wildlife Refuge;

■ k. Revising Stewart Lake National Wildlife Refuge;

■ l. Revising paragraphs B., C., and D. of Tewaukon National Wildlife Refuge; and

■ m. Revising Upper Souris National Wildlife Refuge to read as follows:

§ 32.53 North Dakota.

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Arrowwood National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. We allow hunting of pheasant, sharp-tailed grouse, partridge, cottontail rabbit, and fox on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunting beginning the day after the State general firearms deer season through the end of the regular upland bird season. Cottontail rabbit and fox seasons close March 31.

2. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

3. All State regulations/limits apply. We require a State-issued hunting license and stamp.

4. Access is by foot only.

5. We allow dogs, but they must be under the immediate control of the hunter at all times (see § 26.21(b) of this chapter).

6. The entire refuge is open to upland hunting except the area surrounding the refuge headquarters area and wildlife observation area.

7. We prohibit open fires (see § 27.95 of this chapter) and camping on the refuge.

8. We close the area surrounding the refuge headquarters and wildlife observation area to all hunting and entry. The boundary of the closed area includes Section 25 and the west ¼ of section 30, T144N, R64W. Maps are available at refuge headquarters or from refuge employees.

C. Big Game Hunting. We allow hunting of deer on designated areas in accordance with State regulations subject to the following conditions:

1. We require a State license and State-issued unit permit, and we restrict hunters to the species and type on permit.

2. We prohibit entering the refuge before legal shooting hours on the opening day of the firearms deer season. Thereafter, hunters may enter, but not shoot, 1½ hours prior to legal hours and must be off the refuge 1 hour after legal shooting hours end.

3. All firearms deer hunters must wear blaze-orange clothing. Legal orange clothing is a head covering and outer garment above the waistline of solid daylight, fluorescent-orange color, totaling at least 400 square inches (2,600 cm^2). Hunters may not enter the refuge after harvesting a deer unless unarmed and wearing blaze orange.

4. We only allow vehicles on refuge roads and established access trails (see § 27.31 of this chapter) to retrieve deer during the following times: 9:30 to 10 a.m., 1:30 to 2 p.m., and ½ hour after legal sunset for 1 hour.

5. Hunters participating in the State Youth Deer Season should check with refuge employees for open area information and special regulations.

6. Bow hunters must wear blaze orange during the regular deer gun season.

7. We allow temporary tree stands, but hunters must remove them (see § 27.93 of this chapter) from the refuge daily. We prohibit use of nails, screws, or devices inserted into the tree to hang stands or provide steps to the stands (see § 32.2(i)).

8. We prohibit open fires (see § 27.95 of this chapter) and camping on the refuge.

9. We close the area surrounding the refuge headquarters and wildlife observation area to all hunting and entry. The boundary of the closed area includes Section 25 and the west ¼ of section 30, T144N, R64W. Maps are available at refuge headquarters or from refuge employees.

D. Sport Fishing. We allow fishing in accordance with State regulations subject to the following conditions:

1. We restrict boats (maximum of 25 hp) to Arrowwood and Jim Lakes only from May 1 through September 30 of each fishing year.

2. We allow bank fishing along the major road rights-of-way during the entire North Dakota State fishing season.

3. We allow bank fishing on interior portions of the refuge from May 1 through September 30 of each fishing year. We only allow walk-in access, except for designated areas.

4. Access to water control structures is walk-in only along established trails.

5. We allow fishing in refuge impoundment bypass channels during the regular State fishing season. We allow walk-in access along maintenance trails from June 1 through September 30 of each fishing year.

6. We only allow bow fishing for rough fish along road rights-of-way in accordance with State regulations from May 1 through September 30 of each fishing year. We prohibit crossbows.

7. We open Arrowwood Lake, Jim Lake, and the South 1/3 of Mud Lake to winter fishing in accordance with State regulations.

8. We allow fish houses and vehicles on the ice as conditions allow. Anglers must remove fish houses (see § 27.93 of this chapter) by March 15. Anglers may use portable houses after March 15, but you must remove them daily.

9. We prohibit snowmobiles and ATVs on the refuge (see § 27.31(f) of this chapter).

10. We prohibit water activities not related to fishing (sailing, skiing, tubing, etc.).

11. We prohibit open fires (see § 27.95 of this chapter) and camping on the refuge.

Audubon National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. We allow hunting of ring-necked pheasant, gray partridge, and sharp-tailed grouse on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We annually open to upland bird hunting on the day following the close of the regular deer gun season. The hunting seasons continue until the State season closes. The refuge has designated open and closed areas for hunting.

2. We prohibit driving vehicles on refuge roads while hunting or to access hunting areas. Hunters must park at the refuge boundary and walk in.

3. Hunters may retrieve game up to 100 yards (90 m) inside the refuge boundary fence and closed areas of the refuge. Retrieval time must not exceed 10 minutes, and hunters may use dogs. We prohibit firearms while retrieving game.

4. We prohibit hunting on all refuge islands.

C. Big Game Hunting. We allow hunting of white-tailed and mule deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. The refuge gun, muzzleloader, and bow deer hunting seasons open and close according to State regulations. The refuge has designated opened and closed areas for deer hunting.

2. We close the refuge to the State special youth deer hunting season.

3. We prohibit driving vehicles on refuge roads while hunting or to access hunting areas. All hunters must park at the refuge boundary and walk in. Hunters may use designated refuge roads to retrieve downed deer.

4. Hunters must only use portable tree stands that they install and remove (see § 27.93 of this chapter) each day. We prohibit permanent tree stands.

5. We prohibit hunting on all refuge islands.

D. Sport Fishing. We allow ice fishing on the refuge in accordance with State regulations subject to the following conditions:

1. The refuge ice fishing season opens when ice is present and closes on March 31.

2. We restrict vehicle use to refuge roads and designated ice access points (see § 27.31 of this chapter).

Chase Lake National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunting of deer beginning with the start of the State deer gun season.

2. Hunters may only enter the refuge on foot.

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Devils Lake Wetland Management District

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds throughout the district in accordance with State regulations except in the following waterfowl production areas (WPAs): Little Goose and Lambs Lake WPAs in Nelson County; Pleasant Lake WPA in Benson County; and Hart, Nelson, and Vold WPAs in Grand Forks County. We prohibit hunting on portions of the Kellys Slough WPA in Grand Forks County as posted.

B. Upland Game Hunting. We allow hunting of upland game throughout the district except as listed in A. above. We prohibit hunting on portions of the Kellys Slough WPA in Grand Forks County as posted. All hunting is in accordance with State regulations subject to the following condition: You may only possess approved nontoxic shot (see § 32.2(k)) while in the field.

C. Big Game Hunting. We allow hunting of big game throughout the district except as noted in A. above. We prohibit hunting on portions of the Kellys Slough WPA in Grand Forks County as posted. All hunting is in accordance with State regulations subject to the following conditions:

1. You must possess and carry a ''Lake Alice Refuge Permit'' in order to hunt white-tailed deer with a firearm on the Tarvasted WPA in Ramsey County.

2. We prohibit the construction or use of permanent stands or platforms (see § 27.93 of this chapter).

D. Sport Fishing. We allow sport fishing throughout the district in accordance with State regulations

except for Kellys Slough, Hart, Nelson, and Vold WPAs in Grand Forks County.

J. Clark Salyer National Wildlife Refuge

A. Hunting Migratory Game Birds. We allow hunting of goose, duck, and coot on nine designated Public Hunting Areas of the refuge in accordance with State regulations subject to the following conditions:

1. We open the refuge daily from 5 a.m. to 10 p.m.

2. We allow waterfowl retrieval without a firearm within 100 yards (90 m) of the interior boundary of Public Hunting Areas and within 100 yards (90 m) of the exterior refuge boundary.

B. Upland Game Hunting. We allow hunting of grouse, partridge, turkey, pheasant, and fox on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We open the refuge daily from 5 a.m. to 10 p.m.

2. We allow hunting for sharp-tailed grouse, partridge, and pheasant on nine designated Public Hunting Areas.

3. We allow hunting for sharp-tailed grouse, partridge, ruffed grouse, and turkey south of the Upham-Willow City Road.

4. We open to hunting annually for sharp-tailed grouse, partridge, and pheasant on the remainder of the refuge, except the closed area around the refuge headquarters, on the day following the close of the firearm deer season and close as per the State seasons.

5. Fox hunting opens annually on the day following the close of the firearm deer season and closes March 31. We allow hunting from ½ hour before legal sunrise until ½ hour after legal sunset.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We open the refuge daily from 5 a.m. to 10 p.m.

2. We open the entire refuge, except the closed area around the refuge headquarters, for hunting during the State's youth, muzzleloader, and archery seasons.

3. We open nine Public Hunting Areas on the refuge for deer hunting during the regular firearms season without a refuge permit.

4. You must possess and carry a refuge permit to hunt on the refuge outside the nine Public Hunting Areas during the regular firearms season.

5. Hunters must remove blinds and stands (see § 27.93 of this chapter) daily.

D. Sport Fishing. We allow fishing on 14 designated areas (listed below) of the refuge in accordance with State regulations subject to the following conditions:

1. We open the refuge daily from 5 a.m. to 10 p.m.

2. We open all refuge waters to ice fishing between December 15 and the end of the State fishing season.

3. We only allow boat fishing in designated areas.

4. We close to boat fishing the last Friday of September.

5. We only allow nonmotorized boats or boats with electric motors.

6. We allow fishing at the following locations:

i. Nelson Bridge, from both banks downstream (northwest) ¼ mile (.4 km) and upstream (south) to the refuge boundary;

ii. Souris River—Scenic Canoe Route, from both banks and boats, 100 feet upstream (30 m) (east) from Johnson Bridge and downstream (northwest) 13 miles (20.8 km) to the end of the Canoe Route at Dam 1, including Sandhills Slough;

iii. Dam 1, on the north bank downstream (west) 100 yards (90 m). We prohibit entry to or fishing from the dam;

iv. Dam 2, from both banks 50 feet (15 m) downstream from the water control structure;

v. Dam 320, from the bank starting 300 feet (90 m) east of the dam for ¼ mile (.4 km) upstream (east);

vi. Old Freeman Bridge, from both banks or boat, downstream (west) 1 ½ mile (2.4 km) from Dam 320;

vii. Cutbank Culvert on Highway 14, from the highway right-of-way 50 feet (15 m) either side of the culvert;

viii. Highway 14 Bridge, from both banks ¼ mile (.4 km) downstream (north) and ¼ mile (.4 km) upstream (south) from the bridge;

ix. Russell-Kramer Road, from both banks or boat, upstream (south) 200 feet (60 km) from the bridge and downstream (north) from the bridge to the Soo Line railroad bridge;

x. Newburg Road, from the road right-of-way 100 feet (30 km) on either side of the bridge;

xi. Scheflo Bridge, from the road right-of way on either side of the bridge and upstream (south) on the east bank to the downstream (north) side of the water control structure;

xii. Highway 5, from the highway right-of way 100 feet (30 km) on either side of the bridge;

xiii. Westhope-Landa Road, from the road right-of-way 150 feet (45 km) on either side of the bridge, or from a boat downstream (north) 2 miles (3.2 km) from the road; and

xiv. Below Dam 357, from both banks or boat on all waters downstream (north) of the dam to the Canadian border.

Lake Alice National Wildlife Refuge

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B. Upland Game Hunting. We allow upland game and furbearer hunting on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Consult the refuge brochure for season dates.

2. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

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Lake Ilo National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We open the refuge all year for fishing from legal sunrise to legal sunset. The refuge has designated open and closed areas for fishing.

2. We open the refuge to boating from May 1 through September 30.

3. We open the refuge to ice fishing from October 1 through March 31.

4. We restrict vehicle use to refuge roads, designated boat ramps, and ice access points (see § 27.31 of this chapter).

5. We prohibit fishing and public use on refuge islands and concrete dam spillways.

Lake Nettie National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed and mule deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We open portions of the refuge to gun, muzzleloader, bow, and the special youth deer hunting seasons according to State regulations. The refuge has designated open and closed areas for deer hunting.

2. We close all refuge roads to vehicle use for hunting and retrieval of deer. Hunters must park vehicles at the refuge boundary and walk in.

3. Hunters may walk in to retrieve deer in areas marked with no hunting zone signs. We prohibit firearms while retrieving deer from these areas.

4. Hunters must only use portable tree stands that they install and remove (see § 27.93 of this chapter) each day. We prohibit permanent tree stands.

D. Sport Fishing. [Reserved]

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Long Lake National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. We allow hunting of ring-necked pheasant, sharp-tailed grouse, and grey partridge on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

2. The upland game bird season opens annually on the day following the close of the firearm deer season and runs through the close of the State season.

3. We close to upland game hunting those areas marked with yellow closed to hunting signs.

4. We prohibit hunters and dogs from entering closed areas to retrieve game.

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Hunters must only enter the refuge on foot.

2. We allow archery hunting. We restrict open archery areas to those areas of the refuge open to firearms during the firearm season.

3. We close to deer hunting during the firearm deer season those areas marked with yellow closed to hunting signs. We also close this area to muzzleloader hunters during muzzleloader season.

4. We prohibit hunters entering closed areas to retrieve game.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We restrict bank fishing to public use areas on Unit 1 and Long Lake Creek.

2. We restrict boat fishing to Long Lake Creek.

3. We restrict boats to 25 hp maximum.

4. We restrict boats to the period from May 1 through September 30.

5. We restrict ice fishing to Unit 1 and Long Lake Creek.

6. We prohibit motorized vehicles on ice (see § 27.31 of this chapter).

7. We only allow fishing from legal sunrise to legal sunset.

8. Anglers must park vehicles in designated parking areas.

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Slade National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of deer in accordance with State regulations subject to the following condition: Hunters must only enter the refuge on foot.

D. Sport Fishing. [Reserved]

Stewart Lake National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow ice or shore fishing in accordance with State regulations subject to the following condition: We restrict vehicle use to the refuge road (see § 27.31 of this chapter).

Tewaukon National Wildlife Refuge

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B. Upland Game Hunting. We allow ring-necked pheasant hunting on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. The season opens on the first Monday following the close of the State deer gun season and continues through the close of the State pheasant season.

2. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

C. Big Game Hunting. We allow deer bow hunting on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. The season closes September 30 and reopens the Friday following the close of the State gun deer season and continues through the end of the State archery deer season.

2. We allow deer gun hunting by refuge permit holders on designated areas of the refuge in accordance with State regulations.

3. We allow youth deer hunting on designated areas of the refuge in accordance with State regulations.

D. Sport Fishing. We allow sport fishing on designated waters (Tewaukon and Sprague Lakes only) in accordance with State regulations.

Upper Souris National Wildlife Refuge

A. Hunting of Migratory Birds. [Reserved]

B. Upland Game Hunting. We allow hunting of sharp-tailed grouse, Hungarian partridge, and pheasant on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You may use dogs to hunt.

2. We require hunters and nonhunters accompanying legal hunters to wear the State-required, legal-orange clothing when hunting game birds during the deer gun season.

3. We open for hunting on Unit I during the North Dakota State hunting seasons. Unit I includes all refuge land north of the township road that runs east of Tolley, across Dam 41 (Carter Dam), and east to State Route 28.

4. We open for hunting on Unit II during the State hunting seasons, except we close from the first day of the regular State waterfowl season through the last day of State deer rifle season. Unit II includes refuge land between Lake Darling Dam and the township road that runs east of Tolley.

5. We close land south of Lake Darling Dam to all upland game bird hunting.

6. We prohibit hunting on the area surrounding the refuge headquarters buildings and residences. We post these areas with ''Closed to Hunting'' signs.

7. We prohibit remaining on the refuge between the hours of 10 p.m. and 5 a.m.

8. We prohibit weapons (see § 27.42(b) of this chapter) in boats, canoes, float tubes, or any other floatable object.

9. We prohibit the use of snowmobiles, all-terrain vehicles (ATVs) or similar vehicles on the refuge (see § 27.31(f) of this chapter).

10. We prohibit the use of horses during all hunting seasons.

C. Big Game Hunting. We allow archery, gun, and muzzleloader hunting of deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions B7 through B10 apply.

2. You must possess and carry a State deer bow permit to hunt deer on the refuge during the State deer bow season.

3. You must possess and carry a special State-issued refuge permit for State deer gun hunting in Unit IIIA2 to hunt deer on the refuge during the State deer gun season.

4. You must possess and carry a State muzzleloader deer permit to hunt deer on the refuge during the State muzzleloader season.

5. We only allow preseason scouting in open public use areas and areas marked ''foot traffic only.''

6. We require hunters to walk in to hunt.

7. You must remove your harvested deer only by carrying, dragging, or using a hand-pulled cart or sled.

8. You may use portable tree stands but must remove them (see § 27.93 of this chapter) daily from the refuge.

9. We prohibit the use of flagging, paint, blazes, tacks, or other types of markers.

10. You may only use strap-on steps or removable climbing ladders if needed to access portable tree stands (see § 32.2(i)).

11. You may hunt all of the refuge with the exception of the following areas: the area surrounding the refuge headquarters buildings, Office/Visitor Center, residences, fenced equipment yard, and gun range. We post these areas with ''No Trespassing'' or ''Closed to Hunting'' signs.

12. We prohibit entry to the refuge before 12 p.m. (noon) on the first day of the bow, gun, or muzzleloader deer hunting seasons. However, bow hunters may hunt on the refuge any time the State bow season is open.

13. Youth deer hunters (14 years of age) may hunt on the refuge if they register at the refuge office prior to hunting during the State Youth Deer Season. An adult or guardian age 18 or older must accompany youth hunters.

14. You may not return to the refuge with a weapon after you have filled your deer tag; however, you may carry a shotgun while hunting upland game birds in open hunting units.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions B7 and B9 apply.

2. We allow use of fishing boats, canoes, and float tubes in designated boat fishing areas (see below) on Lake Darling for fishing from May 1 through September 30.

3. You may bank fish in designated areas (see below) whenever there is open water.

4. We prohibit the use of bow, spear, or underwater spearing equipment to take fish.

5. We prohibit fishing or access to fishing areas along the Prairie-Marsh Scenic Drive.

6. We prohibit swimming, sailing, water skiing, pleasure boating, and overnight camping.

7. You may ice fish on all ice-covered waters of the Souris River and Lake Darling; however, we designate access sites where you can walk or drive onto the ice (see below).

8. We allow you to drive licensed cars and pickups on the ice from Lake Darling Dam north to Carter Dam (Dam 41) for ice fishing.

9. We allow walk-in access at designated sites (see below) on the Souris River north of Carter Dam (Dam 41) and south of Lake Darling Dam for ice fishing. We prohibit vehicles to drive onto the ice in these areas (see § 27.31 of this chapter).

10. We allow you to place fish houses on the ice of Lake Darling.

11. We prohibit use of campers or other structures not made of floatable materials as fish houses. We require that all fish houses must be able to float above the water surface until they are removed from the water. We require that anglers remove fish houses or parts thereof from the refuge ice, water, and land by no later than 10 p.m. March 15. We prohibit ice houses or parts thereof to be cut off and left or burned on the refuge.

12. We allow anglers to place portable fish houses on the Souris River north of Carter Dam (Dam 41) and south of Lake Darling Dam for ice fishing, and you must remove them (see § 27.93 of this chapter) daily from the refuge.

13. We designate the following fishing sites and lake and river access sites:

i. BAKER BRIDGE—We allow bank fishing on a loop of the Souris River located on the north side of County Road 8. The open area begins at the bridge and goes west to a point where the river meets the refuge boundary fence. You may walk onto the ice from this area for ice fishing.

ii. SILVER BRIDGE—We allow bank fishing from the road right-of-way around the bridge. You may walk onto the ice from this area for ice fishing.

iii. OUTLET FISHING AREA —Bank fishing begins ¼ mile (.4 km) below Lake Darling Dam and extends south approximately 600 yards (540 m). We prohibit open water fishing on the Beaver Lodge Canoe Trail or on the Oxbow Nature Trail (southeast of the parking lot). You may walk onto the ice for ice fishing from the Outlet Fishing Area and from the Beaver Lodge Canoe Trail launch site for ice fishing.

iv. LANDINGS 1, 2, and 3 on LAKE DARLING—We open the lake to boat fishing from Lake Darling Dam north 3 miles (4.8 km) to the buoy line. We allow you to launch boats at Landings 1, 2, and 3 boat ramps. We only allow driving access onto the ice at Landings 1, 2, and 3 boat ramps for ice fishing. You may bank fish along the west shore from Lake Darling Dam north approximately 1 ¼ miles (2 km) to Landing 3. The Pullout Area on the west end of Lake Darling Dam is the only bank fishing area open on Lake Darling Dam. You may walk onto the ice from the bank fishing area and from Lake Darling Dam for ice fishing.

v. SPILLWAY FISHING AREA on LAKE DARLING—We prohibit entry to this area if signs ''Area Beyond This Sign Closed'' are present. If the area is open, you may walk onto the ice for ice fishing. We prohibit driving vehicles onto the ice from this area (see § 27.31 of this chapter).

vi. GRANO CROSSING on LAKE DARLING ''You may bank fish from the road right-of-way on both sides of the crossing and within the boundaries of the Grano Boat Ramp. You may fish from boats on the lake north from Grano Crossing to Greene Crossing. We allow launching of boats at the Grano Boat Ramp. We prohibit operating a boat above idle speed in the boat ramp bay area. You may walk onto the ice from Grano Crossing and the Grano Boat Ramp for ice fishing. We allow driving access onto the ice at two vehicle road approaches located on the west end of the Grano Crossing (see § 27.31 of this chapter).

vii. GREENE CROSSING on LAKE DARLING—You may bank fish from the road right-of-way on both sides of the crossing and the Greene Boat Ramp area. You may fish from boats on the lake south from Greene Crossing to Grano Crossing. We allow launching of boats at the Greene Boat Ramp. You may walk onto the ice from these areas for ice fishing. We allow driving access onto the ice at two vehicle road approaches located on the west end of the Greene Crossing and at the Greene Boat Ramp (see § 27.31 of this chapter).

viii. CARTER DAM (DAM 41)—You may bank fish on both sides of the road near the water control structure (east end of the dam) and culvert (west end of the spillway). You may walk onto the ice for ice fishing.

ix. HIGHWAY 5—You may bank fish on the north side of the road from the bridge west to a point where the road meets the river. You may walk onto the ice for ice fishing on the north and south sides of the highway where the ice meets the highway right-of-way.

x. SOURIS RIVER NORTH OF MOUSE RIVER PARK TO THE NORTH END OF THE REFUGE—We allow boat fishing and canoeing. There is a boat launching ramp at the Park. You may walk onto the ice from Mouse River Park for ice fishing.

xi. SWENSON BRIDGE—You may bank fish from the road right-of-way. You may walk onto the ice from this area for ice fishing.

■ 35. Amend § 32.54 Ohio by revising paragraphs A., C., and D. of Ottawa National Wildlife Refuge to read as follows:

§ 32.54 Ohio.

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Ottawa National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose and duck on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a refuge permit. All hunters must check-in and out at the hunter check station.

2. We require that hunting stop at 12 p.m. (noon) each day.

3. We require that hunters hunt within 75 yards (67.5 m) of the assigned blind.

4. You may only possess approved nontoxic shotshells (see § 32.2(k)) while in the field in quantities of 25 or less.

* * * * *

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a refuge permit.

2. We require that hunters check out at the refuge check station no later than 6 p.m.

3. Hunters must check all deer harvested at the refuge check station.

4. We require that hunters wear a hat and outer jacket/vest that is blaze orange.

5. We require that hunters remain within their assigned unit.

6. We prohibit possession of more than one hunting weapon while in the field.

7. We prohibit the construction or use of permanent blinds or tree stands.

8. We require that hunters obtain permission from refuge officials before tracking a wounded deer out of their assigned hunting unit.

9. We prohibit shooting from any road.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing from legal sunrise to legal sunset during designated dates.

2. We prohibit boats or flotation devices.

■ 36. Amend § 32.55 Oklahoma by:

■ a. Revising Deep Fork National Wildlife Refuge;

■ b. Revising Little River National Wildlife Refuge;

■ c. Revising paragraphs A., B., and D. of Salt Plains National Wildlife Refuge;

■ d. Revising Sequoyah National Wildlife Refuge; and

■ e. Revising paragraph A. of Washita National Wildlife Refuge to read as follows:

§ 32.55 Oklahoma.

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Deep Fork National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck in designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a signed refuge permit. We require no fee.

2. We prohibit taking of goose during the duck hunt.

3. Species and bag limits are in accordance with State regulations.

4. We allow duck hunting on Fridays, Saturdays, Sundays, and Mondays, from ½ hour before legal sunrise until 1 p.m. Refer to the refuge hunting brochure for opening and closing dates.

5. You may only use portable blinds. You must remove blinds, decoys, and all personal equipment (see § 27.93 of this chapter) daily.

6. We prohibit off-road vehicle use (see § 27.31 of this chapter).

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, turkey, and raccoon in designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a signed refuge permit. We require no fee.

2. We only allow shotguns and .22 caliber rimfire rifles for rabbit and squirrel. We only allow special archery hunts by refuge Special Use Permit.

3. Raccoon hunting only: Hunt hours are legal sunset to legal sunrise only. State firearm restrictions apply.

4. We publish opening and closing dates in the Refuge Hunt Brochure.

5. We allow dogs for hunting squirrel, rabbit, and raccoon, but you must remove the dogs from the refuge at the end of the hunt (see § 26.21(b) of this chapter).

6. We offer refuge-controlled turkey hunts. You may call the refuge office or the State for information concerning these hunts.

7. Turkey hunters must check-in and out at a refuge check station. Refuge staff provide a hunter briefing as part of the check-in.

8. We prohibit the construction or use of permanent blinds during turkey hunts.

9. We prohibit off-road vehicle use (see § 27.31 of this chapter).

C. Big Game Hunting. We allow hunting of white-tailed deer in designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a refuge permit.

2. We offer refuge-controlled deer hunts (archery, primitive, youth primitive). For information concerning these hunts, contact the refuge office or the State.

3. We will offer a limited archery season deer hunt following the controlled deer hunt. Contact the refuge office for more information.

4. We prohibit scouting when we are conducting controlled deer hunts.

5. You may use tree stands, but you must remove them (see § 27.93 of this chapter) immediately following the end of the hunt.

6. We prohibit off-road vehicle use (see § 27.31 of this chapter).

D. Sport Fishing. We allow fishing in designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. A fishing brochure with a map is available from the refuge office. We identify parking areas and open and closed areas on the map.

2. We prohibit the possession of firearms.

3. We allow year-round fishing on the Deep Fork River. We allow fishing from March 1 through October 31 on sloughs, farm ponds, and impoundments not connected to the river.

4. Game fish species and creel/possession limits are in accordance with State regulations.

5. We allow bowfishing on the refuge from legal sunrise to legal sunset from May 15 through September 30.

6. We prohibit snagging and netting.

7. We only allow trotlines, juglines, limblines, and yo-yos in the Deep Fork River and prohibit them in any other areas on the refuge. Anglers must mark lines and attend and remove them (see § 27.93 of this chapter) in accordance with State regulations.

8. We allow noodling in accordance with State fishing regulations.

9. We prohibit the taking of turtle and mussel (see § 27.21 of this chapter).

Little River National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit off-road vehicle use (see § 27.31 of this chapter).

2. We prohibit building and use of permanent blinds.

3. You may hunt from ½ hour before legal sunrise until 12 p.m. (noon) each day.

4. You must possess and carry a signed refuge permit while hunting.

5. You may only hunt duck during designated refuge seasons.

6. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, turkey, beaver, and raccoon on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Turkey hunters using firearms (see § 27.42 of this chapter) must pay fees and obtain a controlled hunt permit through the State.

2. Conditions A1 and A4 apply.

3. You may only hunt upland game during designated refuge seasons.

4. Shotgun hunters may only possess approved nontoxic shot while in the field (see § 32.2(k)).

5. You may hunt beaver during any established refuge hunting season. Refuge permits and legal weapons apply for the current hunting season.

C. Big Game Hunting. We allow hunting of deer and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Deer hunters using firearms (see § 27.42 of this chapter) must pay fees and obtain a controlled hunt permit through the State.

2. Condition A1 applies.

3. You may hunt feral hog during any established refuge hunting season. Refuge permits and legal weapons apply for the current hunting season.

4. Deer archery hunters must possess and carry a signed refuge permit while hunting.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing from legal sunrise to legal sunset.

2. Condition A1 applies.

* * * * *

Salt Plains National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, sandhill crane, and mourning dove on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

2. We require hunters to check-in and out of the refuge.

3. Hunting begins ½ hour before legal sunrise and ends at 12 p.m. (noon).

4. We prohibit hunting during the regular State rifle deer season on Saturdays, Sundays, and Mondays.

B. Upland Game Hunting. We allow hunting of quail and pheasant on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A4 apply.

* * * * *

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We close designated areas of the Great Salt Plains Reservoir.

2. We allow fishing from April 1 through October 15.

3. We prohibit trotlines within 500 feet (150 m) of the shoreline of the Jet Recreation Area.

4. Posts used to secure or anchor trotlines must reach a minimum of 2 feet (30 cm) above the water surface, and you must mark them to make them clearly visible to boaters.

5. We prohibit the taking of any type of bait from refuge lands or waters.

6. We only allow fishing on Bonham Pond: By youths age 14 and under or by any person with a disability, only from legal sunrise to legal sunset, and with a limit of one pole per person.

Sequoyah National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, dove, coot, snipe, and woodcock on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require a free annual refuge permit for all hunting. The hunter must possess and carry the signed permit while hunting.

2. We only open the refuge to hunting on Saturdays, Sundays, Mondays, and Tuesdays. Hunters may only enter the open portion of Sally Jones Lake by boat after 5 a.m. and must leave by 1 hour after legal sunset. We generally designate open hunting areas as: Area A—Sandtown Bottom, Area B—Webber Bottom, and Area C—Girty Bottom. We prohibit hunting or shooting within 50 feet (15 meters) of designated roads or parking areas. All hunters must park in designated parking areas.

3. Season lengths and bag limits will be in accordance with State regulations with the exception that all hunting, except for the conservation light goose season, will close on January 31 of each year. If a conservation light goose season is in effect, it will follow State regulations with the exception of special refuge regulations and hunting days.

4. We only allow legal shotguns. You must unload and case shotguns (see § 27.42(b) of this chapter) while transporting them in a vehicle or boat.

5. We prohibit construction of pit blinds or permanent blinds. You must reduce blinds to a natural appearance or remove them (see § 27.93 of this chapter) at the end of the day. You must remove all empty shells, litter, decoys, boats, or other personal property (see §§ 27.93 and 27.94 of this chapter) at the end of the day. We prohibit camping in boats or otherwise spending the night on any area of the refuge.

6. We allow boats, and you must operate them under applicable State laws and comply with all licensing and marking regulations from their State of origin.

7. We allow the use of dogs for hunting, but the dogs must remain under the immediate control of the hunter at all times (see § 26.21(b) of this chapter). We prohibit entry by hunters or dogs to closed areas to retrieve or rally game.

8. We prohibit guiding or outfitting for commercial purposes.

9. We restrict the use of airboats within the refuge boundary to the navigation channel and the designated hunting areas from September 1 to March 1.

B. Upland Game Hunting. We allow hunting of squirrel, quail, and rabbit on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A7, A8, and A9 apply.

2. We only open the refuge to hunting on Saturdays, Sundays, Mondays, and Tuesdays. We generally designate open areas as: Area A—Sandtown Bottom, Area B—Webber Bottom, and Area C—Girty Bottom. We prohibit hunting or shooting within 50 feet (15 meters) of designated roads or parking areas. All hunters must park in designated parking areas.

3. Season lengths and bag limits will be in accordance with State regulations with the exception that all upland game hunting will close on January 31 of each year.

4. We only allow legal shotguns and approved nontoxic shot (see § 32.2(k)). You must plug shotguns so they are incapable of holding more than three shells. You must unload and case shotguns (see § 27.42(b) of this chapter) while transporting them by vehicle or boat.

5. We require upland game hunters to follow State blaze-orange regulations.

C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Hunters must possess and carry a refuge-controlled hunt permit, and comply with the designated refuge season, hunting methods, and location guidelines for that year.

2. Hunters must apply to the State-controlled deer hunt drawing administered by the Oklahoma Department of Wildlife Conservation for selection. We require those hunters to attend a prehunt briefing, and they must follow all applicable State regulations.

3. We require payment of State and Federal special deer hunting fees.

4. Condition A9 applies.

D. Sport Fishing. We allow fishing and frogging on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Fishing and frogging will follow State seasons, limits, and regulations with the exception that from September 1 to March 31 we prohibit fishing or frogging in the closed zone south of refuge headquarters, as designated by buoys and signs. We close the Horton Slough area south of the refuge headquarters to fishing and entry east to the confluence of Little Vian Creek.

2. We prohibit boating on the closed portion of Sally Jones Lake from September 1 to March 31.

3. You must remove trotlines (see § 27.93 of this chapter) from the closed zone before September 1.

4. Conditions A6 (boats used for fishing), A8, and A9 apply.

5. We prohibit the possession of any firearms or bows with arrows while frogging.

* * * * *

Washita National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, and sandhill crane on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require permits and payment of a fee to hunt goose and sandhill crane.

2. Goose and sandhill crane hunters must hunt from designated pit blinds.

3. We allow youth hunters, ages 12 to 16, to hunt duck in a controlled youth hunt in conjunction with a waterfowl seminar.

* * * * *

■ 37. Amend § 32.56 Oregon by:

■ a. Revising paragraph A. of Bandon Marsh National Wildlife Refuge;

■ b. Revising paragraph A., the introductory text of paragraph B., and paragraphs B.1[x4], B.2[x4], and D. of Cold Springs National Wildlife Refuge;

■ c. Revising the section heading Hart Mountain National Wildlife Refuge to read Hart Mountain National Antelope Refuge and revising paragraphs A., B., C., and D.;

■ d. Revising paragraphs A., B., and D. of McKay Creek National Wildlife Refuge;

■ e. Revising McNary National Wildlife Refuge; and

■ f. Revising Umatilla National Wildlife Refuge to read as follows:

§ 32.56 Oregon.

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Bandon Marsh National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, and snipe on that portion of the refuge west of U.S. Highway 101 and outside the Bandon city limits, in accordance with State regulations subject to the following conditions;

1. You may only use portable blinds or blinds constructed of on-site dead vegetation (see § 27.51 of this chapter) or driftwood.

2. You must remove all blinds, decoys, shotshell hulls, and other personal equipment and refuse (see §§ 27.93 and 27.94 of this chapter) from the refuge at the end of each day.

3. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

* * * * *

Cold Springs National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, dove, and common snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow hunting on Tuesdays, Thursdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day.

2. We open the refuge from 5 a.m. until 1½ hours after legal sunset.

3. You may only possess approved nontoxic shotshells (see § 32.2(k)) per day on the refuge in quantities of 25 or less.

4. We only allow vehicles on designated routes of travel and require hunters to park in designated parking areas (see § 27.31 of this chapter). We reserve parking lot F solely for Memorial Marsh Unit waterfowl hunters.

5. We require waterfowl hunting parties to space themselves a minimum of 200 yards (180 m) apart in the free-roam area along the reservoir shoreline.

6. We only allow portable blinds and temporary blinds constructed of natural materials.

7. We only allow nonmotorized boats and boats with electric motors within that portion of reservoir open to hunting.

8. On the Memorial Marsh Unit, we only allow hunting from numbered field blind sites, and hunters must only park their vehicles at the numbered post corresponding to the numbered field blind site they are using (see § 27.31 of this chapter). Selection of parking sites/numbered posts is on a first-come, first-served basis at parking lot F. We prohibit free-roam hunting or jump shooting, and you must remain within 100 feet (30 m) of the numbered field blind post unless retrieving birds or setting decoys. We allow a maximum of four persons per blind site.

B. Upland Game Hunting. We allow hunting of pheasant, chukar, Hungarian partridge, and quail on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow hunting on Tuesdays, Thursdays, Saturdays, Sundays, Thanksgiving Day, and Christmas Day.

2. We prohibit hunting of upland game birds until 12 p.m. (noon) of each hunt day.

* * * * *

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. In the Cold Springs Reservoir, we only allow fishing from March 1 through September 30.

2. On the south side of the reservoir, we only allow bank fishing.

3. We only allow use of nonmotorized boats and boats with electric motors.

4. From October 1 through the last day of February, we only allow bank fishing, and only in the area beginning at the west inlet canal, north across the face of the dam to the closed area sign.

5. We only allow fishing with hook and line.

6. The refuge is open from 5 a.m. to 1½ hours after legal sunset.

* * * * *

Hart Mountain National Antelope Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. We allow hunting of chukar only on the western slopes of Hart Mountain and Poker Jim Ridge in accordance with State regulations.

C. Big Game Hunting. We allow hunting of deer, antelope, and bighorn sheep on the refuge in areas designated by permit issued from the State in accordance with State regulations subject to the following conditions:

1. We allow ground blinds, but we prohibit construction of them earlier than 1 week prior to the opening day of the legal season for which you have a valid permit.

2. You must remove blinds (see § 27.93 of this chapter) within 24 hours of harvesting an animal or at the end of the permittee's legal season.

3. We limit hunters to one blind each, and you must tag blinds with the owner's name and permit number.

4. We prohibit destruction of natural vegetation (see § 27.51 of this chapter) or below-ground excavation.

5. We require hunters to check-in at the refuge headquarters prior to hunting on the refuge and check out at the refuge headquarters upon completion of the hunt.

6. We prohibit hunting within 3 miles (4.8 km) of the refuge headquarters.

D. Sport Fishing. We allow fishing on the refuge only in Rock Creek, Guano Creek, and Warner Pond in accordance with State regulations.

* * * * *

McKay Creek National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, and common snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow hunting on Tuesdays, Thursdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day.

2. We open the refuge from 5 a.m. to 1½ hours after legal sunset.

3. You may only possess approved nontoxic shotshells (see § 32.2(k)) on the refuge in quantities of 25 or less per day.

4. We only allow vehicles on designated routes of travel and require hunters to park in designated parking areas (see § 27.31 of this chapter).

5. We require waterfowl hunting parties to space themselves a minimum of 200 yards (180 m) apart.

6. We only allow portable blinds and temporary blinds constructed of natural materials.

7. We prohibit the use of boats.

B. Upland Game Hunting. We allow hunting of upland game birds on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 and A2 apply.

2. On the opening weekend of the hunting season, we require all hunters to possess and carry a signed refuge permit.

* * * * *

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following condition: We allow fishing from March 1 through September 30.

McNary National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of migratory birds on designated areas of the refuge in accordance with State regulations and special conditions listed for McNary National Wildlife Refuge in the State of Washington.

B. Upland Game Hunting. We allow hunting of upland game birds on designated areas of the refuge in accordance with State regulations and special conditions listed for McNary National Wildlife Refuge in the State of Washington.

C. Big Game Hunting. We allow deer hunting on designated areas of the refuge in accordance with State regulations.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations and special conditions listed for McNary National Wildlife Refuge in the State of Washington.

* * * * *

Umatilla National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, and common snipe on designated areas of the Boardman and McCormack Units in accordance with State regulations subject to the following conditions:

1. We open the refuge from 5 a.m. to 1½ hours after legal sunset.

2. You may only possess approved nontoxic shotshells (see § 32.2(k)) on the refuge in quantities of 25 or less.

3. We prohibit off-road vehicle travel and all use of ATVs (see § 27.31(f) of this chapter). We only allow vehicles on designated routes of travel and require hunters to park in designated parking areas (see § 27.31 of this chapter).

4. The McCormack Unit is a fee-hunt area only open to hunting on Wednesdays, Saturdays, Sundays, Thanksgiving Day, and New Year's Day during State waterfowl seasons.

5. Prior to entering the McCormack Fee Hunt Unit, we require you to stop at the check station to obtain a refuge permit (you must possess and carry), pay a recreation user fee, and obtain a blind assignment before hunting.

6. On the McCormack Unit, we only allow hunting from assigned blind sites and require hunters to remain within 100 feet (90 m) of marked blind sites unless retrieving birds.

7. On the Boardman Unit, we require waterfowl hunting parties to space themselves a minimum of 200 yards (180 m) apart. We only allow portable blinds and temporary blinds constructed of natural materials.

B. Upland Game Hunting. We allow hunting of upland game birds on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit hunting of upland game birds until 12 p.m. (noon) of each hunt day.

2. On the McCormack Fee Hunt Unit, we only allow hunting on Wednesdays, Saturdays, Sundays, and Thanksgiving Day.

3. On the McCormack Unit, we require all hunters to possess and carry a signed refuge permit on the opening weekend of the hunting season.

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge in accordance with State regulations subject to the following condition: Hunting is by special refuge permit (you must possess and carry) only.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We open the refuge from 5 a.m. to 1½ hours after legal sunset.

2. We allow fishing on refuge impoundments and ponds from February 1 through September 30. We open other refuge waters (Columbia River and its backwaters) in accordance with State regulations.

* * * * *

■ 38. Amend § 32.57 Pennsylvania by:

■ a. Revising Erie National Wildlife Refuge; and

■ b. Revising paragraph D. of John Heinz National Wildlife Refuge at Tinicum to read as follows:

§ 32.57 Pennsylvania.

* * * * *

Erie National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of mourning dove, rail, common snipe, goose, duck, coot, and crow on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunting on the refuge from September 1 through the end of February.

2. We only allow nonmotorized boats for waterfowl hunting. Hunters must remove boats (see § 27.93 of this chapter) from the refuge at the end of each day.

3. Hunters must remove decoys from the refuge at the end of each day.

4. We allow dogs for hunting; however, they must be under the immediate control of the hunter at all times (see § 26.21(b) of this chapter).

5. We prohibit field possession of migratory game birds in areas of the refuge closed to migratory game bird hunting.

B. Upland Game Hunting. We allow hunting of grouse, squirrel, rabbit, woodchuck, pheasant, quail, raccoon, fox, coyote, skunk, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunting on the refuge from September 1 through the end of February.

2. All fox, coyote, and raccoon hunters must possess and carry a refuge Special Use Permit while hunting on the refuge.

3. We prohibit pheasant hunting on the Sugar Lake Division of the refuge.

4. We allow dogs for hunting; however, they must be under the immediate control of the hunter at all times (see § 26.21(b) of this chapter).

C. Big Game Hunting. We allow hunting of deer, bear, and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunting on the refuge from September 1 through the end of February. We also allow spring turkey hunting in accordance with State regulations.

2. Hunters must remove blinds, platforms, scaffolds, tree stands, and decoys (see § 27.93 of this chapter) from the refuge at the end of each day.

3. We prohibit organized deer drives in hunt area B of the Sugar Lake Division. We define a ''drive'' as three or more persons involved in the act of chasing, pursuing, disturbing, or otherwise directing deer so as to make the animal more susceptible to harvest.

4. All bear hunters must have a refuge Special Use Permit in their possession while hunting on the refuge.

5. We require all hunters to notify the refuge within 48 hours of the harvest of a deer, bear, or turkey.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow bank/pier fishing on all fishing areas.

2. We allow fishing from ½ hour before legal sunrise until ½ hour after legal sunset.

3. We only allow boats without motors in Area 5 from the second Saturday in June through September 15. They must remain in an area from the dike to 3,000 feet (900 m) upstream.

4. Anglers must remove boats (see § 27.93 of this chapter) from the refuge at the end of each day.

5. We only allow ice fishing in Areas 5 and 7.

6. All persons must possess and carry a refuge Special Use Permit while taking minnow or turtle.

7. We prohibit the taking of frog.

John Heinz National Wildlife Refuge at Tinicum

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D. Sport Fishing. We allow sport fishing on the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing on all refuge waters, except:

i. The East side of the Main Impoundment from the Dike Road south to the Trolley Bed trail; and

ii. The small pond located on the south side of Bartram Ave at the I–95 South on ramp.

2. We allow fishing on the refuge from legal sunrise to legal sunset.

3. Anglers may only operate boats, canoes, and floats in tidal waters. We prohibit them on the refuge impoundments and ponds.

4. We only allow fishing from the shoreline in refuge impoundments and ponds. We prohibit wading.

5. We prohibit bowfishing or spearfishing on the refuge.

6. We prohibit the take, collection, or capture of reptile or amphibian on the refuge.

* * * * *

■ 39. Amend § 32.60 South Carolina by:

■ a. Revising ACE Basin National Wildlife Refuge;

■ b. Revising Carolina Sandhills National Wildlife Refuge;

■ c. Revising paragraph C. of Pinckney Island National Wildlife Refuge;

■ d. Revising Savannah National Wildlife Refuge; and

■ e. Adding Waccamaw National Wildlife Refuge to read as follows:

§ 32.60 South Carolina.

* * * * *

ACE Basin National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require each hunter to carry at all times while hunting a signed, current refuge hunting regulations brochure containing a refuge hunt permit. The hunt permit is invalid until signed by the hunter.

2. Each youth hunter (age 15 and under) must remain within sight and normal voice contact of an adult age 21 or older. Youth hunters must have successfully completed a State-approved hunter education course.

3. We only allow hunting until 12 p.m. (noon) each day during the State waterfowl season.

4. We prohibit hunting on Corps of Engineer dredge spoil sites located on refuge property on Jehossee Island.

5. We prohibit permanent blinds. You must remove portable blinds and decoys (see § 27.93 of this chapter) at the end of each day.

6. We only allow use of retrieving dogs while hunting.

7. We allow scouting all year from legal sunrise to legal sunset.

8. Access to the hunt areas is by boat only. We prohibit boat launching on the refuge.

9. We do not require hunter check-in and check out. There is no quota on the number of hunters.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed deer and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 and A2 apply.

2. We only allow hunting on days designated annually by the refuge within the State season. We only allow hunting on designated refuge areas within the Edisto Unit and the Combahee Unit.

3. We only allow archery or muzzleloader hunting, and there is no quota on the number of hunters allowed to participate. During a special quota permit hunt for the mobility impaired, we allow use of centerfire rifles or shotguns.

4. Access into all refuge hunt areas for hunting and scouting is by foot or bicycle. We may open some refuge roads on hunt days.

5. We allow scouting all year from legal sunrise to legal sunset.

6. Hunters may enter the refuge no earlier than 5 a.m. on hunt days and must leave the refuge no later than 1 hour after legal sunset.

7. We do not require hunter check-in and check out. However, you must check all deer taken during any hunt at the designated refuge check station before removal from the refuge. In addition, you must tag all antlerless deer with an antlerless tag provided by the refuge.

8. The refuge daily bag limit is two antlerless deer and one antlered buck that must have at least three antler points on one side. We define a ''point'' as an antler projection of at least 1 inch (2.5 cm) or more in length.

9. You may take feral hog during refuge deer hunts. There is no size or bag limit on hog.

10. We only allow one portable tree stand per hunter and only during the actual days of each hunt.

11. We prohibit hunting on or within 100 feet (30 m) of all routes marked as roads or trails (see § 27.31 of this chapter) on the hunt brochure map.

12. All permanently fixed ground blinds are for the mobility-impaired hunt only.

14. We prohibit crossbows on the archery hunts. We only allow muzzleloading rifles using a single projectile on the muzzleloader hunts. We prohibit buckshot.

15. You may use flagging to mark the site of hunter entry from roads or trails and again at the stand site. You may use clothes pins with reflective tape

between these sites to mark the route to the stand. Hunters must label all such markers with their full name and remove them (see § 27.93 of this chapter) at the end of the hunt.

16. We require hunters to wear an outer garment visible above the waist that contains a minimum of 500 square inches (3,250 cm^2) of solid, florescent-orange material at all times during the muzzleloader and mobility-impaired hunts.

17. We prohibit the use of organized drives for taking or attempting to take game.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing in impounded waters contained within dikes and levees in the Beaufort County portion of the refuge annually from April 1 through August 31 during daylight hours. We close fishing during all remaining times within all refuge-impounded waters.

2. We prohibit boat use within refuge-impounded waters. We only allow bank fishing.

3. We only allow hook and line sport fishing utilizing rod and reel or pole.

4. We only open access into refuge areas to fishing by foot or bicycle.

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Carolina Sandhills National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of mourning dove and woodcock on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. All hunters must possess and carry a signed refuge General Hunt Permit and a government-issued picture ID.

2. All hunters must complete a Small Game Check Sheet attached to the refuge General Hunt Permit. You must turn each check sheet in daily at one of the small game check sheet drop boxes.

3. We prohibit discharge of weapons (see § 27.42 of this chapter) within, into, or across a ''No Hunting Zone'' or ''Closed Area''. We prohibit entering or crossing a ''No Hunting Zone'' or ''Closed Area'' to access areas open to hunting. We require consent from refuge personnel to enter a ''No Hunting Zone'' or ''Closed Area'' for the purpose of tracking and/or retrieving legally taken game animals.

4. Each youth hunter (age 16 or younger) must remain within sight and normal voice contact and under supervision of an adult age 21 or older with a valid license and applicable permit. Each adult may supervise no more than two youth hunters. Each youth hunter must possess and carry evidence of successful completion of a State-approved hunter education course.

5. We prohibit loaded firearms (see § 27.42 of this chapter) within 100 feet (30 m) of maintained refuge roads or within 500 feet (150 m) of the paved visitor's drive. We prohibit discharge of any weapon on or across any part of the refuge road system. We define a ''loaded firearm'' as a firearm with shells in the magazine or chamber, or, for muzzleloaders, a gun with the percussion caps put in place.

6. Hunters must possess shotguns with shot no larger than No. 5.

7. Legal shooting hours for September dove hunts are 12 p.m. (noon) to 6:30 p.m.

8. We prohibit discharge of weapons for any purpose other than to take or attempt to take legal game animals during established hunting seasons.

B. Upland Game Hunting. We allow hunting of quail, rabbit, raccoon, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A5 and A8 apply.

2. We require dogs for hunting raccoon and opossum. All dogs must wear a collar displaying the owner's name, address, and phone number.

3. Upland game hunters may possess shotguns with shot no larger than No. 4 or .22 caliber rimfire rifles or primitive muzzleloading rifles of .40 caliber or smaller. We prohibit possession of buckshot or slugs.

4. Upland game hunters using archery equipment must use small game tips on the arrows.

C. Big Game Hunting. We allow hunting of white-tailed deer, turkey, and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. All hunters must possess and carry a signed refuge General Hunt Permit and a government-issued picture ID; however, in addition, turkey hunters must have a Refuge Quota Turkey Hunt Permit. Refuge Quota Turkey Hunt Permits are nontransferable.

2. You must promptly check all deer and hog killed on the refuge during modern gun hunts at the Refuge Check Station on the day of the kill prior to removal from the refuge. You must promptly check all antlerless deer killed on the refuge during the primitive weapons and archery hunts at the refuge office on the day of the kill prior to removal from the refuge. You must self-check all antlered bucks and hogs at the Refuge Check Station during the primitive weapons and archery hunts. In addition, you must have all antlerless deer tagged by refuge staff prior to removal from the refuge. You must promptly check and tag all turkey killed on the refuge during the Refuge Quota Turkey Hunt at the refuge office on the day of the kill prior to removal from the refuge.

3. Conditions A3 through A5 apply.

4. During big game deer hunts, we prohibit hunters from entering the refuge before 4 a.m., and they must leave the refuge no later than 2 hours after legal sunset. We will lock gates 2 hours after legal sunset on the last day of each hunt.

5. During refuge firearms deer hunts all participants must wear at least 500 square inches (3,250 cm^2) of unbroken, flourescent-orange material above the waistline as an outer garment visible while hunting and while en route to and from hunting areas.

6. During the primitive weapons hunt, you may use bow and arrow, muzzleloading shotguns (20 gauge or larger), or muzzleloading rifles (.40 caliber or larger). We prohibit revolving rifles or black-powder handguns.

7. During the modern gun hunts, you may use shotguns, rifles (centerfire and larger than .22 caliber), handguns (.357 caliber or larger and barrel length no less than 6 inches [15 cm]), or any weapon allowed during the primitive weapons hunt. We prohibit military, hard-jacketed bullets, and .22 caliber rimfire rifles during the modern gun hunts.

8. We prohibit driving deer. We define a ''drive'' as an organized hunting technique involving two or more individuals attempting to drive game animals from cover or habitat for the purpose of shooting, killing, or moving such animals toward other hunters.

9. You must identify deer stands used on the refuge with the hunter's name, address, and phone number.

10. We prohibit the use of dogs for any big game hunting.

11. We prohibit the use of flagging or reflective tape, paint, tacks, or other trail markers. You may use painted clothes pins or clothes pins with reflective tape or tacks attached, but you must remove them (see § 27.93 of this chapter) at the end of each hunt.

12. Youth hunts are for hunters ages 10 through 15 only. We prohibit adults from discharging firearms during youth deer and turkey hunts.

13. The bag limit during each deer hunt is the State limit plus two antlerless deer and unlimited hogs.

14. We require you to field-dress or remove the deer whole prior to transportation in a vehicle or removing them from the refuge.

15. We prohibit the use of ATVs, except by mobility-impaired hunters with a Special Use Permit during big game hunts. Mobility-impaired hunters must have a State Disabled Hunting license, be confined to a wheelchair, need mechanical aids to walk, or have complete single-or double-leg amputation.

16. We prohibit turkey hunters from calling a turkey for another hunter unless both hunters have Refuge Quota Turkey Hunt Permits.

17. We prohibit turkey hunting in the area defined as east of Hwy. 145, south of Rt. 9, and north of Hwy. 1.

18. Turkey hunts end each day at 1 p.m., and you must unload, case, or dismantle all weapons (see § 27.42 of this chapter) after 1 p.m.

19. During turkey hunts we only allow one weapon per hunter.

20. The bag limit for the entire hunt is two bearded turkey.

21. We prohibit discharge of weapons (see § 27.42(a) of this chapter) for any purpose other than to take or attempt to take legal game animals during established hunting seasons.

D. Sport Fishing. We allow fishing on all areas of the refuge, except Martins Lake and those areas closed for management purposes, in accordance with State regulations subject to the following conditions:

1. We allow fishing from 1 hour before legal sunrise to 1 hour after legal sunset.

2. We allow nonmotorized boats and boats with electric motors. We allow boats with permanently mounted gas motors as long as you lock the propeller out of the water. You must hand load and unload boats except at designated boat ramps. We prohibit skidding boats up or down dams or on water control structures. We provide boat ramps at Pool D, Pool L, Honkers Lake, and Mays Lake.

3. We allow bank fishing on all designated waters.

4. We prohibit bow fishing, fish baskets, nets, set hooks, trotlines, or snagging devices.

5. We prohibit snagging of fish by pulling or jerking any device equipped with one or more hooks through the water for the purpose of impaling fish.

6. We prohibit swimming or wading in any areas of the refuge.

Pinckney Island National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must have a signed refuge permit on your person at all times. We require payment of a fee for the quota gun hunt. You may obtain information about the quota hunt drawing at the refuge headquarters in Savannah, Georgia.

2. Hunters must check-in at the designated check station between 4 a.m. and 5 a.m. and park in the designated area prior to hunting. We require personal identification at check-in.

3. Any movement within the refuge must be by foot or bicycle. We limit entry and exit points for authorized motor vehicles to designated check stations or other specified areas (see § 27.31 of this chapter). We prohibit entry by boat, and we prohibit hunters to leave by boat to reach other parts of the island.

4. We require hunters to wear an outer garment that contains a minimum of 500 square inches (3,250 cm^2) of hunter-orange material above the waistline.

5. We prohibit participating in organized drives for deer.

6. Each hunter may place one stand on the refuge during the week (Monday through Friday only) preceding the hunt. You must remove all stands (see § 27.93 of this chapter) at the end of the hunt.

7. We prohibit camping on the refuge.

8. We only allow shotguns, 20 gauge or larger, with slugs.

9. If you are a hunter on the refuge, you must be in your stand from ½ hour before legal sunrise until 9 a.m. and from 2 hours before legal sunset until legal sunset.

10. We prohibit hunting closer than 100 yards (90 m) to U.S. Highway 278 or the check station area, or closer than 200 yards (180 m) to the residence area.

11. We prohibit flagging, blazing, or using other trail-marking devices to locate stands or for any other purpose.

12. Refuge personnel must check deer harvested during a scheduled hunt before hunters leave the refuge.

13. You may take five deer (no more than four antlerless).

14. We close the refuge to the public on hunt days.

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Savannah National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck and coot on designated areas north of South Carolina Highway 170 of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a signed refuge permit at all times while hunting on the refuge. Permits and general hunting information are available at the refuge headquarters in Savanna, Georgia.

2. We only allow temporary blinds. You must remove decoys and other personal property (see § 27.93 of this chapter) from the refuge daily.

3. We prohibit hunting within 100 yards (90 m) of South Carolina Highway 170.

B. Upland Game Hunting. We allow hunting of squirrel November 1 through November 30 on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a signed refuge permit at all times while hunting on the refuge. Permits and hunt information are available at the refuge headquarters in Savannah, Georgia.

2. We only allow .22 caliber rimfire rifles or shotguns with #2 shot or smaller for squirrel hunting.

3. We prohibit handguns.

4. We prohibit dogs.

5. You may take feral hog with weapons legal for this hunt (no bag limit).

6. We require a big game license.

7. We require hunters to wear a visible outer garment that contains a minimum of 500 square inches (3,250 cm^2) of hunter-orange material above the waistline (except during the archery-only deer hunt, the turkey hunt, and the waterfowl hunt.

C. Big Game Hunting. We allow hunting of white-tailed deer, turkey, and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Hunters must possess and carry a signed refuge permit at all times. We require payment of a fee for the wheelchair-dependent hunters' quota gun hunt for deer. Permits, quota hunt applications, and information about the quota hunt drawing are available at the refuge headquarters in Savannah, Georgia.

2. We allow archery hunting for deer and hog from October 1 through October 31 on designated areas.

3. We only authorize bows for deer/hog hunting during the archery hunt.

4. We allow gun hunting for deer and hog during the archery hunt.

5. We only allow shotguns with slugs, muzzleloaders, and bows for deer and hog hunting throughout the designated hunt area. However, we only allow centerfire rifles of .22 caliber or larger north of Interstate Highway 95. We prohibit handguns.

6. You may take five deer, no more than three antlerless and two antlered. There is no bag limit on feral hogs.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing in refuge impoundments and canals from March 1 through November 30 annually.
2. We allow fishing in Kingfisher Pond year-round.
3. We allow fishing from legal sunrise to legal sunset.
4. We allow fishing year-round in the canals adjacent to the wildlife drive.
5. Anglers may only use nonmotorized boats and boats with electric motors within impounded water.

Waccamaw National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, coot, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Hunters must possess and carry at all times while hunting a signed, current refuge hunting regulations brochure containing a refuge hunt permit. The hunt permit is invalid until signed by the hunter.
2. Each youth hunter (age 15 and under) must remain within sight and normal voice contact and under supervision of an adult age 21 or older. Youth hunters must have successfully completed a State-approved hunter education course.
3. We only allow waterfowl hunting until 12 p.m. (noon) each Saturday during the State waterfowl season. Hunters may enter the refuge no earlier that 5 a.m. on hunt days and must be off the refuge by 2 p.m.
4. We allow scouting Monday through Friday during the waterfowl season. We prohibit possession of a firearm by anyone scouting. You must be off the refuge by 2 p.m.
5. You may only possess approved nontoxic shot (see § 32.2(k)) while hunting all species of migratory birds on the refuge.
6. We require permanent blinds. You must remove portable blinds and decoys (see § 27.93 of this chapter) at the end of each day.
7. We only allow use of retrieving dogs while hunting.
8. We do not require hunter check-in and check out. There is no quota on the number of hunters.
9. We prohibit discharge of weapons (see § 27.42(a) of this chapter) for any purpose other than to take or attempt to take legal game animals during established hunting seasons.
10. We prohibit hunting on any unit for wildlife other than that which is officially opened and posted or entering any areas posted as ''Closed'' or ''No Hunting Zones''.

B. Upland Game Hunting. We allow hunting of gray squirrel, raccoon, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, A9, and A10 apply.
2. We only allow hunting on days designated annually by the refuge within the State season. We only allow upland game hunting on designated Refuge areas within Refuge Unit 1.
3. You may only possess approved nontoxic shot (see § 32.2(k)) in shotguns. We allow .22 caliber rimfire rifles.

C. Big Game Hunting. We allow hunting of white-tailed deer, feral hog, and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, A9, and A10 apply.
2. We only allow hunting on days designated annually by the refuge within the State season.
3. We close refuge hunting areas to the general public during big game hunts.
4. We allow archery, muzzleloading (black powder) and centerfire rifles, and shotguns.
5. We prohibit crossbows, blow guns, and drugged arrows (see § 32.2(g)). We only allow muzzleloading rifles using a single projectile on the muzzleloader hunts. We prohibit buckshot, .22 caliber rimfire, and full-metal jacketed military ammunition.
6. Access into all refuge hunt areas for hunting and scouting is by foot or boat. We may open some refuge roads on hunt days. We prohibit ATVs (see § 27.31(f) of this chapter) and air boats on the refuge.
7. We allow scouting all year during daylight hours except during the State waterfowl season. During the waterfowl season, the same regulations that apply to scouting for waterfowl (A4), apply to scouting for big game species.
8. Hunters may enter the refuge no earlier than 5 a.m. on hunt days and must leave the refuge no later than 1 hour after legal sunset.
9. We do not require hunter check-in and check out.
10. The refuge limit on deer is one antlered buck per refuge hunt. Hunters can harvest an additional two antlerless deer per hunt during coinciding State doe days.
11. You may take feral hogs during refuge deer hunts. There is no size or bag limit on hog. We may offer special hog hunts during and after deer season to further control this invasive species. You must dispatch all feral hogs before removing them from the refuge.
12. We prohibit hunting on or within 100 feet (30 m) of all routes marked as roads or trails (see § 27.31 of this chapter) on the hunt brochure map.
13. You must hunt deer and feral hog from an elevated deer stand. We prohibit shooting a hog from a boat.
14. We only allow one portable tree stand per hunter and only during the actual days of each hunt. You must remove deer stands (see § 27.93 of this chapter) from the refuge no later than 3 days after each refuge big game hunt.
15. We allow use of flagging to make the site of hunter entry from roads or trails and again at the stand site. We allow use of clothes pins with reflective tape between these sites to make the route to the stand. Hunters must label all such markers with their full name and remove them (see § 27.93 of this chapter) at the end of the hunt.
16. We require hunters to wear an outer garment visible above the waist that contains a minimum of 500 square inches (3,250 cm^2) of solid, flourescent-orange material at all times during big game hunts except for turkey.
17. We prohibit the use of organized drives, including the use of boats, as an aid in the taking or attempting to take big game species.
18. We prohibit distribution of bait or hunting over a baited area (see § 32.2(h)).
19. We limit turkey hunts to annual quota hunts. We will select hunters by a random drawing. Selected hunters must sign, possess, and carry a Refuge Turkey Hunt Permit at all times during the hunt.
20. We prohibit turkey hunters from calling a turkey for another hunter unless both hunters have Refuge Turkey Hunt Permits.
21. We prohibit turkey hunting in Refuge Units 2 and 3.
22. Turkey hunts begin each day at legal sunrise and end each day at 1 p.m., and you must unload and case or dismantle all weapons (see § 27.42 of this chapter) after 1 p.m.
23. During turkey hunts we only allow one weapon per hunter.
24. The bag limit for the entire hunt is one bearded turkey.

D. Sport Fishing. We allow fishing in accordance with State regulations.

■ 40. Amend § 32.61 South Dakota by:
■ a. Adding Devils Lake Wetland Management District;
■ b. Adding Huron Wetland Management District;
■ c. Revising Lacreek National Wildlife Refuge;

■ d. Adding Lake Andes Wetland Management District;
■ e. Adding Madison Wetland Management District;
■ f. Revising Sand Lake National Wildlife Refuge;
■ g. Adding Sand Lake Wetland Management District;
■ h. Revising the listing Wauby National Wildlife Refuge to read Waubay National Wildlife Refuge and revising the content; and
■ i. Adding Waubay Wetland Management District to read as follows:

§ 32.61 South Dakota.

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Devils Lake Wetland Management District

A. Migratory Game Bird Hunting. We close the following waterfowl production areas (WPA) to all forms of hunting in the district: Little Goose and Lambs Lake WPA in Nelson County; Pleasant Lake WPA in Benson County; and Hart, Nelson, and Vold WPAs in Grand Forks County. We allow hunting of migratory game birds throughout the district in accordance with State regulations except as noted above. We prohibit hunting on portions of the Kellys Slough WPA in Grand Forks County as posted.

B. Upland Game Hunting. We allow hunting of upland game throughout the district except as noted in A. above. We prohibit hunting on portions of the Kellys Slough WPA in Grand Forks County as posted. All hunting is in accordance with State regulations subject to the following condition: You may only possess approved nontoxic shot while in field (see § 32.2(k)).

C. Big Game Hunting. We allow hunting of big game throughout the district except as noted in A. above. We prohibit hunting on portions of Kellys Slough WPA in Grand Forks County as posted. All hunting is in accordance with State regulations subject to the following conditions:

1. We require a ''Lake Alice Refuge Permit'' in order to hunt white-tailed deer with a firearm on the Tarvasted WPA in Ramsey County.

2. We prohibit the construction or use of permanent stands or platforms.

D. Sport Fishing. We allow sport fishing throughout the district in accordance with State regulations except for Kellys Slough, Hart, Nelson, and Vold WPAs in Grand Forks County.

Huron Wetland Management District

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds on designated areas of the wetland management district (WMD) in accordance with State regulations.

B. Upland Game Hunting. We allow hunting of upland game birds on designated areas of the WMD in accordance with State regulations.

C. Big Game Hunting. We allow hunting of deer on designated areas of the WMD in accordance with State regulations subject to the following condition: The name and address of the owner or user, or the year and big game tag number of the owner or user of portable tree stands must be on the stand and legible from the ground.

D. Sport Fishing. We allow sport fishing on designated areas of the WMD in accordance with State regulations.

Lacreek National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, common snipe, sandhill crane, American crow, and mourning dove on designated areas of the refuge in accordance with State regulations subject to the following condition: We only allow hunting of migratory game birds on the Little White River Recreation Area.

B. Upland Game Hunting. We allow hunting of cock ring-necked pheasant and sharptail grouse on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a refuge permit on all areas, except the Little White River Recreation Area.

2. We prohibit hunting with the aid of a motor vehicle. No person may discharge a firearm within ½ mile (.8 km) of any motor vehicle available for his/her transportation unless that motor vehicle is parked in a designated parking area.

C. Big Game Hunting. We allow hunting of white-tailed and mule deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require a State permit for muzzleloader deer hunting.

2. You must possess and carry a refuge permit for archery deer hunting.

3. Condition B2 applies.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow fishing on Pools 3, 4, 7, 10, the Little White River Recreation Area, and Cedar Creek Trout Ponds 2 and 3.

2. We allow boats with motors on all areas open to fishing, except the Trout Ponds.

3. No person may violate the ''no-wake zone'' that includes all waters within 500 feet (150 m) of the shoreline or emergent marsh vegetation on any refuge pool, except the Little White River Recreation Area.

4. We prohibit the use or possession of live minnows or bait fish on all waters of the refuge except the Little White River Recreation Area.

5. We restrict fishing to ½ hour before legal sunrise and to ½ hour after legal sunset on all refuge waters open to fishing, except the Little White River Recreation Area.

Lake Andes Wetland Management District

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds on designated areas of the wetland management district (WMD) in accordance with State regulations.

B. Upland Game Hunting. We allow hunting of upland game birds on designated areas of the WMD in accordance with State regulations.

C. Big Game Hunting. We allow hunting of deer on designated areas of the WMD in accordance with State regulations subject to the following condition: The name and address of the owner or user, or the year and big game tag number of the owner or user of portable tree stands must be on the stand and be legible from the ground.

D. Sport Fishing. We allow sport fishing on designated areas of the WMD in accordance with State regulations.

Madison Wetland Management District

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds on designated areas of the wetland management district (WMD) in accordance with State regulations.

B. Upland Game Hunting. We allow hunting of upland game birds on designated areas of the WMD in accordance with State regulations.

C. Big Game Hunting. We allow hunting of deer on designated areas of the WMD in accordance with State regulations subject to the following condition: The name and address of the owner or user, or the year and big game tag number of the owner or user of portable tree stands must be on the stand and be legible from the ground.

D. Sport Fishing. We allow sport fishing on designated areas of the WMD in accordance with State regulations.

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Sand Lake National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of waterfowl on designated portions of the refuge in accordance with State regulations subject to the following conditions:

1. We allow hunters to use the spaced perimeter blinds on a first-come, first-served basis located along those posted

sections of road right-of-way closed to hunting.

2. We restrict vehicle parking to designated parking lots in the vicinity of the waterfowl blind areas (see § 27.31 of this chapter).

3. Unarmed waterfowl hunters on the perimeter of the refuge may retrieve downed waterfowl up to 100 yards (90 m) inside the refuge boundary.

B. Upland Game Hunting. We allow hunting of pheasant, sharp-tailed grouse, and partridge on designated portions of the refuge in accordance with State regulations subject to the following conditions:

1. The game bird season begins the Monday following closure of the refuge firearms deer season and continues through December 31.

2. Refuge access is ''walk-in'' only. We prohibit motor vehicles, bicycles, snowmobiles, and all-terrain vehicles (see § 27.31(f) of this chapter).

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Only firearms deer hunters with a Sand Lake refuge permit (you must possess and carry) may hunt deer on the refuge.

2. Hunters with a valid State archery license may hunt on the refuge during the established refuge archery deer season. Consult the refuge manager for current season dates.

3. All individuals afield during the refuge firearms deer season must wear a minimum of 400 square inches (2,600 cm^2) of solid fluorescent orange material on the head, chest, and back that must be visible at all times.

4. We allow portable, elevated hunting platforms not attached to trees and portable ground blinds, but they must bear the name and address of the owner or user or the year and big game tag number of the owner or user. The labeling must be readily visible and legible.

5. Beginning the Saturday after August 25 licensed archery deer hunters and firearms deer hunters holding refuge permits (you must possess and carry) may place tree stands, elevated platforms, and portable ground blinds on the refuge. Hunters must remove all such devices (see § 27.93 of this chapter) by February 15.

6. Deer hunters may enter the refuge 1 hour before legal shooting time and remain no longer than 1 hour after shooting time ends.

7. Refuge access is ''walk-in'' only. We allow vehicles on designated refuge roads ONLY for retrieving harvested deer and ONLY during the following times: 9:30–10 a.m., 1:30–2 p.m., and from the end of legal shooting time to 1 hour after the end of shooting time (see § 27.31 of this chapter).

8. We restrict vehicle parking to designated parking lots in the vicinity of the waterfowl blind areas (see § 27.31 of this chapter).

9. We prohibit bicycles, snowmobiles, and all-terrain vehicles at all times (see § 27.31(f) of this chapter).

D. Sport Fishing. We allow sport fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Fishing hours are ½ hour before legal sunrise to ½ hour after legal sunset.

2. We prohibit motorized vehicles on the ice during winter (see § 27.31 of this chapter).

3. We allow ice fishing shanties, but anglers must remove them (see § 27.93 of this chapter) daily.

4. We prohibit open fires (see § 27.95 of this chapter).

Sand Lake Wetland Management District

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds on designated areas of the wetland management district (WMD) in accordance with State regulations.

B. Upland Game Hunting. We allow hunting of upland game birds on designated areas of the WMD in accordance with State regulations.

C. Big Game Hunting. We allow hunting of deer on designated areas of the WMD in accordance with State regulations subject to the following condition: The name and address of the owner or user, or the year and big game tag number of the owner or user of portable tree stands must be on the stand and be legible from the ground.

D. Sport Fishing. We allow sport fishing on designated areas of the WMD in accordance with State regulations.

Waubay National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow deer hunting on designated areas in accordance with State regulations subject to the following conditions:

1. We prohibit deer hunting on Headquarters Island.

2. We prohibit erecting tree stands prior to hunt start dates. Hunters must remove them (see § 27.93 of this chapter) by the end of the hunt.

3. Hunters may launch nonmotorized watercraft from designated access points to travel to islands.

4. We close archery seasons during refuge firearm seasons.

5. We prohibit deer drives during archery seasons. We define a drive as the act of chasing, pursuing, disturbing, or otherwise directing deer so as make the animals more susceptible to harvest by another hunter.

6. Refuge firearm hunters must wear a minimum of 400 square inches (2,600 cm^2) of solid flourescent-orange material visible on the head, chest, and back.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow ice fishing after refuge firearm deer seasons close. We prohibit open water fishing at any time.

2. Anglers must not be on the ice until 1 hour prior to legal sunrise and must be off the ice by 1 hour after legal sunset.

3. Anglers must remove ice shacks (see § 27.93 of this chapter) daily prior to closed fishing hours.

4. We restrict angler foot travel to posted access points, public roads, and lake ice.

Waubay Wetland Management District

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds on designated areas of the wetland management district (WMD) in accordance with State regulations.

B. Upland Game Hunting. We allow hunting of upland game birds on designated areas of the WMD in accordance with State regulations.

C. Big Game Hunting. We allow hunting of deer on designated areas of the WMD in accordance with State regulations subject to the following condition: The name and address of the owner or user, or the year and big game tag number of the owner or user of portable tree stands must be on the stand and be legible from the ground.

D. Sport Fishing. We allow sport fishing on designated areas of the WMD in accordance with State regulations.

■ 41. Amend § 32.62 Tennessee by:

■ a. Revising Chickasaw National Wildlife Refuge;

■ b. Revising Cross Creeks National Wildlife Refuge;

■ c. Revising Hatchie National Wildlife Refuge;

■ d. Revising Lake Isom National Wildlife Refuge;

■ e. Revising Lower Hatchie National Wildlife Refuge; and

■ f. Revising Tennessee National Wildlife Refuge to read as follows:

§ 32.62 Tennessee.

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Chickasaw National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, coot,

merganser, mourning dove, woodcock, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. The refuge is a day-use area only, with the exception of legal hunting/fishing activities.

2. We prohibit the use of motorized off-road vehicles (*e.g.,* ATVs) on the refuge (see § 27.31(f) of this chapter).

3. You must possess and carry a valid refuge permit while hunting on the refuge.

4. Legal hunting hours for duck, goose, coot, and merganser are ½ hour before legal sunrise to 12 p.m. (noon)

5. Mourning dove, woodcock, and snipe seasons close during youth, gun, and muzzleloader deer seasons.

6. You may only use portable blinds, and you must remove all boats, blinds, and decoys (see § 27.93 of this chapter) from the refuge by 1 p.m. daily.

7. We allow hunters to access the refuge no more than 2 hours before legal sunrise and no more than 2 hours after legal sunset.

8. Each youth hunter (under age 16) must remain within sight and normal voice contact and under supervision of an adult age 21 or older. One adult hunter may supervise no more than two youth hunters.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, quail, raccoon, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A3, and A7 through A8 apply.

2. We do not open for spring squirrel hunting on the refuge.

3. We do not open for squirrel, rabbit, and quail hunting during all firearms and muzzleloader deer seasons.

4. We allow hunting for raccoon and opossum from legal sunset to legal sunrise.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A3 and A7 through A9 (adult may supervise no more than one youth hunter) apply.

2. You may only participate in the refuge turkey hunts with a special quota permit issued through a random drawing. You may obtain information for permit applications at the refuge headquarters.

3. You may only possess approved nontoxic shot (see § 32.2(k)) while hunting turkey.

4. We only allow the use of portable blinds and tree stands on the refuge. You must remove blinds, tree stands, and all other personal equipment (see § 27.93 of this chapter) from the refuge at the end of the day.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow fishing with pole and line or rod and reel.

2. We prohibit possession of unauthorized fishing gear, including trotlines, limblines, juglines, yo-yos, nets, spears, and snag hooks, while fishing on the refuge.

3. You may use a bow and arrow or a gig to take nongame fish on refuge waters.

4. We allow fishing from legal sunrise to legal sunset.

5. We prohibit taking of frog or turtle on the refuge (see § 27.21 of this chapter).

Cross Creeks National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of Canada geese (September season only) on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. The refuge is a day-use area only, with the exception of legal hunting/fishing activities.

2. You must possess and carry a valid refuge permit while hunting on the refuge.

3. We set and publish season dates and bag limits annually in the refuge Public Use Regulations available at the refuge office.

4. We prohibit hunting within 50 yards (45 m) of any building, public use road, or boat launching ramp.

5. We allow hunters access to the refuge from 1½ hours before legal sunrise to 1½ hours after legal sunset.

6. We prohibit the use of motorized off-road vehicles (*e.g.,* ATVs) on the refuge.

7. We prohibit the use of horses or other animal conveyances on refuge hunts.

8. Youth hunters under age 16 must remain in sight and normal voice contact with an adult hunter age 21 or older. One adult hunter may supervise no more than two youth hunters.

9. We allow the use of dogs to retrieve geese.

10. You may use only portable blinds, and you must remove all boats, blinds, and decoys from the refuge at the end of each day.

B. Upland Game Hunting. We allow hunting of squirrel on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. The refuge is a day-use area only, with the exception of legal hunting/fishing activities.

2. You must possess and carry a valid refuge permit while hunting on the refuge.

3. We set and publish season dates and bag limits annually in the refuge public use regulations available at the refuge office.

4. We prohibit hunting within 50 yards (45 m) of any building, public use road, or boat launching ramp.

5. We allow hunters access to the refuge from 1½ hours before legal sunrise to 1½ hours after legal sunset.

6. We prohibit the use of motorized off-road vehicles (*e.g.,* ATVs) on the refuge (see § 27.31(f) of this chapter).

7. We prohibit the use of horses or other animal conveyances on refuge hunts.

8. Each youth hunter (under age 16) must remain within sight and normal voice contact of an adult age 21 or older. One adult hunter may supervise no more than two youth hunters.

9. We do not open for spring squirrel hunting.

C. Big Game Hunting. We allow the hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions B1 through B8 (one adult hunter may supervise no more than one youth hunter) apply.

2. We only allow the use of portable blinds and tree stands on the refuge. You must remove blinds, tree stands, and all other personal equipment (see § 27.93 of this chapter) from the refuge at the end of each day.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing on refuge pools and reservoirs from March 16 through November 14 from legal sunrise to legal sunset.

2. We prohibit bows and arrows, trotlines, limblines, jugs, and slat baskets in refuge pools and reservoirs.

3. We prohibit taking of frog and turtle on the refuge (see § 27.21 of this chapter).

4. We prohibit leaving boats unattended on the refuge.

Hatchie National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Hunters must possess and carry a valid refuge permit and report game taken as specified within the permit.

The free refuge hunting and fishing regulation leaflet serves as the refuge permit when properly signed.

2. We prohibit hunting within 100 yards (90 m) of refuge buildings.

3. We allow hunters to access the refuge no more than 1 hour before legal sunrise and no more than 1 hour after legal sunset.

4. We only allow waterfowl hunting on Tuesdays, Thursdays, and Saturdays from ½ hour before legal sunrise until 12 p.m. (noon) throughout the State early wood duck and the regular duck season.

5. We only allow portable blinds and blinds made of natural herbaceous vegetation, which must be removed from the refuge each day.

6. Each youth hunter (under age 16) must remain within sight and normal voice contact of an adult age 21 or older. One adult hunter may supervise no more than two youth hunters.

7. You may take beaver, coyote, and armadillo incidental to any legal hunting activity.

B. Upland Game Hunting. We allow the hunting of quail, squirrel, rabbit, raccoon, and opossum on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A3 and A6 and A7 apply.

2. You may hunt for raccoon and opossum from legal sunset to legal sunrise.

3. We prohibit upland game hunting the night before and during the refuge deer archery and gun-deer hunting seasons.

4. We do not open for spring squirrel hunting.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A3, A6 (each adult may supervise one youth hunter) and A7 apply.

2. We set season dates and bag limits annually and publish them in the refuge public use regulations available at the refuge office.

3. You may only participate in the refuge firearms deer hunts with a special quota permit issued through random drawing. Information for permit applications is available at the refuge headquarters.

4. We only allow the use of portable blinds and tree stands on the refuge. You must remove blinds, tree stands, and all other personal equipment (see § 27.93 of this chapter) from the refuge at the end of each day.

D. Sport Fishing. We allow fishing on designated portions of the refuge in accordance with State regulations subject to the following conditions:

1. Anglers must possess and carry a valid refuge permit. The free refuge hunting and fishing permit serves as the refuge permit when properly signed.

2. You must only use boats propelled by electric motors or hand power.

3. You must only use pole and line or rod and reel.

4. You must use refuge boat ramps for launching boats.

5. We do not open Oneal Lake to fishing except for authorized events.

6. You must immediately release all largemouth bass under 14 inches (30 cm) in length on Goose and Quail Hollow Lakes.

7. We only open Goose Lake for bank fishing.

Lake Isom National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. We allow hunting of squirrel and raccoon on the refuge in accordance with State regulations subject to the following conditions:

1. The refuge is a day-use area only, with the exception of legal hunting/fishing activities.

2. We prohibit the use of motorized off-road vehicles (*e.g.,* ATVs) on the refuge (see § 27.31(f) of this chapter).

3. We set and publish season dates and bag limits annually in the refuge Public Use Regulations available at the refuge office.

4. You must possess and carry a valid refuge permit and report game taken as specified within the permit.

5. We allow hunters to access the refuge no more than 2 hours before legal sunrise and no more than 2 hours after legal sunset.

6. Hunting hours for raccoon are 7 p.m. to 12 p.m. (midnight).

7. Each youth hunter (under age 16) must remain within sight and normal voice contact of an adult age 21 or older. One adult hunter may supervise no more than two youth hunters.

C. Big Game Hunting. We allow archery only hunting for white-tailed deer on the refuge in accordance with State regulations subject to the following conditions:

1. Conditions B1 through B5, B7 (each adult may only supervise one youth hunter) apply.

2. We only allow the use of portable blinds and tree stands on the refuge. You must remove blinds, tree stands, and all other personal equipment (see § 27.93 of this chapter) from the refuge at the end of each day.

D. Sport Fishing. We allow fishing on the refuge in accordance with State regulations subject to the following conditions:

1. We open all waters of Lake Isom to fishing only from March 16 through November 14 from legal sunrise to legal sunset.

2. We only allow boats with electric or outboard motors of 10 hp or less.

3. We prohibit taking frog or turtle from refuge waters (see § 27.21 of this chapter).

Lower Hatchie National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, coot, merganser, mourning dove, woodcock, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. The refuge is a day-use area only with the exception of legal hunting/fishing activities.

2. We prohibit the use of motorized off-road vehicles (*e.g.,* ATVs) on the refuge (see § 27.31(f) of this chapter).

3. You must possess and carry a valid refuge permit and report game taken as specified within the permit.

4. Legal hunting hours for duck, goose, coot, and merganser are ½ hour before legal sunrise to 12 p.m. (noon).

5. We do not open for mourning dove, woodcock, and snipe seasons during all firearms and muzzleloader deer seasons.

6. You may only use portable blinds, and you must remove all boats, blinds, and decoys (see § 27.93 of this chapter) from the refuge by 1 p.m. daily.

7. We allow hunters to access the refuge no more than 2 hours before legal sunrise and no more than 2 hours after legal sunset.

8. We do not open Sunk Lake Public Use Natural Area to migratory game bird hunting.

9. Each youth hunter (under age 16) must remain within sight and normal voice contact of an adult age 21 or older. One adult hunter may supervise no more than two youth hunters.

B. Upland Game Hunting. We allow hunting of squirrel, rabbit, quail, raccoon, and opossum on designated areas of the refuge and the northern unit of Sunk Lake Public Use Natural Area in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A3, A7, and A9 apply.

2. We do not open for spring squirrel hunting on the refuge.

3. We do not open for squirrel, rabbit, and quail hunting during all firearms and muzzleloader deer seasons.

4. Hunting hours for raccoon and opossum are legal sunset to legal sunrise.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey

on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A3, A7, A8, and A10 (each adult may only supervise one youth hunter) apply.

2. You may only participate in the refuge turkey hunts with a special quota permit issued through random drawing. Information for permit applications is available at the refuge headquarters.

3. You may only possess approved nontoxic shot while hunting turkey (see § 32.2(k)).

4. We only allow the use of portable blinds and tree stands on the refuge. You must remove blinds, tree stands, and all other personal equipment (see § 27.93 of this chapter) from the refuge at the end of each day.

5. We only allow archery deer hunting on the northern unit of Sunk Lake Public Use Natural Area.

D. Sport Fishing. We allow sport fishing on designated areas of the refuge and the Sunk Lake Public Use Natural Area in accordance with State regulations subject to the following conditions:

1. We only allow fishing from legal sunrise to legal sunset.

2. We only allow fishing with pole and line or rod and reel.

3. We prohibit possession of unauthorized fishing gear, including trotlines, limblines, juglines, yo-yos, nets, spears, and snag hooks, while fishing on the refuge.

4. You may use a bow and arrow or a gig to take nongame fish except paddlefish on refuge waters.

5. We prohibit taking frog or turtle on the refuge (see § 27.21 of this chapter).

6. We seasonally close the sanctuary area of the refuge and the southern unit of Sunk Lake Public Use Natural Area to the public November 15 through March 15.

7. We only allow the use of nonmotorized boats and boats with electric motors on Sunk Lake Public Use Natural Area.

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Tennessee National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of Canada geese (September season only) on designated areas of the refuge in accordance with State regulations and subject to the following conditions:

1. The refuge is a day-use area only, with the exception of legal hunting/fishing activities.

2. We require a refuge hunt permit for all hunters age 16 and older. We charge a fee for all hunt permits. You must possess and carry a valid refuge permit while hunting on the refuge.

3. We set and publish season dates and bag limits annually in the refuge Public Use Regulations available at the refuge office.

4. We prohibit hunting within 50 yards (45 m) of any building, public use road, or boat launching ramp.

5. We allow access for goose hunting on the refuge 1½ hours before legal sunrise until 1½ hours after legal sunset.

6. We prohibit the use of motorized off-road vehicles (*e.g.,* ATVs) on the refuge.

7. We prohibit the use of horses or other animal conveyances on refuge hunts.

8. Youth hunters under age 16 must remain in sight and normal voice contact with adult hunters age 21 or older. One adult hunter may supervise no more than two youth hunters.

9. We allow the use of dogs to retrieve geese.

10. You may use only portable blinds, and you must remove all boats, blinds, and decoys from the refuge at the end of each day.

B. Upland Game Hunting. We allow hunting of squirrel and raccoon on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. The refuge is a day-use area only, with the exception of legal hunting/fishing activities.

2. We require a refuge hunt permit for all hunters age 16 and older. We charge a fee for all hunt permits. You must possess and carry a valid refuge hunt permit while hunting on the refuge.

3. We set and publish season dates and bag limits annually in the refuge Public Use Regulations available at the refuge office.

4. We prohibit hunting within 50 yards (45 m) of any building, public use road, or boat launching ramp.

5. We allow hunters access to the refuge from 1½ hours before legal sunrise to 1½ hours after legal sunset.

6. We allow hunting for raccoon from legal sunset to legal sunrise.

7. We prohibit the use of motorized off-road vehicles (*e.g.*, ATVs) on the refuge (see § 27.31(f) of this chapter).

8. We prohibit the use of horses and other animal conveyances on refuge hunts.

9. Each youth hunter (under age 16) must remain within sight and normal voice contact and under supervision of an adult age 21 or older. One adult may supervise no more than two youth hunters.

10. We do not open for spring squirrel hunting on the refuge

11. You may take coyote and beaver incidental to legal hunting activities.

C. Big Game Hunting. We allow hunting of white-tailed deer and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions B1 through B5, B7 through B9 (each adult may only supervise one youth hunter), and B11 apply.

2. You may only participate in the refuge quota deer hunts with a special quota permit issued through random drawing. Information for permit applications is available at the refuge headquarters.

D. Sport Fishing. We allow fishing on designated portions of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing in Swamp Creek, Sulphur Well Bay, Bennetts Creek, and all interior impoundments from March 16 through November 14. The remainder of the refuge portion of Kentucky Lake will remain open year-round. We allow bank fishing year-round along Refuge Lane, from the New Johnsonville Pump Station, and from Busseltown Pump Station areas.

2. We limit boats to no wake speed on all refuge impoundments.

3. We prohibit leaving boats unattended on the refuge.

4. We allow fishing on interior refuge impoundments from legal sunrise to legal sunset.

5. We close the Grassy Lake heron rookery to all public entry as posted November 15 through August 31.

6. We prohibit taking frog or turtle on the refuge (see § 27.21 of this chapter).

■ 42. Amend § 32.63 Texas by:

■ a. Revising paragraphs A. and D. of Anahuac National Wildlife Refuge;

■ b. Adding paragraphs C.12. and C.13. of Aransas National Wldlife Refuge;

■ c. Revising paragraph A. of Big Boggy National Wildlife Refuge;

■ d. Revising paragraphs A. and D. of Brazoria National Wildlife Refuge

■ e. Revising paragraphs C. and D. of Laguna Atascosa National Wildlife Refuge;

■ f. Revising paragraphs A. and C. of Lower Rio Grande Valley National Wildlife Refuge;

■ g. Revising paragraphs A. and D. of McFaddin National Wildlife Refuge;

■ h. Revising paragraph A. San Bernard National Wildlife Refuge;

■ i. Revising paragraphs A. and D. of Texas Point National Wildlife Refuge; and

■ j. Revising Trinity River National Wildlife Refuge to read as follows:

§ 32.63 Texas.

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Anahuac National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a signed refuge hunting permit while hunting on all hunt units of the refuge.

2. Hunters may enter the refuge hunt units no earlier than 4 a.m. Hunting starts at the designated legal shooting time and ends at 12 p.m. (noon). Hunters must leave refuge hunt units by 12:30 p.m. We close refuge hunt units on Thanksgiving, Christmas, and New Year's Day.

3. We allow hunting in portions of the East Unit on Saturdays, Sundays, and Tuesdays during the regular waterfowl season. We require payment of a $10.00 daily or $40.00 annual fee to hunt on the East Unit. All hunters must check-in and out through the check station when hunting the East Unit from a vehicle. We will allow a maximum of 100 hunters to access the East Unit by vehicle. We allow hunting in designated areas from East Bay Bayou, Jackson Ditch, and Onion Bayou via boat. We require hunters accessing the East Unit by boat from Jackson Ditch, East Bay Bayou, or Onion Bayou to pay the $40.00 annual fee. We prohibit access to the East Unit Reservoirs from Onion Bayou via boat. We prohibit use of motorized boats on the East Unit except on ponds accessed from Jackson Ditch.

4. We allow hunting on the East Unit Special Goose Hunt Areas by permit on a first-come, first-served basis the morning of the hunt. Hunters must have goose decoys to hunt the Special Goose Hunt Areas. We allow a minimum of two and a maximum of six persons per permit. All Special Goose Hunt Area hunters must accompany a valid permit holder. Individuals in each group must set up and stay in their permitted area and stay within 50 feet (15 m) of each other unless retrieving goose.

5. We randomly draw permits the morning of the hunt for the East Unit Special Duck Hunt Areas. Hunters must set up within 50 yards (45 m) of the post marker and must stay within 50 feet (15 m) of each other unless retrieving waterfowl. We allow a minimum of two and a maximum of six persons per permit.

6. We allow hunting in the Pace Tract daily during the September teal season and regular waterfowl season.

7. All hunters using the Oyster Bayou Boat Ramp must register at the main refuge entrance.

8. We allow hunting in portions of the Middleton Tract daily during the September teal season and on Saturdays, Sundays, and Wednesdays of the regular waterfowl season. We restrict motorized boats in inland waters of the Middleton Tract to motors of 25 hp or less or electric trolling motors.

9. Youth hunters, age 17 and younger, must be under the supervision of an adult age 18 or older.

10. We only allow shotguns for waterfowl hunting.

11. We prohibit the use of airboats, marsh buggies, ATVs (see § 27.31(f) of this chapter), and Jet Skis.

12. On inland waters of refuge hunt areas open to motorized boats, we restrict the operation of motorized boats to lakes, ponds, ditches, and other waterways. We prohibit the operation of motorized boats on or through emergency wetland vegetation.

13. On inland waters of the refuge hunt areas open to motorized boats, we restrict the use of boats powered by air-cooled engines to those powered by a single engine of 25 horsepower or less and utilizing a propeller 9 inches (22.5 cm) in diameter or less.

14. We only allow vehicular travel on designated roads and in parking areas. We prohibit hunting from roads and blocking access to any road or trail entering or on the refuge (see § 27.31(h) of this chapter).

15. We prohibit pits and permanent blinds. We allow portable blinds or temporary natural vegetation blinds. You must remove portable blinds (see § 27.93 of this chapter) from the refuge daily.

16. The minimum permitted distance between hunt parties is 200 yards (180 m).

17. Dogs accompanying hunters must be under the immediate control of handlers at all times (see § 26.21(b) of this chapter).

18. You must remove all decoys, boats, spent shells, marsh chairs, and other equipment (see § 27.93 of this chapter) from the refuge daily. We prohibit the use of plastic flagging, reflectors, or reflective tape.

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D. Sport Fishing. We allow fishing and crabbing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing and crabbing on shoreline areas on East Galveston Bay, along East Bay Bayou on the East Bay Bayou Tract, along West Line Road to the southern end of Shoveler Pond, and along the canal from the Oyster Bayou Boat Ramp to the southwest corner of Shoveler Pond.

2. We only allow fishing and crabbing with pole and line, rod and reel, or hand-held line.

3. We allow cast-netting for bait for personal use along waterways in areas open to the public and along public roads.

4. We prohibit the use of trotlines, setlines, bows and arrows, gigs, or spears.

5. We prohibit boats and other flotation devices on inland waters. You may launch motorized boats into East Bay at the East Bay Boat Ramp on Westline Road and at the Oyster Bayou Boat Ramp (boat canal). You may launch nonmotorized boats along East Bay Bayou and along the shoreline on East Galveston Bay.

Aransas National Wildlife Refuge

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C. Big Game Hunting. * * *

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12. We prohibit hunters possessing handguns during archery and rifle hunts. We allow the use of archery equipment and centerfire rifles in accordance with State law.

13. We only allow you to use biodegradable flagging to mark trails and your hunt stand location during the archery and rifle hunts on the refuge. We color code the flagging used each weekend during the rifle hunts. You must use the designated flagging color specified for particular hunt dates. We provide this information on the refuge hunt permit and in refuge regulations sent to permittees. You must remove flagging (see § 27.93 of this chapter) at the end of the hunt.

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Big Boggy National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit the building or use of pits and permanent blinds.

2. We only allow the use of airboats in tidal navigable waters unless otherwise posted.

3. We prohibit target practice on the refuge.

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Brazoria National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit the building of pits and permanent blinds.

2. You must possess and carry a refuge permit to hunt on certain portions of the hunting area.

3. We only allow the use of airboats in tidal navigable waters unless otherwise posted.

4. We prohibit target practice on the refuge.

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D. Sport Fishing. We allow fishing in accordance with State regulations subject to the following conditions:

1. We allow access for saltwater fishing by boat on Nick's, Salt, and Lost Lakes.

2. We allow access for shore fishing at Bastrop Bayou, Clay Banks and Salt Lake Public Fishing Areas, and Salt Lake Weir Dike.

3. We open Bastrop Bayou to fishing 24 hours a day; we prohibit camping.

4. We open all other fishing areas from legal sunrise to legal sunset.

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Laguna Atascosa National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer, feral pig, and nilgai antelope on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require hunters to pay a fee and obtain a refuge hunt permit. We issue replacement permits for an additional nominal fee. All hunt fees are nonrefundable. We require the hunter to possess and carry a signed and dated refuge hunt permit.

2. We allow archery and firearm hunting on designated units of the refuge. We open Units 1, 2, 3, 5, 6, and 8 to archery hunting during dates designated in the refuge hunt pamphlet. We open Units 2, 3, 5, 6, and 8 to firearm hunting during dates designated in the refuge hunt pamphlet. We assign hunters to specific hunt units during firearm hunting. We prohibit hunting on the following areas: Adolph Thomae Jr. County Park in Unit 3, posted ''No Hunting Zones'' within all hunt units, La Selva Verde Tract (Armstrong), Waller Tract, COHYCO, Inc. Tract, Bahia Grande Unit, and South Padre Island Unit.

3. We offer hunting during specific portions of the State hunting season. We determine specific deer hunt dates annually, usually in November and December. We publish this information in the refuge hunt brochure. We may provide special feral pig and nilgai antelope hunts to reduce populations at any time during the year.

4. We annually establish a specific bag limit for deer hunted on the refuge in the refuge hunt brochure. We have an unlimited bag limit on feral pig and nilgai antelope.

5. We require hunters to visibly wear 400 square inches (2,600 c^2) of hunter orange, which includes wearing a minimum of 144 square inches (936 cm^2) visible on the chest, a minimum of 144 square inches (936 cm^2) visible on the back, and a hunter-orange hat or cap visible on the head. We allow hunter-orange camouflage patterns.

6. Each youth hunter (ages 12 through 17) must remain within sight and normal voice contact of an adult age 18 or older. Hunters must be at least age 12.

7. We only allow the use of shoulder-fired muzzleloaders and rifled firearms. We prohibit possession of a pistol or shotgun while hunting. Muzzleloader firearms must be .40 caliber or larger, and modern-rifled firearms must be center fired and .22 caliber or larger. We prohibit loaded firearms (see § 27.42 of this chapter) in the passenger compartment of a motor vehicle (we define ''loaded'' as having rounds in the chamber or magazine or a firing cap on a muzzleloading firearm). We prohibit target practice or ''sighting-in'' on the refuge.

8. We allow a 9-day scouting period, ending 1 week prior to the commencement of the refuge deer hunting season. A permitted hunter and a limit of two nonpermitted individuals may enter the hunt units during the scouting period. We allow access to the units during the scouting period from legal sunrise to legal sunset. You must clearly display refuge-issued Hunter Vehicle Validation Tags/Scouting Permits (available from the refuge office) face up on the vehicle dashboard.

9. We only allow hunters to enter the refuge 1 hour before legal shooting hours during the permitted hunt season. All hunters must check out daily at the refuge check station at the end of their hunt or no later than 1 hour after legal shooting hours.

10. We allow vehicle parking at Unit 1 and Unit 6 designated parking areas and along the roadsides of General Brandt Road (FM 106), Buena Vista Road, Lakeside Road, and County Road (see § 27.31 of this chapter).

11. We restrict vehicle access to service roads not closed by gates or signs (see § 27.31 of this chapter). You must only access hunt units by foot or bicycle.

12. We allow hunting from portable stands or by stalking and still hunting. There is a limit of one blind or stand per permitted hunter. You must attach hunter identification (name, address, permit number, and phone number), to the blind or stand. We prohibit attaching blinds and stands to trees or making blinds and stands from natural vegetation (see §§ 32.2(i) and § 27.51 of this chapter)). You must remove all blinds and stands (see § 27.93 of this chapter) at the end of the permitted hunt season.

13. We prohibit hunting with dogs.

14. Hunters must field-dress all harvested big game in the field and check the game at the refuge check station before removal from the refuge. You may quarter deer, feral pig, and nilgai antelope in the field as defined by State regulations. You may use a nonmotorized cart to assist with the transportation of harvested game animals.

15. We prohibit use of or hunting from any type of watercraft or floating device.

16. You must receive authorization from a refuge employee to enter closed refuge areas to retrieve harvested game.

D. Sport Fishing. We allow fishing and crabbing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow fishing and crabbing from Adoph Thomae Jr. County Park on San Martin Lake of the Bahia Grande Unit, and on the South Padre Island Unit year-round.

2. We require payment of an entry fee and boat launch at Adolph Thomae Jr. County Park. We allow access to the park between 6 a.m. and 10 p.m. from June through October, and between 6 a.m. and 9 p.m. from November through May.

3. We only allow pole and line, rod and reel, hand line, dip net, or cast net for fishing. We prohibit the use of crab traps or pots for crabbing. Anglers must attend all fishing lines, crabbing equipment, or other fishing devices at all times.

4. We prohibit the taking and use of frog, salamander, and other amphibian as bait.

5. We allow the use of boats for sport fishing. You may launch boats at Adolph Thomae Jr. County Park. We only allow bank and wade fishing on the shoreline of San Martin Lake within the refuge boundary. We only allow access by foot behind posted refuge boundary signs.

6. We only allow camping at Adolph Thomae Jr. County Park.

Lower Rio Grande Valley National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of mourning, white-winged, and white-tipped dove on designated areas of the refuge in

accordance with State regulations subject to the following conditions:

1. We require hunters to pay a fee and obtain a refuge hunt permit. All hunt fees are nonrefundable. We require hunters to possess and carry a signed (by permittee and an authorized refuge staff member) refuge hunt permit.

2. We allow hunting on areas of the refuge during limited periods of the State-designated hunting season. We publish these dates in the refuge hunting sheet.

3. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

4. We require hunters to be at least age 12. Youth hunters, age 17 and younger must be under the supervision of an adult age 18 or older.

5. We determine the location and method of hunting each year and publish this information in the refuge hunting sheet.

6. We only allow parking in designated locations.

7. We allow the use of properly trained retrievers during these hunts.

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C. Big Game Hunting. We allow hunters to take white-tailed deer, feral hog, and nilgai antelope on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1 through A3 and A5 through A7 apply.

2. We annually establish bag limits for white-tailed deer based on survey data provided by the State. We establish no bag limits for feral hog or nilgai antelope.

3. We require hunters to visibly wear 400 square inches (2,600 cm^2) of hunter orange, which includes wearing a minimum of 144 square inches (936 cm2) visible on the chest, a minimum of 144 square inches visible on the back, and a hunter-orange hat or cap visible on the head.

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McFaddin National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a signed refuge hunting permit while hunting on all hunt units of the refuge.

2. Hunters must enter the refuge hunt units between 4 a.m. and ½ hour before the designated legal shooting time. Hunting starts at legal shooting time and ends at 12 p.m. (noon). Hunters must leave refuge hunt units by 12:30 p.m. We close refuge hunt units on Thanksgiving, Christmas, and New Year's Day.

3. You may access hunt areas by foot, nonmotorized watercraft, outboard motor boat, or airboat. Airboats may not exceed 10 hp with direct drive with a propeller length of 48 inches (120 cm) or less. Engines may not exceed 2 cylinders and 484 cc. We prohibit all other motorized vehicles. We prohibit marsh buggies, ATVs, and Jet Skis (see § 27.31(f) of this chapter).

4. On inland waters of the refuge open to motorized boats, we restrict the use of boats powered by air-cooled engines to those powered by a single engine of 25 horsepower or less and utilizing a propeller 9 inches (22.5 cm) in diameter or less.

5. On inland waters of the refuge open to motorized boats, we restrict the operation of motorized boats to lakes, ponds, ditches, and other waterways. We prohibit the operation of motorized boats on or through emergent wetland vegetation.

6. We allow hunting in the Central Hunt Units daily during the September teal season and on Saturdays, Sundays, and Tuesdays of the regular waterfowl season.

7. We only allow hunting in the Spaced Hunt Units on Saturdays, Sundays, and Tuesdays of the regular waterfowl season. We require payment of a $10.00 daily fee to hunt the Spaced Hunt Units. We allow a maximum of four hunters per area. Hunters must possess and carry Special Fee Area Permits while hunting.

8. We allow daily hunting in the Mud Bayou Hunt Unit during the September teal season and on Sundays, Wednesdays, and Fridays of the regular waterfowl season. We allow access by foot from the beach on Middleton Levee, or by boat from the Gulf Intracoastal Waterway via Mud Bayou.

8. Each youth hunter (age 17 and younger) must remain within sight and normal voice contact of an adult age 18 or older.

9. We only allow shotguns for waterfowl hunting.

10. We only allow vehicular travel on designated roads and in parking areas. We prohibit blocking access to any road or trail entering or on the refuge (see § 27.31(h) of this chapter).

11. We prohibit pits and permanent blinds. We allow portable blinds or temporary natural vegetation blinds. You must remove portable blinds (see § 27.93 of this chapter) from the refuge daily.

12. The minimum permitted distance between hunt parties and between hunters and driveable roads and buildings is 200 yards (180 m). We prohibit hunting from roads or levees.

13. Dogs accompanying hunters must be under the immediate control of handlers at all times (see § 26.21(b) of this chapter).

14. You must remove all decoys, boats, spent shells, marsh chairs, and other equipment (see §§ 27.93 and 27.94 of this chapter) from the refuge daily. We prohibit use of plastic flagging, reflectors, or reflective tape on the refuge.

* * * * *

D. Sport Fishing. We allow fishing and crabbing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow fishing and crabbing with pole and line, rod and reel, or handheld line.

2. We allow cast netting for bait for personal use along waterways in areas open to the public and along public roads.

3. We prohibit the use of trotlines, setlines, bows and arrows, gigs, or spears in inland waters.

4. We allow fishing and crabbing in 10–Mile Cut and Mud Bayou and in the following inland waters: Star Lake and Clam Lake. We also allow fishing and crabbing from the shoreline of the Gulf Intracoastal Waterway and along roadside ditches.

5. On inland waters of the refuge open to motorized boats, we restrict the operation of motorized boats to lakes, ponds, ditches, and other waterways. We prohibit the operation of motorized boats on or through emergent wetland vegetation.

6. Condition A4 applies.

San Bernard National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit pits and permanent blinds.

2. We require permits and payment of fees for the Sargent Permit Waterfowl Hunt, Big Pond Hunt Area, and Light Goose Conservation Order Season Permit Hunt Area. Hunters must abide by all terms and conditions set by the permits.

3. We only allow the use of airboats in tidal navigable waters unless otherwise posted.

4. We prohibit target practice on the refuge.

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Texas Point National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Hunters must possess and carry a signed refuge hunting permit while hunting on the refuge.

2. Hunters must enter the refuge hunt unit between 4 a.m. and ½ hour before the designated legal shooting time. Hunting starts at legal shooting time and ends at 12 p.m. (noon). Hunters must be off refuge hunt units by 12:30 p.m. We close refuge hunt units on Thanksgiving, Christmas, and New Year's Day.

3. We allow hunting in portions of the refuge daily during the September teal season and on Saturdays, Mondays, and Wednesdays during the regular waterfowl season.

4. We allow access into hunt areas by foot, nonmotorized watercraft, outboard motor boat, or airboat. Airboats may not exceed 10 hp with direct drive with a propeller length of 48 inches (120 cm) or less, and engines may not exceed 2 cylinders and 484 cc. We prohibit other motorized vehicles. We prohibit marsh buggies, ATVs, and Jet Skis (see § 27.31(f) of this chapter).

5. On inland waters of the refuge open to motorized boats, we restrict the use of boats powered by air-cooled engines to those powered by a single engine of 25 horsepower or less and utilizing a propeller 9 inches (22.5 cm) in diameter or less.

6. On inland waters of the refuge open to motorized boats, we restrict the operation of motorized boats to lakes, ponds, ditches, and other waterways. We prohibit the operation or motorized boats on or through emergent wetland vegetation.

7. Each youth hunter (age 17 and younger) must remain within sight and normal voice contact of an adult age 18 or older.

8. We only allow shotguns for waterfowl hunting.

9. We only allow vehicle travel on designated roads and in designated parking areas (see § 27.31 of this chapter). We prohibit blocking access to any road or trail entering or on the refuge (see § 27.31(h) of this chapter).

10. We prohibit pits and permanent blinds. We allow portable blinds or temporary natural vegetation blinds, but you must remove them (see § 27.93 of this chapter) from the refuge daily.

11. The minimum distance between hunt parties is 200 yards (180 m). We prohibit hunting from roads or levees.

12. Dogs must be under the immediate control of the hunter at all times (see § 26.21(b) of this chapter).

13. You must remove all decoys, boats, spent shells, marsh chairs, and other equipment (see §§ 27.93 and 27.94 of this chapter) from the refuge daily. We prohibit use of plastic flagging, reflectors, or reflective tape on the refuge.

* * * * *

D. Sport Fishing. We allow fishing and crabbing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow fishing and crabbing in inland waters with pole and line, rod and reel, or handheld line.

2. We only allow cast netting for bait by individuals along waterways in areas open to the public and along public roads.

3. We prohibit the use of trotlines, setlines, bows and arrows, gigs, or spears in inland waters.

4. Conditions A5 and A6 apply.

Trinity River National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow hunting on Champion Lake by drawing.

2. We require an application fee for participants to enter the drawing. After the State announces hunting dates, we will issue a refuge permit to those drawn. The hunter must possess and carry the permit at all times when hunting.

3. We only allow hunting on Champion Lake Saturdays and Sundays during the State duck season. Hunters may not enter the refuge until 5 a.m. and must be off the hunt area by 12 p.m. (noon).

4. We only allow portable blinds. Hunters must remove all blinds, decoys, shell casings, and other personal equipment (see §§ 27.93 and 27.94 of this chapter) from the refuge each day.

5. We limit motors to 10 hp or less.

6. We allow retrievers, but they must be under the immediate control of the hunter at all times.

7. Each youth hunter (age 17 and under) must remain within sight and normal voice contact and under supervision of an adult age 18 or older.

8. Hunt parties must keep a minimum distance of 150 yards (135 m) between them.

B. Upland Game Hunting. We allow hunting for squirrel and rabbit on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require participants to pay an application fee to enter the hunt permit drawing. We issue a refuge permit to the individuals whose names are drawn. Successful participants must possess and carry these permits at all times. Permits are nontransferable.

2. We allow hunting during a designated 9-day season. Hunters may enter the refuge and park in an assigned parking area no earlier than 4:30 a.m. We allow hunting from ½ hour before legal sunrise to legal sunset. We will require hunters to return a data log card.

3. We prohibit hunting along refuge roads.

4. We prohibit the use of dogs, feeders, baiting, campsites, fires (see § 27.95 of this chapter), and all-terrain vehicles (see § 32.2(h)).

5. We restrict weapons to shotguns and rimfires.

6. Youth hunters age 17 and younger must be under the direct supervision of an adult age 18 or older.

7. The minimum distance we allow between hunt parties is 200 yards (180 m). We require hunters to visibly wear 400 square inches (2,600 cm^2) of hunter-orange, which includes wearing a minimum of 144 square inches (936 cm^2) visible on the chest, a minimum of 144 square inches visible on the back, and a hunter orange hat or cap visible on the head.

C. Big Game Hunting. We allow hunting of white-tailed deer and feral hog on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions B1, B2, B4, B6, and B7 apply.

2. We only allow temporary blinds. We prohibit hunting or blind erection along refuge roads.

3. We restrict weapon type used depending on unit hunted. We publish this information on the refuge permit (you must possess and carry) and in the refuge hunt brochure.

D. Sport Fishing. We allow fishing on Champion Lake in accordance with State regulations subject to the following conditions:

1. We only allow fishing with pole and line, rod and reel, or hand-held line.

2. We prohibit the use of trotlines, setlines, bows and arrows, gigs, spears, fish traps, crab/crawfish traps or nets.

3. We prohibit the harvesting of frog or turtle (see § 27.21 of this chapter).

4. We allow fishing from legal sunrise to legal sunset.

5. We limit motors to a maximum of 10 hp. We prohibit fishing or enter within 200 yards (180 m) of an

established bird rookery from March through the end of June. Check at refuge headquarters for rookery locations.

■ 43. Amend § 32.64 Utah by:

■ a. Revising the introductory text of paragraph A., revising paragraph A.5., removing paragraphs A.7. and A.10. and redesignating paragraphs A.8. as A.7., A.9. as A.8, and adding paragraph A.9. of Bear River Migratory Bird Refuge; and

■ b. Revising Ouray National Wildlife Refuge to read as follows:

§ 32.64 Utah.

* * * * *

Bear River Migratory Bird Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, and tundra swan on designated areas of the refuge in accordance with State regulations subject to the following conditions:

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5. You may enter the refuge 2 hours before legal sunrise and must exit the refuge by 2 hours after legal sunset. We prohibit leaving decoys, boats, vehicles, and other personal property on the refuge overnight (see § 27.93 of this chapter).

* * * * *

9. You may only possess 10 shells while hunting on or within 50 feet (15 m) from the center of Unit 1A or 2C dike.

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Ouray National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, coot, and goose within Leota Bottom in accordance with State regulations subject to the following conditions:

1. We prohibit hunting within 100 yards (90 m) of the Green River in Leota Bottom.

2. We close the Green River within the refuge boundaries to hunting.

3. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

4. We prohibit pits and permanent blinds.

5. You may use portable blinds or blinds constructed of natural dead vegetation (see § 27.51 of this chapter).

6. You must remove all decoys, shell casings, portable and temporary blinds, and other personal equipment (see §§ 27.93 and 27.94 of this chapter) from the refuge at the end of each day.

7. We prohibit operation of a gas-powered boat or vehicle within Leota Bottom.

8. We prohibit possession or consumption of any alcoholic beverage while hunting (see § 32.2(j)).

9. During hunting season the refuge is open from 1½ hours before legal sunrise to 1½ hours after legal sunset. We gate and lock the main entrance on the west side of the Green River during closed hours.

10. We prohibit possession of a loaded firearm in your vehicle. You must unload, case, or dismantle all firearms (see § 27.42 of this chapter) when traveling through the refuge.

B. Upland Game Hunting. We allow hunting of pheasants within Leota, Johnson, Brennan, and portions of Wyasket Bottoms (the southern portion of Wyasket Bottom and all of Woods Bottom are leased Ute Tribal lands that require special permitting by the Ute Tribe) in accordance with State regulations subject to the following conditions:

1. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

2. We prohibit hunting the islands and sandbars within the Green River.

3. We prohibit hunting pheasants with a shotgun capable of holding more than three shells.

4. We prohibit hunting of turkey and quail.

C. Big Game Hunting. We allow hunting of mule deer within Leota, Johnson, Brennan, and the northern portion of Wyasket Bottom (the southern portion of Wyaket Bottom and all of Woods Bottom are leased Ute Tribal lands that require special permitting by the Ute Tribe) in accordance with State regulations subject to the following conditions:

1. You may hunt with the aid of a temporary tree stand that does not require drilling or nailing into the tree.

2. You must remove your tree stand (*see* § 27.93 of this chapter) no later than the last day of the hunting season for which you have a tag.

3. We prohibit hunting on the islands and sandbars within the Green River.

4. We prohibit hunting of pronghorn and elk.

D. Sport Fishing. We allow sport fishing within and on the banks of the Green River (the southernmost portion of the Green River within the Refuge Boundary requires a Ute Tribe fishing permit) in accordance with State regulations subject to the following conditions:

1. We prohibit fishing on or from the diked interior impoundments or canals.

2. You may only fish with the aid of a pole, hook, and line. We prohibit trot lines, bow and arrows, spears, spear guns, cross bows, and firearms.

3. You must release unharmed any of the four endangered fish if caught (razorback sucker, Colorado pike minnow, humpbacked chub, or bonytailed chub).

■ 44. Amend § 32.65 Vermont by revising Missisquoi National Wildlife Refuge to read as follows:

§ 32.65 Vermont.

* * * * *

Missisquoi National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, brant, merganser, coot, woodcock, and snipe in accordance with State regulations subject to the following conditions:

1. Waterfowl—For the hunting of goose, brant, duck, merganser, and coot we divide the refuge into six discrete waterfowl hunting units: the Delta Lakeshore Area, the Saxes Pothole/Creek and Shad Island Area, the Junior Waterfowl Hunting Area (including Long Marsh Bay, Patrick Marsh, and Charcoal Creek), the Long Marsh Channel and Metcalfe Island Area, and the Maquam Swamp Area. Conditions for each area are as follows:

i. Delta Lakeshore Area includes lakeshore areas from Shad Island to the south side of Martindale Point but does not include Saxes Pothole/Creek and Shad Island Pothole.

a. We prohibit blind staking, permanent blinds, or unattended decoys.

b. We prohibit jump shooting within 200 yards (180 m) of a party hunting from a boat or blind.

c. We do not require a refuge permit to hunt in this area.

d. This area is available to youth waterfowl hunters on Youth Waterfowl Hunting Weekend.

e. We prohibit entering closed areas of the refuge for any reason, except for the recovery of legally harvested animals, and in that case you may not carry a weapon (see § 27.42(a) of this chapter).

f. Unarmed hunters may scout open hunting areas before a particular season opens but in no case before September 1. We do not require a hunting permit for scouting.

ii. Maquam Shore Area encompasses a 30-acre area along the lakeshore of Maquam Bay and is bounded by private land on the west and a Vermont wildlife management area on the east. a. Conditions A1i(a–f) apply.

iii. Saaxes Pothole/Creek and Shad Island Pothole encompasses Saxes Creek, Saxes Pothole, and Shad Island Pothole. This is a controlled hunting area. We stake and make available five zones (numbered 1–5) to five hunting parties in Saxe's Pothole, zone 6 is staked and available to one hunting party in Shad Island Pothole.

a. A hunting party consists of the hunter named on the permit and one guest hunter per zone per day. Nonhunters may accompany a hunting party.

b. Each hunting party must possess and carry a permit for the specific zone on the specific day they are hunting in this area. Permits are not transferable.

c. You may obtain permits for the period from the opening day of duck hunting season through the first Sunday of the duck hunting season, and for the second weekend of the duck hunting season through application to a preseason lottery. During the years when the State elects to have a split season, you may also obtain your permits for the second opening day through the following Sunday through application to the preseason lottery. On all other hunt days, you must acquire permits through self-registration at the Mac's Bend Landing no earlier than 2 hours before legal shooting time on the day of the hunt.

d. Hunters selected during the preseason lottery must pay a $10 fee. The refuge must receive the fee no earlier than 2 days before the opening of the season or forfeit the permit, which we will then make available to other hunters on a first-come, first-served basis. The fee is paid for any permit assigned before the day of the hunt. There is no fee for any permit obtained on the day of the hunt.

e. On those days that we draw permits by preseason lottery, hunters must sign in at the Mac's Bend Landing by 7 a.m. before going to the assigned zone. After 7 a.m. other hunters may sign in, self-register, and use unoccupied zones.

f. At the end of each daily hunt, you must sign out and deposit a report of hunt success at the Mac's Bend Landing. When you sign out, another party may sign in and use the vacated zone. You must sign out of a zone at Mac's Bend Landing prior to occupying a different hunting site in any of the controlled hunting areas.

g. You must hunt within 100 feet (30 m) of a numbered stake corresponding to your assigned zone. We prohibit jump shooting.

h. You must use a retrieving dog.

i. You may only possess approved nontoxic shot shells (see § 32.2(k)) in quantities of 25 or less per day.

j. This area is open on a first-come, first-served basis to youth waterfowl hunters during the annual 2-day special Youth Waterfowl Hunting Weekend conducted in late September. We will hold no preseason drawing and assess no fee, however, youth hunters must self-register and submit a report of their hunt.

k. We prohibit entering closed areas of the refuge for any reason, except for the recovery of legally harvested animals, and in that case we prohibit carrying a weapon (see § 27.42(a) of this chapter).

l. Unarmed hunters may scout open hunting areas before a particular season opens but in no case before September 1. We do not require a hunting permit for scouting.

iv. Junior Waterfowl Hunting Area encompasses Long Marsh Bay, Patrick Marsh and that portion of Charcoal Creek south of Vermont Route 78. This is a controlled hunting area. We establish 11 blind sites for use by junior waterfowl hunters, blind sites 4–8 in Long Marsh Bay, blind sites C-F in Charcoal Creek, and blind sites A-B in Patrick Marsh.

a. Junior waterfowl hunters (ages 12–15, inclusive, at the time of the hunt) following successful completion of the annual training program (usually held the third or fourth Saturday in August) vie for blind site assignments during a lottery drawing at the conclusion of the training. The 11 blind sites are available exclusively to these junior waterfowl hunters and their mentors the first 4 Saturdays and Sundays of the duck season.

b. As an incentive to the adult volunteers who serve as mentors to junior waterfowl hunters, they will vie for blind site assignments during a lottery drawing at the conclusion of the annual junior waterfowl hunter training for the use of blind sites in the junior hunt area on the first Wednesday following the second weekend of the season. This day is known as Mentor Day. We will collect no fee from mentors for this hunt day. We will make available blinds not assigned because of this lottery to other adult hunters via a preseason lottery.

c. Following the use of the blind sites in this area by junior hunters and junior hunter mentors, all blind sites are then available to all adult hunters by permit awarded via a preseason lottery for the second Wednesday following the second weekend of the duck season; and on weekends following the junior hunt by a first-come, first-served, self-registration, and permitting basis at the refuge headquarters.

d. Hunters, including junior hunters, with preregistered permits must sign in at refuge headquarters no later than 7 a.m. on the date of their scheduled hunt. After 7 a.m. other hunters may sign in, self-register, and use unoccupied blind sites. Only junior hunters may hunt on the first 4 Saturdays and Sundays of the season.

e. Each junior hunter must possess and carry a free permit for the assigned blind site and day. On Mentor Day, mentors must also possess and carry this free permit for the assigned blind site. Each adult hunting party must possess and carry a permit for the blind site and day they are hunting. Permits are not transferable.

f. The mentor must accompany the junior hunter who completed the training program with him or her. We include the mentor on the permit assigned to the junior hunter. A mentor may simultaneously oversee up to two junior hunters at one blind site.

g. Each adult hunter, except mentors on Mentor Day, must pay $10 for each permit issued because of the preseason lottery. Permits acquired by self-registration are free.

h. Only junior hunters may discharge a firearm in this area during the junior hunt periods.

i. We allow and recommend hunting from portable blinds and boat blinds constructed and place by the refuge for the junior waterfowl hunting program at some of the blind sites. Junior hunters, with the approval of the refuge manager, may construct stationary blinds and leave them in place for the duration of the season. Otherwise, we prohibit permanent blinds.

j. All hunting must take place within 100 feet (30 m) of the stake marking the blind area. We prohibit jump shooting.

k. This area is available to refuge-trained junior waterfowl hunters during the Youth Waterfowl Hunting Weekend in late September.

l. Shooting hours are from legal opening time until 11 a.m.

m. Hunters must deposit the Hunt Success Report portion of their permit at refuge headquarters at the end of the hunt.

n. A small flat-bottom boat, car-top boat, or canoe is necessary for access to Charcoal Creek and Patrick Marsh blind sites. Access is available at the Charcoal Creek crossing on Vermont Route 78 or from a pulloff on Route 78 about 3/4 of a mile (1.2 km) east of the Charcoal Creek access.

o. You may only possess approved nontoxic shot shells (see § 32.2(k)) in quantities of 25 or less per day.

p. A hunting party consists of the hunter named on the permit and one guest hunter per blind site per day. Junior hunters may not invite a guest hunter unless it another refuge-trained junior hunter. Nonhunters may accompany a hunting party.

q. You must use at least six decoys.

r. We prohibit entry to closed areas of the refuge for any reason, except for the recovery of legally harvested animals, and in that case you may not carry a weapon (see § 27.42(a) of this chapter).

s. Unarmed hunters may scout open hunting areas before a particular season opens but in no case before September 1. We do not require a hunting permit for scouting.

v. Long Marsh Channel and Metcalfe Island encompasses the Metcalfe Island Pothole and Long Marsh Channel. This is a controlled hunting area. We established three blind sites, designated 1–3, in Long Marsh Channel. We established three blind sites, designated 8–10, on Metcalfe Island.

a. We will limit hunting to Tuesdays, Thursdays, and Saturdays throughout the waterfowl hunting season for duck.

b. You may obtain permits for the first 5 days of the duck season through application to a preseason lottery. The procedure described in the Saxes Pothole/Creek and Shad Island controlled hunt area apply. Following the first 5 days, hunters may acquire permits on a first-come, first-served basis with self-service permitting and sign in at the Mac's Bend Landing, no more than 2 hours before legal shooting time.

c. Hunters selected during the preseason lottery must pay a $10 fee. The refuge must receive the fee no less than 2 days before the opening of the season or the permit will be forfeited and made available first to standby hunters identified at the time of the drawing, and second to other hunters on a first-come, first-served basis. The fee is paid for any permit assigned before the day of the hunt. There is no fee for any permit obtained on the day of the hunt.

d. On those days that we draw permits by preseason lottery, hunters must sign in at the Mac's Bend Landing by 7 a.m. before going to the assigned zone. After 7 a.m., other hunters may sign in, self-register, and use unoccupied zones.

e. Shooting hours will be from ½ hour before legal sunrise until 11 a.m.

f. At the end of each daily hunt, you must sign out and deposit a report of hunt success at the Mac's Bend Landing. When a party signs out, another party may sign in and use the vacated zone. Hunters must sign out of a zone at Mac's Bend Landing prior to occupying a different hunting site in any of the controlled hunting areas.

g. You must hunt within 100 feet (30 m) of a numbered stake corresponding to your assigned zone.

h. You must use a retrieving dog.

i. You may only possess approved nontoxic shot shells (see § 32.2(k)) in quantities of 25 or less per day.

j. We prohibit permanent blinds.

k. We prohibit jump shooting.

l. You must use at least six decoys.

m. You must use a boat to hunt at each of these blind sites.

n. This area is open on a first-come, first-served basis to youth waterfowl hunters during the annual 2-day special Youth Waterfowl Hunting Weekend conducted in late September. We will hold no preseason drawing and assess no fee, however, youth hunters must self-register and submit a report of their hunt.

o. We will close this area to waterfowl hunting during split seasons when goose are the only waterfowl that hunters may legally take.

p. We prohibit entry to closed areas of the refuge for any reason, except for the recovery of legally harvested animals, and in that case you may not carry a weapon (see § 27.42 of this chapter).

q. Unarmed hunters may scout open hunting areas before a particular season opens but in no case before September 1. We do not require a hunting permit for scouting.

vi. Marquam Swamp Area encompasses about 200 acres (80 ha) west of the Central Vermont Railroad and south of Coleman's inholding and is open to migratory bird hunting with the following special requirements:

a. Conditions A1ia and A1ic through A1 if apply.

b. You must use a retrieving dog.

c. We prohibit hunting within the area encompassing the headquarters nature trail. We identify this area with ''No Hunting Zone'' signs.

2. Other migratory birds (including woodcock and common snipe):

i. The open area consists of the Delta Lakeshore Waterfowl Hunting Area excluding the Saxe's Creek/Pothole and Shad Island Pothole controlled areas.

ii. You may hunt woodcock and snipe in the Maquam Swamp Area, but you must have a retriever.

iii. We do not require a permit to hunt woodcock and snipe in these areas.

iv. Conditions A1ie and A1if apply.

B. Upland Game Hunting. We allow hunting of cottontail rabbits, snowshoe hare, ruffed grouse, and gray squirrels on open areas of the refuge (designated in B2 below) in accordance with State regulations subject to the following conditions:

1. You must obtain a permit at refuge headquarters prior to hunting, and you must hold a valid State hunting license. We will collect a $10 fee for each permit issued. The permit applies for the calendar year of issue.

2. You may pursue upland game: east of the Missisquoi River and north of Goose Bay Pool (as indicated by public hunting area signs), on Shad Island, on all refuge lands west of Tabor Road, and on all refuge lands between Tabor Road and the Central Vermont Railroad bed to the east, except the marked area encompassing the headquarters nature trail and the land east of Charcoal Creek and north of the marked boundary near Coleman's inholding. We mark the headquarters trail area with ''No Hunting Zone'' signs.

3. We only allow shotguns or muzzleloaders on open areas east of the Missisquoi River and on Shad Island.

4. You must use approved nontoxic shot (see § 32.2(k)) for the shotgun hunting of all upland game species except deer.

5. We prohibit hunting from the end of snowshoe hare and rabbit season through September 1.

6. We require you to submit an annual report of the results of your hunt by December 31. Failure to do so will result in denial of a permit the following year.

7. We prohibit entry into closed areas of the refuge for any reason, except for the recovery of legally harvested animals, and in that case you may not carry a weapon (see § 27.42(a) of this chapter).

8. Unarmed hunters may scout open hunting areas before a particular season opens but in no case before September 1. We do not require a hunting permit for scouting.

C. Big Game Hunting. We allow hunting of white-tailed deer in accordance with State regulations subject to the following conditions;

1. We prohibit hunting of bear, moose, or turkey.

2. You must obtain a permit at refuge headquarters prior to hunting, and you must hold a valid State hunting license. We will collect a $10 fee for each permit issued. The permit applies for the calendar year of issue. Permits issued to youth hunters (licensed hunters age 16 and under) for the Youth Deer Hunting Weekend are free.

3. You may pursue deer during State-designated archery and regular firearms seasons: east of the Missisquoi River and north of Goose Bay Pool (as indicated by public hunting area signs), on Shad Island, on all refuge lands west of Tabor Road, and on all refuge lands between Tabor Road and the Central Vermont Railroad bed to the east, except the marked safety zone encompassing the headquarters nature trail and the land east of Charcoal Creek and north of the marked boundary near Coleman's inholding.

4. We only allow shotguns, muzzleloaders, or archery equipment on open areas east and north of Vermont Route 78. We prohibit rifles in these areas at any time.

5. During the State-designated muzzleloader season and Youth Deer

Hunting Weekend, you may hunt the entire area north of the line of public hunting area signs west of Mudgett Island, and all of Metcalfe Island, in addition to the open areas described in C3 above.

6. During the State regular firearms season, Youth Deer Hunting Weekend, and muzzleloader big game season, you must wear in a visible manner on head, chest, and back a minimum of 400 square inches (2,600 cm^2) of solid-colored, hunter-orange clothing or material.

7. You may use portable tree stands in accordance with State regulations guiding their use on State Wildlife Management Areas. We require written approval from the refuge manager on your big game hunting permit prior to leaving a stand or blind unattended. We prohibit permanent stands and blinds (see § 27.93 of this chapter).

8. Conditions B6, B7, and B8 apply.

D. Sport Fishing. We allow fishing on areas described below in accordance with State regulations subject to the following conditions:

1. We allow sport fishing by boat in the west branch, east branch and main channel of the Missisquoi River, Dead Creek, and shallow water areas of the Missisquoi River delta from Goose Bay to Charcoal Creek (north of Vermont Route 78) with the following exceptions:

i. We close the following areas from ice out to July 15—Goose Bay, Saxes Creek and Pothole, Metcalfe Island Pothole, Long Marsh Channel, and Clark Marsh.

ii. We close the following areas from Labor Day to December 31—Long Marsh Bay and Long Marsh Channel.

2. We allow bank fishing along Charcoal Creek where it passes under Route 78, and along the shoreline of the Missisquoi River from refuge headquarters to Mac's Bend boat launch. Bank fishing is accessible only by foot along the Missisquoi River from Louie's Landing to Mac's Bend.

3. We prohibit fishing from any dike or from within any water management unit or any other area not specifically designated as being open under D1 and D2 above.

4. We allow ice fishing in open areas described in D1 above.

5. We allow bow fishing from a boat on refuge waters that are open to fishing as described in D1 above.

6. We prohibit taking fish with firearms within refuge boundaries.

7. We allow boat launching from Louie's Landing year-round. We allow boat launching from Mac's Bend boat launch area from September through November inclusive.

8. Anglers may collect minnows in accordance with State regulations from refuge open fishing areas for personal use. We prohibit collection of more than 2 quarts (1.9 l) per day from the refuge.

9. We authorize commercial bait dealers to take and transport minnows in excess of 2 quarts (1.9 l) per day only after acquiring a refuge Special Use Permit that will contain the following special conditions:

i. We require a $35 fee for the Special Use Permit.

ii. The permittee must possess and carry a Commercial Bait Dealer's Permit from the Vermont Commissioner of Fish.

iii. Excessive fish mortality and waste, as determined by the refuge manager, will result in revocation of the Special Use Permit and denial of future permit applications.

iv. The permittee must remove all traps and holding cages (see § 27.93 of this chapter) within 1 week of permanent freeze up.

v. The Special Use Permit must be in the possession of the permittee or an employee of the permitee on site while on the refuge and is not transferable to another individual or party.

vi. The Special Use Permit does not grant or imply permission to obstruct any refuge road, parking area, boat launch, or waterway at any time.

vii. The permittee must keep all equipment used clean so as not to introduce aquatic nuisance species. The permittee must not clean or empty tanks and other equipment used into refuge waters.

viii. Failure to comply with conditions of the Special Use Permit will result in its revocation and the denial of future permit applications.

■ 45. Amend § 32.66 Virginia by:

■ a. Revising paragraphs C. and D. of Back Bay National Wildlife Refuge;

■ b. Revising Chincoteague National Wildlife Refuge;

■ c. Revising paragraph C. of Eastern Shore of Virginia National Wildlife Refuge;

■ d. Revising Great Dismal Swamp National Wildlife Refuge;

■ e. Revising paragraph C. of James River National Wildlife Refuge;

■ f. Revising paragraph C. of Mackay Island National Wildlife Refuge;

■ g. Revising Mason Neck National Wildlife Refuge;

■ h. Revising Occoquan Bay National Wildlife Refuge;

■ i. Revising paragraph A. of Plum Tree Island National Wildlife Refuge;

■ j. Revising paragraph C. of Presquile National Wildlife Refuge;

■ k. Revising paragraph C. of Rappahannock River Valley National Wildlife Refuge; and

■ l. Revising paragraph C. of Wallops Island National Wildlife Refuge to read as follows:

§ 32.66 Virginia.

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Back Bay National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer and feral hogs on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We close the refuge to all other public uses beginning at legal sunrise on the first Saturday of October through legal sunset of the following Saturday.

2. We require a Special Use Hunting Permit. You must carry the signed permit on your person while hunting. We issue permits on the day of the hunt at the Refuge Check Station.

3. We only allow shotguns 20 gauge or larger (loaded with buckshot or rifled slugs) and bow and arrow. We prohibit possession of loaded firearms (*see* § 27.42 of this chapter) or nocked arrows on refuge roads and Refuge Proclamation Waters.

4. We prohibit the use of dogs to hunt deer or feral hog.

5. You must be at least age 18 to hunt without an accompanying, qualified adult. Youths between ages 12 and 18 may only hunt when accompanied by a licensed nonhunting adult who is age 21 or older.

6. You must visibly wear a minimum of 400 square inches (2,600 cm^2) of solid-colored, blaze-orange material on your head, chest, and back (the equivalent of a hat and vest for each hunter).

7. We reserve Hunting Zone 5 for use by nonambulatory hunters. We define a ''nonambulatory'' hunter as ''any person who presents a medical doctor's written statement that said person is permanently unable to walk.'' Zone 5 will be available to the general public only when nonambulatory hunters are not present.

8. We will decide reservations for hunt days and zones by a computerized lottery at the refuge headquarters in mid-September. You may obtain a hunt application by calling the Back Bay Refuge headquarters at (757) 721–2412 during August.

9. We restrict scouting to the week prior to the refuge hunt. We restrict access to hunting zones to travel by bicycle or on foot. Scouts must wear 400 square inches (2,600 cm^2) of visible blaze orange. We prohibit weapons *see* § 27.42(a) of this chapter) during scouting. Scouts must notify refuge staff

daily prior to both entering and leaving a hunt zone.

10. You must register at the Refuge Entrance Fee Booth between 4 a.m. and 5 a.m. on the day of the hunt. After 5 a.m., we will allow standby hunters to fill vacant slots in a separate lottery. All hunters must check out at the Check Station no later than 6 p.m.

11. Transportation to Hunt Zone 7 (Long Island) is only by car-top boat (canoe, punt, row-boat, *etc.*) or from the canoe/kayak launch at refuge headquarters. Hunter-provided boats must meet Coast Guard safety requirements. We prohibit boats on trailers.

12. A Safety Zone runs from the Check Station to north of the headquarters parking lot. We prohibit hunting or discharging of firearms/bow and arrows within the Safety Zone. We prohibit retrieval of crippled game from a No Hunting Area or Safety Zone without the consent of the refuge employee on duty at the Check Station.

13. You must use safety belts at all times while you are in a tree stand.

14. We close the ''Hacking Tower'' in Hunt Zone 3 to public access.

D. Sport Fishing. We allow fishing, noncommercial crabbing, and clamming on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We close all areas within the hunting zones, as well as the refuge oceanfront, to fishing, crabbing, and clamming during the annual refuge white-tailed deer and feral hog hunt, beginning at legal sunrise on the first Saturday in October through legal sunset of the following Saturday.

2. You must attend all fishing lines and crab pots at all times.

3. We prohibit on-site cleaning of fish.

4. We prohibit the taking of amphibian, reptile, marine mammal, aquatic invertebrate, or any other marine organism from refuge lands or waters.

5. We allow sportfishing, crabbing, and clamming access to Back Bay from the refuge headquarters parking lot only by foot, bicycle, and hand-launched, nontrailered boat.

6. We only allow surf fishing, crabbing, and clamming south of the refuge's beach access ramp.

7. For sportfishing in D Pool and at Horn Point:

i. We only allow fishing from the docks or banks. We prohibit boats, canoes, or kayaks on refuge pools and impoundments.

ii. We prohibit live minnows or other live bait fish for fishing in refuge pools and impoundments.

iii. We require barbless or flattened hooks for all fishing.

iv. Smallmouth bass, largemouth bass, and pickerel are catch-and-release only. The daily creel limit for D Pool for other species is a maximum combination of any 10 fish.

v. Parking for mobility-impaired visitors is available adjacent to the dock at D Pool. We require all other visitors to hike or bicycle.

Chincoteague National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of migratory duck, goose, swan, coot, and rail on Thursdays, Fridays, and Saturdays during the State seasons on designated areas of the refuge within Wildcat Marsh, Morris Island, Assawoman Island, and Metompkin Island Divisions in accordance with State regulations subject to the following conditions:

1. You must possess and carry while hunting on the refuge written authorization from the refuge. You may obtain hunting brochures containing an application for permission to hunt from the refuge administration building during normal business hours. The refuge administration office has available hunting brochures containing application procedures, seasons, bag limits, methods of hunting, maps depicting areas open to hunting, and the terms and conditions under which we issue hunting permits.

2. Each youth hunter (under age 18) must remain within sight and normal voice contact and under direct supervision of an adult age 18 or older. The supervising adult must also possess and carry a State hunting license and a refuge permit.

3. You may only access hunting areas by boat.

4. You may only possess approved nontoxic shot (*see* § 32.2(k)) while hunting duck, goose, swan, coot, and rail.

5. You may erect portable blinds and deploy decoys, but you must remove the blinds and decoys (*see* § 27.93 of this chapter) daily.

6. You may use trained dogs to assist in the retrieval of harvested birds.

7. You must complete a harvest report card, provided by the refuge, after each hunt period. You must return the harvest report card to the refuge within 15 days of your permitted hunt.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of white-tailed deer and sika in designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. General hunt information:

i. You must possess and carry a refuge permit. We issue the permits based on a computer lottery system. You may obtain permit applications from the refuge administration office during normal business hours. Hunting brochures containing hunting application procedures, seasons, bag limits, methods of hunting, maps depicting areas open to hunting, and the terms and conditions under which we issue hunting permits are available from the refuge administration office.

ii. You must be age 12 or older to hunt on the refuge. An adult age 18 or older must accompany hunters under age 18. The supervising adult must also possess and carry a State hunting license and refuge permit.

iii. You must attend a hunt orientation. We conduct orientations beginning at 10 a.m. Sundays and Wednesdays throughout the hunt season. We allow scouting from 11 a.m. to 6 p.m. following each orientation.

iv. You must sign in at the hunter registration station prior to entering your hunt zone and sign out upon exiting your hunt zone. All hunters must sign out no later than 2 hours after the end of the hunt day.

v. You must check all harvested animals at the refuge's official check station.

vi. You must make a reasonable effort to recover wounded animals from the field and must notify the check station personnel immediately if you are not able to recover a wounded animal.

vii. We prohibit crossing water management areas unless you are retrieving a harvested animal.

viii. We prohibit use of a boat, all-terrain vehicle, bicycle, or saddled animal to access or travel within your hunt zone (*see* § 27.31(f) of this chapter).

ix. We allow the use of a portable tree stand.

2. Archery hunt information:

i. We allow hunting of white-tailed deer and sika with bow and arrow in designated areas of the refuge.

ii. You may not nock an arrow within 50 feet (15 m) of the centerline of any road.

iii. During the sika archery season, you may take up to five sika daily, two of which may be antlered. In addition, you may take antlerless white-tailed deer in accordance with State regulations.

iv. We prohibit deer drives.

v. You must print your full name in a permanent manner near the fletching on each arrow shaft used for hunting.

3. Firearm hunt information:

i. We allow hunting of white-tailed deer and sika with firearms in designated areas of the refuge.

ii. You must wear a minimum of 400 square inches (2,600 cm^2) of visible blaze-orange material consisting of a vest and hat or a jacket and hat.

iii. You may use any firearm allowed by State law in designated areas of the refuge. We restrict other areas of the refuge to shotgun and muzzleloading firearms only. We restrict shotgun ammunition to slugs, 00 buckshot, or 000 buckshot. You must unload and either case or disassemble firearms (*see* § 27.42(b) of this chapter) in vehicles.

iv. We prohibit possession of a loaded firearm within 50 feet (15 m) of the centerline of any road.

v. During the sika firearm season, you may take up to five sika daily, two of which may be antlered. In addition, hunters may take antlerless white-tailed deer in accordance with State regulations on the first day of designated white-tailed deer hunt periods. If you take an antlerless white-tailed deer on the first day of your hunt, you may take antlered white-tailed deer or any sika, not to exceed prescribed bag limits, on the second day of your hunt period. If you do not take an antlerless white-tailed deer on the first day of your hunt period, you may only take antlerless white-tailed deer or any sika, not to exceed prescribed bag limits, on the second day of your hunt period.

vi. You must have a 4-wheel drive vehicle to hunt in zones 10, 10a, and Tom's Cove Hook. All oversand vehicles must carry a shovel, jack, tow rope or chain, board or similar support for the jack, and a low pressure tire gauge.

vii. We reserve zone 2 for hunters confined to wheelchairs. Those hunters must remain on the paved trail or overlook platform on Woodland Trial. They may use any firearm allowed by State law while hunting from the overlook platform. We restrict other areas of the zone to shotgun and muzzleloading firearms only. Hunters confined to wheelchairs who require assistance retrieving and/or dressing harvested animals must have a nonhunting assistant available.

D. Sport Fishing. We allow sport fishing, crabbing, and clamming from the shoreline of the refuge in designated areas of Tom's Cove, Swan's Cove, and the Atlantic Ocean in accordance with State regulations subject to the following conditions:

1. You may not enter any water management areas.

2. You must attend minnow traps, crab traps, crab pots, and handlines at all times.

3. You must possess and carry a refuge permit to surf fish after hours while fishing.

Eastern Shore of Virginia National Wildlife Refuge

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C. Big Game Hunting. We allow archery and shotgun hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. There are 12 days of archery and 7 days of shotgun hunting that occur during the State hunting season.

2. You must hunt white-tailed deer in designated zones. You must possess and carry a refuge permit to hunt that serves as your pass to enter your hunt zone. The permit fee is $15.00 for each hunt.

3. You must be at least age 18 to hunt without an accompanying, qualified adult. Youth hunters between ages 12 and 17 may only hunt when accompanied by an adult age 21 or older who must possess and carry a valid hunting license. The minimum age for hunters is 12.

4. You must sign in before entering the hunt zone and sign out upon leaving the zone.

5. We allow portable tree stands, but you must remove them (*see* § 27.93 of this chapter) at the end of each day. You must use safety straps while in tree stands. We prohibit tree stands attached with nails, wire, screws, or bolts (*see* § 32.2(i)).

6. You must bring all deer harvested to the refuge check station before the end of hunt day for inspection by refuge personnel.

7. We prohibit the use of organized drives for taking or attempting to take game.

8. We prohibit nocked arrows in your vehicle or outside your hunt zone.

9. For the firearm hunt, we allow shotgun hunting in zones 1–4. We allow archery hunting in zone 5 during the firearm season.

10. We only allow shotguns, 20 gauge or larger, loaded with buckshot during the firearm season.

11. During the firearm hunt, you must wear a minimum of 400 square inches (2,600 cm^2) of a blaze-orange material consisting of a hat and vest or jacket. Blaze-orange camouflage is not acceptable.

12. You must unload and case or disassemble firearms *see* § 27.42(b) of this chapter) in vehicles.

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Great Dismal Swamp National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of deer and bear on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a refuge permit.

2. We allow shotguns, 20 gauge or larger, loaded with buckshot and/or rifled slugs, and bows and arrows.

3. We prohibit dogs.

4. We require all hunters to wear 400 square inches (2,600 cm^2) of solid-colored, hunter-orange clothing or material in a visible manner during firearms big game season.

5. We require hunters to sign in and out each hunt day.

6. We prohibit possession of loaded firearms (*see* § 27.42 of this chapter) (ammunition in the chamber, magazine, or clip), or loaded bow on or within 50 feet (15 m) of a refuge road, including roads closed to vehicles.

7. We prohibit hunters to shoot onto or across refuge roads, including roads closed to vehicles.

D. Sport Fishing. We allow fishing in designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow fishing in Lake Drummond and in the Feeder Ditch on the east side of Lake Drummond during daylight hours.

2. We prohibit bank fishing.

3. You must attend all fishing lines.

4. We require permits for vehicular access to the boat ramp on Interior Ditch Road on the west side of Lake Drummond.

James River National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require firearm hunters to purchase a refuge hunt permit at the Refuge Hunter Check Station on the morning of each hunt on a first-come, first-served basis. The hunter must possess and carry the permit while on refuge property.

2. We require archery hunters to purchase a refuge hunt permit by mail by the designated application deadline. The hunter must possess and carry the permit while on refuge property.

3. We allow the use of shotguns (20 gauge or larger, loaded with buckshot only), muzzleloaders, and bows and arrows on designated refuge hunt days.

4. You may take two deer of either sex per day.

5. We prohibit dogs.

6. We only allow portable tree stands that you must remove (*see* § 27.93 of this chapter) at the end of each hunt day.

7. Firearm hunters must wear in a visible manner on head, chest, and back

a minimum of 400 square inches (2,600 cm^2) of solid-colored, hunter-orange clothing or material.

8. Firearm hunters must remain within 25 feet (7.5 m) of their assigned stand unless tracking or retrieving a wounded deer.

9. Archery hunters must wear a solid-colored, hunter-orange hat or cap while moving to and from their stand.

10. You may only retrieve wounded deer from closed areas with prior consent from a refuge employee.

11. You must unload all weapons (*see* § 27.42(b) of this chapter) while on the refuge, except when you are at your assigned stand.

12. We prohibit discharge of firearms (*see* § 27.42(a) of this chapter) or archery equipment across or from refuge roads, including roads closed to vehicles.

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Mackay Island National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Hunters must sign and carry a Refuge Deer Hunting Permit while hunting on the refuge.

2. We allow the use of shotguns, muzzleloading rifles/shotguns, and bows. We prohibit the use of all other rifles and pistols.

3. We allow access to hunting areas from 5 a.m. until 8 p.m.

4. We prohibit marking of trees or vegetation (*see* § 27.51 of this chapter) with blazes, flagging, or other marking devices.

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Mason Neck National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge in accordance with State and County regulations subject to the following conditions:

1. You must possess and carry a refuge permit.

2. We select hunters by lottery. Contact the refuge office for information on application dates.

3. We send applicants an information packet detailing specific dates, details, and requirements for the hunt, including, but not limited to: hunt dates, hunt areas, bag restrictions, weapon certification requirements and locations, orientation dates/times, scouting date(s), check station location, and maps.

4. Hunters must certify/qualify weapons and ammunition and attend an orientation session prior to issuance of a permit.

5. Hunters must wear a minimum of 400 square inches (2,600 cm^2) of visible solid hunter-orange clothing and a hunter-orange hat.

6. We may close areas of the refuge to hunting. We will identify these areas on the maps in the information packet and review them during orientation.

D. Sport Fishing. [Reserved]

Occoquan Bay National Wildlife Refuge

A. Migratory Game Bird Hunting. [Reserved]

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge in accordance with State and County regulations subject to the following conditions:

1. You must possess and carry a refuge permit.

2. We select hunters by lottery. Contact the refuge office for information on application dates.

3. We send applicants an information packet detailing specific dates, details, and requirements for the hunt, including, but not limited to: hunt dates, hunt areas, bag restrictions, weapon certification requirements and locations, orientation dates/times, scouting date(s), check station location, and maps.

4. Hunters must certify/qualify weapons and ammunition and attend an orientation session prior to issuance of a permit.

5. Hunters must wear a minimum of 400 square inches (2,600 cm^2) of visible solid hunter-orange clothing and a hunter-orange hat.

6. We may close areas of the refuge to hunting. We will identify these areas on the maps in the information packet and review them during orientation.

D. Sport Fishing. [Reserved]

Plum Tree Island National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of waterfowl, gallinule, and coot on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a signed Special Use Hunting Permit while hunting waterfowl on the refuge. We only open the Cow Island area of the refuge to waterfowl hunting. We close all other areas of the refuge to all public entry.

2. We limit hunting parties to three individuals hunting at one blind site.

3. You may hunt from the location of your choice: unimproved shore locations, camouflaged boats (float blinds) anchored to the shore, or temporary blinds erected on the interior of the island.

4. We prohibit permanent blinds/structures on the refuge.

5. We prohibit jump-shooting.

6. Except for peak use days, we restrict waterfowl hunting to three mornings per week: Tuesday, Thursday, and Saturday mornings until 12 p.m. (noon) local time. We prohibit hunting on Sundays, Mondays, Wednesdays, and Fridays.

7. You must retrieve and remove all decoys, temporary blinds, and equipment (*see* § 27.93 of this chapter) and leave Cow Island by 1 p.m.

8. We define peak use days as the waterfowl season opening days and some Federal holidays. We will define peak use dates for the current season after the State establishes its waterfowl hunting season(s).

9. You must secure reservations by telephone (call 804–829–9020 weekdays between 8 a.m. and 4:30 p.m.) no more than 4 workings days prior to your desired hunt date. We will issue the first five callers for those days a reservation number that they must possess and carry while hunting on their reserved date.

10. No more than two other hunters may accompany hunters with reservations, and they must hunt as a party from the same blind.

11. Youth Waterfowl Hunt Day: We will open Cow Island for the youth waterfowl hunt as per State regulations. Youth hunters must also possess and carry a signed refuge Special Use Hunting Permit.

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Presquile National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require hunters to purchase a Refuge Hunt Permit at the Refuge Hunter Check Station on the morning of each hunt on a first-come, first-served basis. The hunter must possess and carry the permit while on refuge property.

2. We allow the use of shotguns (20 gauge or larger, loaded with buckshot and/or rifled slugs).

3. You may take two deer of either sex per day.

4. We prohibit dogs.

5. We only allow portable tree stands that you must remove (*see* § 27.93 of this chapter) at the end of each day.

6. You must wear in a visible manner on head, chest, and back, a minimum of 400 square inches (2,600 cm^2) of solid-colored, hunter-orange clothing or material.

7. You must remain within 25 feet (7.5 m) of your designated stand unless tracking or retrieving a wounded deer.

8. You must unload all firearms (*see* § 27.42(b) of this chapter) while on the refuge, except when at your assigned stand.

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Rappahannock River Valley National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require hunters to purchase a refuge hunt permit at the Refuge Hunter Check Station on the morning of each hunt on a first-come, first-served basis. The hunter must possess and carry the permit while on refuge property.

2. We require archery hunters to purchase a refuge hunt permit by mail by the designated application deadline. The hunter must possess and carry the permit must while on refuge property.

3. We allow shotgun, muzzleloader, and archery hunting on designated refuge hunt days.

4. You may take two deer of either sex per day.

5. We prohibit dogs.

6. We only allow portable tree stands that you must remove (*see* § 27.93 of this chapter) at the end of each hunt day.

7. Firearm hunters must wear in a visible manner on head, chest, and back a minimum of 400 square inches (2,600 cm^2) of solid-colored, hunter-orange clothing or material.

8. Archery hunters must wear in a visible manner a solid-colored, hunter-orange hat or cap while moving to and from their stand.

9. We prohibit the possession of loaded firearms (*see* § 27.42 of this chapter) or nocked arrows while on refuge roads.

10. We prohibit the discharge of a firearm or archery equipment across or within refuge roads, including roads closed to vehicles.

11. You may only retrieve wounded deer from closed areas with prior consent from a refuge employee.

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Wallops Island National Wildlife Refuge

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C. Big Game Hunting. We allow hunting of white-tailed deer in designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. You must possess and carry a refuge permit. We issue permits based on a computer lottery system. You may obtain permit applications from the refuge administration office during normal business hours. Hunting brochures containing application procedures, seasons, and maps depicting areas open to hunting are available from the refuge administration office. You must provide an unobstructed view of the refuge permit on the vehicle's dashboard while hunting on the refuge.

2. You must be age 12 or older to hunt on the refuge. An adult age 18 or older must accompany and directly supervise hunters under age 18. The supervising adult must also possess and carry a State hunting license and refuge permit.

3. You must sign in at the hunter registration station prior to entering your hunt zone and sign out upon exiting your hunt zone. You must sign out no later than two hours after the end of the hunt day.

4. You must wear a minimum of 400 square inches (2,600 cm^2) of blaze-orange material consisting of a vest and hat or a jacket and hat.

5. You may use of portable tree stands.

6. We prohibit dogs.

7. You must park your vehicle in designated areas (*see* § 27.31 of this chapter).

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■ 46. Amend § 32.67 Washington by:

■ a. Revising Columbia National Wildlife Refuge;

■ b. Revising paragraph A. and removing paragraphs B.4., B.5., C.3., and C.4., and revising paragraph D. of Hanford Reach National Monuments/Saddle Mountain National Wildlife Refuge;

■ c. Revising Little Pend Oreille National Wildlife Refuge;

■ d. Revising McNary National Wildlife Refuge;

■ e. Revising paragraph D. of Nisqually National Wildlife Refuge;

■ f. Revising Ridgefield National Wildlife Refuge;

■ g. Revising paragraphs A. and B. of Toppenish National Wildlife Refuge; and

■ h. Revising Umatilla National Wildlife Refuge to read as follows:

§ 32.67 Washington.

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Columbia National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, and Wilson's snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow hunting on Wednesdays, Saturdays, Sundays, and Federal holidays on Marsh Unit 1 and Farm Units 226–227.

2. Prior to entering the Farm Unit 226–227 hunt area, we require you to possess and carry a refuge permit, pay a recreation user fee, and obtain a blind assignment.

B. Hunting of Upland Game Birds. We allow hunting of ring-necked pheasant, California quail, gray partridge, and chukar on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow hunting of upland game birds during State upland game seasons that run concurrently with the State waterfowl season.

2. We allow hunting from 12 p.m. (noon) to legal sunset on Wednesdays, Saturdays, Sundays, and Federal holidays in Marsh Unit 1.

C. Big Game Hunting. We allow hunting of mule deer and white-tailed deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow shotgun and archery hunting.

2. We only allow hunting during State deer seasons that run concurrently with the State waterfowl season.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. On waters open to fishing, we only allow fishing from April 1 to September 30, with the exception of Falcon, Heron, Goldeneye, Corral, Blythe, Chukar, and Scaup Lakes that are open year-round.

2. We allow nonmotorized boats and boats with electric motors on Upper and Lower Hampton, Hutchinson, and Shiner Lakes.

3. We allow motorized boats and nonmotorized boats on all other refuge waters open to fishing.

4. We allow frogging during periods when we allow fishing on designated waters.

5. We allow catch-and-release fishing using artificial flies with a single barbless hook on Quail Lake.

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Hanford Reach National Monument/ Saddle Mountain National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, mourning dove, and common snipe on the Wahluke Unit of the Monument/ Refuge in accordance with State

regulations subject to the following conditions:

1. You may only possess approved nontoxic shot while on the refuge (*see* § 32.2(k)).

2. We allow access from 2 hours before legal sunrise to 2 hours after legal sunset. We prohibit overnight camping and/or parking.

3. We prohibit permanent and pit blinds and the cutting of vegetation (*see* § 27.51 of this chapter). You must remove all blind materials, decoys, and other equipment (*see* § 27.93 of this chapter) at the end of each day.

4. We only allow nonmotorized boats and boats with electric motors on the WB–10 Pond (Wahluke Lake) and with walk-in access only.

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D. Sport Fishing. We allow fishing on the Wahluke Unit in accordance with State regulations subject to the following conditions:

1. We allow access from 2 hours before legal sunrise to 2 hours after legal sunset. We prohibit overnight camping and/or parking.

2. We allow nonmotorized boats and boats with electric motors on the WB–10 Ponds and with walk-in access only.

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Little Pend Oreille National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds on designated areas of the refuge in accordance with State regulations subject to the following condition: We prohibit waterfowl hunting on any creek or stream.

B. Upland Game Hunting. We allow hunting of upland game on designated areas of the refuge in accordance with State regulations subject to the following condition: We prohibit use of dogs except for hunting and retrieving upland game birds.

C. Big Game Hunting. We allow hunting of big game on designated areas of the refuge in accordance with State regulations subject to the following condition: We prohibit all use of dogs for hunting big game.

D. Sport Fishing. We allow sport fishing on designated areas of the refuge in accordance with State regulations.

McNary National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, dove, and common snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow vehicles on designated routes of travel and require hunters to park in designated parking areas (*see* § 27.31 of this chapter). We prohibit off-road vehicle travel and all use of ATVs (*see* § 27.31(f) of this chapter).

2. We only allow portable blinds and temporary blinds constructed of natural materials.

3. We allow dove hunting in accordance with State regulations on the Wallula, Burbank Sloughs, Stateline, Juniper Canyon, Peninsula, and Two Rivers Units only.

4. The McNary Fee Hunt Unit is only open on Wednesdays, Saturdays, Sundays, Thanksgiving Day, and New Year's Day from 5 a.m. to 1½ hours after legal sunset.

5. Prior to entering the McNary Fee Hunt Unit, we require you to possess and carry a refuge permit, pay a recreation user fee, and obtain a blind assignment before hunting.

6. On the McNary Fee Hunt Unit, we only allow hunting from assigned blind sites and require hunters to remain within 100 feet (30 m) of marked posts unless retrieving birds or setting decoys. We allow a maximum of four persons per blind site.

7. On the McNary Fee Hunt Unit, you may only possess approved nontoxic shotshells (*see* § 32.2(k)) in quantities of 25 or less per day.

8. On the Wallula Unit, we prohibit hunting within ¼ mile (.4 km) of the Walla Walla Delta or Crescent Island from February 1 through September 30.

9. On the Peninsula Unit, we allow waterfowl hunting subject to the following conditions:

i. On the east shoreline of the Peninsula Unit, we only allow hunting from established numbered blinds sites, assigned on a first-come, first-served basis. We require hunters to remain within 100 feet (30 m) of marked posts unless retrieving birds or setting decoys.

ii. On the west shoreline of the Peninsula Unit, we require hunters to space themselves a minimum of 200 yards (180 m) apart.

10. We close the furthest downstream refuge island (Columbia River mile 341–343) in the Hanford Islands Division to hunting.

11. On the Peninsula and Two Rivers Units, we close Casey Pond to all hunting.

12. We close Strawberry Island in the Snake River to all hunting.

13. We close Badger and Foundation Islands in the Columbia River to all hunting.

B. Upland Game Hunting. We allow hunting of upland game birds on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. On the McNary Fee Hunt Unit, we only allow hunting of upland game birds on Wednesdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day. We prohibit hunting until 12 p.m. (noon) of each hunt day.

2. On the Peninsula Unit, we prohibit upland game hunting before 12 p.m. (noon) on goose hunt days.

3. We only allow turkey hunting on the Wallula Unit.

4. We close all islands of the Hanford Islands Division to hunting.

C. Big Game Hunting. We allow hunting of deer only on the Stateline, Juniper Canyon, and Wallula Units in accordance with State regulations subject to the following condition: On the Wallula Unit, we only allow shotgun and archery hunting.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations.

Nisqually National Wildlife Refuge

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D. Sport Fishing. We allow fishing and shellfishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We allow fishing from boats outside the Brown Farm Dike and outside the Research Natural Area.

2. We allow bank fishing in the designated McAllister Creek Bank Fishing Area from legal sunrise to legal sunset. The 3/4-mile (1.2 km) area of bank fishing is located ½ mile (.8 km) downstream from I–5 and allowed only along the east side of the creek. Anglers may reach this area either by foot from the refuge parking lot or by boat.

3. We prohibit bank fishing along the Nisqually River.

4. We prohibit fishing in any waters inside the Brown Farm Dike.

5. We allow shellfishing on the tideflats. Access is by boat or by foot from the Luhr Beach Boat Launch. We prohibit tideflat access from the Brown Farm Dike.

6. We prohibit boat launching on the refuge.

Ridgefield National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of duck, goose, and coot in a designated area of the River ''S'' Unit of the refuge in accordance with State regulations subject to the following conditions:

1. We only allow waterfowl hunting by refuge permit (you must possess and carry). You may apply for advanced hunting permits between August 15 and September 15; otherwise, we issue hunting permits by lottery from the

check station for standby hunters or on a first-come, first-served basis after 10 a.m. during each hunt day.

2. We only allow access to the hunt area 2 hours before legal shoot time and 2 hours after shoot time on hunt days. We prohibit entering the hunt area on nonhunt days.

3. We prohibit camping or parking overnight anywhere on the refuge.

4. You may only park in the parking lot designated for your hunting blind.

5. We only allow hunting on Tuesdays, Thursdays, and Saturdays, excluding Federal holidays, during the regular waterfowl hunt season designated by the State.

6. We require all hunters to check-in and check out at the hunter check station.

7. We prohibit goose hunting in Blind #1.

8. You must hunt within your designated hunt blind except when shooting to retrieve crippled birds. We allow a maximum of three people per blind.

9. You may only possess approved nontoxic shells (see § 32.2(k)) while in the field in quantities of 25 or less.

10. You may use decoys, but you must collect them at the end of each hunt day.

11. We prohibit temporary or portable blinds.

12. We allow retrieving dog in the hunt area, but owners must keep them under their immediate control at all times (see § 26.21(b) of this chapter). Owners must leash dogs at all times except while in the hunting blind. We prohibit dog training or trials (see § 27.91 of this chapter).

13. On the last Saturday in October, we only allow youth hunters ages 10 to 17 to hunt. Each youth hunter must remain within sight and normal voice contact of an adult age 18 or older.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. [Reserved]

D. Sport Fishing. We allow bank fishing on the interior waters in public areas of the Carty Unit and on Lake River on the north side of the bridge crossing Lake River at the River ''S'' Unit in accordance with State fishing regulations subject to the following conditions:

1. We close all interior waters to fishing at the River ''S'' Unit.

2. We prohibit motorized and nonmotorized boats or floatation devices on any of the interior waters of the refuge.

3. We only allow fishing from legal sunrise to legal sunset.

4. We only allow fishing with hook and line.

5. We prohibit frogging.

6. While fishing in Lake River, you must park and walk from the River ''S'' Unit entrance parking lot.

Toppenish National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, dove, and common snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We open the refuge from 5 a.m. to 1½ hours after legal sunset.

2. We only allow vehicles on designated routes of travel and require hunters to park in designated parking areas (see § 27.31 of this chapter). We prohibit off-road vehicle travel and all use of ATVs (see § 27.31(f) of this chapter).

3. We only allow dove hunting on the Webb, Petty, Halvorson, Chambers, and Isiri Units.

4. You may only possess approved nontoxic shotshells (see § 32.2(k)) in quantities of 25 or less per day.

5. On the Petty, Isiri, Chamber, and Cloe Units, we allow hunting 7 days a week subject to the following condition: We require hunting parties to space themselves a minimum of 200 yards (180 m) apart.

6. On the Halvorson and Webb Units, we only allow hunting on Wednesdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day. On these units, we allow hunting only from designated field pits, and we prohibit jump shooting.

7. On the Robbins Road Unit, we only allow hunting on Tuesdays, Thursdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day.

8. On the Robbins Road and Pumphouse Units, we only allow hunting from numbered field blind sites, and hunters must only park their vehicles at the numbered post corresponding to the numbered field blind site they are using (see § 27.31 of this chapter). Selection of parking sites/numbered posts is on a first-come, first-served basis at the designated parking lot. We prohibit free-roam hunting or jump shooting, and you must remain within 100 feet (30 m) of the numbered field blind post unless retrieving birds or setting decoys. We allow a maximum of four persons per blind site.

B. Upland Game Hunting. We allow hunting of upland game birds on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. On all refuge units, we prohibit hunting of upland game birds until 12 p.m. (noon) of each hunt day.

2. On the Halvorson and Webb Units, we only allow hunting on Wednesdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day.

3. On the Robbins Road Unit, we only allow hunting on Tuesdays, Thursdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day.

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Umatilla National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, coot, dove, and common snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We open the refuge from 5 a.m. to 1½ hours after legal sunset.

2. We only allow vehicles on designated routes of travel and require hunters to park in designated parking areas (see § 27.31 of this chapter). We prohibit off-road vehicle travel and all use of ATVs (see § 27.31(f) of this chapter).

3. We only allow portable blinds and temporary blinds constructed of natural materials.

4. You may only possess approved nontoxic shotshells (see § 32.2(k)) in quantities of 25 or less per day.

5. On the Paterson Slough and Whitcomb Units, we only allow hunting on Wednesdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day.

6. In the refuge ponds within the Paterson Slough area, we only allow nonmotorized boats and boats with electric motors.

7. On the Ridge Unit, we only allow shoreline hunting and prohibit all hunting from boats.

8. We require waterfowl hunting parties to space themselves a minimum of 200 yards (180 m) apart.

B. Upland Game Hunting. We allow hunting of upland game birds on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit hunting of upland game birds until 12 p.m. (noon) of each hunt day.

2. In the Paterson Slough and Whitcomb Units, we only allow hunting on Wednesdays, Saturdays, Sundays, Thanksgiving Day, Christmas Day, and New Year's Day.

C. Big Game Hunting. We allow hunting of deer on designated areas of the refuge in accordance with State regulations subject to the following condition: You must possess and carry a refuge permit for hunting.

D. Sport Fishing. We allow fishing on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We open the refuge from 5 a.m. to 1½ hours after legal sunset.

2. We allow fishing on refuge impoundments and ponds from February 1 through September 30. We open other refuge waters (Columbia River and its backwaters) in accordance with State regulations.

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■ 47. Amend § 32.68 West Virginia by:

■ a. Revising Canaan Valley National Wildlife Refuge; and

■ b. Revising Ohio River Islands National Wildlife Refuge to read as follows:

§ 32.68 West Virginia.

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Canaan Valley National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of goose, duck, rail, coot, gallinule, mourning dove, snipe, and woodcock on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We require each hunter to possess and carry a signed refuge hunting permit, State hunting license, and driver's license (or other photo identification card) at all times while hunting on the refuge. The refuge hunting permit is free, and you may obtain it at the refuge headquarters. We require each hunter to submit a survey form at the end of the hunting season. Hunters must submit survey forms to the refuge headquarters if they wish to receive a hunting permit the following year.

2. We allow hunting on most refuge lands with the following exceptions: the area surrounding the refuge headquarters, areas marked as safety zones, areas marked as no hunting zones, areas marked as closed to all public entry, or within 500 feet (150 m) of any dwelling.

3. We prohibit the building or use of permanent blinds.

4. The refuge closes 1 hour after legal sunset, including parking areas. We prohibit hunters from leaving decoys and other personal property on the refuge.

5. We allow the use of dogs for hunting migratory game birds. We require all dogs to wear a collar displaying the owner's name, address, and telephone number.

6. We prohibit dog training except during legal hunting seasons.

7. We require hunters accessing the refuge through private property to possess and carry written permission of the landowner while hunting on the refuge.

B. Upland Game Hunting. We allow the hunting of ruffed grouse, squirrel, cottontail rabbit, snowshoe hare, red fox, gray fox, bobcat, woodchuck, coyote, opossum, striped skunk, and raccoon on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A1, A2, A6, and A7 apply.

2. The refuge opens 1 hour before legal sunrise and closes 1 hour after legal sunset, including parking areas.

3. You may hunt raccoon at night, but you must obtain a Special Use Permit for raccoon hunting.

4. We only allow hunting in the No Rifle Zones with the following equipment: archery, shotgun, or muzzleloader.

5. You may use dogs for hunting upland game species. We prohibit more than six dogs per hunting party for raccoon hunting. You must account for all dogs at the conclusion of the hunt. You must search for lost dogs for at least 3 days, and we prohibit hunting during the search period. All dogs must wear a collar displaying the owner's name, address, and telephone number.

6. We prohibit the hunting of upland game species between March 1 and the youth squirrel season in September.

C. Big Game Hunting. We allow the hunting of white-tailed deer, black bear, and turkey on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Condition A1, A2, A6, A7, and B4 apply.

2. You may only enter the refuge on foot. You may use hand-powered, two-wheeled carts for transporting big game.

3. You may only use handguns for hunting deer and black bear in the rifle zone.

4. When using shotguns for big game hunting, we only allow ammunition containing a single lead projectile. We prohibit the use of buckshot.

5. We prohibit the marking of any tree or other refuge feature with flagging, paint, or other substance.

6. We prohibit the cutting and trimming of coniferous trees (balsam fir, red spruce, and hemlock). We prohibit construction of blinds from these materials.

7. We prohibit permanent tree stands, but we allow use of temporary tree stands. You must clearly print your name and address in an easily read area on the stand while the stand is affixed to the tree. You must remove tree stands (see § 27.93 of this chapter) at the end of the deer season.

8. We require all hunters to wear at least 400 square inches (2,600 cm^2) of blaze orange on the head, chest, and back at all times during the deer bucks only season, the antlerless deer season, the youth deer season, and the deer muzzleloader season.

9. We prohibit hunting for turkey with a rifle. You must use a shotgun or muzzleloader with a shot size of #4 or smaller.

10. We allow dogs for hunting black bear during the gun season. We prohibit more than six dogs per hunting party. You must account for all dogs at the conclusion of the hunt. You must search for lost dogs for at least 3 days, and we prohibit hunting during the search period. All dogs must wear a collar displaying the owner's name, address, and telephone number.

11. We prohibit black bear hunting during the Tucker County antlerless deer season. The gun bear season begins the Monday following the antlerless deer season.

12. The refuge closes 1 hour after legal sunset, including parking areas. We prohibit camping or overnight parking.

D. Sport Fishing. [Reserved]

Ohio River Islands National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds (waterfowl, coots, rails, gallinules, snipe, woodcock, and dove) on designated areas of the refuge (Pennsylvania: Phillis Island, Georgetown Island; West Virginia: Captina Island, Captina Mainland, Fish Creek Island, Williamson Island, Witten Towhead, Wells Island, Grandview Island, Grape/Bat Island, Broadback Island, Buckley Island, Muskingum Island, Buffington Island, Letart Island; and Kentucky: Manchester 1 Island, Manchester 2 Island) in accordance with State regulations subject to the following conditions:

1. We require each hunter to possess and carry a refuge hunting permit, State hunting license, and valid driver's license (or other photo identification card) at all times while hunting on the refuge. The refuge hunting permit is free, and you may obtain it at the refuge headquarters. We request each hunter to submit a survey form at the end of the hunting season.

2. We prohibit the building or use of permanent blinds.

3. The refuge opens 1 hour before legal sunrise and closes 1 hour after legal sunset, including parking areas. We prohibit hunters leaving decoys and personal property, as well as camping and overnight parking.

4. We only allow dogs to locate, point, and retrieve when hunting for migratory game birds. We require all dogs to wear a collar displaying the owner's name, address, and telephone number.

5. You may only possess approved nontoxic shot while in the field (see § 32.2(k)).

B. Upland Game Hunting. We allow hunting of rabbit and squirrel on designated areas of the refuge (Pennsylvania: Phillis Island, Georgetown Island; West Virginia: Captina Island, Captina Mainland, Fish Creek Island, Williamson Island, Witten Towhead, Wells Island, Grandview Island, Grape/Bat Island, Broadback Island, Buckley Island, Muskingum Island, Buffington Island, Letart Island; and Kentucky: Manchester 1 Island, Manchester 2 Island) in accordance with State regulations subject to the following conditions:

1. Conditions A1 and A3 apply.

2. We prohibit the use of pursuit dogs for hunting rabbit or squirrel.

3. We prohibit the use of bows, rifles, or pistols for hunting rabbit or squirrel.

4. We only allow the use of shotguns with approved nontoxic shot (see § 32.2(k)) for the hunting of rabbit or squirrel.

C. Big Game Hunting. We allow archery hunting of white-tailed deer on designated areas of the refuge (Pennsylvania: Phillis Island, Georgetown Island; West Virginia: Captina Island, Captina Mainland, Fish Creek Island, Williamson Island, Witten Towhead, Wells Island, Grandview Island, Grape/Bat Island, Broadback Island, Buckley Island, Muskingum Island, Buffington Island, Letart Island; and Kentucky: Manchester 1 Island, Manchester 2 Island) in accordance with State regulations subject to the following conditions:

1. Conditions A1 and A3 apply.

2. We prohibit the use or possession of rifles, pistols, or shotguns for the hunting of white-tailed deer.

3. We prohibit organized deer drives by two or more individuals. We define a deer drive as the act of chasing, pursuing, disturbing, or otherwise directing deer so as to make the animals more susceptible to harvest.

4. We allow trail marking with nonpermanent methods such as flagging and reflectors. We prohibit the use of paint, and hunters must remove all trail-marking materials (see § 27.93 of this chapter) at the end of the deer season.

5. We prohibit the use of permanent tree stands or blinds. We allow the use of temporary tree stands. All tree stands must have the name and address of the owner clearly printed in an easily read area on the stand while the stand is affixed to the tree. Hunters must remove tree stands and blinds (see § 27.93 of this chapter) from the refuge at the end of each day.

6. We prohibit baiting for deer on refuge lands (see § 32.2(h)).

7. We require all hunters to wear at least 400 square inches (2,600 cm^2) of blaze orange visible on the head, chest, and back while walking to and from tree stands or blinds.

D. Sport Fishing. We allow sport fishing throughout the refuge in accordance with State regulations subject to the following conditions:

1. Condition A3 applies.

2. We require each angler to possess and carry a State fishing license and a valid driver's license (or other photo identification card) at all times while fishing on the refuge.

3. We restrict bank fishing to refuge open hours, from 1 hour before legal sunrise through 1 hour after legal sunset.

■ 48. Amend § 32.69 Wisconsin by:

■ a. Revising paragraph C.1. of Horicon National Wildlife Refuge;

■ b. Revising Leopold Wetland Management District; and

■ c. Revising paragraph B.4., adding paragraph B.5., and revising paragraph C.3. of Necedah National Wildlife Refuge to read as follows:

§ 32.69 Wisconsin.

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Horicon National Wildlife Refuge

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C. Big Game Hunting. * * *

1. We only allow hunting during the early archery season and the regular State firearms seasons.

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Leopold Wetland Management District

A. Migratory Game Bird Hunting. We allow hunting of migratory game birds throughout the district (except that we prohibit hunting on the Blue-wing Waterfowl Production Area (WPA) in Ozaukee County or the Wilcox WPA in Waushara County) in accordance with State regulations subject to the following conditions:

1. We allow the use of hunting dogs, provided the dog is under the immediate control of the hunter at all times (see § 26.21(b) of this chapter).

2. You must remove boats, decoys, and blinds (see § 27.93 of this chapter) at the conclusion of each day.

B. Upland Game Hunting. We allow hunting of upland game birds throughout the district (except that we prohibit hunting on the Blue-wing Waterfowl Production Area (WPA) in Ozaukee County or the Wilcox WPA in Waushara County) in accordance with State regulations subject to the following condition: Condition A1 applies.

C. Big Game Hunting. We allow hunting of big game throughout the district (except that you may not hunt on the Blue-wing Waterfowl Production Area (WPA) in Ozaukee County or the Wilcox WPA in Waushara County) in accordance with State regulations subject to the following condition: You must remove blinds and stands (see § 27.93 of this chapter) at the conclusion of each day.

D. Sport Fishing. [Reserved]

Necedah National Wildlife Refuge

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B. Upland Game Hunting. * * *

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4. You may only use dogs when hunting waterfowl and small game, except raccoon.

5. You may only hunt showshoe hare during the season for cottontail rabbit.

C. Big Game Hunting. * * *

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3. You may use portable elevated devices, but you must lower them to the ground from ½ hour after shooting hours to ½ hour before shooting hours each day.

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■ 49. Amend § 32.70 Wyoming by revising Seedskadee National Wildlife Refuge to read as follows:

§ 32.70 Wyoming.

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Seedskadee National Wildlife Refuge

A. Migratory Game Bird Hunting. We allow hunting of dark goose, duck, coot, merganser, dove, snipe, and rail on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. We prohibit hunting of migratory birds on the west side of the Green River between the south end of the Dunkle Unit and Highway 28. We post the boundary for this area with refuge signs stating ''Area Closed to Migratory Bird Hunting''.

2. We prohibit all hunting between Highway 28 and 0.8 miles (1.28 km) north of the refuge headquarters on the west side of the Green River. We post the boundary for this area with refuge signs stating ''No Hunting Zone''.

3. We open the refuge to the general public from ½ hour before legal sunrise to ½ hour after legal sunset. Waterfowl hunters may enter the refuge 1 hour before legal shooting hours to set up decoys and blinds.

4. Hunters must confine or leash dogs except when participating in a legal hunt (see § 26.21(b) of this chapter).

5. You must only use portable blinds or blinds constructed from dead and downed wood. We prohibit digging pit blinds.

6. You must remove portable blinds, tree stands, decoys, and other personal equipment (see § 27.93 of this chapter) from the refuge each day.

7. You must completely dismantle blinds constructed of dead and downed wood at the end of the waterfowl hunting season.

8. We only allow hunters to retrieve downed game from closed areas with consent from a refuge employee or State game warden.

9. You must unload and either case or dismantle all firearms (see § 27.42(b) of this chapter) when transporting them in a vehicle or boat under power.

B. *Upland Game Hunting.* We allow hunting of sage grouse, cottontail rabbit, jackrabbit, raccoon, fox, and skunk on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A2, A8, and A9 apply.

2. We open the refuge to the general public from ½ hour before legal sunrise to ½ hour after legal sunset.

3. Hunters must confine or leash dogs (see § 26.21(b) of this chapter) except when participating in a legal hunt for sage grouse, cottontail rabbit, or jackrabbit.

4. When using shotguns or muzzleloaders, you may only possess approved nontoxic shot (see § 32.2(k)) while in the field.

C. Big Game Hunting. We allow hunting of antelope, mule deer, and moose on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions A2, A8, A9, and B2 apply.

D. Sport Fishing. We allow fishing on the refuge in accordance with State regulations subject to the following conditions:

1. Condition B2 applies.

2. You must only launch or pick up trailered boats at the following boat ramps: Dodge Bottom, Hayfarm, Lombard, and Six-Mile.

3. We prohibit taking of mollusk, crustacean, reptile, and amphibian from the refuge.

■ 50. Amend § 32.71 United States Unincorporated Pacific Insular Possessions by revising Johnston Atoll National Wildlife Refuge to read Johnston Island National Wildlife Refuge and revising paragraph D. to read as follows:

§ 32.71 United States Unincorporated Pacific Insular Possessions.

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Johnston Island National Wildlife Refuge

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D. Sport Fishing. [Reserved]

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Dated: August 20, 2004.

David P. Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 04–19786 Filed 8–31–04; 8:45 am]

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Federal Register

Wednesday,
September 8, 2004

Part III

Environmental Protection Agency

40 CFR Part 432

Effluent Limitations Guidelines and New Source Performance Standards for the Meat and Poultry Products Point Source Category; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 432

[FRL–7631–2]

RIN 2040–AD56

Effluent Limitations Guidelines and New Source Performance Standards for the Meat and Poultry Products Point Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today's final rule revises Clean Water Act effluent limitations guidelines and new source performance standards for meat producing facilities. These revisions apply to existing as well as new slaughtering facilities (''first processors''), to facilities that further process meat to produce products like sausages (''further processors'') and to independent rendering facilities that convert inedible by-products to items like pet food (''renderers''). The rule establishes, for the first time, effluent limitations guidelines and new source performance standards for existing and new poultry first and further processors. Today's guidelines and standards establish limitations on wastewater discharges of specified pollutants for meat and poultry products facilities that discharge directly to U.S. waters. There are no current regulations for facilities that discharge indirectly, and EPA has not adopted regulations for those facilities. Today's rule applies to wastewater discharges from existing meat and poultry facilities above specified production thresholds. Today's new source standards apply to new meat facilities above the production thresholds and to all new poultry facilities irrespective of their production level. EPA is not revising the current effluent limitations guidelines or new source performance standards for meat first or further processors below the production threshold.

This final rule will benefit the Nation's receiving waters by reducing discharges of conventional pollutants, ammonia, and nitrogen. EPA estimates that compliance with this regulation will reduce discharges of nitrogen up to 27 million pounds per year, ammonia by 3 million pounds per year, and conventional pollutants by 4 million pounds per year.

DATES: This regulation shall become effective October 8, 2004. The Director of the Federal Register approves the incorporation by reference on October 8, 2004, of certain publications listed in this rule in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For judicial review purposes, this final rule is promulgated as of 1:00 p.m. (Eastern time) on September 22, 2004, as provided in 40 CFR 23.2.

ADDRESSES: The docket for today's final rule is available for public inspection at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For additional technical information contact Samantha Lewis at (202) 566–1058. For additional economic information contact James Covington at (202) 566–1034.

SUPPLEMENTARY INFORMATION:

General Information

A. What Entities Are Potentially Regulated by This Final Rule?

Entities potentially regulated by this action include:

Category	Examples of regulated entities	Primary SIC and NAICS codes
Industry	Facilities engaged in first processing, further processing, or rendering of meat and poultry products, which may include the following sectors:.	
	Meat Packing Plants	2011 (SIC) 31161 (NAICS)
	Animal (except Poultry) Slaughtering	311611 (NAICS)
	Meat Processed from Carcasses	311612 (NAICS)
	Sausages and Other Prepared Meat Products	2013 (SIC) 311612 (NAICS)
	Poultry Slaughtering and Processing	2015 (SIC) 311615 (NAICS)
	Meat & Meat Product Wholesalers	422470 (NAICS)
	Poultry Processing	311615 (NAICS)
	Rendering and Meat By-Product Processing	311613 (NAICS)
	Support Activities for Animal Production	11521 (NAICS)
	Prepared Feed and Feed Ingredients for Animals and Fowls, Except Dogs and Cats	2048 (SIC) 311119 (NAICS)
	Dog and Cat Food Manufacturing	311111 (NAICS)
	Other Animal Food Manufacturing	311119 (NAICS)
	All Other Miscellaneous Food Manufacturing	311999 (NAICS)
	Animal and Marine Fats and Oils	2077 (SIC) 311613 (NAICS)
	Livestock Services, Except Veterinary.	0751 (SIC) 311611 (NAICS)

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria listed at 40 CFR parts 432.1, 432.10, 432.20, 432.30, 432.40, 432.50, 432.60, 432.70, 432.80, 432.90, 432.100, 432.110, and 432.120 of today's rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed for technical information in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. How Can I Get Copies of This Document and Other Related Information?

1. Docket

EPA has established an official public docket for this action under Docket ID

No. OW–2002–0014. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include information claimed as Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426. Every user is entitled to copy 266 pages per day before incurring a charge. The Docket may charge 15 cents a page for each page over the page limit plus an administrative fee of $25.00.

2. Electronic Access

You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number: OW–2002–0014.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in section B.1.

C. What Other Information Is Available To Support This Final Rule?

The two major documents supporting the final regulations are the following:

- ''Technical Development Document for the Final Effluent Limitations Guidelines and Standards for the Meat and Poultry Products Point Source Category'' [EPA–821–R–04–011] referred to in the preamble as the Technical Development Document (TDD): This document presents the technical information that formed the basis for EPA's decisions in today's final rule. The TDD describes, among other things, the data collection activities, the wastewater treatment technology options considered by the Agency as the basis for effluent limitations guidelines and standards, the pollutants found in Meat and Poultry Products (MPP) wastewaters, and the estimation of pollutant removals associated with certain pollutant control options.
- ''Economic and Environmental Benefits Analysis of the Final Meat and Poultry Products Rule'' [EPA–821–R–04–010] referred to as the Economic and Environmental Benefits Analysis (EEBA). This document presents the methodology employed to assess economic impacts, environmental impacts, and environmental benefits of the final rule and the results of the analyses.

Major supporting documents are available in hard copy from the National Service Center for Environmental Publications (NSCEP), U.S. EPA/NSCEP, P.O. Box 42419, Cincinnati, Ohio, USA 45242–2419, (800) 490–9198, *www.epa.gov/ncepihom.* You can obtain electronic copies of this preamble and rule as well as major supporting documents at EPA Dockets at *www.epa.gov/edocket* and at *www.epa.gov/guide/mpp.*

D. What Process Governs Judicial Review for Today's Final Rule?

In accordance with 40 CFR part 23.2, today's rule is considered promulgated for the purposes of judicial review as of 1:00 p.m. Eastern Daylight Time, September 22, 2004. Under Section 509(b)(1) of the Clean Water Act (CWA), judicial review of today's effluent limitations guidelines and new source performance standards may be obtained by filing a petition in the United States Circuit Court of Appeals for review within 120 days from the date of promulgation of these guidelines and standards. Under Section 509(b)(2) of the CWA, the requirements of this regulation may not be challenged later in civil or criminal proceedings brought to enforce these requirements.

E. What Are the Compliance Dates for Today's Final Rule?

Each National Pollutant Discharge Elimination System (NPDES) permit must include all technology-based effluent limitations promulgated by EPA. Consequently, all reissued permits for existing direct dischargers must require compliance with today's limitations. Direct dischargers that are new sources must comply with applicable new source performance standards (NSPS) on the date the new sources begin discharging. For purposes of the revised NSPS being promulgated today, a source is a new source if it commences construction after October 8, 2004.

Today's rule does not revise the new source performance standards for wastewater discharges from small meat products facilities (*i.e.,* those new meat facilities whose production is below the subcategory-specific production threshold) in Subparts A–I. Therefore, the respective new source dates for small facilities in Subparts A–I are not affected by today's final rule.

F. How Does EPA Protect Confidential Business Information (CBI)?

Certain information and data in the record supporting the final rule have been claimed as CBI and, therefore, EPA has not included these materials in the record that is available to the public in the Water Docket. Further, the Agency has withheld from disclosure some data not claimed as CBI because release of this information could indirectly reveal information claimed to be confidential. To support the rulemaking while preserving confidentiality claims, EPA is presenting in the public record certain information in aggregated form, masking facility identities, or using other strategies.

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I. Definitions, Acronyms, and Abbreviations Used in This Document

Act—The Clean Water Act
Agency—U.S. Environmental Protection Agency
AP—Alkylphenol polyethoxylate
APE—Alkylphenol ethoxylate
ASM—Annual Survey of Manufacturers, Census Bureau
AWQC—Ambient Water Quality Criteria
BAT—Best available technology economically achievable, as defined by section 304(b)(2)(B) of the Act
BCT—Best conventional pollutant control technology, as defined by section 304(b)(4) of the Act
BOD, BOD_5—Biochemical oxygen demand
BMP—Best management practices, as defined by section 304(e) of the Act
BPJ—Best professional judgment
BPT—Best practicable control technology currently available, as defined by section 304(b)(1) of the Act
CAA—Clean Air Act (42 U.S.C. 7401 *et seq.*, as amended)
CAFO—Concentrated animal feeding operation
CAPDET—Computer Assisted Procedure for Design and Evaluation of Wastewater Treatment Systems
CBI—Confidential business information
CBOD—Carbonaceous biochemical oxygen demand
CE—Cost-effectiveness (ratio of compliance costs to the pounds of pollutants removed)
CFR—Code of Federal Regulations
CFU—Colony-forming unit
COD—Chemical oxygen demand
Conventional Pollutants—Constituents of wastewater as determined by section 304(a)(4) of the Act and the regulations there under 40 CFR 401.16, including pollutants classified as biochemical oxygen demand, suspended solids, oil and grease, fecal coliform, and pH
CWA—Clean Water Act (33 U.S.C. 1251 *et seq.*, as amended)
DAF—Dissolved air flotation
DCN—Document control number
Direct Discharger—An industrial discharger that introduces wastewater to a water of the United States with or without treatment by the discharger
DMR—Discharge Monitoring Report
DO—Dissolved oxygen
EBT—Earnings before tax
EEBA—Economic and Environmental Benefits Analysis of the Final Meat and Poultry Products Rule (EPA–821–R–04–010)
Effluent Limitation—A maximum amount, per unit of time, production, volume or other unit, of each specific constituent of the effluent from an existing point source that is subject to limitation. Effluent limitations may be expressed as a mass loading or as a concentration (*e.g.*, milligrams of pollutant per liter discharged).
ELG—Effluent limitations and guidelines
ELWK—Equivalent live weight killed
End-of-Pipe Treatment—Refers to those processes that treat a plant waste stream for pollutant removal prior to discharge
ER—Estrogen receptor
FDF—Fundamentally different factor
FR—Federal Register
FSIS—Food Safety Inspection Service
FTE—Full-time equivalents (related to the number of employees)
HACCP—Hazard Analysis and Critical Control Point
HAP—Hazardous air pollutant
HEM—Hexane extractable material
Indirect Discharger—An industrial discharger that introduces wastewater into a publicly owned treatment works
kg—Kilogram
kkg—1,000 kilograms
lbs/yr—Pounds per year
LTA—Long-term average concentration
LWK—Live weight killed
mg/L—Milligrams per liter
mL—Milliliter
MPN—Most probable number
MPP—Meat and Poultry Products point source category

NAICS—North American Industry Classification System
NAWQA—National Water Quality Assessment, a U. S. Geological Survey program
NCEPI—EPA's National Center for Environmental Publications
NODA—Notice of Data Availability (August 13, 2003; 68 FR 48472)
Nonconventional Pollutants—Pollutants that have not been designated as either conventional pollutants or priority pollutants
NPDES—National Pollutant Discharge Elimination System, a Federal program by which industry dischargers, including municipalities, obtain permits to discharge pollutants to the nation's water, under section 402 of the Act
NPV—Net present value
NSPS—New Source Performance Standards
NTTAA—National Technology Transfer and Advancement Act
NWPCAM—The National Water Pollution Control Assessment Model
O&G—Oil and grease
O&M—Operation and maintenance
OMB—Office of Management and Budget
P—Phosphorus
PCS—Permit Compliance System
PE—Pound-equivalents (the units used to weight toxic pollutants)
POTW—Publicly owned treatment works
ppm—parts per million
Priority Pollutants—The 126 pollutants listed at 40 CFR part 423, appendix A
PSES—Pretreatment standards for existing sources of indirect discharges, under section 307(b) of the Act
PSNS—Pretreatment standards for new sources of indirect discharges, under sections 307(b) and (c) of the Act
PV—Present value
RCRA—Resource Conservation and Recovery Act
RFA—Regulatory Flexibility Act
SBA—U.S. Small Business Administration
SBREFA—Small Business Regulatory Enforcement Fairness Act
SER—Small entity representative
SIC—Standard Industrial Classification, a numerical categorization scheme used by the U.S. Department of Commerce to denote segments of industry
SIU—Significant Industrial User as defined in the General Pretreatment Regulations (40 CFR part 403)
SOP—Standard operating procedure
TDD—Technical Development Document for the Final Effluent Limitations Guidelines and Standards for the Meat and Poultry Products Point Source Category (EPA–821–R–04–011)
TKN—Total Kjeldahl nitrogen
TMDL—Total maximum daily load
TRI—Toxic Release Inventory
TSE—Transmissible spongiform encephalopathy
TSS—Total suspended solids
UMRA—Unfunded Mandates Reform Act
U.S.C.—United States Code
USDA—United States Department of Agriculture
WQI—Water Quality Index
WQS—Water quality standards

II. Under What Legal Authority Is This Final Rule Issued?

The U.S. Environmental Protection Agency is promulgating these regulations under the authority of Sections 301, 304, 306, 307, 308, 402, and 501 of the Clean Water Act, 33 U.S.C. 1311, 1314, 1316, 1318, 1342, and 1361.

III. What Is the Legislative Background of This Rule?

A. Clean Water Act

Congress adopted the Clean Water Act (CWA) to ''restore and maintain the chemical, physical, and biological integrity of the Nation's waters'' (Section 101(a), 33 U.S.C. 1251(a)). To achieve this goal, the CWA prohibits the discharge of pollutants into navigable waters except in compliance with the statute. The Clean Water Act confronts the problem of water pollution on a number of different fronts. Its primary reliance, however, is on restricting the types and amounts of pollutants discharged from various industrial, commercial, and public sources of wastewater.

Congress recognized that regulating only those sources that discharge effluents directly into the Nation's waters would not be sufficient to achieve the CWA's goals. Congress was also concerned about pollutants from facilities that discharge wastewater through sewers flowing to publicly-owned treatment works (POTWs). Consequently, the CWA requires EPA to promulgate nationally applicable pretreatment standards for those pollutants in wastewater from indirect dischargers which pass through, interfere with, or are otherwise incompatible with POTW operations (Section 307(b) and (c), 33 U.S.C. 1317(b) and (c)). Generally, pretreatment standards are designed to ensure that wastewater from direct and indirect industrial dischargers are subject to similar levels of treatment. In addition, POTWs are required to develop and enforce local pretreatment limits applicable to their industrial indirect dischargers to satisfy local requirements (*see* 40 CFR part 403.5).

1. Effluent Limitations Guidelines and Standards

Direct dischargers must comply with effluent limitations in National Pollutant Discharge Elimination System (NPDES) permits; indirect dischargers must comply with pretreatment standards. Effluent limitations guidelines and standards are established by regulation for categories of industrial dischargers and are based on the degree of control that can be achieved using various levels of pollution control technology.

Best Practicable Control Technology Currently Available (BPT)—Section 304(b)(1) of the CWA

In the regulations, EPA defines BPT effluent limitations for conventional, toxic, and non-conventional pollutants. Section 304(a)(4) designates the following as conventional pollutants: biochemical oxygen demand (BOD_5), total suspended solids (TSS), fecal coliform, pH, and any additional pollutants defined by the Administrator as conventional. The Administrator designated oil and grease (O&G) as an additional conventional pollutant on July 30, 1979 (*see* 44 FR 44501). EPA has identified 65 pollutants and classes of pollutants as toxic pollutants, of which 126 specific substances have been designated priority toxic pollutants (*see* Appendix A to 40 CFR part 403, reprinted after 40 CFR part 423.17). EPA considers all other pollutants to be non-conventional.

In specifying BPT, EPA looks at a number of factors. EPA first considers the total cost of applying the control technology in relation to the effluent reduction benefits. The Agency also considers the age of the equipment and facilities, the processes used and any required process changes, engineering aspects of the control technologies, non-water quality environmental impacts (including energy requirements), and such other factors as the EPA Administrator deems appropriate (CWA 304(b)(1)(B)). Traditionally, EPA establishes BPT effluent limitations based on the average of the best performances of facilities of various ages, sizes, processes or other common characteristics within the industry. Where current performance is uniformly inadequate to meet effluent controls, BPT may reflect higher levels of control than currently in place in an industrial category if the Agency determines the technology can be practically applied.

Best Conventional Pollutant Control Technology (BCT)—Section 304(b)(4) of the CWA

The 1977 amendments to the CWA required EPA to identify effluent reduction levels for conventional pollutants associated with BCT for discharges from existing industrial point sources. In addition to the other factors specified in Section 304(b)(4)(B), the CWA requires that EPA establish BCT limitations after considering a two-part ''cost-reasonableness'' test. EPA explained its methodology for developing BCT limitations in July 1986 (see 51 FR 24974).

Best Available Technology Economically Achievable (BAT)—Section 304(b)(2) of the CWA

In general, BAT effluent limitations guidelines represent the best available economically achievable reduction in discharges of toxic and non-conventional pollutants by plants in the industrial subcategory or category. The factors considered in assessing BAT include the cost of achieving BAT effluent reductions, the age of equipment and facilities involved, the process employed, potential process changes, and non-water quality environmental impacts, including energy requirements. The Agency retains considerable discretion in assigning the weight to be accorded these factors. BAT limitations may be based on effluent reductions attainable through changes in a facility's processes and operations. Where existing performance is uniformly inadequate, BAT may reflect a higher level of performance than is currently being achieved within a particular subcategory based on technology transferred from a different subcategory or category. BAT may be based upon process changes or internal controls, even when these technologies are not common industry practice.

New Source Performance Standards (NSPS)—Section 306 of the CWA

NSPS reflect effluent reductions that are achievable based on the best available demonstrated control technology. New sources can install the best and most efficient production processes and wastewater treatment technologies. As a result, NSPS should represent the most stringent controls attainable through the application of the best available demonstrated control technology for all pollutants—conventional, non-conventional, and priority pollutants. In establishing NSPS, EPA must consider the cost of achieving the effluent reduction, any non-water quality environmental impacts, and energy requirements.

Pretreatment Standards for Existing Sources (PSES)—Section 307(b) of the CWA

PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of publicly-owned treatment works (POTWs), including POTW sludge disposal methods. Pretreatment standards for existing sources are technology-based and are like BAT effluent limitations guidelines.

You can find the General Pretreatment Regulations, which set forth the framework for the implementation of national pretreatment standards, at 40 CFR part 403.

Pretreatment Standards for New Sources (PSNS)—Section 307(c) of the CWA

Like PSES, PSNS are designed to prevent the discharges of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of POTWs. PSNS are to be issued at the same time as New Source Performance Standards. New indirect dischargers have the opportunity to incorporate into their plants the best available demonstrated control technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating New Source Performance Standards.

2. Effluent Guidelines Planning Process—Section 304(m) Requirements

Section 304(m) of the CWA requires EPA every two years to publish a plan for reviewing and revising existing effluent limitations guidelines and standards and for promulgating new effluent guidelines. On January 2, 1990, EPA published an Effluent Guidelines Plan (see 55 FR 80) in which the Agency established schedules for developing new and revised effluent guidelines for several industry categories. Natural Resources Defense Council, Inc., and Public Citizen, Inc., challenged the Effluent Guidelines Plan in a suit filed in the U.S. District Court for the District of Columbia, (*NRDC et al* v. *Reilly*, Civ. No. 89–2980). On January 31, 1992, the Court entered a consent decree which, among other things, establishes schedules for EPA to propose and take final action on effluent limitations guidelines and standards for several point source categories. The amended consent decree requires EPA to take final action on the Meat and Poultry Products effluent guidelines by February 26, 2004.

At the time EPA selected the Meat and Poultry Products (MPP) point source category for review, pathogens, nutrients, and oxygen-depleting substances were contributing 25 to 35 percent to reported water quality problems in impaired rivers and streams. EPA selected the meat and poultry products category, along with concentrated animal feeding operations and aquatic animal production, as sources of nutrients needing additional control. EPA also selected the MPP industry for review to analyze changes that have occurred in this industry in the United States since the development of the current regulations.

B. Existing Clean Water Act Requirements Applicable to Meat and Poultry Processors

EPA issued effluent limitations guidelines and new source performance standards for meat slaughterhouses and packinghouses (40 CFR part 432 subcategories A through D) in February 1974 and for meat further processing facilities (subcategories E through I) in January 1975. EPA later revised or withdrew some of the BPT and BAT limitations due to litigation. The Agency also issued effluent limitations guidelines and new source performance standards for independent renderers (subcategory J) in January 1975, then promulgated revised BAT and NSPS limitations in October 1977. EPA proposed regulations for the poultry industry in April 1975, but never finalized them.

IV. How Was This Final Rule Developed?

A. February 2002 Proposed Rule

On February 25, 2002, EPA published a proposed rule entitled, ''Effluent Limitations Guidelines and New Source Performance Standards for the Meat and Poultry Products Point Source Category'' (*see* 67 FR 8582). At that time, EPA proposed to revise the effluent limitations guidelines and standards for wastewater discharges from meat processing and independent rendering facilities and proposed new guidelines for poultry slaughtering and processing facilities.

EPA identified six groups (12 subcategories) of facilities categorized by animal and processing type (*i.e.*, meat or poultry; first processor (slaughterer), further processor, or renderer). EPA grouped several existing subcategories together (A–D, F–I) because of similarities in processes and products. This proposed subcategorization scheme allowed EPA to assess more accurately various

technology options in terms of compliance costs, pollutant reductions, benefits, and economic impacts.

EPA proposed limitations and standards for two new subcategories (K and L) for poultry slaughterers and further processors. EPA proposed to add limitations for chemical oxygen demand (COD), ammonia (as nitrogen), total nitrogen, and total phosphorus. EPA proposed revised limitations and standards in nine of the ten existing subcategories, choosing not to propose to revise limitations for ''small'' facilities in subcategories A–D or for the smallest meat further processors (subcategory E). EPA also proposed lowering the production threshold for independent renderers so that facilities rendering 10 million pounds per year or more would be subject to the guidelines. EPA did not propose national pretreatment standards for indirect dischargers (see 67 FR 8633; February 25, 2002) in any subcategory.

B. August 2003 Notice of Data Availability

On August 13, 2003, EPA published a Notice of Data Availability (NODA) at 68 FR 48472. In the NODA, EPA discussed major issues raised in comments on the proposed rule; identified revisions EPA considered making to the technical and economic methodologies used to estimate compliance costs, pollutant loadings, and economic and environmental impacts; presented the results of these suggested methodology changes and incorporation of new (or revised) data; and summarized EPA's thinking on how these results could affect the final decisions. EPA asked for comments on the revised methodologies and data.

C. Public Comments

This preamble includes a general summary of public comments in the discussions of the various issues addressed here. EPA has prepared a ''Comment Response Document'' that includes responses to comments submitted for the proposed rule and the notice of data availability. All of the comments, including supporting documents submitted on today's action, are available for public review in the administrative record for this final rule, filed under docket number OW–2002–0014.

The proposed regulations were published in the **Federal Register** on February 25, 2002 (67 FR 8582), and the comment period closed on June 25, 2002. EPA received approximately 50 comments on the proposed rule. EPA received comments from a multitude of sources, including facility owners and operators, environmental groups, State agencies, publicly owned water treatment plants, representatives of various trade associations, and private citizens.

The comment period for the Notice of Data Availability was from August 13 through October 14, 2003 (68 FR 48472). EPA received approximately 40 comments on the Notice.

D. Public Outreach

In support of both the proposed rule and today's final rule, EPA has conducted outreach activities. During the development of the proposed regulations for meat and poultry products, EPA met with members of the stakeholder community through meetings, sampling trips, and site visits to collect information on waste management practices at meat and poultry product operations.

After the proposed rule was published, EPA conducted two public outreach meetings on the proposed regulations and continued to meet with representatives of stakeholder groups, including representatives of various industry trade associations. EPA used several additional means to provide outreach to stakeholders, such as managing websites that post information related to these regulations. EPA provided supporting documents for the proposed rule on these sites. These documents included the ''Technical Development Document,'' ''Economic Analysis,'' and ''Environmental Assessment'' of the proposed regulations. These are available at www.epa.gov/guide/mpp/.

V. How Is the Final Rule Different From the Proposed Rule and the Approaches Discussed in the NODA?

Since the proposed rule was published, EPA has incorporated a significant amount of additional technical and economic data into the database used for developing the effluent limitations guidelines and new source performance standards. In addition, EPA has modified certain assumptions used in its cost and pollutant loadings models. The NODA discussed in detail these new data (*see* 68 FR 48479; August 13, 2003). This section summarizes the major changes EPA has made for the final rule.

A. Definitions

1. How Has the Definition of a ''Small'' Poultry First Processor Changed?

A small poultry first processor (Subcategory K) is a facility that slaughters 100 million pounds or less of poultry per year, measured as live weight killed. For the proposed rule, EPA had defined a small facility as slaughtering 10 million pounds or less per year, live weight killed.

EPA examined the effect of increasing the threshold for small poultry slaughter facilities (Subcategory K) from the proposed 10 million pounds per year. In its analysis, EPA considered two types of competition: Competition between poultry facilities for poultry market share, and competition with meat facilities as a substitute for poultry.

Based on the most reliable studies performed to date, significant economies of scale exist in poultry slaughter. Extrapolating from Ollinger *et al.* (2000, DCN 25088), a 50 million pounds per year (lbs/yr) poultry plant has about a 3 percent cost advantage over a 10 million lbs/yr plant. This cost advantage increases with production: A 150 million lbs/yr plant has perhaps a 15 percent cost advantage over the 10 million lbs/yr plant. Economies of scale in meat slaughter plants are not as significant: a 150 million lbs/yr meat slaughter plant might have a 5 percent cost advantage over a 10 million lbs/yr plant (extrapolated from MacDonald *et al.*, 2000, DCN 328–001).

In both sectors, compliance costs per pound of production are larger for the smaller plants. In the poultry sector, costs per pound for slaughtering plants with less than 50 million lbs/yr of production are projected to be 20 times larger than those for plants above that threshold. This exacerbates the competitive disadvantage under which the smaller poultry plants already operate. In the meat sector, the compliance cost per pound differential, while still substantial, is much smaller.

In addition, EPA estimates that compliance costs per pound of poultry are about 40 percent larger than compliance costs per pound of meat. Consumers consider meat and poultry to be substitutes; if the price of poultry increases relative to that of meat, consumers will increase purchases of meat and decrease purchases of poultry. These changes are not large, but are statistically significant.

In summary, EPA determined that (1) poultry facilities will be somewhat disadvantaged by the rule relative to meat facilities if the poultry slaughter facility production threshold stays at 10 million pounds/year (as proposed) or even at 50 million pounds/year, and (2) within the poultry sector, smaller slaughter facilities (at 10 million or 50 million pounds/year) will be disadvantaged by the rule relative to large slaughter facilities. Therefore, EPA chose to increase the small production threshold for small poultry slaughter

plants from 10 million lbs/yr to 100 million lbs/yr for the final rule. This reduces the estimated number of non-small facilities in subcategory K from 118 to 99. See Section 2.2.2 of the EEBA for discussion on the selection of the production threshold for Subcategory K for the final rule.

2. How Has the Definition of Subcategory E Facilities Been Clarified?

The current § 432.51 (Subpart E) regulations define ''small processor'' as ''an operation that produces up to 2,730 kg (6,000 lb) per day of any type or combination of finished product.'' Because using the words ''up to 6,000 lb per day'' may lead to questions on whether facilities that produce 6,000 pounds per day are covered by Subcategory E or Subcategories F–I, EPA is changing the language to be consistent with the production threshold language in other subcategories of the final rule. Therefore, in today's final rule, it states that Subcategory (Subpart) E facilities are those that produce no more than 6,000 pounds per day of finished product.

B. Pollutants

1. How Have the Regulated Pollutants Changed?

In the proposed rule, EPA proposed limitations for ammonia (as nitrogen), biochemical oxygen demand (BOD_5), chemical oxygen demand (COD), fecal coliforms, oil and grease (as hexane-extractable material), pH, total nitrogen, total phosphorus, and total suspended solids (TSS). In the final rule, EPA decided not to include limits for COD or total phosphorus.

In 2002, EPA proposed to add COD to the BPT limitations for non-small meat facilities in Subcategories A–D, F–I, and J to better reflect the current BPT treatment technology (67 FR 8630; February 25, 2002). EPA did not propose to establish COD limitations for the poultry subcategories. As discussed in the NODA (68 FR 48484; August 13, 2003), commenters stated that COD is not as accurate an indicator of a biological treatment system performance as BOD and carbonaceous BOD (CBOD), because biological treatment systems are not necessarily designed to remove nonbiodegradable chemical oxygen-demanding components. In addition, one commenter stated that COD removal would be financially burdensome. In today's final rule, EPA has taken these comments into account and has not established a COD limitation. This is because the current regulations for Subcategories A–D, F–I, and J already include limitations for BOD. EPA has determined that with the addition of limitations for ammonia (as nitrogen) where they did not exist previously and new limitations for total nitrogen, regulation of these parameters for these subcategories effectively controls these pollutant discharges of concern.

EPA has decided not to regulate total phosphorus in today's final rule for any subcategory. In a change from the proposed rule, EPA did not set limitations or standards for total phosphorus because it did not select a technology option for the final rule that controls phosphorus (*i.e.*, Option 2.5 + P or Option 4). In general, Option 2.5 + P and Option 4 were either not economically achievable, not cost-effective for phosphorus removal, or not available or demonstrated technology for a subcategory. The decision to not select a technology option that controls phosphorus is subcategory-specific and the reasons are explained in detail in Section VII.

2. How Has Reporting of Fecal Coliforms Changed?

EPA proposed a maximum of 400 MPN (most probable number) per 100 ml at any time of fecal coliforms for the BPT limitations and NSPS for Subparts K and L (poultry subcategories). These proposed limitations/standards were the same as the current BPT in place for Subparts A–J, which EPA did not propose to change. Based on analyses conducted for the proposed rule, EPA tentatively determined that poultry facilities could achieve this level.

Commenters requested that EPA allow monitoring of fecal coliforms to be reported in units of colony forming units (CFU) per 100 milliliters (mL) in addition to MPN per 100 mL specified in the existing regulations. Results from either technique can be considered comparable, as long as the analyzed volume is equivalent. Therefore, EPA revised the limitations and standards to allow results to be reported in either MPN units or CFU units per 100 mL. See Section V.C.1 of the NODA for additional information (68 FR 48484, August 13, 2003).

Finally, today's final rule will correct 40 CFR 432 for Subparts A through J to delete the monthly average limitations/standards for fecal coliforms and pH leaving only daily maximum limitations and standards. Because the values are currently the same for the daily maximum limitations/standards and the monthly average limitations/standards, EPA does not expect that any facility will need to change its operations with the elimination of the monthly average limitations/standards currently codified in the CFR for fecal coliforms and pH. As discussed in the NODA (68 FR 48499; August 13, 2003), 40 CFR 432 currently specifies both monthly average limitations/standards and daily maximum limitations (at the same limitations) for fecal coliforms and pH, while the text of the final rules published in the **Federal Register** (39 FR 7900; February 28, 1974 and 40 FR 906; January 3, 1975) included only daily maximum limitations and standards for those parameters. For today's final rule the subparts regulating the discharge of fecal coliforms include the following daily maximum limitation/standard: a maximum at any time of 400 MPN (or CFU)/100 mL. For the subparts regulating pH, the daily maximum limitation/standard is: within the range of 6.0 to 9.0.

C. Costs and Economic Impacts

1. How Has the Methodology Changed for Calculating the Costs To Upgrade Facilities as a Result of This Rule?

EPA proposed to establish effluent limitations based on the performance of biological wastewater treatment designed and operated to achieve a specified degree of denitrification (*i.e.*, reduced total nitrogen). To estimate the costs of the proposed rule, EPA used a model facility approach, applied frequency factors to obtain national estimates, and applied an existing computer model (Computer Assisted Procedure For Design And Evaluation Of Wastewater Treatment Systems (CAPDET)) used for determining capital and operating and maintenance costs for various wastewater treatment unit operations. Based on public comments on the proposed costing approach and the incorporation of new data following proposal, EPA revised its approach for developing national estimates of compliance costs for the MPP industry, as presented in the NODA. For the costs presented in the NODA, EPA developed its own computer model specific to the MPP industry using a more facility-specific approach for the surveyed facilities and applying survey weights to obtain national estimates. See Section III of the NODA for more detailed information (68 FR 48479; August 13, 2003).

Since the NODA was published, EPA has made some additional changes to the cost model. Based on comment, EPA has further modified the cost models and reviewed the assessment of current treatment-in-place (see DCN 300–004, Section 10 of the TDD, and Record Section 28 of the rulemaking docket). The changes in the cost models include revising the values of the constants used

in the model, accounting for the use of lime as an alkalinity source, including costs for a holding/polishing pond with seven day retention, and limiting the nitrate recycle rate to a maximum of five times the influent flow when costing facilities for Option 2.5 technology and higher. See Section VIII of today's preamble for a discussion of the cost estimates for the final rule.

2. How Has the Methodology for Closure Analysis Changed?

For the proposed rule, EPA projected facility-level economic impacts using a probability model derived from Census data because detailed survey financial information was not available at that time. As discussed in the NODA, fewer than 40 percent of direct discharging facilities provided facility-level financial data in the detailed survey. Industry stated that many companies in the MPP industry do not maintain financial records at the facility level, which is how EPA typically evaluates economic impacts. Instead they maintain their financial records at, for example, the company level, division level or product line level. As a result, EPA could not directly scale up its facility-level closure analysis to produce a national projection of closures. Therefore, EPA used two approaches to deal with the lack of facility-level financial data. First, EPA adjusted the weights of facilities that did provide financial data to account for facilities that did not provide that data. Second, EPA performed a subsidiary company-level analysis to supplement the primary facility-level analysis.

For the final rule, EPA used a combination of the probability model approach developed for the proposed rule, and the closure model based on detailed survey data. EPA used this combination of modeling approaches because in Subcategories F–I, Subcategory J, and Subcategory L, too few direct discharging facilities submitted detailed surveys to estimate costs and project national economic impacts adequately. In these subcategories EPA used data from direct discharge screener survey facilities to estimate compliance costs and used the probability distribution model to project economic impacts. In Subcategories A–D and Subcategory K, EPA used the closure model approach based on detailed survey data to project impacts. Finally, based on comments to the NODA, EPA projects a facility will close if the present value (PV) of future compliance costs exceeds the forecast PV of net income under two of the three forecasting methods described in Section IX. For the NODA, EPA projected closure when the costs exceeded the forecast PV of net income under three of the five forecasting methods. EPA has also analyzed closures using a more conservative assumption that a facility closes if the PV or future compliance cost exceeds the forecast PV of net income under one of three forecasting methods. See Section VI.A of the NODA (68 FR 48487; August 13, 2003) and Section IX of today's preamble for more detailed information.

D. Loadings

1. How Has the Methodology Changed for Calculating the Pollutant Loadings Generated by Regulated Facilities?

As discussed in the NODA (68 FR 48482; August 13, 2003), EPA revised the proposed model facility group approach in order to develop pollutant loadings and load reductions that are consistent with the revised costing methodology, which is based on a facility-level analysis. EPA developed the baseline loadings presented in this final rule using facility-specific effluent data submitted with the detailed surveys or obtained from Discharge Monitoring Reports (DMRs) from the Permit Compliance System (PCS), a computerized data base of DMR reported effluent values. For facilities without monitoring information for some pollutants, EPA used a default data set. Default baseline concentrations were developed using data from surveyed or sampled facilities that use the same type of pretreatment technology/treatment technology and that had similar operations. See Section VIII of today's preamble and Section 11 of the Technical Development Document for more detailed information on estimating pollutant loads and reductions.

Because the final long-term averages on which the limits are based were developed fairly late in the rulemaking process due to the receipt of late submissions of data from industry, some of which was requested by EPA, to clarify issues raised by commenters after the NODA, EPA estimated facility-by-facility pollutant load reductions for each of the technology options by using the target effluent concentrations developed prior to the development of the final long-term averages (LTAs) used for calculating limitations and standards. The final LTAs used for developing limitations are either less stringent or the same as the target effluent concentrations used for developing pollutant load reductions and compliance cost estimates. Although the target effluent concentrations and the final rule LTAs are not identical, EPA considers its estimates of pollutant load reductions and costs for today's final rule to be generally representative of the load reductions and costs that will be realized based on the limitations and standards that the Agency is promulgating today. EPA calculated pollutant load reductions as the difference between the baseline pollutant load and option-specific pollutant load.

2. How Have the Target Effluent Concentrations Used for Calculating Loadings Changed?

The target effluent concentrations used to estimate pollutant load reductions and compliance costs for the final rule have not changed from those EPA used in the NODA (see 68 FR 48482; August 13, 2003 for non-small facilities in Subcategories A–D and K and see Section 10 of the TDD for Subcategories F–J and L non-small and small facilities). As noted in the previous section, the final LTAs are not identical to the target effluent concentrations, but EPA considers the target effluent concentrations still generally representative.

E. Environmental Assessment

1. How Has the Methodology Changed for Modeling Water Quality?

In the proposed rule, EPA used the National Water Pollution Control Assessment Model (NWPCAM) version 1.1 to estimate environmental impacts to surface water quality resulting from implementation of the proposed rule. Ecological effects such as habitat degradation were noted but not quantified to avoid double-counting benefits derived using NWPCAM version 1.1. Habitat degradation can result from increased suspended particulate matter and total suspended solids were already accounted for in NWPCAM. In response to comments that NWPCAM did not incorporate nutrients, EPA used an updated version of NWPCAM which simulates concentrations of nitrogen and phosphorus to more fully estimate the water quality change and the associated monetized benefits associated with the provisions in today's rule. Commenters also had concerns about the missing sources of loadings in the model, especially nonpoint and point sources that were not captured in NWPCAM version 1.1. For the final rule, EPA used NWPCAM version 2.1, which models water quality using a stream reach network with greater resolution and

incorporates additional point and nonpoint source loadings.

2. How Has the Methodology Changed for Determining Recreational Benefits?

The benefits analysis for the proposed rule used two methods to estimate a household's willingness to pay for improvements in water quality: (1) A water quality ladder and (2) a continuous water quality index (WQI). In the final rule, a continuous water quality index was used to estimate a household's willingness to pay for improvements in water quality. The ''continuous'' method was suggested by Mitchell and Carson (1993) as a means to attribute benefits to marginal water quality improvement whether or not it happened to be of sufficient magnitude to result in reclassification to a higher use class. The benefits analysis of the proposed MPP regulation presented both methods in order to contrast their results. The ''continuous'' method of monetizing water quality benefits from WQI changes used in the analysis of the proposed rule was further revised in the benefit assessment for the final effluent limitation guidelines for concentrated animal feeding operations (CAFOs), as explained in the NODA (68 FR 48492; August 13, 2003). This revision included the application of a benefit transfer function developed from the results of the Mitchell and Carson survey. EPA believes the water quality index and the Mitchell-Carson valuation function may help address some concerns associated with the NWPCAM monetization of benefits at proposal. The benefits methodology for the final rule is discussed in more detail in Section X.

3. How Has the Methodology Changed for Determining Toxicity Assessment?

In the proposed rule, EPA did not undertake a toxicity assessment. As noted in the NODA (68 FR 48493; August 13, 2003), EPA performed an exploratory analysis employing stream dilution modeling techniques, which do not take into account fate processes other than complete immediate mixing, to assess the potential impacts of releases of ten pollutants (ammonia, barium, chromium, copper, manganese, molybdenum, nickel, titanium, vanadium, and zinc) from the 53 detailed survey MPP facilities for which sufficient data were available to model. Based on the results of this assessment, EPA's assessment did not identify meaningful health or aquatic life benefits associated with the selected BPT or BAT options. EPA thus did not conduct further analyses of these types of impacts.

F. Treatment Options

1. What Changes Were Made to the Costed Treatment Option for Each Subcategory?

Table V.F–1 summarizes the treatment options for each of the meat and poultry product subcategories that formed the basis for the proposed limitations and standards as well as those that are the basis of this final rule. See Section VII of today's preamble for the identification of the technology basis for each option and a discussion of how the options were selected for the final rule. In a change from proposal, as discussed in the NODA (68 FR 48499; August 13, 2003), EPA is not pursuing Option 3 as a technology basis for the final rule. This is because the only MPP facility (a poultry slaughtering facility) to identify Option 3 technology on their survey was not able to provide EPA with supporting data (*i.e.*, nitrate/nitrite, total Kjeldahl nitrogen (TKN), or total nitrogen effluent concentrations). Therefore, EPA did not have a facility to use as the basis for establishing long-term average concentrations for Option 3. The only facilities determined to have complete denitrification also used chemicals to remove phosphorus. EPA classified these facilities as Option 4.

TABLE V.F–1.—SUMMARY OF TECHNOLOGY OPTIONS BY SUBCATEGORY AND SIZE

Subcategory	Size threshold for final rule	Facility type	Proposed rule	Final rule
A–D: Meat First Processors.	Non-small (>50 million lbs/yr).	Existing	BPT: Option 2 BAT: Option 3	BPT: Nitrification (Option 2/2.5) for ammonia (as nitrogen), no revision for conventionals. BAT: Option 2.5 for total nitrogen.
		New	Option 3	NSPS = BPT for ammonia (as nitrogen). NSPS = BAT for total nitrogen. No revision for conventionals.
	Small (≤50 million lbs/yr).	Existing/New	No revision	No revision.
E: Smallest Meat Further Processors.	Small (≤1,560,000 lbs/yr).	Existing/New	No revision	No revision.
F–I: Meat Further Processors.	Non-small (>50 million lbs/yr).	Existing	BPT: Option 2 BAT: Option 3	BPT: no revision. BAT: Option 2.5 for total nitrogen, no revision for ammonia (as nitrogen).
		New	Option 3	NSPS = BAT (Option 2.5) for total nitrogen. NSPS = Nitrification (Option 2/2.5) for ammonia (as nitrogen). No revision for conventionals.
	Small (>1,560,000 but ≤50 million lbs/yr).	Existing/New	No revision	No revision.
J: Independent Renderers.	(>10 million lbs/yr)	Existing	Option 2	BPT: no revision. BAT: Option 2.5 for total nitrogen, no revision for ammonia (as nitrogen).
		New	Option 2	NSPS = BAT for total nitrogen. No revision for ammonia (as nitrogen) and conventionals.
K: Poultry First Processors.	Non-small (>100 million lbs/yr).	Existing	Option 3	BPT: Nitrification (Option 2/2.5) for ammonia (as nitrogen) and conventionals. BAT: Option 2.5 for total nitrogen, BAT= BPT for ammonia (as nitrogen).

TABLE V.F–1.—SUMMARY OF TECHNOLOGY OPTIONS BY SUBCATEGORY AND SIZE—Continued

Subcategory	Size threshold for final rule	Facility type	Proposed rule	Final rule
		New	Option 3	NSPS = BPT for ammonia (as nitrogen) and conventionals, NSPS = BAT for total nitrogen.
	Small (≤100 million lbs/yr).	Existing	Option 1	No regulation.
		New	Option 1	Nitrification (Option 2/2.5) for ammonia (as nitrogen), Option 2 for conventionals.
L: Poultry Further Processors.	Non-small (>7 million pounds/yr).	Existing	Option 3	BPT: Nitrification (Option 2/2.5) for ammonia (as nitrogen) and Option 2 for conventionals. BAT: Option 2.5 for total nitrogen, BAT= BPT for ammonia (as nitrogen).
		New	Option 3	NSPS = BPT for ammonia (as nitrogen) and conventionals, NSPS = BAT for total nitrogen.
	Small (≤7 million pounds/yr).	Existing	Option 1	No regulation.
		New	Option 1	Nitrification (Option 2/2.5) for ammonia (as nitrogen), Option 2 for conventionals.

G. Limitations

1. Are the Limitations Production-Based or Concentration-Based?

The current limitations that are not being changed by this rule will continue to be production-based. New limits and ammonia limits for certain MPP subcategories that have changed due to today's rule are concentration-based (*e.g.*, in milligrams per liter). See Section XII for a discussion on how the rule will be implemented.

EPA received several comments from industry about the need to use more water to properly implement USDA's Hazard Analysis and Critical Control Point (HACCP) program. USDA initiated the HACCP program to increase food safety and decrease the risk of food-borne illness while allowing facilities more flexibility in processing procedures. One aspect of this HACCP rule requires meat and poultry products facilities to develop and implement standard operating procedures (SOPs) for sanitation. Based on comments, EPA concluded that many facilities implementing the sanitation SOPs had increased their use of water to clean processing equipment and surfaces. EPA does not want to discourage good sanitation SOPs and compliance with HACCP by setting production-based limitations which might result in restricted water use during periods of increased production. Therefore, for all new or revised limitations/standards in today's final rule, EPA is using a concentration basis. Concerns over dilution are outweighed by the need for food safety. In addition, the NPDES regulations prohibit dilution, and permit writers who are concerned about dilution may convert the concentration-based limitations to mass-based limitations using a reasonable measure of facility-specific flow based on the time period after HACCP was implemented at the facility.

2. What Changes Did EPA Make to the Methodology for Calculating Long-Term Averages (LTAs) and the Limitations and Standards Promulgated Today?

Based on comments about its data selection and the amount of data used, EPA has reviewed data from additional sampling episodes and facility self-monitoring data in developing the final limitations and standards in today's rule. (In this section, a reference to limitations also includes new source performance standards.) EPA also reevaluated the appropriateness of the data it relied on in evaluating the different treatment options at the time of the proposal and for the NODA. As a consequence, EPA has retained some data sets used for the proposal and/or NODA and excluded others from the calculations. EPA also has re-evaluated the technology determinations associated with the data sets based on comments and discussions with facilities. As a consequence, EPA has moved some data sets from one option to another. The discussion below provides further explanation of these changes and how these changed the analyses used for EPA's final technology determinations and the calculation of the final limitations.

For the final rule, EPA used the average effluent concentrations presented in the NODA to evaluate the costs and pollutant removals associated with Options 1 through 4 of the final rule. The results of this assessment are explained in detail at Section VII of the preamble.

After the close of the NODA comment period, based on comments and data concerning the Option 2.0 and 2.5 technologies—the technology bases that were ultimately selected for the final rule for the limitations and standards for both the meat and poultry subcategories—EPA revised the target effluent concentrations to develop the final LTAs. This resulted from EPA's reassessment of its earlier selection of model facilities and a recalculation of the long-term average concentration based on a reconsideration of the performance of these facilities. The revised LTAs were higher than the NODA average effluent concentrations.

Because EPA relied for its reassessment on some of the data that were submitted after the close of the NODA comment period, EPA was not able to fully reflect the revised LTAs in its analyses of costs, removals, economic impact, cost-reasonableness and cost-effectiveness of the technology options selected for the final limitations and standards for Option 2 and Option 2.5. However, EPA did perform a supplemental analysis using a revised LTA for nitrogen that was close to the LTAs upon which the final limitations are based. In addition to using this revised LTA for total nitrogen in the supplemental analysis of costs for both the poultry and meat subcategories, EPA also used other information that was received in late comments including treatment-in-place classifications, additional costs for methanol, and longer storage duration for emergency holding ponds. EPA is presenting the results of this supplemental analysis in the TDD (costs and removals) and the

EEBA (economic impacts, cost-reasonableness, and cost-effectiveness). Based on this analysis, EPA estimates that the total annualized pre-tax compliance costs of the rule could be $52 million (a decrease from the $58.2 million estimate in EPA's primary analysis) and the removals of total nitrogen could be 20.6 million pounds per year (a decrease from the 27 million pounds per year estimate in the primary analysis). EPA has concluded that the results of the supplemental analysis would not change EPA's selection of the technology bases for BPT, BAT, and NSPS, or its determination that the final rule is economically achievable, cost-reasonable, and nutrient cost-effective.

As noted above, EPA did not use the NODA average effluent concentrations for calculating the final effluent limitations and standards. Rather, EPA based the final LTA concentrations on further consideration of the performance of facilities using the model BPT and BAT technologies and additional data and information provided in comments on the NODA.

In particular, regarding the total nitrogen LTA, commenters were concerned about EPA's intention to transfer the poultry total nitrogen LTA for use in the development of the limitations and standards for meat facilities. Commenters demonstrated that the average influent nitrogen concentrations (*i.e.*, TKN) at meat facilities are almost two times higher than the average influent nitrogen concentration at poultry facilities which may affect their ability to consistently achieve the same effluent concentrations using the BAT technology. For the final rule, EPA thus selected the model poultry facility with an influent nitrogen concentration that was closest to the average influent nitrogen concentration at meat facilities. This led to a total nitrogen LTA for meat facilities that was about 20% less stringent than the total nitrogen LTA for poultry facilities. Further, based on comments concerning the excess detention times in the anoxic basins of the two partial denitrification facilities that were used to set the limitations (EPA used one of the facilities to calculate the LTAs for meat facilities and both were used for poultry facilities), EPA reassessed its estimates of the variability among denitrification rates at BAT facilities and determined that an additional factor to reflect lower denitrification rates at some facilities was appropriate for calculating the final nitrogen limitations. This factor was related to the consideration of several variables, including anoxic basin size, BOD/TKN ratio, and influent total nitrogen variability (see DCN 300–017).

In regard to the ammonia (as nitrogen) and conventional pollutant LTAs, based on comments regarding the use of all data EPA collected, EPA reevaluated its full effluent database (*i.e.*, including data from facilities that only provided data reported as summarized monthly averages). As a result of this reevaluation, EPA further revised its selection of model facilities for use in developing the ammonia (as nitrogen) and conventional pollutant LTAs for the rule. (See DCNs 300–011, 300–012, and 300–013.) In addition, comments were received that seasonal changes in performance or wastes to be treated with respect to the biological nitrification portion of the process would affect the ability to meet ammonia limits. Following evaluation of the ammonia data, including the effects of seasonal variability, EPA calculated the final limitations using the most representative facility's data and applied a seasonality adjustment factor to the final limitations. All of these revisions were designed to ensure that facilities operating the selected technology would be able to achieve all of the limitations and standards of the final rule in all seasons of the year. See Section 14 of the TDD for the final rule for discussion of the data sets used to develop the final limitations and standards for these subcategories and pollutants.

Although EPA recalculated effluent limitations using the new LTAs identified above, EPA determined that it was not necessary to make further revisions to its cost and removal assessments beyond the supplemental analyses discussed above. EPA recalculated the LTAs in order to ensure that the effluent limitations guidelines being promulgated today reflect the best and most current information available to EPA regarding the performance of the BPT and BAT facilities. Because these effluent limitations guidelines become the basis for enforceable permit limitations, EPA concluded that this refinement is justified. EPA's estimates of costs and removals, however, have a different function. Unlike the limitations, they are not binding. Rather, EPA uses this information as a basis for evaluating which BPT and BAT candidate technologies under consideration best meet the statutory requirements. EPA has determined that the analyses based on the NODA average effluent concentration, along with the supplemental analysis, remain generally applicable to the technology options considered and use of the final LTAs in calculating the costs and removals would not have changed EPA's conclusions about the technology on which it should base the final limitations. The new LTAs are not significantly different from the LTAs used as the basis for EPA's supplemental analysis, and EPA has concluded that the final revisions to the LTAs would not change the cost and removal estimates in a material way. In other words, when considering the refined versions of the LTAs developed for purposes of calculating the limitations in light of the analyses it conducted, EPA continues to conclude that the chosen technology bases meet the CWA requirements for BPT, BAT, and NSPS. For these reasons, EPA believes it is appropriate not to recalculate the costs and removal estimates to reflect the new LTAs being used to calculate the final limitations and standards. To do so would not have materially changed the results.

In conjunction with its review of its statistical models, EPA performed an engineering review to verify that the limitations are reasonable based upon the design and expected operation of the control technologies and the facility process conditions. As part of the engineering review, EPA examined the range of performance from facilities with Option 2.5 technology as indicated by the facility effluent for those facilities whose data were used to calculate the limitations and those that were not used as a basis for the limitations. Some facility data sets demonstrated the best available technology and achieved the expected performance level. Other facility data sets reflected inadequate performance, either in the manner the facility operates the technology or because of design differences in the technology. For these facilities, EPA has evaluated the impact of the costs to the industry for facility upgrades to its design, operating, and maintenance conditions to meet the limitations (see Section VIII.B for discussion of compliance cost methodology).

As discussed in the NODA and in more detail in Section VII.B of today's final rule, EPA did not identify any non-small meat first processing facilities (Subcategories A–D) that meet EPA's criteria for selection as operating as a BAT Option 2.5 facility. Therefore, in developing limitations associated with Option 2.5 for meat first processing facilities, EPA transferred the long-term average concentration for total nitrogen from a well-operated Option 2.5 poultry first processing facility and, as discussed above, included an additional factor to adjust the final total nitrogen limitations to account for variable denitrification rates and ensure

achievability. EPA included costs (such as costs for lagoon bypass, additional carbon source, or two-stage denitrification) for the meat first processing facilities to achieve the Option 2.5 LTA for total nitrogen.

Because commenters stated that two-stage denitrification should not be part of EPA's definition of Option 2.5 technology, EPA reviewed the costs for the five non-small meat first processors (Subcategories A–D) in EPA's database that EPA had costed for two-stage denitrification in the preliminary cost analysis due to their high influent TKN (*i.e.*, greater than 200 mg/L) levels. EPA then developed alternate costs for these facilities in the supplemental analysis, including costs for additional pretreatment using DAF and alum addition (to reduce the TKN load to the biological nutrient removal system) followed by single-stage denitrification. On a site-specific basis, these costs were both lower and higher than the costs EPA estimated for its original analysis, but were still within the range that EPA considers economically achievable. These alternate cost estimates do not result in any additional economic impacts (*i.e.*, closures). Details of the supplemental analyses are provided in Section 10 of the TDD and in the EEBA.

3. How Has the Monitoring Frequency Changed?

In developing the proposed maximum monthly limitations and standards, EPA had assumed a monitoring frequency of thirty samples per month (*i.e.*, daily monitoring) which had been the assumption for the previously promulgated limitations. In the proposal (67 FR 8632), EPA solicited comment on whether small poultry facilities should have monthly limitations/standards based upon 20 days, rather than 30 days, because they would be unlikely to operate on weekends. In response, EPA received comments that stated that monitoring every day during the month was too frequent for all facilities; one commenter requested sampling once per week. An analysis of existing permits for MPP facilities showed that the monitoring frequency ranged from daily to weekly to monthly. EPA agrees with the commenters and has reduced the assumed monitoring frequency to weekly (approximately four times a month) for any new limitations and standards promulgated in this rulemaking. EPA incorporated this assumed monitoring frequency into the monitoring costs and determination of the limitations for the final rule. This rule does not establish minimum monitoring frequencies. The decision regarding the actual frequency at which facilities must monitor for compliance with today's limitations and standards is left to the permit writer. See 40 CFR 122.44(1) and 122.48.

VI. Applicability

A. To Whom Does This Rule Apply?

This regulation applies to meat facilities and poultry and small game facilities (referred to as ''poultry facilities'' for convenience) that discharge their wastewater directly into waters of the U.S. (*e.g.*, stream, lake, ocean) and are required to obtain an NPDES permit. Facilities that send their wastewater to a publicly owned treatment works (POTW) are not subject to this final rule; they remain subject to 40 CFR 403 and their local limits (see sections VI.G and XII.A.2).

Facilities above certain production thresholds (see Table VI.H–1 for subcategory-specific production thresholds) who are involved in any of the following activities are subject to this rule:

- Slaughtering (first processing) meat or poultry or both
- Further processing meat or poultry or both
- Rendering meat or poultry or both.

Operations or processes for which EPA has not promulgated effluent limitations guidelines and standards are subject to technology-based limitations determined on a case-by-case basis under 40 CFR 125.3.

B. What Is a First Processor?

A first processor is a facility that slaughters live animals and produces whole or cut-up carcasses. First processing operations can include the assembly and holding of animals for slaughter, killing, bleeding, removal of hide or hair or feathers, evisceration and variety meat (organ) harvest, carcass washing, trimming, carcass chilling and refrigeration, and cleanup. For the purposes of this rule, a facility is still a first processor if it performs other operations in addition to slaughtering such as further processing or rendering and is only subject to the limitations for first processors.

First processors include facilities classified as simple slaughterhouses (40 CFR 432 Subpart A), complex slaughterhouses (Subpart B), low-processing packinghouses (Subpart C), and high-processing packinghouses (Subpart D), in addition to the newly created Subpart K for poultry first processors.

C. What Is a Further Processor?

A further processor is a facility that performs operations which utilize whole carcasses or cut-up meat or poultry products for the production of fresh or frozen products. Further processing operations may include the following types of processing: Cutting and deboning, cooking, seasoning, smoking, canning, grinding, chopping, dicing, forming, breading, breaking, trimming, skinning, tenderizing, marinating, curing, pickling, extruding and/or linking. A facility is still a further processor if it performs other operations in addition to further processing such as rendering (but not slaughtering) and is only subject to the limitations for further processors.

Meat further processors include facilities classified as small processors (40 CFR part 432 Subpart E), meat cutters (Subpart F), sausage and luncheon meats processors (Subpart G), ham processors (Subpart H), and canned meats processors (Subpart I), in addition to the newly created Subpart L for poultry further processors.

D. What Is An Independent Renderer?

A renderer processes slaughtering by-products (*e.g.*, animal fat, bone, blood, hair, feathers, dead animals) from either poultry or meat into usable products. An independent renderer is subject to 40 CFR part 432 Subpart J and is a facility that performs rendering operations at a production rate greater than 10 million pounds per year and does not do any first or further processing.

E. What Is Included as Meat? What Is Included as Poultry?

For today's rule, ''meat'' includes cattle, calves, hogs, sheep, lambs, horses, and all other animal species except poultry, other birds, rabbits, and other small game.

''Poultry'' includes chickens, turkeys, ducks, other birds, rabbits, and other small game.

F. What if a Facility Processes Both Meat and Poultry? How Is it Categorized?

Facilities that discharge wastewater from both meat and poultry processing operations will have to comply with limitations and standards for two subcategories. Permit writers would use the ''building block approach'' based on production or wastewater discharge flow to apply the two sets of limitations into one final effluent limitation in the facility's permit. See Section XII of today's preamble for a discussion on how the rule will be implemented.

G. Are Indirect Dischargers Covered by This Final Rule?

EPA is not establishing pretreatment standards for existing or new sources in today's final rule. Indirect dischargers (*i.e.*, facilities that discharge their MPP process wastewater to a publicly owned treatment works) remain subject to the General Pretreatment Standards (40 CFR 403) and local limitations.

The current part 432 regulations do not include pretreatment standards (beyond a cross-reference to the General Pretreatment Standards) and EPA did not propose to add them. However, as discussed in the NODA (68 FR 48477; August 13, 2003), following the publication of the proposal, EPA continued to gather additional data to determine whether or not national categorical pretreatment standards were necessary for the MPP industry. In addition, EPA received comments on the proposal and NODA regarding the necessity of pretreatment standards for the MPP industry. Most commenters supported EPA's proposed decision to not promulgate pretreatment standards for new and existing indirect dischargers.

Based on the data gathered through the EPA Regional offices and the comments EPA received on this subject, EPA determined that there was not sufficient evidence of pass through or interference from MPP facilities to warrant establishing national pretreatment standards for these facilities. For further discussion and to review the data gathered, see DCN 115–077 in the docket for today's notice.

In today's final rule, EPA has removed the current cross-reference to the General Pretreatment Standards (40 CFR part 403) under PSES and PSNS for all subcategories. EPA found that this cross-reference was potentially confusing and duplicative. All process wastewater discharges to publicly owned treatment works (regardless of point source category) are subject to part 403 regardless of whether it is specified in the codified regulatory text or not.

H. What Changes Have Been Made to the Regulations for Meat Products?

Today's action revises Part 432 in a number of respects discussed elsewhere in today's **Federal Register** Notice. These revisions include promulgation of effluent limitations guidelines and standards for poultry processors, which are presented in two new subparts (subparts K and L), and the promulgation of limitations and standards for ammonia and nitrogen for certain pre-existing subcategories. EPA has also adopted a new applicability statement for Part 432 to account for the new poultry subcategories and has consolidated into a General Definitions section definitions that in the past had been repeated for each subcategory. The new General Definitions section, codified at § 432.2, contains some new definitions, some revised definitions, and some previously codified definitions that remain unchanged. EPA has also removed as unnecessary provisions in Part 432 that require indirect dischargers to comply with 40 CFR Part 403, because those requirements speak for themselves.

For the convenience of the reader, today's rule presents Part 432 in its entirety. This presentation includes reprinting portions of Part 432 for which EPA is making no substantive changes today. Those portions of the existing MPP effluent limitations guidelines and standards that are not substantively amended by this action are not subject to judicial review; nor is their effective date affected by today's action.

Table VI.H–1 explains the changes and additions made to the earlier regulation for meat slaughterhouses, packinghouses, and further processors. The earlier regulation did not have production thresholds distinguishing between small and non-small categories, and it did not have Subcategories K and L for poultry slaughterers and further processors.

TABLE VI.H–1.—SUMMARY OF CHANGES BY SUBCATEGORY AND SIZE

Subcategory	Size	Description	Changes made by this rule
A–D: Meat First Processors.	Small	Slaughters ≤ 50 million lb/yr live weight killed (LWK) of meat.	No revision.
	Non-small	Slaughters > 50 million lb/yr LWK of meat	Set BPT limit for ammonia. No revision for BPT/BCT for conventional pollutants. Set BAT limits for nitrogen. Set BAT limits for ammonia = BPT. Revise NSPS for ammonia = BPT. Set NSPS for total nitrogen = BAT. No revision for NSPS for conventional pollutants.
E: Meat Small Further Processors.		Produces ≤ 6,000 lb/day of meat finished product	No revision.
F–I: Meat Further Processors.	Small	Produces > 6,000 lb/d but ≤ 50 million lb/yr of meat finished product.	No revision.
	Non-small	Produces > 50 million lb/yr of meat finished product.	No revision for BPT/BCT. Set BAT limits for nitrogen. No revision to BAT limits for ammonia except for Subcategory G. Set NSPS for total nitrogen = BAT. Set NSPS for ammonia. No revision to NSPS for conventional pollutants.
J: Independent Renderers.		Renders > 10 million lb/yr of raw material (meat and/or poultry).	Lower production rate in definition from 75,000 pounds per day to 10 million pounds per year. No revision for BPT/BCT. Set BAT limits for nitrogen. No revision to BAT limits for ammonia. Set NSPS for total nitrogen = BAT. No revision to NSPS for conventional pollutants or ammonia.
K: Poultry First Processors.	Small	Slaughters ≤ 100 million lb/yr LWK of poultry	No national limitations, except for new sources. Set NSPS for BOD_5, TSS, O&G (as HEM), pH, ammonia & fecal coliforms.

TABLE VI.H–1.—SUMMARY OF CHANGES BY SUBCATEGORY AND SIZE—Continued

Subcategory	Size	Description	Changes made by this rule
	Non-small	Slaughters > 100 million lb/yr LWK of poultry	Set BPT/BCT/NSPS limits for BOD_5, TSS, O&G (as HEM), pH, ammonia & fecal coliforms. Set BAT and NSPS limits for total nitrogen. Set BAT limits for ammonia = BPT.
L: Poultry Further Processors.	Small	Produces ≤ 7 million lb/yr of poultry finished product.	No national limitations, except for new sources. Set NSPS for BOD_5, TSS, O&G (as HEM), pH, ammonia & fecal coliforms.
	Non-small	Produces > 7 million lb/yr of poultry finished product.	Set BPT/BCT/NSPS limits for BOD_5, TSS, O&G (as HEM), pH, ammonia & fecal coliforms. Set BAT and NSPS limits for total nitrogen. Set BAT limits for ammonia = BPT.

I. What Wastewaters Are Covered?

This rule covers wastewater generated by the following meat and poultry product operations: first processing, further processing, and rendering. Examples of this type of wastewater include water from carcass washing, bird washing before and after evisceration, water used in scalding in the process of feather removal, chilling, cleaning and sanitizing of equipment and facilities, and other process area cleanup, including washing out trucks and animal holding areas. Stormwater that is associated with these activities is also included.

This rule does not include non-process wastewater such as non-contact cooling water, sanitary wastewater, and stormwater that is not associated with industrial activity.

J. Which Pollutants Have Limitations and Standards Established by This Rule?

EPA is establishing limitations and standards for 5-day biochemical oxygen demand (BOD_5), total suspended solids (TSS), pH, oil and grease (as hexane extractable material), fecal coliforms, ammonia (as nitrogen), and total nitrogen. However, for some subcategories EPA will not be revising current limitations for all or some pollutants (*e.g.*, conventional pollutants) and will therefore only be establishing limitations and standards for some of these pollutants (*e.g.*, total nitrogen).

EPA has decided not to regulate total residual chlorine in today's final rule, even though EPA evaluated it for regulation for the MPP industry. When there is residual chlorine (*i.e.*, chlorine is not used up to inactivate bacteria), this chlorine can react with organic compounds such as humic materials (*i.e.*, forms of organic carbon created by decaying organic matter) and form other chlorinated organic compounds such as trihalomethanes (*e.g.*, bromoform, chloroform, bromodichloromethane, dibromochloromethane). Trihalomethanes are a potential human health concern in drinking water. However, treatment processes that meat and poultry products facilities use to remove biochemical oxygen demand and other parameters also reduce the concentrations of organic compounds in the discharged wastewater and, therefore, lessen, to some extent, the potential for the formation of trihalomethanes.

Disinfection via chlorination is part of the BAT technology basis for the final limitations and standards for today's final rule. Therefore, EPA used chlorination to estimate compliance costs for disinfection in the cost model; however, this regulation does not require the use of a specific technology-based process for disinfection. Thus, facilities may use disinfection technologies other than chlorination to comply with this final rule. Other effective methods exist besides chlorinating with free chlorine (*e.g.*, use of chloramines, ozone, ultraviolet radiation) that may not form the same level or type of by-products. In addition, the environmental effects of disinfection by-products depend on the characteristics and uses of the receiving water. These considerations persuade EPA that disinfection by-products from MPP facilities are best controlled through individual NPDES permit limits on a facility-by-facility basis.

In fact, for non-small facilities that responded to EPA's detailed survey, 63 percent of facilities in Subcategories A-D (meat first processors) and 48 percent of facilities in Subcategory K (poultry first processors) already have limits in their NPDES permits for total residual chlorine. An additional 5 percent of meat first processors and 12 percent of poultry first processors have monitoring requirements for total residual chlorine without corresponding limits. Therefore, EPA concluded that the current system is working well in addressing any residual chlorine issues. When a chlorinated discharge enters U.S. waters that are high in organic carbon content, then it is a local water quality issue best addressed through a tailored, individual NPDES permit.

See Section V.B for discussion of pollutants that EPA proposed for regulation but did not regulate in the final rule (*i.e.*, COD and total phosphorus).

K. Does This Regulation Impose Monitoring Requirements ?

EPA is not promulgating any monitoring requirements in this regulation. While EPA based its limitations, statistical analysis, and corresponding cost estimates for today's rule on monitoring once per week, no such frequency is being required today. Rather, actual monitoring requirements for individual facilities are specified in the NPDES permits issued by the States (or other authorized permitting authority).

VII. What Is the Basis of the Final Regulation?

This section describes, by subcategory, the options considered and selected for today's final rule. EPA provides a discussion, as applicable, for the regulatory levels that EPA considered for regulation (*i.e.*, BPT, BCT, BAT, and NSPS) for each of the subcategories of the MPP industry. See summary in Table VII.A–1. For a detailed discussion of all technology options considered in the development of today's final rule, see the proposal (see 67 FR 8582; February 25, 2002, the NODA (see 68 FR 48500; August 13, 2003) or Section 9 of the TDD for today's final rule.

EPA has also determined that each technology it selected as the basis for the final limitations has effluent reductions commensurate with compliance costs and is economically achievable for the applicable subcategory. EPA considered the age, size, processes, and other engineering factors pertinent to facilities in the scope of the final regulation for the

purpose of evaluating the technology options. None of these factors, except size, provides a basis for selecting different technologies from those EPA selected for today's rule. As discussed in the proposal (67 FR 8582; February 25, 2002) and below, EPA is not promulgating or revising national effluent limitations for small facilities in specific subcategories. (See Section 5 of the TDD for the final rule for further discussion of EPA's analyses of these factors.)

The new source performance standards (NSPS) EPA is establishing today represent the greatest degree of effluent reduction achievable through best available demonstrated control technology. The new source technology basis is equivalent to the technology basis upon which EPA is setting BAT. In selecting its technology basis for today's NSPS, EPA considered all of the factors specified in CWA section 306, including the cost of achieving effluent reductions. EPA has thoroughly reviewed the costs of such technologies and has concluded that such costs do not present a barrier to entry (see the Economic and Environmental Benefits Analysis in the rulemaking record). The Agency also considered energy requirements and other non-water quality environmental impacts for the new source technology basis and found no basis for any different standards from those selected for NSPS. Therefore, EPA concluded that the NSPS technology basis chosen constitutes the best available demonstrated control technology. For a discussion on the compliance date for new sources, see Section XII of today's final rule.

EPA decided not to establish BPT, BCT, or BAT limitations for small facilities in Subcategories K and L (poultry first and further processing, respectively) or to revise current limitations and standards for small facilities in Subcategories A-I (see Table VI.H–1). EPA is establishing new source performance standards for new small facilities in Subcategories K and L. EPA's bases for not promulgating revised limitations or standards for small facilities are explained in the following sections. Finally, EPA decided not to establish pretreatment standards for all existing and new indirect dischargers (PSES and PSNS) for the reasons discussed in the NODA (68 FR 48477; August 13, 2003) and in Section VI.G of today's rule.

A. What Options Did EPA Consider for the Final Rule?

As discussed in the NODA (68 FR 48500; August 13, 2003), comments on the proposal requested that EPA consider modifications to the preferred options selected as the basis for the proposed limitations and standards for certain subcategories. As a result of additional data and comments, EPA reconsidered the technology options for BPT, BCT, BAT, and NSPS that EPA evaluated for the proposed rule. In the NODA, EPA presented two additional options for further consideration and comment. These additional options include primary and secondary biological treatment and disinfection, nitrification, partial denitrification, and, for one option, chemical phosphorus removal. EPA refers to these options as ''Option 2.5'' and ''Option 2.5+P.'' EPA also stated in the NODA that it was considering not revising limitations and standards for certain facilities.

For the final rule, EPA considered the full range of options (Option 1 through Option 4) for all non-small facilities (*i.e.*, facilities above the proposed subcategory-specific threshold) as well as options under which EPA would not promulgate national effluent limitations guidelines and standards for those facilities or would not revise those limitations and standards currently in place. Table VII.A–1 describes these options. For small facilities, EPA considered Option 1, Option 2, or no regulation/no revision. All technology-based options EPA considered for the final rule included some pretreatment of the wastewaters prior to biological treatment (including combinations of screening, dissolved air flotation, equalization, and chemical addition) followed by primary and secondary biological treatment and disinfection. In Table VII.A–1, EPA uses the terms ''partial'' and ''more complete'' to describe the varying degrees of nitrification and denitrification and to convey the increasing stringency of the options. Because 100 percent nitrification or denitrification is not possible, EPA chose the term ''more complete'' instead of ''complete'' to describe the more stringent technology options.

For the NODA, EPA evaluated the effectiveness of in-place denitrification technology at meat and poultry facilities. For facilities for which EPA had data, EPA identified the facilities' denitrification treatment systems and the partial denitrification levels they achieved (*e.g.*, long-term average nitrate + nitrite or total nitrogen effluent concentrations). One commenter stated that it believed that the target LTAs used to calculate costs for Option 2.5 were based upon facilities that had high nitrogen removals, regardless of the control technologies used at those facilities (*e.g.*, facilities were using two-stage denitrification equipment) and that EPA failed to clearly define partial denitrification. Following its consideration of comments received on the NODA, EPA has better defined its criteria for selecting facilities that are achieving the level of denitrification that represents Option 2.5 control (*i.e.*, partial denitrification). EPA has used long-term data with individual measurements (*i.e.*, not summarized monthly average data) for total nitrogen (or both TKN and nitrate+nitrite) from facilities employing BAT partial denitrification to determine the Option 2.5 limitation for total nitrogen. For the development of the LTA for total nitrogen, EPA considered facilities to be operating as BAT partial denitrification (Option 2.5) technology if they met all four of the following criteria:

- EPA has long-term effluent data for total nitrogen (or both TKN and nitrate+nitrite) for the facility for the period which they were operating their treatment system as Option 2.5.
- Facility had the biological treatment components of Option 2.5 technology in place and had a minimum BOD:TKN ratio of 3 at the influent to biological nutrient removal;
- Facility was achieving effluent total nitrogen concentrations below 60 mg/L; and
- Facility's current total nitrogen effluent concentration can be achieved by EPA's Option 2.5 cost model (*i.e.*, when running the cost model starting at the facility's actual influent TKN concentration, facility's actual total nitrogen effluent concentration can be achieved using single-stage denitrification and a maximum nitrate recycle rate of 5).

EPA chose 60 mg/L based on the documented total nitrogen removal of the denitrification processes that is used in EPA's cost model (Modified Ludzack-Ettinger process) which can achieve an average nitrogen removal of 70 percent. When applying 70 percent removal of total nitrogen to the average total nitrogen influent concentration (193 mg/L) at meat survey facilities, the resulting concentration is approximately 60 mg/L.

EPA developed the fourth criteria to ensure that it did not select facilities as BAT that use components of Option 2.5 technology but operate them in a way that is inadequate to achieve a degree of nitrification or approaches the performance and costs of EPA's Option 2.5 cost model. For example, based on comments from industry, EPA's Option 2.5 cost model (based on single stage denitrification) allows for a maximum nitrate recycle rate of 5 to achieve the Option 2.5 LTAs. Some facilities may

actually use a higher recycle rate when operating their system. When estimating compliance costs for such facilities, EPA's costing methodology requires the use of the Option 2.5 LTAs with a two-stage denitrification system (similar to the equipment used in the Option 4 cost model). For additional details regarding EPA's cost models or BAT facility selection for development of limitations, see Sections 10 and 14, respectively, of the TDD for the final rule.

TABLE VII.A–1.—OPTIONS CONSIDERED

Option	Description [1]
1	Biological Treatment + Partial Nitrification + Disinfection
2	Biological Treatment + More Complete Nitrification + Disinfection
2.5	Biological Treatment + Nitrification + Partial Denitrification + Disinfection
2.5 + P	Biological Treatment + Nitrification + Partial Denitrification + Chemical Phosphorus Removal + Disinfection
4	Biological Treatment + Nitrification + More Complete Denitrification + Chemical Phosphorus Removal + Disinfection

[1] **Note:** All Options are preceded by pretreatment steps.

B. What Is the Basis for EPA's Selected Technology Options for Subcategories A–D (Meat First Processors)?

In 2002, EPA proposed revised national regulations for facilities in Subcategories A–D that exceed a production threshold of 50 million pounds (live weight killed) per year. EPA proposed this threshold to reduce potential economic impacts to small facilities by allowing for different limitations for small and non-small facilities (*i.e.*, less stringent limitations for small facilities). EPA did not receive adverse comment on the production threshold and is retaining the proposed production threshold for the final rule. Therefore, this section discusses small facilities and non-small facilities separately. Costs presented in this section are presented in 1999 year dollars which is the base year of the survey; however, EPA provides updated estimates in 2003 year dollars in Section VIII.B.

1. Meat First Processors That Slaughter Less Than or Equal to 50 Million Pounds Per Year (Small)

EPA is not revising limitations or standards for small facilities in Subcategories A–D. Such facilities will continue to be subject to the current limitations in Meat and Poultry Products effluent limitations guidelines (part 432), as applicable. The current regulations include production-based limitations for these facilities for BOD, TSS, oil & grease, pH, and fecal coliforms for existing sources and standards for these same pollutants plus the addition of standards for ammonia (as nitrogen) for new sources. The following sections discuss EPA's decision to retain the current BPT, BCT, and BAT limitations and NSPS for small direct discharge facilities in Subcategories A–D.

a. BPT/BCT/BAT

EPA proposed not to revise the current BPT, BCT, or BAT limitations for existing small direct dischargers in Subcategories A–D (meat first processors). For the final rule, for these facilities, EPA evaluated the cost of achieving pollutant reductions and the economic achievability of compliance with best practicable control technology (BPT) limitations based on the Option 1 technology and the level of the pollutant reductions resulting from compliance with such limitations. Option 1 includes biological treatment, partial nitrification, and disinfection.

EPA estimated that the cost of achieving the effluent reductions for these facilities at Option 1 would be $198 per pound of pollutant removed (1999$).[1] EPA has promulgated effluent limitations guidelines in the past with costs per pound of pollutant removed as high as $37 per pound (1999$) although generally ELGs have had much lower costs per pound. Therefore, EPA evaluated the cost of the treatment technology options to small facilities using $37 per pound removed as guidance for assessing BPT cost-reasonableness.

Consequently, following this approach, EPA has determined the total costs of effluent reductions using the Option 1 technology are not reasonable in relation to the effluent reduction benefits for the following reasons. First, although EPA estimates that implementation of the Option 1 technology would result in zero closures, EPA estimates the cost of effluent reductions using Option 1 technology is $198 per pound removed. Moreover, Option 1 does not remove any additional nutrients and consequently is not ''nutrient cost-effective'' (see Section VII.B.2.c for detailed discussion on nutrient cost-effectiveness). For the reasons discussed in this section, EPA has concluded that for existing small direct dischargers in the Subcategories A–D, Option 1 is not the best practicable control technology, best conventional pollutant control technology, or best available technology economically achievable. Because the other options being considered would require more equipment and therefore more costs than Option 1, EPA assumed they would not be considered cost-reasonable. Therefore, EPA has determined that it should not promulgate revisions to the current BPT, BCT, or BAT limitations for existing small direct dischargers. These facilities will continue to be subject to the applicable portions of sections 432.10—432.40.

b. New Source Performance Standards (NSPS)

When establishing NSPS based on best available demonstrated technology, the Agency considers how the cost of complying with any more stringent effluent limitations will affect new facilities trying to enter the industry. EPA employs a barrier to entry analysis that evaluates the barrier posed to new entrants by the cost of complying with the regulation. (For further discussion, see Section IX.G.) While, as explained previously, the cost of effluent reductions for existing small A-D facilities may not be cost reasonable, it is not necessarily the case that the costs for new facilities are as great. Generally, it is less costly for a new facility to incorporate waste treatment technologies during construction than to retrofit existing facilities.

EPA's barrier to entry analysis compares estimated average incremental capital costs a facility or company incurs to meet the effluent guidelines to average total assets of existing facilities or companies. EPA considered establishing new source performance standards for small facilities in Subcategories A-D based on Option 1 technology. EPA evaluated the barrier to entry based on a ratio of costs for Option 1 to assets of existing facilities. The Agency estimates a cost to assets ratio of 16.7%, which the Agency concludes will present a barrier to entry to new facilities. Because the costs for other options would be greater than for Option 1, these would pose an even greater barrier to entry. For these reasons, EPA is not revising the NSPS limitations for new small direct dischargers in these subcategories. New facilities would continue to be subject to

[1] In estimating the pounds of pollutants removed by implementing Option 1 technology for these facilities, EPA used the sum of BOD_5 and ammonia (as nitrogen) removed. EPA did not include removals of other pollutants, including COD, in this analysis because, for example, BOD and COD address many of the same pollutants and including both could result in double counting.

the current NSPS limitations in sections 432.15, 432.25, 432.35, and 432.45.

2. Meat First Processors That Slaughter More Than 50 Million Pounds Per Year (Non-Small)

a. Pollutants

For non-small facilities in Subcategories A–D, EPA is revising limitations and standards for some pollutants and is establishing total nitrogen limitations and standards for the first time. EPA is not revising the current limitations (BPT/BCT) or new source performance standards (NSPS) for conventional pollutants for these facilities. The current regulations include production-based limitations and standards for these facilities for BOD, TSS, oil & grease, pH, and fecal coliforms. EPA is revising BPT to include limitations for ammonia (as nitrogen), establishing a BAT limitation for ammonia (as nitrogen) equivalent to the BPT limitation, revising the NSPS for ammonia to be equivalent to the BPT limitation, and establishing BAT and NSPS limitations for total nitrogen. As discussed in Section V.G, the revised and new limitations and standards are concentration-based. The following sections discuss the technology bases EPA selected for the final rule for the non-small direct discharge facilities in Subcategories A–D.

b. Best Practicable Control Technology Currently Available (BPT)

In 1974, EPA established BPT for the meat subcategories A-D based on biological treatment (*e.g.*, aerobic and anaerobic treatment) to control five conventional pollutants or pollutant parameters (BOD_5, TSS, oil & grease, fecal coliforms, and pH). The BPT limitations did not include limits for ammonia (as nitrogen) because nitrification was not a widely used technology, and therefore, not the BPT technology at the time. However, EPA notes that the BPT technology that was the basis for the 1974 limitations provided some incidental ammonia removal through nitrification during extended aeration, which resulted in some reduction in ammonia (as nitrogen). EPA did attempt to establish ammonia limitations under BAT based on a technology other than nitrification (which was more advanced than the 1974 BPT technology). Those limitations were the subject of judicial challenge and were remanded to EPA for further consideration (*American Meat Institute* v. *Environmental Protection Agency,* 526 F.2d 442 (7th Cir. 1975)). In 2002, EPA proposed new BPT limitations for ammonia (as nitrogen) based on Option 2 for non-small facilities in Subcategories A–D (facilities with production rates greater than 50 million pounds live weight killed (LWK) per year). As shown in Table VII.A–1, Option 2 consists of biological treatment followed by more complete nitrification than Option 1 to further reduce ammonia levels and disinfection.

EPA is establishing BPT limitations for ammonia (as nitrogen) for non-small direct dischargers in Subcategories A–D based on the proposed technology option (Option 2) with the inclusion of Option 2.5 facilities as part of evaluating seasonal effects on nitrification. A large degree of nitrification must occur in order to achieve sufficient partial denitrification to meet the nitrogen limitations, thus, the limitations for ammonia are based on data from facilities of both option types. EPA has concluded that ''more complete'' nitrification is now a widely available pollution control technology that should be the basis for the BPT ammonia limitation. For this guideline, EPA did not propose revising BPT limitations for the conventional pollutants. (See Section VII.B.2.c on BCT for additional information on why EPA is not revising current limits for conventional pollutants for facilities in these subcategories.)

EPA has concluded that biological nitrification treatment technology represents the best practicable control technology currently available for control of ammonia (as nitrogen) while providing incidental removals of additional conventional pollutants, particularly BOD_5 and TSS, and is the basis for the BPT limitations for these facilities for the following reasons.

First, this technology is available and readily applicable to all non-small facilities in Subcategories A–D. Approximately 97 percent of the non-small direct discharging facilities in these subcategories currently use the Option 2 technology or better. Although most facilities have the components of Option 2 technology in place (*e.g.*, nitrification basin/aerobic reactor), some facilities are not achieving the Option 2 long-term average (LTA) concentration for ammonia or the additional removals of the conventional pollutants identified in the following paragraph. EPA attributes this to their failure to operate or maintain the Option 2 technology adequately. Consequently, when estimating the costs of compliance with Option 2 for purposes of evaluating its reasonableness and for estimating economic impacts, EPA included costs for treatment optimization that a number of facilities would need in order to achieve the Option 2 LTAs. For example, EPA included costs for increased aeration, detention time (capacity), chemical addition, sludge handling, process controls, and additional in-process sampling and analytical testing. (See Sections 10 and 11 of the final Technical Development Document for additional discussion of the cost and loading methodologies.)

Second, the cost of compliance with these limitations relative to the effluent reduction benefits is not disproportionate. Based on our economic analysis (see Section IX), EPA concludes that compliance with BPT limitations based on Option 2 technology should not result in closures of any existing non-small direct dischargers in these subcategories. Moreover, adopting this level of control will reduce the quantity of ammonia (as nitrogen) and other pollutants currently being discharged into the environment.

For meat first processor facilities that produce more than 50 million pounds LWK per year, EPA estimates an annual compliance cost for Option 2 of $7.29 million (pre-tax, 1999$). It also estimates 3.8 million pounds of BOD_5 and ammonia (as nitrogen) removed from current discharges into the Nation's waters (for $2.55/pound-pollutant removed (1999$)). In estimating the pounds of pollutant removed by implementing Option 2 technology for these facilities, EPA used the sum of BOD_5 and ammonia (as nitrogen) removed. EPA tried to avoid ''double-counting'' pollutant reductions that would occur if, for example, EPA summed removals of COD and BOD. As previously explained, EPA has evaluated BPT costs and removals using, as guidance, $37/lb-removed in 1999 dollars as a point of comparison. EPA has, therefore, determined the total cost of effluent reductions due to the Option 2 technology ($2.55 per pound removed) are reasonable in view of the effluent reduction benefits.

EPA found that 32% of the non-small facilities in these subcategories use Option 2.5 (which includes partial denitrification). Although Option 2.5 technology is demonstrated, it is not as widely available as Option 2. Moreover, the pollutant loadings reductions for ammonia (as nitrogen) for Option 2.5 are the same as the reduction estimated for Option 2 but cost $9 million more every year. Therefore, EPA did not select it as the basis of BPT limitations.

EPA did not select Option 2.5+P or Option 4 as the basis for BPT limitations, as they do not achieve additional pollutant reductions at a cost EPA considers reasonable. For example, Option 2.5+P does not achieve

additional removals of ammonia (as nitrogen) but would cost an additional $36 million annually. Option 4 would remove an additional 59,000 pounds of ammonia (as nitrogen) at an additional cost of $45 million annually. Moreover, EPA notes that Option 2.5+P represents control technology not closely related to the technology basis for the earlier BPT regulations. Chemical phosphorus removal is not closely connected to the nitrification and disinfection technology that was the basis of the 1974 BPT limitations for Subcategories A–D. The Agency did not select other options considered for BPT because they were not readily available and/or produced an unfavorable total BPT cost and removal comparison. Detailed discussions explaining why EPA rejected setting BPT limitations based on these other technology options are contained in the proposal and the NODA (see 67 FR 8637; February 25, 2002 and 68 FR 48499; August 13, 2003). EPA has no information that justifies changing these conclusions.

Although EPA is not changing the technology basis from that proposed, the Agency is promulgating BPT limitations for non-small facilities in Subcategories A–D that are slightly different than proposed. First, where EPA is promulgating BPT limitations for pollutants like ammonia (as nitrogen) for which EPA had not previously set BPT limits for these subcategories, the final limitations are based on revised and additional data reflecting the types of changes described in the NODA (see 68 FR 48495). In addition, for the reasons discussed in Section V.G, where EPA is adopting new or revised BPT limitations, EPA has expressed them in concentration-based form while the unchanged limitations will continue to be expressed as production-based limits. (See Section 15 of the TDD for guidance on how both types of limits can be implemented together into permits.)

c. Best Conventional Pollutant Control Technology (BCT)

For both the proposed and final rules, in deciding whether to adopt more stringent limitations for BCT than BPT, EPA considered technologies that might achieve greater removals of conventional pollutants than those adopted for BPT. It also looked at whether those technologies are cost-reasonable under the standards established by the CWA. EPA generally refers to the decision criteria as the ''BCT cost test.''

As discussed in Section VII.B.2.a, EPA is not revising the current BPT effluent limitations for conventional parameters (*i.e.*, pH, BOD_5, TSS, O&G, and fecal coliforms) for non-small meat first processors (Subcategories A–D). Therefore, when considering a technology that would achieve greater removals of conventional pollutants than adopted for BPT, EPA compared the removals achievable through implementation of the Option 2 technology (which EPA considered as the possible technology basis for BCT) to current BPT limitations. EPA estimates that Option 2 removes about an additional 610,000 pounds per year of BOD_5 and 970,000 pounds per year of TSS compared to pollutant reductions by facilities meeting or exceeding current BPT limitations. There are no additional removals of O&G or fecal coliforms.

EPA evaluated Option 2 under the BCT cost test and it failed (see EPA's Economic and Environmental Benefits Analysis for details on the Agency's analysis). EPA did not evaluate technology options, such as Option 2+F (Option 2 plus the addition of a filter), because they are more costly and would not remove significantly more conventional pollutants than Option 2. Therefore, if Option 2 did not pass, these options would not pass the BCT cost test. The Agency did not identify any technologies that pass the BCT cost test and achieve greater removals of conventional pollutants than the current BPT technology. Thus, EPA is not revising the BCT limitations for these facilities. Non-small facilities in Subcategories A–D will continue to be regulated by the current BCT limitations (which are equivalent to the current BPT limitations) in sections 432.17, 432.27, 432.37, and 432.47.

d. Best Available Technology Economically Achievable (BAT)

EPA proposed to establish the BAT level of regulatory control for non-small facilities in Subcategories A–D based on Option 3 (*i.e.*, biological treatment, more complete nitrification, more complete denitrification and disinfection). As discussed in the NODA, after review and evaluation of the revised and new data, EPA has reconsidered its assessment of Option 3 as BAT technology. EPA determined that Option 3 did not meet all the statutory criteria for BAT. Therefore, the Agency refocused its evaluation for the technology basis for BAT on Option 2.5, Option 2.5+P and Option 4 for nutrient removal. (See Section VII.A of today's preamble for a description of the technology options.) For the final rule, EPA is basing the BAT limitations for non-small facilities in Subcategories A–D on Option 2.5 technology and is promulgating a limitation for total nitrogen on this basis. EPA is, however, setting a limitation for ammonia (as nitrogen) that is equal to BPT.

The following section describes EPA's rationale for selecting Option 2.5 technology and rejecting Option 2.5+P and Option 4 for the basis of the total nitrogen limitation and for selecting to set BAT equal to BPT (based on Option 2) for ammonia (as nitrogen). Both the proposal and the NODA contain detailed discussions explaining why EPA rejected setting BAT limitations based on other more stringent technology options (see 67 FR 8629; February 25, 2002 and 68 FR 48499; August 13, 2003). The record for today's final rule provides no basis for EPA to change these conclusions.

EPA selected Option 2.5 technology as the basis of BAT for non-small facilities in Subcategories A–D for the following reasons. First, Option 2.5 technology has been demonstrated as available, as 32 percent of the non-small facilities in Subcategories A–D use the components of Option 2.5 technology (*e.g.*, facility has in place a denitrification basin, nitrification basin, and disinfection) or more advanced technology. EPA has, however, determined that facilities in Subcategories A–D with the components of Option 2.5 technology in place are not operating their systems optimally based on review of the BOD:TKN ratios (68 FR 48500; August 13, 2003). EPA concluded that for effective denitrification to occur, facilities must be achieving a minimum BOD:TKN ratio of 3. In addition, these facilities are not currently achieving at least a 60 mg/L total nitrogen concentration in the effluent. (EPA is using 60 mg/L as a minimum standard for facilities it considered in developing the BAT long-term average limitation for total nitrogen. See Section VII.A for discussion of BAT facility selection criteria.) EPA did have data from poultry first processing facilities with Option 2.5 technology that met all BAT selection criteria, indicating that the poultry facility's treatment systems were well operated. For this reason, when estimating costs and pollutant reductions and in developing limitations associated with Option 2.5, EPA used the long-term average (LTA) concentration for total nitrogen from well-operated Option 2.5 poultry first processing facilities (see Section 14 of the TDD for the final rule). EPA included costs (such as costs for lagoon bypass, additional carbon source, or two-stage denitrification) for the meat first processing facilities to achieve the poultry Option 2.5 LTA for total nitrogen.

Second, Option 2.5 is economically achievable. EPA estimates the pre-tax annualized compliance costs (in 1999 dollars) for Option 2.5 to be $16.7 million. Using the facility and company closure methodologies described in Section IX.A, EPA estimates that no facilities or companies will close. EPA performed an alternate analysis by estimating closures using more conservative assumptions (*i.e.*, EPA predicted a closure would occur if the facility failed under 1 of 3 forecast methodologies, rather than under at least 2 out of 3). Under EPA's more conservative alternate analysis, the Agency estimates that there could be two closures among subcategory A–D facilities. Because not all facilities are covered by the closure analysis, it may understate the number of facility closures nationally.

As discussed in the NODA (68 FR 48489; August 13, 2003), EPA tried to determine whether there are additional companies that own direct discharging MPP facilities. The Agency identified, based on the screener survey results, three additional companies across all subcategories that may own direct discharging MPP facilities. Therefore, the company-level analysis may underestimate the number of company closures nationally, but to a lesser degree than the facility-level analysis.

EPA also considered the cost-effectiveness of nutrient removal as one aspect of its evaluation of BAT options for this industry as whole. As discussed in the proposed rule and the NODA, EPA has established a benchmark for nitrogen removal of $4 per pound, based on studies of nitrogen removal by POTWs with biological nutrient removal, and a benchmark for phosphorus removal of $10 per pound, based on studies of agricultural best management practices that reduce phosphorus discharges. EPA used these benchmarks for nutrients in connection with the effluent guidelines for concentrated animal feeding operations (CAFOs).

For Option 2.5 for subcategories A–D, EPA estimates 15.4 million pounds removed per year of total nitrogen and nutrient cost-effectiveness of $1.08 per pound of total nitrogen removed. Because Option 2.5 does not include phosphorus removal, EPA did not calculate nutrient cost-effectiveness for phosphorus for Option 2.5. EPA concludes that Option 2.5 is nutrient cost-effective for total nitrogen.

EPA considered Option 2.5+P as the basis of BAT, but rejected it for the following reasons. First, no facilities in EPA's database for Subcategories A–D use Option 2.5+P technology. However, facilities may use individual components of the technology. Some facilities in the subcategories use Option 2.5 technology (for nitrogen removal) and Option 2+P or Option 4 (for phosphorus removal). Second, EPA estimated the pre-tax annualized cost of Option 2.5+P to be $42.9 million. EPA now believes these costs may be underestimated. Based on information provided in comments on the NODA and further analysis, EPA concludes that the average annual cost of increased alum addition and the resulting increased sludge generation and disposal may range from $108,000 to $378,000 more per facility than previously estimated for this subcategory (see DCN 300–015). Option 2.5+P removes an estimated 4.5 million pounds per year of total phosphorus and achieves the same level of nitrogen and conventional pollutant reduction as Option 2.5. Although the cost per pound of phosphorus removed using the estimated cost of $42.9 million is $9.49 per pound, EPA believes that the actual cost per pound would be greater than $10 because of the additional costs noted above. Although EPA has selected options where the nutrient cost-effectiveness is greater then the reference values (*i.e.*, $4/lb nitrogen removed and $10/lb phosphorus removed) for an individual subcategory or segment, EPA has not done so in cases where selecting such an option would raise the nutrient cost-effectiveness of the rule, as a whole, over these values. With a phosphorus cost-effectiveness over $10/lb for non-small facilities in Subcategory A–D, the phosphorus cost-effectiveness for the rule, as a whole, would be greater than $10/lb total phosphorus removed. Therefore, considering the lack of availability of the technology and the unfavorable nutrient cost-effectiveness for phosphorus, EPA rejected Option 2.5+P as the basis of BAT limitations.

EPA considered Option 4 (which includes more complete denitrification and chemical phosphorus removal) as the basis of BAT but did not select it due to the high increase in cost compared to Option 2.5 and the poor incremental nutrient cost-effectiveness (*i.e.*, the high cost to remove additional nutrients compared to Option 2.5+P).

EPA estimates that there are no direct discharge facilities in these subcategories currently operating Option 4 technology. EPA estimates the pre-tax annualized compliance costs for Option 4 to be $52.0 million (1999$), which is $9.1 million more than Option 2.5+P and $35.3 million more than Option 2.5. EPA estimates that Option 4 removes 18.5 million pounds per year of nitrogen (3.1 million more pounds per year than Option 2.5 or Option 2.5+P) and 5.0 million pounds per year of phosphorus (approximately 500,000 more pounds per year than Option 2.5+P). EPA estimates no facility or company closures for Option 4. Finally, EPA estimates the incremental nitrogen cost-effectiveness (as compared to Option 2.5) to be $11.56 per pound of total nitrogen removed and the incremental phosphorus cost-effectiveness (as compared to Option 2.5+P) to be $20.09 per pound of total phosphorus removed. The incremental nutrient cost-effectiveness of Option 4 is above the benchmark values; therefore, EPA does not consider Option 4 to be cost-effective.

EPA is establishing BAT limitations for ammonia (as nitrogen) that are equivalent to the limitations it is promulgating today under BPT for subcategories A–D. EPA considered setting more stringent limitations for ammonia (as nitrogen) under BAT; however, the selected BAT technology option (Option 2.5) does not remove any additional quantity of ammonia (as nitrogen), particularly when considering the seasonal effects using data from Option 2 and Option 2.5 facilities. Although Option 4 does remove some additional pounds of ammonia (as nitrogen) as compared to Option 2, EPA did not select Option 4 for BAT for the reasons discussed earlier in this section.

e. New Source Performance Standards (NSPS)

As previously discussed, when establishing NSPS, EPA considers whether increased compliance costs related to the effluent guidelines regulation might create a barrier for a new facility to enter the industry and whether there are any new source standards currently in place for the subcategory. The barrier to entry analysis compares the estimated average increase in facility or company capital costs to meet the effluent guidelines to the average total assets of existing facilities or companies. EPA does not have data on the assets of new entrants because, in general, we cannot identify them before they are established. Therefore, EPA uses data on the assets of existing facilities. The extent to which potential new entrants have total assets that are similar to those of existing industry participants provides a proxy for potential barriers to entry that new facility compliance costs may represent.

EPA performed an analysis to evaluate the effect of the rule on the costs to new entrants into the meat and poultry products industry by calculating

the ratio of average capital costs to average total assets as a measure of the potential for barriers to entry that the MPP rule could create for these facilities. If the barrier to entry ratio is large, then there is a possibility that the rule will discourage entry into the meat and poultry products market.

EPA has estimated the ratio of costs to assets for facilities for Options 2.5, 2.5+P and Option 4. The ratios are 1.6% for Option 2.5, 2.6% for Option 2.5+P, 3.3% for Option 4. The estimates for Option 2.5+P and Option 4, however, do not reflect EPA's additional evaluation of the costs for chemical phosphorus based on comments EPA received (see DCN 300–015). From this additional evaluation, EPA concludes that the average annualized costs may be $108,000 to $378,000 per facility more for chemical phosphorus removal than those used in EPA's barrier to entry analysis, as discussed here. EPA is concerned that, with these additional costs, the ratio may rise to a level that the Agency would consider to be a barrier to entry for Option 2.5+P and Option 4.

EPA has decided to revise the standards for new sources for ammonia (as nitrogen) for facilities in subcategories A–D to be equivalent to the BPT limitations being established today and to establish standards for total nitrogen equivalent to the BAT limitations being established today based on Option 2.5. These standards do not present a barrier to entry. Although there are existing NSPS for these facilities, they do not include standards for total nitrogen.

C. What Is the Basis for EPA's Selected Technology Options for Subcategory E (Meat Small Further Processors)?

Subcategory E includes the smallest meat further processing facilities (*i.e.*, meat further processing facilities that produce 6,000 pounds or fewer per day). In 2002, EPA proposed not to revise the regulations for existing or new direct dischargers in Subcategory E. EPA did not propose to revise the existing limitations applicable to smaller MPP facilities (including all facilities in Subcategory E) to the proposal because EPA determined that ''small'' MPP facilities discharge a very small proportion of the total industry discharge and that improved treatment would produce only a limited amount of loadings removal (67 FR 8582; February 25, 2002). EPA did not receive comment or additional information to persuade EPA to revise the existing effluent limitations guidelines and standards for this subcategory. Therefore, the current part 432 regulations continue to apply to those facilities (§ 432.50).

D. What Is the Basis for EPA's Selected Technology Options for Subcategories F–I (Meat Further Processing)?

In order to allow for different limitations for small and non-small meat further processing facilities, EPA's 2002 proposal called for a production threshold of 50 million pounds (finished product) for facilities in Subcategories F–I. EPA is retaining that production threshold for the final rule. Therefore, EPA addresses small facilities and non-small facilities separately. Note the meat processors that process 6,000 or fewer pounds per day (1.56 million pounds per year) are not included in Subcategories F–I, but are covered under Subcategory E (see Section VII.C). Costs presented in this section are presented in 1999 year dollars which is the base year of the survey; however, EPA provides updated estimates in 2003 year dollars in Section VIII.B.

1. Meat Further Processors That Process More Than 6,000 Pounds Per Day but Less Than or Equal to 50 Million Pounds Per Year (Small)

EPA is not revising limitations or standards for small facilities in Subcategories F–I except to correct an error in the BAT ammonia limitation. Meat further processing facilities that produce greater than 6,000 pounds per day but less than or equal to 50 million pounds per year of finished product will continue to be subject to the current limitations in the Meat and Poultry Products effluent limitations guidelines (part 432), as applicable. The following sections discuss EPA's decision to retain the current BPT, BCT, and BAT limitations and NSPS for small direct discharge facilities in Subcategories F–I.

a. BPT/BCT/BAT

EPA proposed not to revise the BPT, BCT or BAT limitations for existing small meat further processors in Subcategories F–I. In part 432, small facilities in Subcategories F–I currently have BPT limitations for the five conventional pollutants and BAT limitations for ammonia. EPA did not propose to revise BPT limitations for conventional pollutants for small facilities in these subcategories. EPA evaluated the cost of additional technology (*e.g.*, filtration) under the BCT cost test and it failed. Therefore, EPA is not revising the conventional pollutant limitations under BCT for small facilities in Subcategories F–I.

For the final rule, EPA considered revising the ammonia (as nitrogen) limitations under BAT. EPA evaluated the cost of achieving pollutant reductions and the economic achievability of compliance with limitations based on Option 1 and Option 2 technology. Option 1 includes biological treatment, partial nitrification, and disinfection, and Option 2 accomplishes more complete nitrification (*i.e.*, ammonia removal) than Option 1 technology. When evaluating BAT technology, EPA must determine whether the technology is available and economically achievable. EPA must also determine whether the identified technology is best. EPA typically evaluates a technology's cost-effectiveness as a factor in its decision. When considering cost-effectiveness (except for nutrients), EPA typically evaluates additional pollutant reductions in toxic pound-equivalents. EPA estimates that the annualized cost of Option 1 and Option 2 are about $1.10 and $1.11 million (pre-tax, 1999 dollars), respectively, which represents approximately 9.4% of net income (as shown in Table IX.B–5). Using the closure methodology described in Section IX, there is a very small probability that there could be one facility closure out of sixteen facilities under either option: the probability of closure is 1.49% and 1.51%, respectively. EPA estimates that Option 1 achieves a reduction of 5 toxic pound-equivalents per year, and Option 2 achieves a reduction of 15.2 toxic pound-equivalents per year, resulting in a toxic cost-effectiveness of $129,000 per toxic pound-equivalent (in 1981 dollars) for Option 1 and $42,900 per toxic pound equivalent ($1981) for Option 2. Historically, EPA has evaluated BAT technology using a toxic cost-effectiveness value of $200/toxic pound-equivalents (in 1981 dollars). Therefore, EPA has determined that Options 1 and 2 are not cost-effective and are not economically achievable best available technology.

For existing small direct dischargers in the Subcategories F–I, the Agency found neither Option 1 nor Option 2 is the best practicable control technology, best conventional pollutant control technology, or best available technology economically achievable. Therefore, EPA is not revising BPT, BCT, or BAT limitations for existing small meat further processors. These facilities will remain subject to sections 432.60–432.90, as applicable.

b. New Source Performance Standards (NSPS)

In 2002, EPA proposed not to revise the current new source performance standards for small facilities in Subcategories F–I (meat further processors). For the final rule, EPA has concluded that the data on these facilities is insufficient to determine if Option 1 or Option 2 technology would present a barrier to entry. In addition, the analysis of barrier to entry data for these subcategories was complicated by the fact that some facilities performing operations fitting within the scope of Subcategories F–I also perform operations that are regulated under Subcategory L (poultry further processors). (See Section IX for discussion of ''mixed processors.'') EPA notes that its analysis of Options 1 and 2 as candidate BAT technologies for ammonia removal in these subcategories showed insignificant additional removals at extremely high cost (several orders of magnitude above its cost-effectiveness benchmark). While new facilities may be able to install technology at lower cost than existing facilities, it is unlikely that the costs would be low enough for the cost-effectiveness to approach a reasonable value. Finally, EPA also considered whether or not there were any new source performance standards currently in place when deciding whether to revise new source performance standards. There are current new source performance standards for these facilities which appear to be adequate. Therefore, EPA is not revising NSPS for new small meat further processors. New sources are subject to the current NSPS limitations in sections 432.65, 432.75, 432.85, and 432.95.

2. Meat Further Processors That Process More Than 50 Million Pounds Per Year (Non-Small)

a. Pollutants

For non-small facilities in Subcategories F–I, EPA is establishing limitations for total nitrogen for existing sources, correcting an error in the BAT limitation for ammonia, and establishing nitrogen and ammonia (as nitrogen) standards for new sources. EPA is not revising the current limitations (BPT/BCT) or new source performance standards (NSPS) for conventional pollutants and is not revising the current BAT limitations for ammonia (as nitrogen). The current regulations include production-based limitations and standards for these facilities for BOD, TSS, oil & grease, pH, and fecal coliforms for existing and new sources and a concentration-based limitation for ammonia (as nitrogen) for existing sources. As discussed in Section V.G, the new limitations and standards are concentration-based. The following sections discuss the technology bases EPA selected for the final rule for the non-small direct discharge facilities in Subcategories F–I.

b. Best Practicable Control Technology Currently Available (BPT)

EPA established BPT for the meat further processors (Subcategories F–I) in 1975, based on biological treatment (*e.g.*, aerobic and anaerobic treatment) to control five conventional pollutants or pollutant parameters (BOD_5, TSS, oil & grease, fecal coliforms, and pH). The current limitations for ammonia (as nitrogen) for non-small meat further processors are contained in BAT and not BPT (see Section VII.D.2.d for discussion of BAT options for ammonia removal). Therefore, this section does not discuss BPT limitations for ammonia (as nitrogen). In February 2002, EPA proposed new BPT limitations for chemical oxygen demand (COD) based on Option 2 in an effort to better reflect current BPT treatment technology for non-small meat further processing facilities (67 FR 8630; February 25, 2002). See Section V.B for discussion on why EPA is not establishing BPT limitations for COD in today's final rule.

EPA did not propose revising BPT limitations for conventional pollutants. (See Section VII.D.2.c on BCT for additional information on why EPA is not revising current limits for conventional pollutants for facilities in these subcategories.) Therefore, EPA is not revising the conventional pollutant limitations for non-small meat further processing facilities (Subcategories F–I) in today's final rule and such facilities will remain subject to the BPT limitations in sections 432.62, 432.72, 432.82, and 432.92.

c. Best Conventional Pollutant Control Technology (BCT)

When deciding whether to adopt more stringent limitations for BCT than BPT, EPA considers technologies that might achieve greater removals of conventional pollutants than those adopted for BPT.

EPA is not promulgating new BPT effluent limitations for conventional parameters (*i.e.*, pH, BOD_5, TSS, O&G, and fecal coliforms) for non-small meat further processors (Subcategories F–I). When considering a technology that would achieve greater removals of conventional pollutants than adopted for BPT, EPA compared the removals achievable through implementation of the Option 2 technology (which EPA considered as the possible technology basis for BCT) to current BPT limitations. EPA estimates that Option 2 removes approximately 21,700 pounds more per year of BOD_5 compared to conventional pollutant reductions by facilities meeting or exceeding current BPT limitations. There are no additional removals of TSS, O&G, or fecal coliforms.

EPA evaluated Option 2 under the BCT cost test and it failed (see EPA's Economic and Environmental Benefits Analysis for details on the Agency's analysis). EPA did not evaluate other technology options, such as Option 2 + F (Option 2 plus the addition of a filter), because they are more costly and do not remove significantly more conventional pollutants than Option 2. If Option 2 did not pass, these more expensive options would not pass the BCT cost test. The Agency did not identify any technologies that pass the BCT cost test and achieve greater removals of conventional pollutants than the current BPT technology. Thus, EPA is not revising the BCT limitations for these facilities. Non-small meat further processing facilities in Subcategories F–I will remain subject to the current BCT limitations (which are equivalent to the current BPT limitations for conventional pollutants) in sections 432.67, 432.77, 432.87, and 432.97.

d. Best Available Technology Economically Achievable (BAT)

EPA proposed to establish the BAT level of regulatory control for non-small meat further processors (Subcategories F–I) based on Option 3 (*i.e.*, biological treatment, more complete denitrification, more complete nitrification, and disinfection). As discussed in the NODA, after review and evaluation of the revised and new data, EPA has reconsidered its assessment of Option 3 as BAT technology. EPA determined that Option 3 did not meet all the statutory criteria for BAT. The Agency refocused its evaluation for the technology basis for BAT on Option 2.5, Option 2.5+P, or Option 4 for nutrient removal (see Section VII.A of today's preamble for a description of the technology options). For the final rule, EPA is basing the BAT limitations for total nitrogen for these facilities on Option 2.5 technology and is promulgating a limitation for total nitrogen on this basis. EPA is not revising the current BAT limitation for ammonia (as nitrogen) except to correct a typographical error in the daily maximum limitation.

EPA evaluated whether revising the current BAT limitation for ammonia (as nitrogen) based on Option 2, Option 2.5, Option 2.5+P, or Option 4 treatment technologies could be supported. When evaluating revision of BAT for non-conventional pollutants that are not nutrients, EPA considers not only whether the technology option is available and economically achievable, but also whether it is best. EPA typically evaluates a technology's cost-effectiveness as a factor in its decision. When considering cost-effectiveness (except for nutrients), EPA typically looks at the costs of the additional pollutant reductions (in toxic pound-equivalents).

EPA has estimated the annualized cost of each technology option under review. The approximate annualized cost of the technology options ranged from $266,000 for Option 2 to $798,000 for Option 4 (pre-tax, 1999 dollars). Using the closure methodology described in Section IX, EPA projects that there would be a slight probability (0.5%) that at most one facility would close under any of the technology options. However, the average toxic cost-effectiveness numbers range from $8,000 per toxic pound-equivalent ($1981) for Option 2 to $18,400 per toxic pound-equivalent ($1981) for Option 4. These high values are due to the very minimal incremental reduction in toxic pound-equivalents: 19.4 toxic pound-equivalents/year for Options 2, 2.5, or 2.5+P and 25.3 toxic pound-equivalents/year for Option 4. EPA typically uses $200 per toxic pound-equivalents (in 1981 dollars) as an indication of cost-effectiveness for toxic pollutants. Therefore, EPA has determined that Options 2, 2.5, 2.5+P, and 4 are a not cost-effective basis for revising current ammonia (as nitrogen) limitations for non-small facilities in these subcategories when compared with those currently being achieved.

The following section describes EPA's rationale for selecting Option 2.5 technology and rejecting Option 2.5+P and Option 4 as the basis of BAT limitations for nutrients. EPA did not consider Option 2 for control of nutrients as it is not designed to reduce total nitrogen or total phosphorus. Both the proposal and the NODA contain detailed discussions explaining why EPA rejected setting BAT limitations based on other technology options (*see* 67 FR 8629; February 2002 and 68 FR 48499; August 13, 2003). The record for today's final rule provides no basis for EPA to change these conclusions.

EPA selected Option 2.5 technology as the basis of BAT control for total nitrogen for non-small meat further processing facilities (Subcategories F–I) because it is demonstrated as available and is economically achievable. First, although no facilities in these subcategories use Option 2.5 technology, this technology has been demonstrated as available in all other subcategories of the MPP industry. EPA notes that it did not have any detailed survey respondents that are within the scope of Subcategories F–I and that based on its screener questionnaire database, EPA estimates only 4 non-small facilities in these subcategories. Based upon information collected from facilities in this subcategory who received screener surveys, all of the facilities are estimated to be currently achieving the LTA of Option 2.5 for total nitrogen.

Second, Option 2.5 is economically achievable. EPA estimates the pre-tax annualized compliance costs (in 1999 dollars) for Option 2.5 to be $329,000. These costs are conservative and may be overstated as they include costs for the components of Option 2.5 technology even at facilities where the effluent concentrations are below the LTA for Option 2.5. EPA chose to possibly overestimate costs in this subcategory because of the uncertainty regarding the numbers of facilities in these subcategories and lack of detailed information on their operations. This is due to the small number of screener survey respondents and the fact that EPA does not have any detailed survey respondents from these subcategories. In addition, EPA's finding of economic achievability in this rule is based on the estimated costs of implementing the components of the model technology, not on achieving the resulting limitations. Using the facility and company closure methodologies described in Section IX.A, EPA estimates a 0.2% probability of facility-level closure (*i.e.*, at most one facility closure).

EPA also considered the cost-effectiveness of nutrient removal when evaluating BAT options for this industry segment. However, as previously noted, all non-small meat further processing facilities (Subcategories F–I) in EPA's database are already achieving the Option 2.5 LTAs. Therefore, EPA estimates zero additional pounds removed per year of total nitrogen and could not calculate a nutrient cost-effectiveness for nitrogen.

Furthermore, there is the possibility that facilities in subcategories A–D that perform further processing may be at a competitive disadvantage if facilities in subcategories F–I do not have equivalent limits. In addition, EPA does not want to encourage companies to split their operations in order to be subject to lower limits.

EPA considered Option 2.5+P as the basis of BAT, but rejected it for the following reasons. First, no non-small meat further processing facilities in EPA's database use Option 2.5+P technology. Second, Option 2.5+P costs an additional $30,000 annually for no additional pollutant reductions when compared to Option 2.5, because all of the facilities in EPA's database were achieving LTAs for phosphorus much lower than the LTA for 2.5+P. Therefore, this technology does not appear to be cost-effective.

EPA considered Option 4 as the basis of BAT but did not select it due to the lack of availability of the technology option, the high increase in cost compared to Option 2.5, and the poor incremental nutrient cost-effectiveness (*i.e.*, the high cost to remove additional nutrients compared to Option 2.5+P).

EPA estimates that there are no facilities in subcategories F–I currently operating Option 4 technology. In addition, EPA estimates the pre-tax annualized compliance costs for Option 4 to be $798,000 (1999$), which is $469,000 more than Option 2.5. EPA estimates that Option 4 removes approximately 80,000 pounds per year of nitrogen and zero pounds per year of phosphorus. Using the facility and company closure methodologies described in Section IX.A, EPA estimates a 0.5% probability of facility-level closure (*i.e.*, at most one facility closure). Finally, EPA estimates the average nutrient cost-effectiveness for nitrogen to be $10.02 per pound of total nitrogen removed, while the incremental nitrogen cost-effectiveness relative to Option 2.5 is $5.89 per pound. Both of the figures are above the $4 per pound benchmark for nitrogen removal. Therefore, EPA does not consider Option 4 to be cost-effective.

e. New Source Performance Standards (NSPS)

In 2002, EPA proposed to revise the current new source performance standards for non-small facilities in Subcategories F–I (meat further processors) based on Option 3 technology. EPA estimates only four non-small direct discharge meat further processing facilities, and therefore, has insufficient data on these facilities to determine if Options 2.5, 2.5+P, or 4 would present a barrier to entry. When deciding whether to promulgate revised new source performance standards, EPA also considers whether or not there are any new source performance standards currently in place. As discussed in Section VII.D.2.d, EPA is revising

existing source BAT limitations for non-small meat further processors based on Option 2.5 technology for total nitrogen and is not revising BAT limitations for ammonia (as nitrogen) (except to correct an error). Although there currently are new source performance standards for these facilities, they do not include limitations for total nitrogen or ammonia (as nitrogen). Therefore, for non-small meat further processors, EPA is setting NSPS for total nitrogen equivalent to the BAT limitations based on Option 2.5 and for ammonia (as nitrogen) based on Option 2 (because Option 2.5 does not provide any additional ammonia removal). EPA is not revising the current NSPS for conventional pollutants.

E. What Is the Basis for EPA's Selected Technology Options for Subcategory J (Independent Rendering)?

Currently section 432.101(b) defines a renderer subject to the guidelines limitations as ''an independent or off-site rendering operation * * * which manufactures at rates greater than 75,000 pounds of raw material per day [or 19.5 million pounds per year based on 260 work days].'' In 2002, EPA proposed to lower the production threshold to 10 million pounds per year based on a review of the available data at that time (*i.e.*, screener survey data). EPA selected the threshold to design model facilities for use in estimating costs, pollutant loadings, non-water quality impacts, and economic impacts for the proposed rule. EPA is promulgating this production threshold of 10 million pounds per year. There were no comments opposing this change in the threshold. Facilities that manufacture at rates less than or equal to 10 million pounds per year will remain out of the scope of Part 432, while facilities above the threshold will be covered by today's final regulation. EPA has not identified any additional direct discharging rendering facilities producing at rates between 10 million and 19.5 million pounds per year in its database.

1. Pollutants

For facilities in Subcategory J, EPA is establishing limitations and standards for total nitrogen for existing and new sources. EPA is not revising the current limitations (BPT/BCT) or new source performance standards (NSPS) for conventional pollutants and is not revising the current BAT limitations or NSPS for ammonia (as nitrogen). The current regulations include production-based limitations and standards for these facilities for BOD_5, TSS, oil & grease (O&G), pH, fecal coliforms and ammonia (as nitrogen). As discussed in Section V.G, the new limitations and standards are concentration-based. The following sections discuss the technology bases EPA selected for the final rule for the direct discharge facilities in Subcategory J.

2. Best Practicable Control Technology Currently Available (BPT)

EPA established BPT for Subcategory J (Renderers) in 1975, based on biological treatment (*e.g.*, aerobic and anaerobic treatment) to control five conventional pollutants or pollutant parameters (BOD_5, TSS, oil & grease, fecal coliforms, and pH). The current limitations for ammonia (as nitrogen) for non-small meat further processors are contained in BAT and not BPT (see Section VII.E.4 for discussion of BAT options for ammonia removal). Therefore, this section does not discuss BPT limitations for ammonia (as nitrogen). In February 2002, EPA proposed new BPT limitations for chemical oxygen demand (COD) based on Option 2 in an effort to better reflect current BPT treatment technology for renderers (67 FR 8630; February 25, 2002). See Section V.B for discussion on why EPA is not establishing BPT limitations for COD in today's final rule.

EPA did not propose revising BPT limitations for conventional pollutants. (See Section VII.E.3 on BCT for additional information on why EPA is not revising current limits for conventional pollutants for facilities in this subcategory.) Therefore, EPA is not revising the conventional pollutant limitations for independent rendering facilities (Subcategory J) in today's final rule and such facilities will remain subject to the BPT limitations in section 432.102.

3. Best Conventional Pollutant Control Technology (BCT)

In deciding whether to adopt more stringent limitations for BCT than BPT for facilities in subcategory J, EPA considered technologies that might achieve greater removals of conventional pollutants than those adopted for BPT. EPA also looked at whether those technologies are cost-reasonable under the standards established by the CWA. EPA generally refers to the decision criteria as the ''BCT cost test.''

As discussed in Section VII.E.1, EPA is not promulgating new BPT effluent limitations for conventional parameters (*i.e.*, pH, BOD_5, TSS, O&G, and fecal coliforms) for independent rendering facilities (Subcategory J). Therefore, when considering a technology that would achieve greater removals of conventional pollutants than adopted for BPT, EPA compared the removals achievable through implementation of the Option 2 technology (which EPA considered as the possible technology basis for BCT) to current BPT limitations. EPA estimates that Option 2 removes approximately 34,000 pounds more per year of BOD_5 compared to conventional pollutant reductions by facilities meeting or exceeding current BPT limitations. There are no additional removals of TSS, O&G, or fecal coliforms.

EPA evaluated Option 2 under the BCT cost test and it failed (see the Economic and Environmental Benefits Analysis for details on EPA's analysis). For the final rule, EPA did not evaluate other technology options, such as Option 2 + F (Option 2 plus the addition of a filter), because they are more costly and do not remove significantly more conventional pollutants than Option 2. Therefore, if Option 2 did not pass, these more expensive options would not pass the BCT cost test. The Agency did not identify any technologies that pass the BCT cost test and achieve greater removals of conventional pollutants than the current BPT technology. Thus, EPA is not revising the BCT limitations for these facilities. Independent rendering facilities in Subcategory J will remain subject to the current BCT limitations (which are equivalent to the current BPT limitations for conventional pollutants) in section 432.107.

4. Best Available Technology Economically Achievable (BAT)

EPA proposed to establish the BAT level of regulatory control for independent renderers (Subcategory J) based on Option 2 and took comment on other options in the NODA. For the final rule, EPA is basing the BAT limitations for these facilities on Option 2.5 technology and is promulgating a limitation for total nitrogen on this basis. EPA is not revising the current BAT limitation for ammonia (as nitrogen).

EPA evaluated whether revising the current BAT limitation for ammonia (as nitrogen) based on Option 2, Option 2.5, Option 2.5+P, or Option 4 treatment technologies could be supported. When evaluating revision of BAT for non-conventional pollutants that are not nutrients, EPA not only considers whether the technology option is available and economically achievable, but also whether it is best. EPA typically evaluates a technology's cost-effectiveness as a factor in its decision. When considering cost-effectiveness (except for nutrients), EPA typically

evaluates the additional pollutant reductions (in toxic pound-equivalents).

EPA has estimated the annualized cost of each technology option under review. The approximate annualized cost of the technology options ranged from $628,000 for Option 2 to $10.2 million for Option 4 (pre-tax, 1999 dollars). Using the closure methodology described in Section IX, there is a slight probability (no more than 3.3%) that there could be one facility closure under Options 2, 2.5, and 2.5+P and one closure under Option 4. However, the average toxic cost-effectiveness numbers range from $4,100 per toxic pound-equivalent ($1981) for Option 2 to $29,000 per toxic pound-equivalent ($1981) for Option 4. These high values are due to the very minimal incremental reduction in toxic pound-equivalents (*i.e.*, 90 toxic pound-equivalents/year for Option 2, 2.5, or 2.5+P and 205 toxic pound-equivalents/year for Option 4) and the high incremental cost. EPA typically uses $200 per toxic pound-equivalents (in 1981 dollars) as an indication of cost-effectiveness for toxic pollutants. Therefore, EPA has determined that Options 2, 2.5, 2.5+P, and 4 are a not cost-effective basis for revising current ammonia (as nitrogen) limitations for independent renderers in Subcategory J when compared with those currently being achieved.

The following section describes EPA's rationale for selecting Option 2.5 technology and rejecting Option 2.5+P and Option 4 as the basis of BAT limitations for nutrients. EPA did not consider Option 2 for control of nutrients as it is not designed to reduce total nitrogen or total phosphorus. Both the proposal and the NODA contain detailed discussions explaining why EPA rejected setting BAT limitations based on other technology (*see* 67 FR 8629; February 25, 2002 and 68 FR 48499; August 13, 2003). The record for today's final rule provides no basis for EPA to change these conclusions. EPA did not propose Option 3 for facilities in Subcategory J based on concerns over the economic impact and nitrogen cost-effectiveness estimated for the proposed rule. However, as discussed in the NODA (68 FR 48476; August 13, 2003), EPA has incorporated a significant amount of information into its analyses since proposal. This includes surveys from independent rendering facilities and comments from a trade association representing independent rendering facilities. In light of that data and information, EPA now finds a technology option that includes some denitrification (Option 2.5) is economically achievable and nutrient cost-effective for total nitrogen for independent rendering facilities.

EPA selected Option 2.5 technology as the basis of BAT limitations for total nitrogen for total nitrogen for independent rendering facilities because it is demonstrated as available and is economically achievable. First, Option 2.5 technology has been demonstrated as available in Subcategory J as 38 percent of facilities in EPA's database use components of Option 2.5 technology (or more advanced technology).

Second, Option 2.5 is economically achievable. EPA estimates the pre-tax annualized compliance costs (in 1999 dollars) for Option 2.5 to be $2.8 million. Using the facility and company closure methodologies described in Section IX.A, EPA estimates a 1.3% probability of facility-level closure (*i.e.*, at most one facility closure).

EPA also considered the cost-effectiveness of nutrient removal when evaluating BAT options for this industry segment. For Option 2.5, EPA estimates 1.5 million pounds removed per year of total nitrogen and the nutrient cost-effectiveness to be $1.92 per pound of total nitrogen removed. Because Option 2.5 does not include phosphorus removal, EPA did not calculate nutrient cost-effectiveness for phosphorus for Option 2.5. EPA concludes that Option 2.5 is nutrient cost-effective for total nitrogen.

EPA considered Option 2.5+P as the basis of BAT, but rejected it for the following reasons. Option 2.5+P costs $7.4 million annually for 1.5 million pounds of total nitrogen reduction per year (*i.e.*, the same reduction of total nitrogen as Option 2.5) and 590,000 pounds of total phosphorus reduction per year. Therefore, the average nitrogen cost-effectiveness for Option 2.5+P is $5.06 per pound of total nitrogen removed and the average phosphorus cost-effectiveness is $12.59 per pound of total phosphorus removed. The nutrient cost-effectiveness values for nitrogen and phosphorus exceed the benchmarks that EPA uses; therefore, EPA did not select Option 2.5+P.

EPA considered Option 4 as the basis of BAT but did not select it due to the lack of availability of the technology option, the high increase in cost compared to Option 2.5, and the poor incremental nutrient cost-effectiveness (*i.e.*, the high cost to remove additional nutrients compared to Option 2.5+P).

Based on its database, EPA estimates that there are no facilities in subcategory J currently operating Option 4 technology. In addition, EPA estimates the pre-tax annualized compliance costs for Option 4 to be $10.2 million (1999$), which is $7.4 million more than Option 2.5. EPA estimates that Option 4 removes approximately 1.7 million pounds per year of total nitrogen (200,000 more than Option 2.5) and 620,000 pounds per year of total phosphorus (30,000 more than Option 2.5+P). Using the facility and company closure methodologies described in Section IX.A, EPA estimates a 4.8% probability of facility-level closure (*i.e.*, 1 facility closure). Finally, EPA estimates the incremental nutrient cost-effectiveness to be $40 per pound of total nitrogen removed (compared to Option 2.5) and $85 per pound of total phosphorus removed (compared to Option 2.5+P). The nutrient cost-effectiveness of Option 4 is well above the $4 per pound total nitrogen removed and $10 per pound total phosphorus removed benchmarks and therefore, EPA does not consider Option 4 to be cost-effective.

5. New Source Performance Standards (NSPS)

In 2002, EPA proposed to revise the current new source performance standards for independent rendering facilities in Subcategory J based on Option 2 technology. As discussed in the NODA, with the development of Option 2.5, EPA reconsidered technology basis for all subcategories (68 FR 48500; August 13, 2003). EPA has selected Option 2.5 technology as the basis for BAT limitations (see Section VII.E.4); therefore, EPA did not consider Option 2 technology (a less stringent technology) as the basis for NSPS for the final rule. EPA has estimated the ratio of costs to assets for Options 2.5, 2.5+P and Option 4. The ratios are 0.3% for Option 2.5, 0.4% for Option 2.5+P, and 0.5% for Option 4. The estimates for Option 2.5+P and Option 4, however, do not reflect EPA's additional evaluation of the costs for chemical phosphorus based on comments EPA received (see DCN 300–015). EPA performed an analysis using increased quantities of alum for chemical phosphorus removal for the detailed survey respondents (*i.e.*, non-small meat and poultry slaughterers). From this additional evaluation, EPA concludes that the average costs for meat and poultry slaughterers may be between 4 and 26 percent more per facility for chemical phosphorus removal (including increased sludge disposal) than those used in EPA's barrier to entry analysis, as discussed here. EPA is concerned that, with similar additional costs, the ratio for independent renderers may rise to a level that the Agency would consider to

be a barrier to entry for Option 2.5+P and Option 4.

Although this subcategory does have current NSPS, they do not include limitations for total nitrogen. Therefore, EPA is establishing NSPS for total nitrogen based on Option 2.5 technology. EPA is not revising NSPS for ammonia (as nitrogen) or for the conventional pollutants.

F. What Is the Basis for EPA's Selected Technology Options for Subcategory K (Poultry First Processing)?

In 2002, EPA proposed a production threshold of 10 million pounds (live weight killed) per year for facilities in Subcategory K. EPA proposed this threshold to allow for different limitations for small and non-small poultry first processing facilities. As discussed in Section V.A, EPA has raised the production threshold for the final rule from 10 to 100 million pounds per year. Therefore, this section discusses small and non-small facilities separately. Costs presented in this section are presented in 1999 year dollars which is the base year of the survey; however, EPA provides updated estimates in 2003 year dollars in Section VIII.B.

1. Poultry First Processors That Slaughter Less Than or Equal to 100 Million Pounds Per Year (Small)

For the final rule, small poultry first processing facilities include facilities with production rates less than or equal to 100 million pounds per year (live weight killed). EPA is not establishing limitations for any existing small poultry first processing facilities in Subcategory K. However, EPA is establishing new source performance standards for new facilities. The following sections discuss EPA's decision not to establish BPT, BCT, or BAT limitations and to establish NSPS for small direct discharge facilities in Subcategory K.

a. BPT/BCT/BAT

In 2002, EPA proposed new BPT/BCT/BAT for the small poultry first processors based on Option 1. EPA has also evaluated Option 2 for small facilities in this subcategory. Based on comments on the proposal and the incorporation of data from the detailed surveys, EPA is not establishing BPT/BCT/BAT limitations for small facilities in Subcategory K (poultry first processors) for this final rule for the following reasons.

First, even though Option 1 and Option 2 are available technologies (*i.e.*, partial and more complete nitrification, respectively) readily applicable to all small facilities in Subcategory K, the cost of compliance with these limitations in relation to the effluent reduction benefits is disproportionate. For poultry first processor facilities with production rates less than or equal to 100 million pounds of live weight killed (LWK) per year EPA estimates it will cost $1,487 per pound of pollutant removed (1999$) for Option 1 and $501 per pound (1999$) for Option 2. These values significantly exceed the $37 per pound removed benchmark that EPA is using, as guidance, to assess BPT cost reasonableness.

Consequently, EPA has determined the total cost of effluent reductions using the Option 1 technology and the Option 2 technology are not reasonable in relation to the effluent reduction benefits. The Agency tried to avoid ''double-counting'' pollutant reductions that would occur if, for example, EPA summed removals of COD and BOD. Therefore, EPA used the sum of BOD_5 and ammonia (as nitrogen) removed to estimate the pounds of pollutant removed under the technology options for these facilities. As noted previously, EPA estimates this cost as $1,487 per pound removed for Option 1 and $501 per pound removed for Option 2. Second, EPA found that compliance with limitations based on Option 1 or Option 2 technology will result in at least 36 closures for the existing small direct dischargers for which facility-level financial data exists. As discussed in Section IX, EPA only had sufficient financial data for 9 out of an estimated 37 small facilities in this subcategory. Therefore, there may be more closures than EPA is able to project.

Existing small direct discharge facilities in Subcategory K will remain subject to permit limits based on the best professional judgment of the permit writer.

b. New Source Performance Standards (NSPS)

For the 2002 proposal, EPA proposed new NSPS based on Option 1. In the NODA (68 FR 48500; August 13, 2003), EPA gave notice that it was considering the modified options (*i.e.*, Option 2.5, Option 2.5+P, and no revision/no regulation) in addition to the proposed options (*i.e.*, Option 1 and Option 2) for small slaughtering facilities. Based on comments received on the proposal and the completion of the review and incorporation of data from the detailed surveys, EPA is establishing NSPS standards for small facilities in Subcategory K based on Option 2. There are no current new source performance standards for small poultry first processors and 75 percent of small facilities in EPA's database currently use Option 2 technology (or more advanced technology); therefore, Option 2 is demonstrated technology for this segment of facilities. However, EPA determined that the ratio of capital costs to total assets for the facilities in this subcategory to be 13% for both Option 1 and Option 2 technology levels. While 13 percent of average total assets is a significant level, EPA has concluded that the limited amount of data for these facilities limited the analysis and the actual ratio of capital costs to total assets for new facilities may be much lower. For example, the analysis includes one facility whose ratio is greater than 30%, while another facility has a ratio of approximately 4%. Thus, since the barrier to entry test results are identical for Options 1 and 2, and 75% of existing facilities use Option 2 technology, EPA selected the more stringent Option 2 as the level of control for new sources for ammonia (as nitrogen) and the five conventional pollutants.

2. Poultry First Processing Facilities That Slaughter More Than 100 Million Pounds Per Year (Non-Small)

a. Pollutants

For non-small facilities in Subcategory K, EPA is, for the first time, establishing limitations and standards for BOD_5, TSS, O&G (as HEM), pH, fecal coliforms, ammonia (as nitrogen), and total nitrogen for existing and new sources. As discussed in Section V.G, the new limitations and standards are concentration-based. The following sections discuss the technology bases EPA selected for the final rule for the direct discharge non-small facilities in Subcategory K.

b. Best Practicable Control Technology Currently Available (BPT)

In 2002, EPA proposed new BPT for the non-small poultry first processors (Subcategory K) based on Option 3 to control five conventional pollutants or pollutant parameters (BOD_5, TSS, O&G (as HEM), fecal coliforms, and pH) and also control ammonia (as nitrogen), total nitrogen, and total phosphorus. As discussed in the NODA, after review and evaluation of the revised and new data, EPA has reconsidered its assessment of Option 3 technology.

EPA is establishing BPT limitations for BOD_5, TSS, O&G (as HEM), fecal coliforms, pH, and ammonia (as nitrogen) for non-small direct dischargers in Subcategory K based on technology Option 2. (See Section 8 of the TDD for today's final rule for

additional details on the Option 2 technology).

The Agency concluded that the Option 2 treatment technology represents the best practicable control technology currently available and is the basis for the BPT limitations for these facilities for the following reasons.

First, this technology is available technology and is readily applicable to all non-small facilities in Subcategory K. More than 92 percent of the non-small direct discharging facilities in these subcategories are using Option 2 technology, or more advanced technology, today. Although most facilities have the components of Option 2 technology in place (*e.g.*, nitrification basin/aerobic reactor), some facilities are not achieving the projected Option 2 long-term average concentrations (LTAs). EPA attributes this to their failure to operate or maintain the Option 2 technology adequately. (See Sections 10 and 11 of the final rule TDD for additional discussion of the cost and loading methodologies.) Consequently, when estimating the costs of compliance with Option 2, EPA included costs for treatment optimization for a number of facilities to achieve the Option 2 LTA. For example, EPA included costs for increased aeration, chemical addition, sludge handling, process controls, in-process sampling, analytical testing, and capacity.

Second, the cost of compliance with these limitations in relation to the effluent reduction benefits is not disproportionate. EPA projects that compliance with BPT limitations based on Option 2 technology will not result in closures of existing non-small direct dischargers in these subcategories. Moreover, adopting this level of control will create a significant reduction in pollutants discharged into the environment. For poultry first processor facilities with production rates greater than 100 million pounds LWK per year using Option 2, EPA estimates an annual compliance cost of $17.7 million (pre-tax, 1999$) and removal of 980,000 pounds of BOD_5 and ammonia (as nitrogen) from current discharges into the Nation's waters at a cost of $18.18 per pound of pollutant removed (1999$). This cost per pound of pollutant removed is below the $37 per pound benchmark that EPA is using, as guidance, to evaluate cost-reasonableness.

EPA considered Option 2.5 (which also includes partial denitrification) as the basis for BPT limitations. However, Option 2.5 does not remove any additional pounds of conventional pollutants or ammonia (as nitrogen) and costs $9.4 million more annually than Option 2. In addition, EPA found that 45 percent of non-small facilities in Subcategory K in EPA's database are using the components of Option 2.5 technology (*e.g.*, facility has in place a denitrification basin, nitrification basin and disinfection) or more advanced technology. Because Option 2.5 costs more, does not remove additional pollutants, and is not as widely available as Option 2 technology, EPA did not select it as the basis of BPT limitations.

Furthermore, EPA did not select Option 2.5+P or Option 4 as the basis for BPT limitations, as they do not achieve adequate additional pollutant reductions as compared to their additional compliance costs. Specifically, Option 2.5+P does not achieve any additional removals of conventional pollutants or ammonia (as nitrogen) as compared to Option 2, but it would cost an additional $45.7 million (in 1999 dollars) annually. Option 4 would remove an additional 170,000 pounds of ammonia (as nitrogen) for an additional $91.4 million (in 1999 dollars) annually. Other options the Agency considered for BPT were not selected due to lack of availability and/or poor BPT cost and removal comparison. Both the proposal and the NODA contain detailed discussions explaining why EPA rejected setting BPT limitations based on other technology (*see* 67 FR 8629; February 25, 2002 and 68 FR 48499; August 13, 2003). The record for today's final rule provides no basis for EPA to change these conclusions.

c. Best Conventional Pollutant Control Technology (BCT)

In deciding whether to adopt more stringent limitations for BCT than BPT for Subcategory K, EPA considered whether technologies other than those adopted for BPT will achieve greater removal of conventional pollutants and whether the costs of those technologies are reasonable under the standards established by the CWA. EPA generally refers to the decision criteria as the ''BCT cost test.'' EPA is promulgating BCT effluent limitations for conventional parameters (*e.g.*, pH, TSS, O&G (as HEM)) equivalent to BPT for this subcategory because the Agency did not identify technologies that can achieve greater removals of conventional pollutants that also pass the BCT cost test. EPA evaluated adding a filter to the BPT technology (*i.e.*, Option 2 + F) in order to get further conventional pollutant reductions. However, this technology option failed the BCT cost test. (For a more detailed description of the BCT cost test and details on EPA's analysis, see the Economic and Environmental Benefits Analysis in the rulemaking record.)

d. Best Available Technology Economically Achievable (BAT)

EPA proposed to establish the BAT level of regulatory control for non-small facilities in Subcategory K based on Option 3 (*i.e.*, biological treatment, more complete nitrification, more complete denitrification and disinfection). As discussed in the NODA, after review and evaluation of the revised and new data, EPA has reconsidered its assessment of Option 3 as BAT technology. EPA determined that Option 3 did not meet all the statutory criteria for BAT. The Agency refocused its evaluation for the technology basis for BAT on Option 2.5, Option 2.5+P or Option 4 for nutrient removal (see Section VII.A of today's preamble for a description of the technology options). For the final rule, EPA bases the BAT limitations for these facilities on Option 2.5 technology and is promulgating a limitation for total nitrogen on this basis. However, EPA is setting a limitation for ammonia (as nitrogen) that is equal to BPT, because using Option 2.5 technology or higher does not result in any additional ammonia removal than the technology used to establish BPT (Option 2).

The following section describes EPA's rationale for selecting Option 2.5 technology and rejecting Option 2.5+P and Option 4. The proposal and the NODA (see 67 FR 8629 and 68 FR 48499) contain detailed explanations why EPA rejected setting BAT limitations based on other technology options, and the record for today's final rule provides does not support EPA changing these conclusions.

EPA has determined that Option 2.5 technology is available in Subcategory K, as 45 percent of the non-small facilities in this subcategory in EPA's database use the components of Option 2.5 (or more advanced technology) and is economically achievable. EPA estimates the compliance costs for Option 2.5 to be $31.8 million (in 1999 dollars). Using the facility and company closure methodologies described in Section IX.A, EPA believes that no facilities or companies will close. For a sensitivity analysis, EPA also estimated closures using a less stringent decision rule (closure under one of three forecast methodologies rather than at least two of three). Using the alternate analysis, EPA estimates no facilities will close under Option 2.5.

EPA also considered nutrient removal cost-effectiveness when evaluating BAT options for this industry. For Option

2.5, EPA estimates 9.4 million pounds removed per year of total nitrogen and a nutrient cost-effectiveness of $3.40 per pound of total nitrogen removed. Because Option 2.5 does not include phosphorus removal, EPA did not calculate nutrient cost-effectiveness for phosphorus for Option 2.5. EPA concludes that Option 2.5 is nutrient cost-effective for total nitrogen.

EPA considered Option 2.5+P as the basis of BAT, but rejected it. Fourteen percent of non-small facilities in Subcategory K in EPA's database use Option 2.5+P technology (or more advanced technology). EPA estimates the pre-tax annualized cost of Option 2.5+P is $63.4 million (1999$), which is $31.6 million more than Option 2.5. EPA estimates no facility closures and one company closure for Option 2.5+P **Note:** Facilities that are owned by the company that is projected to close did not provide facility-level financial information; therefore, those facilities are not part of the facility-level analysis). Option 2.5+P removes 4.1 million pounds per year of total phosphorus and achieves the same level of nitrogen and conventional pollutant reduction as Option 2.5. Therefore, EPA estimates the average nutrient cost-effectiveness to be $6.77 per pound total nitrogen removed and $15.28 per pound total phosphorus removed. These values exceed the benchmark that EPA is using, as guidance, for cost-effectiveness. Therefore, EPA did not select Option 2.5+P due to the poor cost-effectiveness for nutrients.

EPA also considered, but did not select, Option 4 as the basis of BAT limitations due to the high increase in cost as compared to Option 2.5, the poor incremental nutrient cost-effectiveness (*i.e.*, the high cost to remove additional nutrients as compared to Option 2.5+P), and high number of closures.

EPA estimates that almost 3 percent of direct discharge non-small facilities in this subcategory currently operate Option 4 technology (or more advanced technology). EPA estimates the pre-tax annualized compliance costs for Option 4 to be $109.1 million (1999$), which is $45.7 million more than Option 2.5+P and $77.3 million more than Option 2.5. EPA also estimates that Option 4 removes 20.9 million pounds per year of nitrogen (11.5 million more than Option 2.5 or Option 2.5+P) and 4.7 million pounds per year of phosphorus (about 520,000 pounds per year more than Option 2.5+P). However, EPA projects 22 facility closures and one company closure under Option 4 and estimates the average nutrient cost-effectiveness to be $5.22 per pound total nitrogen removed and $23.35 per pound total phosphorus removed (see Section IX for nutrient cost-effectiveness result for all options by subcategory). The incremental nutrient cost-effectiveness is $6.71 per pound of nitrogen removed (relative to Option 2.5) and $87.17 per pound of phosphorus removed (relative to Option 2.5+P). Option 4 exceeds the $4 per pound removed benchmark value for nitrogen and the $10 per pound removed benchmark value for phosphorus. Therefore, EPA finds that Option 4 is not cost-effective for total nitrogen or phosphorus removal and is not economically achievable technology.

EPA is establishing BAT limitations for ammonia (as nitrogen) that are equivalent to the limitations it is promulgating today under BPT for facilities in Subcategory K. EPA considered setting more stringent limitations for ammonia (as nitrogen) under BAT; however, the selected BAT technology option (Option 2.5) does not remove any additional quantity of ammonia (as nitrogen). Although Option 4 does remove some additional pounds of ammonia (as nitrogen) as compared to Option 2, EPA did not select Option 4 for BAT for the reasons discussed earlier in this section.

e. New Source Performance Standards (NSPS)

EPA considers the barrier to entry into the industry for a new facility that results from the compliance costs of the regulation and whether or not there are new source standards in place for the facilities. For this rule, EPA used the ratio of average capital costs to average total assets to measure the potential for barrier to entry due to the MPP rule. EPA estimated the ratio of costs to assets for Option 2.5, 2.5+P, and Option 4: they range from 4.0% for Option 2.5 to 4.2% for Option 2.5+P to 12.3% for Option 4. The estimates for Option 2.5+P and Option 4, however, do not reflect EPA's additional evaluation of the costs for chemical phosphorus based on comments EPA received (see DCN 300–015). From this additional evaluation, EPA concludes that for non-small poultry first processors costs may be $25,000 to $106,000 more per facility for chemical phosphorus removal (including costs for additional sludge disposal) than those used in EPA's barrier to entry analysis, as discussed here. EPA is concerned that, with these additional costs, the ratio may rise to a level that the Agency would consider to be a barrier to entry for Option 2.5+P and Option 4. Therefore, EPA is setting standards for new sources equivalent to the BAT limitations established by today's final rule (*i.e.*, based on Option 2.5 technology) for total nitrogen and equivalent to BPT (*i.e.*, based on Option 2 technology) for ammonia (as nitrogen) and the five conventional pollutants.

G. What Is the Basis for EPA's Selected Technology Options for Subcategory L (Poultry Further Processing)?

In 2002, EPA proposed a production threshold of 7 million pounds (finished product) per year for facilities in Subcategory L. EPA proposed this threshold to allow for different limitations for small and non-small poultry further processing facilities. EPA is retaining the proposed threshold for the final rule. Therefore, this section discusses small and non-small facilities separately. Costs presented in this section are presented in 1999 year dollars which is the base year of the survey; however, EPA provides updated estimates in 2003 year dollars in Section VIII.B.

1. Poultry Further Processing Facilities That Produce Less Than or Equal to 7 Million Pounds Per Year (Small)

For the final rule, small poultry first processing facilities include facilities with production rates less than or equal to 7 million pounds (finished product) per year. EPA is not establishing limitations for any existing small poultry further processing facilities in Subcategory L. However, EPA is establishing new source performance standards for new facilities. The following sections discuss EPA's decision not to establish BPT, BCT, or BAT limitations and to establish NSPS for small direct discharge facilities in Subcategory L.

a. BPT/BCT/BAT

In 2002, EPA proposed new BPT/BCT/BAT for the small poultry further processors based on Option 1. EPA has also evaluated Option 2 for small facilities in this subcategory. Based on incorporation of data from the detailed surveys, EPA is not establishing BPT/BCT/BAT limitations for small facilities in Subcategory K (poultry first processors) for this final rule for the following reasons.

First, even though Option 1 and Option 2 are available technologies (*i.e.*, partial and more complete nitrification, respectively) readily applicable to all small facilities in Subcategory L, the cost of compliance with these limitations in relation to the effluent reduction benefits is disproportionate. For poultry further processor facilities with production rates less than or equal to 7 million pounds of live weight killed (LWK) per year EPA estimates it will cost approximately $74 per pound of

pollutant removed (1999$) for Option 1 or Option 2, which exceeds the $37 per pound removed benchmark that EPA is using, as guidance, to evaluate BPT cost-reasonableness.

Consequently, EPA has determined the total cost of effluent reductions using the Option 1 or Option 2 technology is not reasonable in relation to the effluent reduction benefits. Second, due to lack of facility-level financial data, EPA could not estimate closures that would result with BPT limitations based on Option 1 or Option 2 technology. In addition, the analysis of financial data for small facilities in Subcategory L was complicated by the fact that some facilities performing operations fitting within the scope of Subcategory L also perform operations that are regulated under Subcategories F–I (meat further processors). (See Section IX for discussion of ''mixed processors.'') Existing small direct discharge facilities in Subcategory L will remain subject to permit limits based on the best professional judgment of the permit writer.

b. New Source Performance Standards (NSPS)

In 2002, EPA proposed new NSPS for small poultry further processors (Subcategory L) based on Option 1. In the NODA (68 FR 48500; August 13, 2003), EPA gave notice that it was considering the modified options (*i.e.*, Option 2.5, Option 2.5+P, and no revision/no regulation) in addition to the proposed options (*i.e.*, Option 1 and Option 2) for these facilities. After considering comments and the data from the detailed surveys, EPA is establishing NSPS standards for small poultry further processing facilities based on Option 2. EPA determined that all existing small poultry further processors in EPA's database currently use the components of Option 2 technology, although, as noted above, they would incur additional costs to meet the Option 2 LTAs. In addition, EPA determined that there is no barrier to entry for either Option 1 or Option 2 as the ratio of capital costs to total assets for the facilities in this subcategory is 0.4% for both Option 1 and Option 2 technology levels. Finally, there are no current new source performance standards in place for small facilities in Subcategory L. Since the barrier to entry test results are identical for Options 1 and 2, and all existing facilities have the components in place for Option 2 technology, EPA selected the more stringent Option 2 as the level of control for new sources for ammonia (as nitrogen) and the five conventional pollutants.

2. Poultry Further Processing Facilities That Produce More Than 7 Million Pounds Per Year (Non-Small)

a. Pollutants

For non-small facilities in Subcategory L, EPA is, for the first time, establishing limitations and standards for BOD_5, TSS, O&G (as HEM), pH, fecal coliforms, ammonia (as nitrogen), and total nitrogen for existing and new sources. As discussed in Section V.G, the new limitations and standards are concentration-based. The following sections discuss the technology bases EPA selected for the final rule for the direct discharge non-small facilities in Subcategory L (poultry further processors).

b. Best Practicable Control Technology Currently Available (BPT)

In 2002, EPA based its proposal for new BPT for the poultry further processors (Subcategory L) on Option 3 to control five conventional pollutants or pollutant parameters (BOD_5, TSS, O&G (as HEM), fecal coliforms, and pH) and also control ammonia (as nitrogen), total nitrogen, and total phosphorus. As discussed in the NODA, after review and evaluation of the revised and new data, EPA has reconsidered its assessment of Option 3 technology.

EPA has today decided to establish BPT limitations for BOD_5, TSS, O&G (as HEM), fecal coliforms, pH, and ammonia (as nitrogen) for non-small direct dischargers in Subcategory L based on technology Option 2. (See Section 8 of the TDD for today's final rule for additional details on the Option 2 technology).

The Agency concluded that the Option 2 treatment technology is the best practicable control technology currently available, and it should be the basis for the BPT limitations for these facilities. First, this technology is available and readily applicable to all non-small facilities in Subcategory L. EPA estimates that all non-small direct discharge facilities in this subcategory currently operate Option 2 technology (or more advanced technology).

Second, the cost of compliance with these limitations in relation to the effluent reduction benefits is not disproportionate. For poultry further processing facilities with production rates greater than 7 million pounds finished product per year, EPA estimates an annual compliance cost under Option 2 of $557,000 (pre-tax, 1999$) and 18,600 pounds of BOD_5 and ammonia (as nitrogen) removed from current discharges at a cost of $29.88 (1999$) per pound of pollutant removed. In estimating the pounds of pollutant removed based on Option 2 technology for these facilities, EPA used the sum of BOD_5 and ammonia (as nitrogen) removed. The cost per pound removed approaches but is still below the $37 per pound value that EPA uses as guidance in evaluating BPT cost-reasonableness.

EPA considered Option 2.5 (which also includes partial denitrification) as the basis for BPT limitations. However, Option 2.5 does not remove any additional pounds of conventional pollutants or ammonia (as nitrogen) compared to Option 2 but costs almost $426,000 more annually. In addition, EPA found that Option 2.5 technology is not as widely available as Option 2 technology. That is, 37 percent of non-small poultry further processors in EPA's database use Option 2.5 (or more advanced) technology, while 100 percent use Option 2 (or more advanced) technology. Thus, EPA did not select Option 2.5 as the basis of BPT limitations.

Furthermore, EPA did not select either Option 2.5+P or Option 4 as the basis for BPT limitations because they do not achieve adequate pollutant reductions relative to additional compliance costs. Specifically, Option 2.5+P does not achieve any additional removals of conventional pollutants or ammonia (as nitrogen) but would cost $918,000 more each year than Option 2. Option 4 would remove an insignificant amount of ammonia (as nitrogen) for an additional $2.7 million annually. EPA did not select other options it considered for BPT due to lack of availability and poor BPT cost and removal comparison. The 2002 proposal and the NODA (see 66 FR 457 and 68 FR 48499) contain detailed explanations of why EPA rejected BPT limitations based on other BPT technology options. The information in the record for today's final rule does not support EPA's changing these conclusions.

c. Best Conventional Pollutant Control Technology (BCT)

In deciding whether to adopt more stringent limitations for BCT than BPT, EPA considered whether there are technologies other than those adopted for BPT that achieve greater removals of conventional pollutants and whether those technologies are cost-reasonable under CWA standards. EPA generally refers to the decision criteria as the ''BCT cost test.'' EPA is promulgating effluent limitations for conventional parameters (*e.g.*, pH, TSS, O&G (as HEM)) equivalent to BPT for Subcategory L because it identified no technologies achieving greater removals of conventional pollutants that also pass

the BCT cost test. EPA considered adding a filter to the BPT technology (*i.e.*, Option 2 + F) to get further conventional pollutant reductions; however, this technology option failed the BCT cost test. For a more detailed description of the BCT cost test and details on EPA's analysis, see the Economic and Environmental Benefits Analysis in the rulemaking record.

d. Best Available Technology Economically Achievable (BAT)

EPA proposed to establish the BAT level of regulatory control for non-small facilities in Subcategory L based on Option 3 (*i.e.*, biological treatment, more complete denitrification, more complete nitrification, and disinfection). As discussed in the NODA, after review and evaluation of the revised and new data, EPA has reconsidered its assessment of Option 3 as BAT technology. EPA determined that Option 3 did not meet all the statutory criteria for BAT. The Agency refocused its evaluation for the technology basis for BAT on Option 2.5, Option 2.5+P, or Option 4 for nutrient removal (see Section VII.A of today's preamble for a description of the technology options). For the final rule, EPA bases the BAT limitations for these facilities on Option 2.5 technology and is promulgating a limitation for total nitrogen on this basis. EPA is, however, setting a limitation for ammonia (as nitrogen) that is equal to BPT.

The following section describes EPA's rationale for selecting Option 2.5 technology and rejecting Option 2.5+P and Option 4. The proposal and the NODA (see 67 FR 8629 and 68 FR 48499) contain detailed explanations why EPA rejected setting BAT limitations based on other technology options, and the record for today's final rule does not support EPA changing these conclusions.

EPA selected Option 2.5 technology as the basis of BAT for non-small facilities in Subcategory L for two reasons. First, Option 2.5 technology has been demonstrated as available in Subcategory L. EPA estimates that 37 percent of non-small direct discharge facilities in this subcategory in EPA's database currently operate at or above the Option 2.5 technology level. Second, Option 2.5 is economically achievable. EPA estimates the compliance costs (pre-tax, 1999$) for Option 2.5 to be $983,000 per year. Using the closure methodology described in Section IX, there is a slight probability (0.9%) that there could be one facility closure under Option 2.5.

EPA also considered nutrient removal cost-effectiveness when evaluating BAT options for this industry. For Option 2.5, EPA estimates 146,000 pounds removed per year of total nitrogen and a nutrient cost-effectiveness of $6.71 per pound total nitrogen removed. Option 2.5 does not include phosphorus removal; therefore, EPA did not calculate nutrient cost-effectiveness for phosphorus for Option 2.5. For the subcategory, Option 2.5 exceeds the $4/lb removed value EPA uses as guidance for nitrogen cost-effectiveness. However, facilities in Subcategory L perform operations similar to the facilities covered in other subcategories being regulated for nitrogen. Due to the competitiveness among these facilities and its economic achievability, EPA is including nitrogen limitations in the final rule for this subcategory. EPA also notes that Option 2.5 also results in a substantial increase in removals of conventional pollutants relative to Option 2—in excess of 136,000 pounds of BOD.

EPA considered Option 2.5+P as the basis of BAT but rejected it. EPA estimates that 9 percent of the non-small poultry further processors use Option 2.5 (or more advanced) technology with phosphorus removal. The pre-tax annualized cost of Option 2.5+P is $1.5 million (1999$) and the probability of a facility-level closure is less than 1.4% (*i.e.*, at most one facility closure). Option 2.5+P removes 25,000 pounds per year of total phosphorus and achieves the same level of nitrogen and conventional pollutant reduction as Option 2.5. Therefore, EPA estimates the average nutrient cost-effectiveness to be $58.98 per pound of total phosphorus removed. Therefore, EPA did not select Option 2.5+P due to the poor cost-effectiveness for phosphorus.

EPA also considered Option 4 as the basis of BAT but did not select it due to the high increase in cost compared to Option 2.5 and the poor nutrient cost-effectiveness (*i.e.*, the high cost to remove additional nutrients compared to Option 2.5+P).

Nine percent of non-small direct discharge facilities in this subcategory operate Option 4 technology (or more advanced technology). Therefore, EPA considers the technology to be available. EPA estimates the pre-tax annualized compliance costs for Option 4 to be $3.3 million (1999$), which is $1.8 million more than Option 2.5+P and $2.3 million more than Option 2.5. Option 4 removes 354,000 pounds per year of nitrogen (208,000 more than Options 2.5 or 2.5+P) and 27,000 pounds per year of phosphorus (approximately 2,000 more pounds per year than Option 2.5+P). There is a 3% probability of a facility-level closure for Option 4 (*i.e.*, at most one facility closure) and a ratio of 16.8% when comparing annualized compliance costs to net income. EPA considers this cost to revenue ratio high and an indication that Option 4 is not economically achievable for non-small facilities in Subcategory L. Finally, the incremental nutrient cost-effectiveness for nitrogen (as compared to Option 2.5) is $11 per pound total nitrogen removed and for phosphorus (as compared to Option 2.5+P) is $902 per pound total phosphorus removed. Therefore, EPA finds that Option 4 is not nutrient cost-effective for total nitrogen or total phosphorus removal and is not economically achievable.

EPA is establishing BAT limitations for ammonia (as nitrogen) that are equivalent to the limitations it is promulgating today under BPT. EPA considered setting more stringent limitations for ammonia (as nitrogen) under BAT; however, the selected BAT technology option (Option 2.5) does not remove any additional quantity of ammonia (as nitrogen). Although Option 4 does remove some additional pounds of ammonia (as nitrogen) as compared to Option 2, EPA did not select Option 4 for BAT for the reasons discussed earlier in this section.

e. New Source Performance Standards (NSPS)

For this rule, EPA used the ratio of average capital costs to average total assets to measure the potential barrier to entry due to the MPP rule. However, several non-small facilities in Subcategory L also perform operations that fall under the scope of Subcategories F-I. This complicates the analysis of the barrier to entry data. EPA estimated the ratio of costs to assets for Option 2.5, Option 2.5+P, and Option 4 for non-small poultry further processing facilities (Subcategory L). The ratios range from 0.1% for Option 2.5 and Option 2.5+P to 0.6% for Option 4. The estimates for Option 2.5+P and Option 4, however, do not reflect EPA's additional evaluation of the costs for chemical phosphorus based on comments EPA received (see DCN 300–015). EPA performed an analysis using increased quantities of alum for chemical phosphorus removal for the detailed survey respondents (*i.e.*, non-small meat and poultry slaughterers). From this additional evaluation, EPA concludes that costs for poultry slaughterers may be between 2 percent and 43% more per facility for chemical phosphorus removal (including increased sludge disposal) than those used in EPA's barrier to entry analysis, as discussed here. EPA is concerned that, with similar additional costs, the

ratio for further processors may rise to a level that the Agency would consider to be a barrier to entry for Option 2.5+P and Option 4. Based on these results, EPA has decided to establish standards for new sources equivalent to the BAT limitations based on Option 2.5 technology for total nitrogen and equivalent to BPT (based on Option 2) for ammonia (as nitrogen) and the five conventional pollutants.

VIII. How Did EPA Estimate the Pollutant Loadings and Compliance Costs for the Final Rule?

A. Pollutant Reductions

1. How Did EPA Estimate Pollutant Loadings and Reductions for the Final Rule?

As discussed in Section V, in response to comments on the proposal EPA revised the method to estimate compliance costs. The revised assessment of pollutant loading reductions was developed at the facility-level similar to the revised analysis of costs.

EPA developed target effluent concentrations for each treatment option for 11 pollutants of concern. These 11 pollutants of concern are comprised of the eight pollutants that EPA proposed for regulation (ammonia (as N), 5-day biochemical oxygen demand (BOD5), chemical oxygen demand (COD), fecal coliforms, oil and grease (as hexane extractable material), total nitrogen, total phosphorus, and total suspended solids (TSS)), with the addition of 3 other pollutants (carbonaceous biological oxygen demand (CBOD), nitrate+nitrite as nitrogen, and total Kjeldahl nitrogen (TKN)) that EPA also considered for regulation after the proposal. For a discussion on pollutants selected for regulation in today's final rule see Section V.B.

To estimate the baseline pollutant loadings, EPA first established baseline pollutant concentrations for the selected 11 pollutants of concern for each facility for which EPA had estimated costs. Facility baseline concentrations are the estimated pollutant concentrations in the MPP wastewaters that a facility is currently discharging.

For each facility, EPA made extensive efforts to obtain analytical effluent wastewater concentration data representative of the treatment system in place at the facility. Data sources EPA used to establish the baseline pollutant concentration for a specific facility included the following: Data provided in the detailed survey; corrections to a ''fact sheet'' sent to each facility that summarized information about the facility's effluent concentrations, wastewater flows, and wastewater treatment operations; data provided by the facility through telephone communications; sampling episode data; site visit data; discharge monitoring report (DMR) data from the EPA Permit Compliance System (PCS), EPA Regional Office, or State regulatory agency; and effluent data provided in the facility's NPDES permit application.

When effluent data were available, EPA used the annual average concentrations reported for 1999 because 1999 was the base year of the MPP detailed survey. EPA also used concentrations reported for years after 1999, but only when data from 1999 were unavailable and only if facility operations or treatment performance had not significantly changed since 1999. In instances where data from more than one source were available for a particular facility, EPA used the data that represented and encompassed the largest span of time. For example, if both detailed survey data and sampling episode data were available for a facility, EPA used average concentration from the detailed survey data instead of the sampling episode data. In this example the detailed survey data represented the average pollutant concentration over a year while the sampling episode data represented the average concentration over a period of 3 or 5 days.

When EPA could not obtain effluent data for a pollutant or pollutants from any of the above data sources, EPA derived default concentrations. In particular, EPA derived default concentrations for certain pollutants if data on an associated pollutant parameter were available. For example, based on the available data from the sampling episodes and detailed survey data, EPA found a strong relationship between BOD and CBOD concentrations in MPP wastewaters. Therefore, when a facility did not have data on effluent CBOD concentrations, but did have effluent BOD data, EPA estimated the CBOD concentration based on the BOD data (more detailed information on the calculations and formulas development are available in Section 19.6.1, DCN 100–784 of the rulemaking record).

Considerable effort was made to either obtain analytical effluent concentration data or to calculate pollutant concentrations based on another pollutant where EPA's data demonstrated a correlation. For example, EPA calculated baseline concentrations for total nitrogen (based on TKN and nitrate+nitrite values) for many facilities. However, when analytical effluent data for a particular pollutant was unavailable and could not be calculated, then EPA used a default value for the facility. EPA calculated default concentrations for BOD_5, COD, fecal coliforms, ammonia as nitrogen, oil and grease (HEM), and TSS. For each regulatory subcategory, EPA averaged all the available analytical data for a particular pollutant from all the facilities matching the subcategory and EPA used this average as the default value. Previously, default concentrations were also developed for nitrate+nitrite as nitrogen concentrations. However, by using default nitrate+nitrite values it was observed that inconsistencies between the influent and effluent total nitrogen concentrations occurred at certain facilities. For example, facilities with only nitrification treatment would appear to have significant denitrification based on the use of default nitrate+nitrate concentrations. Therefore, EPA revised the calculation of nitrate+nitrite concentrations for facilities with only nitrification treatment based on a total nitrogen balance between the influent and effluent wastewater concentrations. For facilities with partial denitrification treatment, the calculated average total nitrogen percent removal at facilities with partial denitrification treatment was applied to the influent value to calculate the effluent concentration. More detailed information is available in the Technical Development Document.

Because of the general lack of data for the pollutants of concern and the similarity in wastewater characteristics for stand-alone meat and poultry further processors (Subcategories F-I and L, respectively), EPA combined the baseline data from these two facility types. The result was one set of default baseline concentrations that applied to all further processors, regardless of whether the facility was a meat or poultry further processor. EPA has found that the wastewater characteristics at further processors are more likely to be dependent on the processing operation (*e.g.*, breading, frying) than on the type of meat.

For independent rendering facilities (Subcategory J), in addition to the available analytical data from the sources described previously in this section, EPA used data provided by the MPP Industry Coalition for three independent rendering facilities, and data provided by the National Renderers Association for two independent rendering facilities in the development of default concentrations for Subcategory J facilities.

After EPA determined pollutant concentrations for each facility, EPA

compared and adjusted the facility baseline concentrations for each facility using the permit limits required at the facility. When permit limit data were available for a facility (from a copy of the facility's NPDES permit or from PCS), EPA lowered the concentration equal to the facility's permit limit value if EPA's calculated average baseline effluent concentration was greater than the limit specified in the permit. When available, EPA used monthly average limits contained in the permit. EPA used maximum daily limits when monthly average limits were not available. When permits included seasonal limits, EPA calculated an average concentration for the permit using all seasonal limits. For example, if the permit BOD limit was 20 mg/L for 6 months and 10 mg/L for 6 months, EPA used the average value of 15 mg/L for the permit limit. In this example, if the facility's average effluent BOD was 21 mg/L, EPA would adjust the facility's baseline BOD concentration to the average permit limit of 15 mg/L.

After EPA established baseline pollutant concentrations for each facility, EPA calculated baseline pollutant loadings (in pounds per year, or million colony-forming units per year) based on the facility's baseline concentration and wastewater flow. EPA then estimated national baseline pollutant loadings by multiplying each facility's baseline pollutant loading by the corresponding survey weight assigned to the facility.

In order to estimate pollutant reductions after the implementation of the final limitations and standards for the MPP industry, EPA estimated technology option loadings. Technology option loadings are defined as the estimated pollutant loadings in MPP wastewaters after implementation of the selected technology option; they are also referred to as post-compliance or treated pollutant loadings. To estimate the technology option loadings for each technology option that EPA considered, EPA derived post-compliance pollutant concentrations for each facility for which EPA had developed baseline pollutant loadings.

EPA determined post-compliance concentrations for each facility by comparing the facility's baseline concentration with the technology option target effluent concentration. When the technology option target effluent concentration was lower than the facility's baseline concentration, EPA used the technology option target effluent concentration to represent the facility's effluent pollutant concentration after implementation of the final limitations and standards.

EPA then calculated technology option loadings for each facility using the facility's post-compliance pollutant concentrations and wastewater flow. EPA estimated national technology option loadings by multiplying each facility's technology option loading estimates by the corresponding survey weight assigned to the facility. Finally, for each technology option EPA calculated the national pollutant reductions as the difference between the national baseline pollutant loads and the national technology option pollutant loads.

2. What Are the Pollutant Reductions Associated With This Rule?

Tables VIII.A–1 and VIII.A–2 show the estimated pollutant reductions for each treatment option. The conventional pollutant loadings (*i.e.*, 5-day biological oxygen demand, total suspended solids, and oil & grease (as HEM)) removed for Options 2, 2+P, 2.5, and 2.5+P are the within each subcategory because the additional components above Option 2 technology (*i.e.*, denitrification or phosphorus removal) are not designed to remove conventional pollutants. Therefore, in EPA analysis of pollutant reductions Options 2+P, 2.5 and 2.5+P represent additional removals of nutrients, not conventional pollutants, compared to Option 2. In practice, the addition of chemicals (*e.g.*, alum) to remove phosphorus would cause incidental reductions of total nitrogen, BOD_5, and TSS. Option 4 provides additional removals of both nutrients and conventional pollutants relative to other options. For information see the Technical Development Document in the rulemaking docket.

TABLE VIII.A–1.—REMOVAL OF SPECIFIED POLLUTANTS BY SUBCATEGORY AND OPTION [1]—NON-SMALL FACILITIES

Subcategory	Pollutant	Removals (pounds per year)			
		Option 2	Option 2.5	Opt. 2.5+P	Option 4
A through D (non-small)	5-Day Biochemical Oxygen Demand	609,665	609,665	609,665	640,054
	Total Suspended Solids	967,092	967,092	967,092	1,116,025
	Chemical Oxygen Demand	0	0	0	0
	Carbonaceous Biochem. Oxygen Demand.	511,342	511,342	511,342	511,342
	Ammonia as Nitrogen	2,250,306	2,250,306	2,250,306	2,309,928
	Total Nitrogen	0	15,400,791	15,400,791	18,456,984
	Total Phosphorus	0	0	4,519,867	4,972,188
	Nitrate/Nitrite	0	13,574,558	13,574,558	16,374,921
	Total Kjeldahl Nitrogen	2,212,522	2,212,522	2,212,522	2,228,721
	Oil & Grease (HEM)	0	0	0	0
F through I (non-small)	5-Day Biochemical Oxygen Demand	21,703	21,703	21,703	24,467
	Total Suspended Solids	0	0	0	0
	Chemical Oxygen Demand	42,213	42,213	42,213	42,213
	Carbonaceous Biochem. Oxygen Demand.	18,395	18,395	18,395	18,395
	Ammonia as Nitrogen	10,575	10,575	10,575	13,804
	Total Nitrogen	0	0	0	79,677
	Total Phosphorus	0	0	0	0
	Nitrate/Nitrite	0	0	0	0
	Total Kjeldahl Nitrogen	12,945	12,945	12,945	15,677
	Oil & Grease (HEM)	0	0	0	0
J	5-Day Biochemical Oxygen Demand	34,176	34,176	34,176	36,734
	Total Suspended Solids	0	0	0	19,871
	Chemical Oxygen Demand	0	0	0	0
	Carbonaceous Biochem. Oxygen Demand.	28,570	28,570	28,570	28,570

TABLE VIII.A–1.—REMOVAL OF SPECIFIED POLLUTANTS BY SUBCATEGORY AND OPTION [1]—NON-SMALL FACILITIES—Continued

Subcategory	Pollutant	Removals (pounds per year)			
		Option 2	Option 2.5	Opt. 2.5+P	Option 4
	Ammonia as Nitrogen	48,965	48,965	48,965	56,388
	Total Nitrogen	0	1,469,407	1,469,407	1,652,506
	Total Phosphorus	0	0	590,434	622,583
	Nitrate/Nitrite	0	1,465,011	1,465,011	1,644,216
	Total Kjeldahl Nitrogen	51,819	51,819	51,819	54,788
	Oil & Grease (HEM)	0	0	0	0
K (non-small)	5-Day Biochemical Oxygen Demand	643,830	643,830	643,830	868,841
	Total Suspended Solids	1,309,553	1,309,553	1,309,553	2,573,666
	Chemical Oxygen Demand	6,513,778	6,513,778	6,513,778	11,244,275
	Carbonaceous Biochem. Oxygen Demand.	725,207	725,207	725,207	725,207
	Ammonia as Nitrogen	331,973	331,973	331,973	502,103
	Total Nitrogen	0	9,367,808	9,367,808	20,883,771
	Total Phosphorus	0	0	4,147,385	4,671,571
	Nitrate/Nitrite [2]	0	10,112,961	10,112,961	20,103,140
	Total Kjeldahl Nitrogen	223,255	223,255	223,255	800,944
	Oil & Grease (HEM)	313,477	313,477	313,477	329,373
L (non-small)	5-Day Biochemical Oxygen Demand	9,143	9,143	9,143	18,672
	Total Suspended Solids	135	135	135	3,923
	Chemical Oxygen Demand	43,609	43,609	43,609	59,123
	Carbonaceous Biochem. Oxygen Demand.	13,889	13,889	13,889	13,889
	Ammonia as Nitrogen	9,492	9,492	9,492	16,123
	Total Nitrogen	0	146,364	146,364	354,355
	Total Phosphorus	0	0	25,012	27,000
	Nitrate/Nitrite [2]	0	153,476	153,476	335,921
	Total Kjeldahl Nitrogen	5,685	5,685	5,685	19,039
	Oil & Grease (HEM)	0	0	0	0

[1] Incremental to baseline of current performance. Current performance based on summarized 1999 DMR data provided in response to detailed surveys. Pollutant loading for various treatment options based on sampling data, survey information, and DMR data. (See Section 11 of the Technical Development Document for a detailed discussion of loadings methodology).

[2] EPA recognizes that total nitrogen should be more than nitrate/nitrite as nitrogen because total nitrogen is the sum of nitrate/nitrite as nitrogen and total Kjeldahl nitrogen. However, the target effluent concentrations were taken from different sets of facilities (*i.e.*, those that provided total nitrogen data and those that provided nitrate/nitrite as nitrogen data). EPA is regulating total nitrogen, not nitrate/nitrite nitrogen for the final rule.

TABLE VIII.A–2.—REMOVAL OF SPECIFIED POLLUTANTS BY SUBCATEGORY AND OPTION [1]—SMALL FACILITIES

Subcategory	Pollutant	Removals (pounds per year)	
		Option 1	Option 2
A through D (small)	5-Day Biochemical Oxygen Demand	CBI	Not estimated
	Total Suspended Solids	CBI	Not estimated
	Chemical Oxygen Demand	0	Not estimated
	Carbonaceous Biochemical Oxygen Demand	CBI	Not estimated
	Ammonia as Nitrogen	0	Not estimated
	Total Nitrogen	0	Not estimated
	Total Phosphorus	0	Not estimated
	Nitrate/Nitrite	0	Not estimated
	Total Kjeldahl Nitrogen	0	Not estimated
	Oil & Grease (HEM)	0	Not estimated
F through I (small)	5-Day Biochemical Oxygen Demand	45,264	45,264
	Total Suspended Solids	52,452	52,452
	Chemical Oxygen Demand	0	0
	Carbonaceous Biochemical Oxygen Demand	40,586	40,586
	Ammonia as Nitrogen	2,732	8,297
	Total Nitrogen	0	0
	Total Phosphorus	0	0
	Nitrate/Nitrite	0	0
	Total Kjeldahl Nitrogen	12,423	16,616
	Oil & Grease (HEM)	0	0
K (small)	5-Day Biochemical Oxygen Demand	CBI	CBI
	Total Suspended Solids	CBI	CBI
	Chemical Oxygen Demand	CBI	CBI
	Carbonaceous Biochemical Oxygen Demand	CBI	CBI
	Ammonia as Nitrogen	0	CBI
	Total Nitrogen	0	0
	Total Phosphorus	0	0

TABLE VIII.A–2.—REMOVAL OF SPECIFIED POLLUTANTS BY SUBCATEGORY AND OPTION [1]—SMALL FACILITIES—Continued

Subcategory	Pollutant	Removals (pounds per year)	
		Option 1	Option 2
L (small)	Nitrate/Nitrite	0	0
	Total Kjeldahl Nitrogen	0	CBI
	Oil & Grease (HEM)	0	0
	5-Day Biochemical Oxygen Demand	3	3
	Total Suspended Solids	0	0
	Chemical Oxygen Demand	0	0
	Carbonaceous Biochemical Oxygen Demand	11	11
	Ammonia as Nitrogen	179	179
	Total Nitrogen	0	0
	Total Phosphorus	0	0
	Nitrate/Nitrite	0	0
	Total Kjeldahl Nitrogen	139	139
	Oil & Grease (HEM)	0	0

[1] Incremental to baseline of current performance. Current performance based on summarized 1999 DMR data provided in response to detailed surveys. Pollutant loading for various treatment options based on sampling data, survey information, and DMR data. (See Section 11 of the Technical Development Document for a detailed discussion of loadings methodology).

CBI = Confidential business information is not disclosed due to the limited number of facilities estimated to be in the subcategory.

B. Compliance Costs

1. How Did EPA Estimate the Compliance Costs of the Final Rule?

EPA developed cost models to estimate the costs required to modify an existing nitrifying wastewater treatment system to achieve long-term average (LTA) concentrations (*i.e.*, target effluent concentrations) of the technology options considered for the final rule. EPA developed five cost models: the Option 2 cost model, Option 2+P cost model, Option 2.5 cost models, Option 2.5+P cost model, and Option 4 cost model. EPA used Option 2 cost model with Option 1 LTA concentrations to estimate Option 1 costs for small facilities.

The primary cost model inputs required for each MPP facility are treatment in place, wastewater treatment plant flow, and influent and effluent pollutant concentrations for select parameters. EPA obtained data inputs for each facility from a variety of sources, including the MPP detailed survey, sampling episode reports, site visit reports, and discharge monitoring reports. In the absence of influent concentrations for a facility, EPA used default concentrations. See discussion on development of default baseline concentrations in Section VIII.A.1. The cost models have the ability to cost several alternate treatment systems for the technology options. After reviewing the current influent and effluent concentrations and treatment in place at a facility, EPA selected and calculated costs for a particular treatment system to achieve the Option LTA concentrations.

Based on the input parameters, the model calculates the design parameters (*e.g.*, volume of tanks) of the equipment required to achieve the Option LTA concentrations. The calculated design parameters are used in the cost equations in the model to estimate the cost of the equipment. The summation of the capital costs is annualized and added to the total operation and maintenance (O&M) costs to provide the overall incremental compliance cost of the rule. EPA developed the capital and O&M cost equations from the information obtained from vendors, survey, cost models, and industry comments.

The cost model estimates capital costs for the following treatment components: anoxic tanks, aeration tanks, pumps, mixers, an aeration system, methanol, polymer and alum feed systems, mix tanks, a filtration system, a sludge dewatering system, a holding pond, a lagoon bypass cost, and miscellaneous cost. The O&M costs include costs for maintenance, labor, energy, alkalinity, alum, methanol, polymer, sludge disposal, sampling and analytical, performance improvement, and methane revenue loss due to lagoon bypass. For information see the Technical Development Document in the rulemaking record.

2. What Are the National Costs Associated With the Final Rule?

This section presents EPA's estimate of the total annual costs to the meat and poultry products industry as a result of today's rule. All costs presented in this section are reported in pre-tax 2003 dollars (unless otherwise indicated).

EPA estimates the total pre-tax annualized costs of the final rule at $58.2 million for the selected option (see Table VIII.B–1). Capital costs account for $234 million under the selected regulatory option. Estimated costs per facility are consistently highest for Subcategories A–D ($0.6 million), and lowest for Subcategories F–I ($91,000). Table VIII.B–1 presents compliance costs by subcategory and treatment option for non-small facilities.

The table shows both pre-tax and -tax and post-tax costs. Pre-tax annualized costs are the most complete estimates of annualized control costs and reflect the overall cost to society. EPA presents pre-tax costs also for its Executive Order 12866 analysis (Section XIII.A) and cost-effectiveness analysis (Section IX.H). EPA uses post-tax costs to assess financial impacts under the regulation because they net out tax savings and more accurately reflect the costs that businesses will incur.

TABLE VIII.B–1.—TOTAL AND AVERAGE COMPLIANCE COSTS FOR NON-SMALL FACILITIES BY SUBCATEGORY AND OPTION

Option	Total costs (1000's, 2003 dollars)			Average facility costs (1000's, 2003 dollars)		
	Capital	Post-tax annualized	Pre-tax annualized	Capital	Post-tax annualized	Pre-tax annualized
Subcategory A–D						
Option 2	$27,165	$5,179	$8,051	$937	$179	$278
Option 2.5	75,061	12,395	18,435	2,588	427	636
Option 2.5+P	97,662	30,794	47,412	3,368	1,062	1,635
Option 4	121,753	37,382	57,451	4,198	1,289	1,981
Subcategory F–I [1]						
Option 2	1,106	294	294	276	73	73
Option 2.5	1,124	363	363	281	91	91
Option 2.5+P	1,216	396	396	304	99	99
Option 4	2,350	882	882	588	220	220
Subcategory J [1]						
Option 2	1,429	695	695	75	37	37
Option 2.5	7,755	3,123	3,123	408	164	164
Option 2.5+P	9,978	8,212	8,212	525	432	432
Option 4	12,827	11,237	11,237	675	591	591
Subcategory K						
Option 2	70,650	15,026	19,598	736	157	204
Option 2.5	147,592	28,067	35,151	1,537	292	366
Option 2.5+P	177,432	53,370	70,027	1,848	556	729
Option 4	366,069	93,408	1,205,090	3,813	973	1,255
Subcategory L [1 2]						
Option 2	1,495	615	615	149	62	62
Option 2.5	2,615	1,086	1,086	262	109	109
Option 2.5+P	4,207	1,630	1,630	421	163	163
Option 4	8,641	3,612	3,612	864	361	361
Totals						
Option 2	101,845	21,808	29,253	645	138	185
Option 2.5	234,147	45,033	58,157	1,482	285	368
Option 2.5+P	290,495	94,403	127,677	1,839	597	808
Option 4	511,639	146,521	193,691	3,238	927	1,226

[1] For non-small facilities in Subcategories F–I, J, and L, post-tax annualized costs are equal to pre-tax annualized costs because the analysis is based on model facilities, and EPA assumed a tax shield of $0 to avoid underestimating impacts.

[2] Subcategory includes partial costs for 7 mixed processor facilities with non-small levels of production in Subcategory L and small levels of production in Subcategory F–I; on average, 61 percent of their production falls into Subcategory L. Compliance costs for mixed processor facilities are distributed between subcategories and tables based on their percentage of production in each.

Table VIII.B–1 shows only that percentage of costs for mixed processors that is attributable to non-small levels of production of further processed poultry (Subcategory L). Because EPA chose not to set new effluent limitations and guidelines for small facilities under the final rule, the costs that small facilities would have incurred under the considered (but not selected) options are shown separately in Table VIII.B–2.

Table VIII.B–2 presents estimated total and average compliance costs for small facilities under the various options considered. Table VIII.B–2 includes costs for mixed processors that are attributable to small levels of production of further processed meat (Subcategories F–I) and poultry (Subcategory L). Thus costs for mixed processors are split between different tables and/or subcategories within tables as appropriate.

TABLE VIII.B–2.—TOTAL AND AVERAGE COMPLIANCE COSTS FOR SMALL FACILITIES BY SUBCATEGORY AND OPTION

Option	Total costs (1000's, 2003 dollars)			Average costs (1000's, 2003 dollars)		
	Capital	Post-tax annualized [1]	Pre-tax annualized	Capital	Post-tax annualized [1]	Pre-tax annualized
Subcategory A–D [2]						
Option 1	$2,000–4,000	$1,000–2,500	$1,000–2,500	$150–175	$80–120	$80–120
Option 2 [3]	NA	NA	NA	NA	NA	NA

TABLE VIII.B–2.—TOTAL AND AVERAGE COMPLIANCE COSTS FOR SMALL FACILITIES BY SUBCATEGORY AND OPTION—Continued

Option	Total costs (1000's, 2003 dollars)			Average costs (1000's, 2003 dollars)		
	Capital	Post-tax annualized [1]	Pre-tax annualized	Capital	Post-tax annualized [1]	Pre-tax annualized
Subcategory F–I [4]						
Option 1	2,550	1,224	1,224	121	58	58
Option 2	2,550	1,233	1,233	121	59	59
Subcategory K [2]						
Option 1	7,500–10,000	2,500–5,000	2,500–5,000	200–400	75–100	75–100
Option 2	7,500–10,000	2,500–5,000	2,500–5,000	200–400	75–100	75–100
Subcategory L [5]						
Option 1	19	15	15	6	5	5
Option 2	19	15	15	6	5	5

[1] For small facilities, post-tax annualized costs are equal to pre-tax annualized costs because (1) the facility is an S corporation or LLC (Subcategories A–D and K), so taxes are paid on the income of the owning partners or (2) the analysis is based on model facilities (Subcategories F–I and L), and EPA assumed a tax shield of $0 to avoid underestimating impacts.

[2] Estimated costs are presented as a range to prevent the disclosure of confidential business information.

[3] Option 2 was not costed for small facilities in this subcategory, because EPA did not propose further regulations.

[4] Subcategory includes a share of costs for 7 mixed processor facilities with small levels of production in Subcategory F–I and non-small levels of production in Subcategory L. This subcategory also includes 3 mixed processor facilities with small levels of production in Subcategory F–I and small levels of production in Subcategory L. Compliance costs for mixed processor facilities are distributed between subcategories based on their percentage of production in each.

[5] Subcategory includes a share of costs for 3 mixed processor facilities with small levels of production in Subcategory L and small levels of production in Subcategory F–I. Compliance costs for mixed processor facilities are distributed between subcategories based on their percentage of production in each.

IX. What Are the Economic Impacts Associated With This Rule?

This section presents EPA's estimate of the economic impacts that would be incurred by both existing and new meat and poultry products facilities as a result of today's rule. This section also presents EPA's cost-effectiveness and cost-reasonableness analysis. All costs presented in this section are reported in pre-tax 2003 dollars (unless otherwise indicated).

At the time of the proposal, EPA did not have detailed survey financial data to use as a basis for an economic impact assessment. EPA therefore developed economic impact methodologies based on publicly available information for the proposed rule. These methodologies are described in detail in the proposal (67 FR 8614; February 25, 2002) and in the accompanying Economic Analysis for the proposed rule. EPA's analysis for the proposed rule also describes the methodology it anticipated using to evaluate economic impacts based on the detailed survey data. EPA described further refinements to those methodologies in its NODA (68 FR 48487; August 13, 2003). However, as EPA analyzed the results of the detailed survey data, it became clear that few direct discharging further processors or renderers (Subcategories E–I, Subcategory J, and Subcategory L) had received a detailed survey. Based on the screener survey data, EPA has concluded that there are a few direct discharging facilities in these subcategories (see EPA's proposal at 67 FR 8591 for more information on the screener survey).

For the final rule, EPA projects economic impacts to direct discharging slaughtering facilities (Subcategories A–D and Subcategory K) using detailed survey data and the associated methodologies described in supporting documents for the proposed rule and in the Agency's NODA. EPA projects economic impacts to direct discharging facilities that perform further processing and rendering (Subcategories F–I, Subcategory J, and Subcategory L) using the methodology described in the preamble to the proposed rule, publicly available information, and screener survey data. EPA did not revise its estimates of economic impacts for Subcategory E (Small Processors) developed for the proposed rule because EPA did not propose further regulation of this subcategory (see Section VII for discussion on the regulation of facilities in Subcategory E).

Section A of this section reviews the different methodologies EPA developed to evaluate economic impacts on MPP facilities from expected incremental pollution control costs that will be incurred under the final rule. More information on these methodologies is also provided in the NODA, the Economic Analysis for the proposed rule, and the Economic and Environmental Benefits Analysis for the final rule. Section B presents EPA's estimate of the number of facility closures for each subcategory under the regulation; Sections C and D present EPA's analysis of the projected effects at the company level and market level. Sections E and F show EPA's estimate of the final regulation's effects on foreign trade and communities, respectively. Section G covers EPA's estimate of the economic impacts to new meat and poultry products facilities from complying with today's rule, measured in terms of business barriers to entry. Section H present EPA's cost-reasonableness and cost-effectiveness analyses.

EPA has been examining the causative agents of transmissible spongiform encephalopathies (TSEs) as they relate to such matters as surface treatments and waste disposal. Given the early stages of this examination and ongoing work by other agencies, EPA acknowledges that it cannot presently account for the projected costs associated with the regulatory demand that may be placed on meat processing facilities in the future to deal with transmissible spongiform encephalopathies. These cost will depend on future decisions by the relevant federal agencies and are not

available for inclusion in today's rule. Based on what EPA now knows, however, the rule is economically achievable.

A. What Methods Were Used To Determine the Costs and Economic Impacts?

EPA examined impacts at several levels: facility, company, market, and national. Several facets of various analyses were modified in response to comments on the proposed rule and the NODA. These changes are identified in the following sections.

1. What Method Was Used To Assess Business Closures?

The facility-level analysis examines whether an otherwise profitable site closes in response to the additional costs of increased pollution control. EPA calculates direct impacts, such as closures and losses in employment and revenue based on the survey data for the facilities projected to close as a result of the regulation. EPA developed two methods of evaluating facility closure. EPA bases the first method, as described in the following section (''Facility-Analysis Method for Sites with Detailed Questionnaire Data''), on detailed questionnaire data and uses this approach to estimate closures for Subcategories A–D and Subcategory K facilities. As previously noted, the detailed questionnaires returned to EPA do not fully represent Subcategories E–I, Subcategory J, and Subcategory L facilities. Therefore, for these facilities EPA used a combination of screener survey data and public data to estimate closures among these facilities (see the discussion in the section titled ''Facility-Analysis Method for Sites without Detailed Questionnaire Data'').

a. Facility-Analysis Method for Subcategories With Sufficient Detailed Questionnaire Data

EPA's closure analysis is a discounted cash flow analysis that compares the costs incurred during a 16-year period from 2005 to 2020 to the earnings accumulated during that same period. This analysis discounts both costs and earnings with the facility-specific discount rate reported in the detailed questionnaire. This takes into account the time value of money and places both time series on a comparable basis. To be considered a closure under the final rule, a facility has to show both (1) positive long-term earnings without the regulation and (2) negative long-term earnings as a result of the regulation in the majority of the forecasts. While the analysis may be described simply, EPA does address many complexities within the model, including what to consider as earnings, which costs to consider, and the number and type of forecasting methods used.

Earnings. EPA uses net income as the basis for earnings where it is calculated from detailed questionnaire data as revenues minus operating costs; selling, general, and administrative expenses; depreciation; interest; and taxes.

Forecasting Methods. EPA uses a 16-year time period to forecast facility future income. For the proposal, EPA stated it would use the survey period, 1997 to 1999, as the baseline for projecting facility and company net income for use in the closure model. Commenters felt that it was not appropriate to use this period as the baseline because unusual supply and demand conditions resulted in unusually large margins for meat companies, and therefore, atypically profitable years. EPA concurs with this assessment. To address these concerns EPA developed a forecasting model that uses historical data on the periodic cycles of the relevant markets to generate an index. As discussed in the NODA, EPA uses this index to forecast net income for MPP facilities, accounting for cyclical effects on profits.

In the meat packer and processing sectors, EPA uses time series data from U.S. Department of Agriculture's Economic Research Service (USDA/ERS) to develop a forecast of the annual farm-to-wholesale price margin. To forecast this margin in the poultry sector, EPA developed a new time series by subtracting the USDA/ERS broiler wholesale production cost time series from its broiler wholesale price time series. These time series data, which span from 1970 to 2002 for beef and pork, and from 1990 to 2002 for poultry, are expressed in constant 1999 prices and are deseasonalized.

For this analysis, EPA identified ''normal'' or ''average'' margin cycles for each animal type over the 1970 to 2002 period, which were then econometrically tested to ensure statistical validity. EPA uses these cycles to forecast the wholesale margin for the 2005 to 2020 time period. Complete details of EPA's methodology to measure and forecast the wholesale margin cycles are provided in the docket (see Section 21.2, DCN 125–502).

EPA forecasts facility earnings for use in the closure model by first developing indices using the historical and projected wholesale margin time series and then applies these indices to survey net income data. EPA projects net income to vary directly with the farm-to-wholesale price spread: as the spread narrows, net income declines. As noted in public comments received by EPA, the 1997 to 1999 survey period was at or near the peak of a cycle, and as a result net income could be expected to decline as industry moved toward the cycle trough. Therefore, EPA selected cycle high points (largest annual margin) for the base period of its indices. Accordingly, both the margin and facility net income will, in general, decline as the forecast moves further from the baseline year.

Weight of Evidence to Determine Closure. To account for uncertainty in both the forecast future facility net income, and the appropriate start point of the forecast, EPA selected three methods for projecting future facility net income. One forecast method uses a simple average of 1997, 1998, and 1999 net income projected over the 16-year project life. Based on comments that these were unusually profitable years, EPA developed alternate forecasts where future net income is projected to vary directly with a forecast of the farm-to-wholesale price margin. Thus, the alternate forecasts can be defined by a combination of start points: the net income start point (*i.e.*, the year from which facility net income is taken from the survey), and the initial value for the price margin. The second forecast starts with both 1999 net income and the 1999 margin value as the start point of the business cycle forecast. The third forecast takes the simple average of 1997, 1998, and 1999 to use as the net income start point, then, to capture the peak of the business cycle, selects the largest margin value in the 1995 to 2001 time frame as the start point of the business cycle forecast. EPA used the preponderance of evidence under different forecasting methods to determine if a facility is projected to close. That is, EPA projects a facility will close if the present value (PV) of future compliance costs exceeds the forecast PV of net income under two of the three forecasting methods.

Alternate Analysis. As an alternate analysis, EPA projects closures if the PV of future compliance costs exceeds the forecast PV of net income under one of the three forecasting methods. EPA believes this constitutes a more conservative approach to estimating potential closures. The alternative analysis focuses on subcategories A–D and K only. The results of this analysis do not indicate that there would be a substantial change in the number of estimated facility closures: EPA estimates that there could be two closures among subcategory A–D facilities and no change for subcategory K facilities. See the rulemaking record for additional details.

Baseline Industry Conditions. The focus of EPA's analysis is to evaluate financial impacts that result from complying with the final regulation. However, there are two situations where EPA cannot perform this analysis: if (1) The company does not assign costs and revenues that reflect the site's true financial health (*e.g.*, the facility is a cost center or a captive site), or (2) the site is already in financial trouble. Under the first condition, EPA does not have sufficient information to evaluate impacts at the site level as a result of the rule. In the second case, the facility is unprofitable prior to the regulation, and the company may decide to close the site even in the absence of the rule. The projected closure of a site that is unprofitable prior to a regulatory action is not attributed to the regulation. This second case is referred to as a baseline closure.

In the first situation, EPA is not able to analyze facility-level closure impacts when the company does not record sufficient information at the site level for the closure analysis to be performed. In the case of the MPP industry, many companies do not maintain financial records at the facility level. Instead they maintain their financial records at, for example, the company level, division level or product line level. EPA's detailed survey provides facility-level financial data for less than 40 percent of direct discharging facilities. EPA also collected company-level financial data in the detailed survey. Therefore, EPA performed a closure analysis at the company level as a supplement to the facility-level analysis, to compensate for the relatively low percentage of detailed surveys with facility-level data.

Adjustment of Facility Weights to Account for Nonresponse. Detailed survey data was not available for use at the time of the proposed rulemaking. For proposal, EPA used screener survey data combined with model facilities derived from Census data to perform the facility-level closure analysis. EPA did use detailed survey data to perform the facility-level closure analysis, as presented in the NODA. However, as previously noted, EPA did not receive facility-level financial data from a significant portion of respondents in response to the Agency's detailed survey. In particular, 10 facilities (18 weighted) in Subcategory A–D (both small and non-small) and 27 facilities (97 weighted) in Subcategory K facilities (both small and non-small) did not provide sufficient financial information for use in EPA's closure analysis. This was generally because the companies do not maintain the type of information about each facility that EPA requested. Instead, the information is consolidated at the company level. Therefore, EPA conducted its facility-level closure analysis on the 10 facilities (28 weighted) in Subcategory A–D (both small and non-small) and 9 facilities (45 weighted) in Subcategory K (both small and non-small) that provided sufficient data about each facility. As discussed in the NODA, analysis of economic impacts to the facilities that did not provide financial data were subsumed under the company-level closure analysis.

EPA received public comments on the NODA recommending that the Agency account for all surveyed facilities in its facility closure analysis, even if no financial information on a facility was obtained through the detailed survey. To address these public comments for the final rule, EPA accounted for missing data as follows.

For its facility closure analysis and small business sales test in Subcategories A–D and Subcategory K, EPA incorporated additional adjustments to the survey weights to account for the facilities without the financial information, but that had otherwise responded to the questionnaire. EPA believes that its approach is simpler and more robust than the approach proposed in the public comments and consistent with accepted survey statistical practice. By adjusting in this manner, EPA is assuming that the facilities that provided facility-level information are similar to those that did not. EPA has no information to suggest that this is not the case.

Commenters suggested that EPA account for incomplete facility-level data using available financial data combined with production data to estimate a distribution for the facility's net income in 1997, 1998, and 1999, thereby allowing the Agency to forecast this net income distribution over the 16-year project life. After careful review, EPA decided not to adopt this distribution approach for the following reasons. First, EPA believes that a distribution approach does not maintain the characteristics of facility-level financial conditions as compared to an approach that uses adjustment of facility weights. A distribution approach also relies on too many statistical assumptions to make such an approach workable. Second, EPA believes that forecasting a distribution results in greater uncertainty about future net income per pound. The resulting broad range of outcomes would make meaningful comparisons of costs and incomes streams difficult. The distributional approach suggested by commenters has merit and could add value if all survey data were initially reported on a per pound basis along product, facility, and distributional lines. Third, the recommended distribution approach proposed that EPA pool observations of net income per pound from both poultry and meat slaughter facilities, which have very different economic and financial characteristics. Finally, EPA's preliminary assessment indicates that its estimate of facility closures using either approach would not be significantly changed. More detailed information is available in EPA's comment response document and in the rulemaking record.

Table IX.A–1 lists the number of facilities by subcategory and production size, as well as the numbers of facilities that did and did not provide financial information for the closure analysis (see the TDD and the rulemaking docket for further details on survey stratification and facility counts).

TABLE IX.A–1.—FACILITY COUNTS

Subcategory	Production size	Facility counts			"Economic analysis" adjustment factor (N/n_1)
		Eligible (N)	With data (n_1)	Without data (n_2)	
A–D	non-small	31	13	18	2.38
	small	15	15	0	1.00
K	non-small	105	36	69	2.92
	small	36	9	27	4.15

The final weight w_{hi} for a facility i in stratum h can be written as follows:

$W_{h,i}$ = (base weight)$_{h,i}$ × (economic analysis adjustment factor)$_h$

$W_{h,i}$ = (base weight)$_{h,i}$ × $(N/n_1)_h$

(See the Economic Analysis for the proposed rule). In other words, there are 31 non-small direct dischargers in subcategories A–D, of which 13 provided facility-level financial data; 18 facilities did not. The 13 non-small facilities would have their detailed survey weight multiplied by 2.38 ($^{31}/_{13}$= 2.38) to account for the 18 that did not provide facility-level data, and so forth for the remaining subcategories and size classes.

b. Facility-Analysis Method for Subcategories Without Sufficient Detailed Questionnaire Data

Facilities in Subcategories E–I, J, and L are not well represented in the detailed questionnaire data. EPA uses screener survey data to estimate compliance costs, then uses size and process information to match the screener survey facilities with model facilities to project economic impacts using the methodology from the proposed rule.

EPA's economic model facilities are based on the U.S. Census Bureau's 1997 Economic Census of the four NAICS codes for meat and poultry product industries (NAICS 311611: Animal (Except Poultry) Slaughtering, 311612: Meat Processed From Carcasses, 311613: Rendering and Meat Byproduct Processing, and 311615: Poultry Processing). EPA uses Census revenue and cost information at both the employment class (that is, disaggregated into size groupings based on annual production) and the industry level. At the employment class level, EPA uses the Census' value of total shipments (a proxy for total revenues), payroll and material costs data. EPA uses industry level data on benefits, depreciation, rent, and purchased services and attributes it to the employment class level using certain assumptions (*e.g.*, employment benefits are proportionate to payroll, refuse removal costs are proportionate to material costs). EPA divides each component of facility income by the number of establishments in the employment class to calculate the average for that class. EPA then estimates model facility earnings before taxes (EBT) in each class as the average value of shipments minus payroll, material costs, benefits, depreciation, rent, and purchased services. Because revenues, payroll and cost of materials are the most significant components of EBT, the relative error introduced by attributing industry level data to the employment class level should be small.

EPA uses data from Census' Annual Survey of Manufacturers (ASM), 1997 Economic Census, and the Internal Revenue Service code combined with additional assumptions to estimate model facility net income from EBT. EPA assumes model facility EBT is equal to business entity taxable income as the basis for calculating tax payments; EPA then applies 1999 Federal and an average of State corporate tax rates to EBT. EPA estimates industry level interest payments using a combination of ASM data on past investment by industry, Census data on relative investment in buildings and equipment, and assumptions about investment behavior (*e.g.*, all investment in each year was funded through bank loans, the interest rate on those loans was equal to the nominal prime rate for that year plus 1 percent). EPA attributes interest payments to each employment class based on the percentage of industry investment accounted for by that employment class in the 1997 Census. EPA estimates net income as EBT less estimated tax and interest payments for each model facility. EPA inflates all model income measures from the Census year, 1997, to the baseline year, 1999, using the implicit price deflator for the meat and poultry products industry.

The resultant model facility represents a distribution of facility incomes around the mean. EPA estimates this distribution of income around the model facility mean by obtaining from Census a special tabulation of the variances and covariances for value of shipments, material costs, and payroll in each employment class. EPA assumes that the distribution of each variable is normal. Given the relatively large number of observations within each employment class, EPA believes this assumption is reasonable. Because EPA calculates model facility EBT as a linear function of the means of its components, the variance of EBT for each employment class can be derived as a linear function of the variances and covariances of the components using well established formulae. Because the actual income measures differed from the approximate income measure (EBT) on which variance is estimated, EPA adjusts the variance of each income measure using standard rules concerning the expected value of mean and variance.

In order to perform the economic impact analysis, EPA matches its economic model facilities to the engineering model facilities used to estimate costs. All red meat (or meat) facilities that perform animal slaughter, whether alone or in combination with other processes, are assigned economic model facilities from NAICS 311611 (Animal (Except Poultry) Processing). EPA assigns meat facilities that perform further processing processes but no slaughtering activities to economic model facilities from NAICS 311612 (Meat Processed From Carcasses), as are facilities that process a mix of both meat and poultry (approximately 70 percent of their production is meat). EPA assigns facilities that process poultry, with or without slaughter, to economic model facilities from NAICS 311615 (Poultry Processing). EPA assigns facilities that only perform rendering operations as NAICS 311613 (Rendering and Meat Byproduct Processing). EPA then matches the model economic facilities to the model engineering facilities by size. EPA uses production from each engineering model, combined with representative meat product prices for 1999, to estimate model facility revenues. EPA assigns the engineering model to an economic model that most closely matched its estimated revenues.

For facilities in Subcategories E–I, J, and L, EPA chose the ratio of cost/net income as its preferred (central) measure of economic achievability (the results for all of the ratios are presented in the Economic and Environmental Benefits Analysis for the final rule). EPA also estimates the probability that a facility may close because incremental compliance cost exceeds net income. EPA estimates these probabilities using the variance and covariance information provided by the Census Bureau to derive the variance of net income. The probability that annualized compliance costs are greater than net income provides a rough estimate of the probability of that facility closing.

EPA notes that the use of average ratios could mask considerable variability in economic impacts. This is a shortcoming of the use of model facilities. EPA has attempted to ameliorate this shortcoming to a practicable extent by using multiple model facilities within each subcategory. EPA also estimates probabilities of closure from the distribution of income around each model facility's mean income to account for the variability in economic impacts that would not otherwise be reflected in an analysis based on model facilities.

2. What Methods Were Used for Company Analysis?

EPA uses three methods to examine impacts on companies: closure,

Altman's Z′, and a financial ratio analysis. As with the facility analysis, this approach depends on whether the subcategory is adequately represented in the detailed questionnaire data. Because a substantial portion of the industry does not maintain financial records at the facility level, EPA developed a company-level closure analysis approach. The Altman's Z′ analysis is described in the Economic Analysis for the proposed rule (Section 3.1.3.2). EPA uses its financial ratio analysis to account for the segment of the industry not represented in the detailed questionnaire.

a. Company-Analysis Method for Subcategories With Sufficient Detailed Survey Data

Estimation of company costs. EPA compiled a list of all other meat processing facilities owned by each of those corporate parents from a review of the 52 non-small direct discharging facilities in Subcategories A–D and Subcategory K that received a detailed survey. In cases where information is not represented in the detailed survey database, EPA relies on the screener survey and the PCS database to estimate the number of direct discharging facilities owned by these corporate parents. EPA estimates that the 25 corporate parents of those 52 non-small direct dischargers owned about 323 MPP facilities in 1999. Of the 323 facilities owned by these corporate parents, approximately 117 were direct dischargers. Of these 117 direct dischargers, 52 received detailed surveys, and 65 required analyses based on non-survey data. Indirect discharging facilities are not expected to incur costs under this regulation.

To estimate compliance costs attributable to the 65 non-surveyed facilities, EPA applies mean compliance costs by animal type (meat or poultry) to each non-surveyed facility. EPA examines alternative means of allocating compliance costs to these facilities, such as matching costs from detailed survey facilities based on animal type and processes performed. Because EPA is unable to determine with a high degree of confidence the processes performed and level of production at non-surveyed facilities, the Agency assigns the average costs of non-small facilities in Subcategories A–D and K to the non-surveyed facilities (according to meat type). This results in more conservative (*i.e.*, higher) cost estimates. See DCN 328–002 for additional information on the estimation of non-surveyed direct discharge facilities.

Closure analysis. The company-level closure analysis is identical to the facility-level closure analysis with company earnings and costs replacing facility earnings and costs in the discounted cash flow calculations. If a company is projected to close, company output and employment are considered lost. EPA does not attempt to scale up the projected company closures to correspond to a national estimate because the Agency lacks data on which to base sample weights for the 25 companies. Thus, the company-level analysis reflects closures only among the 25 companies analyzed. EPA made an effort to determine whether there are additional companies that own direct discharging MPP facilities and found three additional companies based on the screener survey results that may own direct discharging MPP facilities. Therefore, the company-level analysis could somewhat underestimate the number of company closures nationally. See Section IX.B for results of the company closure analyses.

Altman's Z′. To examine firm-level impacts in Subcategories A–D and Subcategory K, EPA uses an Altman Z′-score analysis. Such an analysis is based on a statistical technique called multiple discriminant analysis to predict company bankruptcy based on a weighted combination of financial ratios. The Altman Z′-score is a widely-used tool used to predict firm ''financial distress'' or bankruptcy. It takes into account a company's total assets, total liabilities and earnings, which are influenced by total compliance capital costs and other costs incurred by a company as a result of complying with the final regulation.

This approach places firms into three levels of financial health: financial distress is unlikely, financial distress is indeterminate, and financial distress is likely. EPA considers firms that move from an indeterminate or unlikely distress prediction to a likely distress prediction to be at risk of bankruptcy or other serious financial disruption. The actual effects of financial distress are inherently unpredictable and a firm may avoid legal bankruptcy by taking other measures such as laying off employees, closing facilities, or selling assets. These firms still may incur very significant impacts even if they do not file for bankruptcy.

EPA uses the Altman Z′-score to assess the baseline financial condition of MPP firms and the incremental impacts of the rule on their financial health. This analysis includes the same 25 companies analyzed for company closure analysis.

b. Company-Analysis Method for Subcategories Without Sufficient Detailed Survey Data

For subcategories without sufficient detailed survey data, EPA could not perform an Altman's Z′ analysis (Subcategories F–I, J, and L). For the purpose of analyzing facilities in these subcategories, EPA assumes the facility and company are identical for this group. EPA combines Census data (via the model facilities developed for the closure analysis) with Dun & Bradstreet financial ratio data. For each model facility, EPA divides net income by the median value for return on assets reported by Dun & Bradstreet for the relevant industry to estimate the model facility's total assets. Given the model facility's net income and total assets, EPA calculates the post-regulatory return on assets as: (net income − posttax annualized costs)/(total assets + capital costs) and compares this to the current median return on assets as an additional measure of the impacts of the rule.

3. What Method Was Used for Impacts on Price and Output?

EPA developed a market model to examine the impacts of the proposal on the price and output of beef, pork, chicken, and turkey. The market analysis for each product depends not only on the compliance costs for that product but also on the impact of costs on the prices of the other three meat and poultry products because as prices for one product rise, consumers will purchase less of that product and more of the other three products. EPA assumes a perfectly competitive structure for the meat and poultry products market model after performing an extensive literature search. EPA developed standard domestic supply, domestic demand, import supply, and export demand equations for each meat and poultry product. EPA specifies domestic demand for each meat and poultry product as a function of the price of the other three meat and poultry products in addition to its own price. EPA uses USDA data to determine baseline market prices and quantities. EPA selected key model parameters (*e.g.*, price elasticities) from existing published sources following an extensive data search. For each meat and poultry product market to be in equilibrium, U.S. domestic demand plus foreign demand (exports) must equal U.S. domestic supply plus foreign sales (imports) at its current market price.

Compliance costs shift the supply curve for each meat and poultry product by the pre-tax annualized compliance

costs per pound of carcass weight for each of the four animal types. The most appropriate measure of the shift in supply is the cost per pound of total industry production because (1) the majority of facilities incur no costs and (2) the competition from facilities that do not incur costs will discourage affected facilities from increasing price by their full cost per pound increase due to today's rule.

Given the supply shift for each product, EPA solves for the post-regulatory set of meat prices that result in equilibrium in all four markets. This solution provides estimates of post-regulatory impacts. Finally, EPA's analysis substitutes the post-regulatory prices back into the individual component equations to estimate post-regulatory domestic supply, domestic demand, import supply, and export demand for each meat and poultry product. Changes in prices and these quantities for each meat and poultry product measure the market-level impacts of the final rule.

B. How Many Closures Are Projected as a Result of the Final Rule?

1. How Many Non-Small Facilities/Companies in Subcategories A–D and Subcategory K Might Close?

A facility (or company) forecast to have a negative net present value (NPV) of net income under at least 2 of 3 methods (described in Section IX.A) prior to regulatory costs are called ''baseline closures.'' Among non-small facilities in Subcategories A–D there are 5 baseline closures; in Subcategory K there are 30 baseline closures. The economic impact of the rule on ''baseline closures'' cannot be assessed using the closure model. Under the alternate analysis in which a negative NPV forecast by only one method is sufficient to project a closure, the number of baseline closures in each subcategory is unchanged.

For the facility-level closure analysis, EPA projects there are no closures in Subcategories A–D under any options. For Subcategory K, EPA projects that 22 of the 105 facilities will close under Option 4; no facility closures are projected under other treatment options. Thus, EPA projects that there are no closures in either subcategory under the selected Option 2.5. In the alternate analysis, EPA projects 2 facility closures for all options in Subcategory A–D, and 22 closures under Option 4 in Subcategory K. Table IX.B–1 presents the facility closure impacts for all options that were considered.

TABLE IX.B–1—SUMMARY OF PROJECTED NON-SMALL FACILITY CLOSURE IMPACTS BY SUBCATEGORY AND OPTION

Option	Baseline conditions and projected incremental closure impacts [1]		
	Number of facilities	Total revenues ($000)	Employees
Subcategories A–D			
Total Facilities Analyzed	31	$17,492,882	49,630
Baseline Closures	5	2,000,000–4,000,000	14,000–17,500
Option 2 Closures	0	0	0
Option 2.5 Closures	0	0	0
Option 2.5+P Closures	0	0	0
Option 4 Closures	0	0	0
Subcategory K			
Total Facilities Analyzed	105	$13,022,059	107,096
Baseline Closures	30	4,326,777	41,038
Option 2 Closures	0	0	0
Option 2.5 Closures	0	0	0
Option 2.5+P Closures	0	0	0
Option 4 Closures	22	800,000–1,000,000	12,500–15,000

[1] Some revenue and employment impacts are presented as a range to prevent the disclosure of confidential business information.

In the supplemental company-level closure analysis shown in Table IX.B–2, EPA projects that one poultry company will close under Option 2.5+P and Option 4. This company employs between 2,500 and 5,000 workers. Note that the apparent discrepancy between the facility-level and company-level analysis for poultry Option 2.5+P is explained by the fact that the poultry company that is projected to close did not provide facility-level financial information; therefore, the facilities owned by this company were not included in the facility-level analysis. Under the alternate analysis, the same poultry company (under the same options) is projected to close, as well as one meat company under all treatment options, and one mixed meat (*i.e.*, company owns both poultry and meat facilities) company under Options 2.5, 2.5+P, and Option 4.

TABLE IX.B–2.—SUMMARY OF PROJECTED COMPANY CLOSURE IMPACTS BY SUBCATEGORY AND OPTION

Option	Baseline conditions and projected incremental closure impacts [1]		
	Number of companies	Total revenues ($millions)	Employees
Meat (own facilities in Subcategories A–I)			
Total Companies Analyzed	9	$29,949	80,755
Baseline Closures	1	250–500	1,000–4,000
Option 2 Closures	0	0	0
Option 2.5 Closures	0	0	0
Option 2.5+P Closures	0	0	0
Option 4 Closures	0	0	0
Poultry (own facilities in Subcategories K and L)			
Total Companies Analyzed	12	$15,441	135,850
Baseline Closures	5	3,384	31,042
Option 2 Closures	0	0	0
Option 2.5 Closures	0	0	0
Option 2.5+P Closures	1	100–150	2,500–5,000
Option 4 Closures	1	100–150	2,500–5,000
Mixed (own facilities in both meat and poultry subcategories)			
Total Companies Analyzed	4	$89,439	184,834
Baseline Closures	0	N/A	N/A
Option 2 Closures	0	0	0
Option 2.5 Closures	0	0	0
Option 2.5+P Closures	0	0	0
Option 4 Closures	0	0	0

[1] Some revenue and employment impacts are presented as a range to prevent the disclosure of confidential business information.

Company-level results are unweighted because the survey sampling frame was stratified on the basis of facility-level data, and this stratification could not be translated to the company level. Therefore, the facility-level and company-level results are not additive. Because of the large number of facilities that were unable to submit financial data in their survey, EPA performed a subsidiary company-level analysis to provide a consistency check on the primary facility-level analysis. EPA estimates that the 25 companies in the company-level analysis own at least 118 of the 136 in-scope facilities that EPA project will be subject to regulation in Subcategories A–D and K. Note however that the company-level and facility-level analyses are fairly consistent in that both show no closures in the meat subcategories under any option, and both show impacts in the poultry subcategories under Option 4. It is not surprising that the impacts appear higher under this option for the facility-level analysis, because the company-level analysis will not capture situations where one or more facilities owned by a company close but the company as a whole remains in business. The only inconsistency is for poultry Option 2.5, which shows one company-level, but no facility-level, impact. This is because the particular facilities owned by the closing company did not have detailed survey data and thus were not included in the facility-level analysis.

2. How Many Small Facilities in Subcategories A–D and Subcategory K Might Close?

EPA is not promulgating any additional regulations for small facilities in these subcategories, so there are no rule-related closures. However, EPA analyzed potential closures under the options (Options 1 and 2) that EPA considered for small facilities in these subcategories.

Among small facilities in Subcategories A–D and Subcategory K, there are no baseline closures. Under the alternate analysis, in which a negative NPV under only one method is sufficient to project a closure, EPA also estimates there are no baseline closures in either subcategory.

In the facility-level closure analysis, EPA projects there are no facility closures for Subcategories A–D under either the primary or alternate analysis. The results of the closure analysis for Subcategory K cannot be presented due to CBI reasons. However, EPA found a substantial percentage of small facilities are projected to close under both options in this subcategory. Table IX.B–3 presents these results.

TABLE IX.B–3.—SUMMARY OF PROJECTED SMALL FACILITY CLOSURE IMPACTS BY SUBCATEGORY AND OPTION

Option	Baseline conditions and projected incremental closure impacts [1]		
	Number of facilities	Total revenues ($thousands)	Employees
Subcategories A–D			
Total Facilities Analyzed	15	$150,000–200,000	500–750

TABLE IX.B–3.—SUMMARY OF PROJECTED SMALL FACILITY CLOSURE IMPACTS BY SUBCATEGORY AND OPTION—Continued

Option	Baseline conditions and projected incremental closure impacts [1]		
	Number of facilities	Total revenues ($thousands)	Employees
Baseline Closures	0	0	0
Option 1 Closures	0	0	0
Option 2 Closures [2]	NA	NA	NA
Subcategory K			
Total Facilities Analyzed	36	250,000–500,000	2,000–4,000
Baseline Closures	0	0	0
Option 1 Closures	([3])	([3])	([3])
Option 2 Closures	([3])	([3])	([3])

[1] Revenue and employment data are presented as a range to prevent the disclosure of confidential business information.
[2] Option 2 was not costed for small facilities in this subcategory, because EPA did not propose further regulations.
[3] CBI.

3. How Many Non-Small Facilities in Subcategories F–I, J, and L Might Close?

Table IX.B–4 presents the closure analysis for non-small facilities in Subcategories F–I, Subcategory J, and Subcategory L based on the model facility methodology used to analyze screener survey facilities. Under Option 2.5, EPA estimates that facilities in Subcategories F–I will incur compliance costs that are 1.2 percent of net income; facilities in these subcategories are expected to have about a 0.2 percent probability of closure due to the rule. EPA projects that facilities in Subcategory J will incur compliance costs of 6.7 percent of net income under Option 2.5. Probability of closure due to the rule is 1.3 percent for these facilities under the selected option. In Subcategory L, EPA expects that facilities will incur compliance costs of 5.1 percent of net income under the selected option, with the probability of closure due to the rule for these facilities about 0.9 percent.

TABLE IX.B–4.—SUMMARY OF PROJECTED NON-SMALL FACILITY CLOSURE IMPACTS BY SUBCATEGORY AND OPTION SCREENER SURVEY FACILITY ANALYSIS

Option	Average annualized costs as percent of net income [1] (%)	Probability of closure due to rule [1] (%)	Number of facilities [2]	Total revenues ($000) [2]	Employees [2]
Subcategories F–I					
Facilities Analyzed	NA	NA	4	$448,654	1,506
Option 2	1.0	0.17	0.01	754	3
Option 2.5	1.2	0.21	0.01	930	3
Option 2.5+P	1.3	0.23	0.01	1,014	3
Option 4	3.0	0.50	0.02	2,260	8
Subcategory J					
Facilities Analyzed	NA	NA	19	274,270	1,123
Option 2	1.5	0.29	0.06	809	3
Option 2.5	6.7	1.29	0.25	3,687	16
Option 2.5+P	17.1	3.31	0.63	9,986	45
Option 4	24.2	4.47	0.91	13,591	58
Subcategory L [3]					
Facilities Analyzed	NA	NA	10	223,663	974
Option 2	2.8	0.51	0.05	1,135	5
Option 2.5	5.1	0.91	0.09	1,941	8
Option 2.5+P	7.7	1.36	0.14	2,937	12
Option 4	16.8	3.03	0.30	6,689	29

[1] Presented as a weighted average of results over all model facilities in the subcategory.
[2] Calculated as the probability of closure for each individual model facility multiplied by the number of facilities, revenues and employment represented by that model facility. The results are then summed over all model facilities in the subcategory.
[3] Includes costs and impacts on the portion of production that falls under non-small processor Subcategory L guidelines for 7 mixed processors, assuming no costs for that portion of their output that falls under small processor Subcategories F–I guidelines. Costs and impacts if guidelines for both types of production are promulgated are covered in Section IX.B.5 below.

Table IX.B–4 shows that fractions of facilities are projected to close under each option. This result is attributable to the methodology used to estimate the probability of closure due to the rule. EPA estimates the probability of closure using a continuous distribution function. EPA then calculates the number of closures by multiplying the probability of closure by the number of facilities represented by that model facility. Because relatively few facilities are in each subcategory, and because the probabilities of closure are relatively small, the projected number of closures in each subcategory is less than one. However, to report zero projected closures is not accurate since the probability of closure, while small, is greater than zero.

4. How Many Small Facilities in Subcategories F–I and Subcategory L Might Close?

Table IX.B–5 presents the closure analysis for small facilities in Subcategories F–I and Subcategory L. EPA is not regulating small facilities in these subcategories, but EPA projects that small facilities in Subcategories F–I would incur compliance costs that are 9.4 percent of net income, resulting in a probability of closure due to the rule of 1.5 percent if they were regulated based on Option 1 or 2. In Subcategory L, facilities would incur costs that compose less than 1 percent of net income, resulting in a probability of closure due to the rule of 0.15 percent if they were regulated.

TABLE IX.B–5.—SUMMARY OF PROJECTED SMALL FACILITY CLOSURE IMPACTS BY SUBCATEGORY AND OPTION SCREENER SURVEY FACILITY ANALYSIS

Option	Average annualized costs as percent of net income [1] (%)	Probability of closure due to rule [1] (%)	Number of facilities [2]	Total revenues ($000) [2]	Employees [2]
Subcategories F–I [3]					
Facilities Analyzed	NA	NA	21	$369,692	1,316
Option 1	9.4	1.49	0.31	2,632	11
Option 2	9.4	1.51	0.31	2,633	11
Subcategory L [4]					
Facilities Analyzed	NA	NA	3	22,712	97
Option 1	0.9	0.15	0	33	0
Option 2	1.0	0.15	0	33	0

[1] Presented as a weighted average of results over all model facilities in the subcategory.
[2] Calculated as the probability of closure for each individual model facility multiplied by the number of facilities, revenues and employment represented by that model facility. The results are then summed over all model facilities in the subcategory.
[3] Includes costs and impacts on the portion of production that falls under small processor Subcategories F–I guidelines for 7 mixed processors, assuming no costs for that portion of their output that falls under non-small processor Subcategory L guidelines, and for 3 mixed processors, assuming no costs for that portion of their output that falls under small processor Subcategory L guidelines. Costs and impacts if guidelines for both types of production are promulgated are covered in Section IX.B.5 below.
[4] Includes costs and impacts on the portion of production that falls under small processor Subcategory L guidelines for 3 mixed processors, assuming no costs for that portion of their output that falls under small processor Subcategories F–I guidelines. Costs and impacts if guidelines for both types of production are promulgated are covered in Section IX.B.5 below.

5. How Many Mixed Processors Might Close?

For mixed processors, EPA presents the results of the closure model as a matrix. This is because a mixed processing facility might be subject to two different regulatory options depending on the type of meat, type of production processes, and quantity of production in different parts of the plant. Table IX.B–6 presents the average annualized costs as a percent of net income and the probability of closure due to the rule for 7 facilities that are both non-small poultry further processors (and are therefore subject to Subcategory L guidelines and limitations on that portion of their output) and small meat further processors (Subcategories F–I). Each possible combination of options under Subcategory L (rows) and Subcategory F–I (columns) are shown. Under the combination of Option 2.5 selected for non-small poultry further processing, and no option selected for small meat further processing, these facilities are expected to incur compliance costs of 6.2 percent of net income. These costs result in 1.1 percent probability of closure due to the rule. To present results concisely, the table does not show the number of projected closures, revenue and employment losses among the three mixed processor facilities. However, all information necessary to make those calculations is provided in the tables, and the complete results are included in the rulemaking record.

TABLE IX.B–6.—SUMMARY OF PROJECTED NON-SMALL MIXED PROCESSOR FACILITY CLOSURE IMPACTS SCREENER SURVEY FACILITY ANALYSIS

Options for non-small facilities in subcategory L [1]	Variable	Options for small facilities in subcategories F–I [1]		
		None (%)	Option 1 (%)	Option 2 (%)
None	Average Annualized Costs as Percent of Net Income	NA	1.5	1.5
	Probability of Closure Due to Rule	NA	0.3	0.3

TABLE IX.B–6.—SUMMARY OF PROJECTED NON-SMALL MIXED PROCESSOR FACILITY CLOSURE IMPACTS SCREENER SURVEY FACILITY ANALYSIS—Continued

Options for non-small facilities in subcategory L [1]	Variable	Options for small facilities in subcategories F–I [1]		
		None (%)	Option 1 (%)	Option 2 (%)
Option 2	Average Annualized Costs as Percent of Net Income	3.1	4.5	4.5
	Probability of Closure Due to Rule	0.5	0.8	0.3
Option 2.5	Average Annualized Costs as Percent of Net Income	6.2	7.6	7.6
	Probability of Closure Due to Rule	1.1	1.3	1.3
Option 2.5+P	Average Annualized Costs as Percent of Net Income	9.1	10.5	10.5
	Probability of Closure Due to Rule	1.6	1.8	1.8
Option 4	Average Annualized Costs as Percent of Net Income	18.8	20.3	20.3
	Probability of Closure Due to Rule	3.3	3.5	3.5

[1] This group contains 7 facilities, with revenues of $132 million and 484 employees. On average, 39% of production is subject to guidelines and limitations for small processors in Subcategories F–I, and 61% of production is subject to non-small Subcategory L guidelines and limitations.

EPA identified three mixed processors as small further processors in both the poultry (Subcategory L) and meat (Subcategories F–I) sectors. EPA chose not to establish or revise limits for small processors of either animal type. Therefore, no impacts are projected for these facilities. Table IX.B–7 presents the results of the impact analysis under all possible combinations of regulatory options to which these facilities might have been subject. To present results concisely, the table does not show the number of projected closures, revenue and employment losses among the three mixed processor facilities. However, all information necessary to make those calculations is provided in the tables, and the complete results are included in the rulemaking record.

TABLE IX.B–7.—SUMMARY OF PROJECTED SMALL MIXED PROCESSOR FACILITY CLOSURE IMPACTS SCREENER SURVEY FACILITY ANALYSIS

Options for small facilities in subcategory L [1]	Variable	Options for small facilities in subcategories F–I [1]		
		None (%)	Option 1 (%)	Option 2 (%)
None	Average Annualized Costs as Percent of Net Income	NA	4.4	4.5
	Probability of Closure Due to Rule	NA	0.7	0.7
Option 1	Average Annualized Costs as Percent of Net Income	1.0	5.4	5.4
	Probability of Closure Due to Rule	0.2	0.8	0.8
Option 2	Average Annualized Costs as Percent of Net Income	1.0	5.4	5.4
	Probability of Closure Due to Rule	0.2	0.8	0.9

[1] This group contains 3 facilities, with revenues of $22.7 million and 97 employees. On average, 18% of production is subject to guidelines and limitations for small processors in Subcategories F–I, and 82% of production is subject to small Subcategory L guidelines and limitations.

C. What Company-Level Impacts, Other Than Closure, Are Projected Due to the Final Rule?

EPA also examined the impacts of the rule on affected firms' balance sheets using financial ratio techniques as well as impacts on facilities' income (*i.e.*, the closure analysis). As noted previously, the availability of detailed survey data affected the company-level financial ratio analysis as well as the closure analysis.

1. How Might Companies With Facilities in Subcategories A–D and K Be Impacted?

EPA uses the same method for estimating firm level compliance costs for the Altman Z′ analysis as it did for the company-level closure analysis (see Section IX.A.2).

For companies that own non-small facilities in Subcategories A–D and Subcategory K, the Altman Z′ analysis shows that 7 meat companies and 8 poultry companies are considered financially healthy in the baseline. One meat company, 4 poultry companies, and 3 mixed meat companies have Altman Z′ scores in the indeterminate range for financial health; one meat company and one mixed meat company are considered financially stressed. Under Option 4, the Altman Z′ score for one poultry company changed from the financially healthy to the indeterminate range (represented by the +1 and −1 on Table IX.C–1).

TABLE IX.C–1.—PROJECTED IMPACTS ON NON-SMALL COMPANY ALTMAN Z′ SCORE BY ANIMAL TYPE AND OPTION

Option	Number of companies with baseline Altman Z′ score in specified range and incremental changes in score		
	Financially healthy	Indeterminate	Bankruptcy likely
Meat (own facilities in Subcategories A–I)			
Baseline	7	1	1
Option 2	0	0	0
Option 2.5	0	0	0
Option 2.5+P	0	0	0
Option 4	0	0	0
Poultry (own facilities in Subcategories K and L)			
Baseline	8	4	0
Option 2	0	0	0
Option 2.5	0	0	0
Option 2.5+P	0	0	0
Option 4	−1	+1	0
Mixed (own facilities in both meat and poultry subcategories)			
Baseline	0	3	1
Option 2	0	0	0
Option 2.5	0	0	0
Option 2.5+P	0	0	0
Option 4	0	0	0

Note: A change from one state *e.g.*, financially healthy) to another state *e.g.*, indeterminate) is indicated by "−1" and "+1". The numbers in the "baseline" rows represent all companies analyzed, while those in the "option" rows represent only changes from the baseline.

A small number of companies that own small facilities in Subcategories A–D and Subcategory K provided sufficient financial data to analyze using the Altman Z′-score. These companies were determined to be financially healthy in the baseline, and did not incur financial distress under any of the potential regulatory options examined.

2. How Might Companies With Facilities in Subcategories F–I, J, and L Be Impacted?

EPA assesses impacts to the balance sheet of companies in Subcategories F–I, Subcategory J, and Subcategory L by estimating the effects of incremental compliance costs to median return on assets. Table IX.C–2 presents the results of this analysis for non-small companies. Table IX.C–3 shows the results for small companies.

For non-small companies in Subcategories F–I, the analysis shows that the return on assets for the selected option would decrease from 5.50 percent to 5.42 percent. In Subcategory J, the analysis shows that the return on assets would decrease from 2.0 percent to 1.86 percent; in Subcategory L, it would decrease from 4.43 percent to 4.16 percent. For small companies there are no effects, but Table IX.C–3 shows impacts under the non-selected options.

TABLE IX.C–2.—SUMMARY OF PROJECTED IMPACTS TO RETURN ON ASSETS RATIO BY SUBCATEGORY AND OPTION NON-SMALL PROCESSOR COMPANIES

Option	Median return on assets (percent)	Change in return on assets (percent)
Subcategories F–I (4 companies)[1]		
Pre-reg rate	5.50	NA
Post-reg rate		
Option 2	5.43	0.07
Option 2.5	5.42	0.08
Option 2.5+P	5.41	0.09
Option 4	5.31	0.19
Subcategory J (19 companies)[1]		
Pre-reg rate	2.00	NA
Post-reg rate		
Option 2	1.97	0.03
Option 2.5	1.86	0.14
Option 2.5+P	1.65	0.35
Option 4	1.51	0.49

TABLE IX.C–2.—SUMMARY OF PROJECTED IMPACTS TO RETURN ON ASSETS RATIO BY SUBCATEGORY AND OPTION NON-SMALL PROCESSOR COMPANIES—Continued

Option	Median return on assets (percent)	Change in return on assets (percent)
Subcategory L (10 companies)[1 2]		
Pre-reg rate	4.43	NA
Post-reg rate		
Option 2	4.29	0.14
Option 2.5	4.16	0.27
Option 2.5+P	4.02	0.41
Option 4	3.58	0.85

[1] For the purpose of this analysis, EPA assumes the companies are identical to the facilities.
[2] Includes costs and impacts on the portion of production that falls under non-small processor Subcategory L guidelines for 7 mixed processors, assuming no costs for that portion of their output that falls under small processor Subcategories F–I guidelines.

TABLE IX.C–3.—SUMMARY OF PROJECTED IMPACTS TO RETURN ON ASSETS RATIO BY SUBCATEGORY AND OPTION, SMALL PROCESSOR COMPANIES

Option	Median return on assets (percent)	Percent change in return on assets
Subcategories F–I (21 companies)[1 2]		
Pre-reg rate	5.50	NA
Post-reg rate		
Option 1	4.94	0.56
Option 2	4.94	0.56
Subcategory L (3 Companies)[1 3]		
Pre-reg rate	5.50	NA
Post-reg rate		
Option 1	5.44	0.06
Option 2	5.44	0.06

[1] For the purpose of this analysis, EPA assumes the companies are identical to the facilities.
[2] Includes costs and impacts on the portion of production that falls under small processor Subcategories F–I guidelines for 7 mixed processors, assuming no costs for that portion of their output that falls under non-small processor Subcategory L guidelines, and for 3 mixed processors, assuming no costs for that portion of their output that falls under small processor Subcategory L guidelines.
[3] Includes costs and impacts on the portion of production that falls under small processor Subcategory L guidelines for 3 mixed processors, assuming no costs for that portion of their output that falls under small processor Subcategories F–I guidelines.

D. What Market Level Impacts Are Projected?

The market model analysis shows that the decrease in supply will be smallest for pork under the selected option, where the costs per pound of total production are estimated at approximately $0.00014 and largest for chicken with costs per pound of total production of about $0.00079. The maximum projected price increase is less than 0.05 percent of baseline price for all products under Option 2.5. Table IX.D–1 shows the projected impacts for beef, pork, chicken, and turkey. Because market impacts are global, the analysis assumes that the same option is selected for all subcategories.

EPA's assessment projects that domestic production of meat and poultry products, and therefore industry employment, would decrease by less than 0.02 percent under Option 2.5. In general, impacts to domestic consumption of meat products are somewhat smaller than impacts to domestic supply due to partially offsetting increases in meat imports.

TABLE IX.D–1.—PROJECTED IMPACTS ON MEAT PRODUCT MARKETS

Option	Price ($/lb.)	Domestic supply (lbs. × 1 mil.)	Domestic demand (lbs. × 1 mil.)	Quantity imported (lbs. × 1 mil.)	Quantity exported (lbs. × 1 mil.)	Compliance costs per pound
Beef						
Baseline	$1.1105	26,386.0	26,843.0	2,874.0	2,417.0	
Option 2	1.1106	26,383.2	26,841.3	2,874.7	2,416.6	$0.00025
Option 2.5	1.1108	26,380.3	26,839.6	2,875.4	2,416.1	0.00050
Option 2.5+P	1.1110	26,375.3	26,836.6	2,876.6	2,415.3	0.00095
Option 4	1.1111	26,373.3	26,835.5	2,877.2	2,415.0	0.00113
Pork						
Baseline	1.0038	19,278.0	18,827.0	827.0	1,278.0	
Option 2	1.0038	19,278.0	18,827.1	827.0	1,277.9	0.00003
Option 2.5	1.0039	19,277.5	18,826.7	827.1	1,277.8	0.00014

TABLE IX.D–1.—PROJECTED IMPACTS ON MEAT PRODUCT MARKETS—Continued

Option	Price ($/lb.)	Domestic supply (lbs. × 1 mil.)	Domestic demand (lbs. × 1 mil.)	Quantity imported (lbs. × 1 mil.)	Quantity exported (lbs. × 1 mil.)	Compliance costs per pound
Option 2.5+P	1.0040	19,276.0	18,825.7	827.3	1,277.5	0.00040
Option 4	1.0041	19,275.4	18,825.3	827.3	1,277.4	0.00051
Chicken						
Baseline	0.5807	29,741.0	24,826.0	5.0	4,920.0	.....
Option 2	0.5808	29,737.8	24,824.2	5.0	4,918.7	0.00044
Option 2.5	0.5809	29,735.4	24,822.8	5.0	4,917.6	0.00079
Option 2.5+P	0.5812	29,729.7	24,819.6	5.0	4,915.1	0.00159
Option 4	0.5815	29,721.6	24,814.7	5.0	4,911.9	0.00270
Turkey						
Baseline	0.6898	5,297.0	4,919.3	1.3	379.0	.....
Option 2	0.6898	5,296.8	4,919.1	1.3	379.0	0.00018
Option 2.5	0.6899	5,296.7	4,919.0	1.3	379.0	0.00030
Option 2.5+P	0.6899	5,296.5	4,918.8	1.3	378.9	0.00047
Option 4	0.6900	5,295.9	4,918.3	1.3	378.9	0.00092

E. What Are the Potential Impacts on Foreign Trade?

Despite its position as one of the largest agricultural producers in the world, historically the U.S. has not been a major player in world markets for meat products. In fact, until recently, the U.S. was a net importer of these products. The presence of a large domestic market for meat has limited U.S. reliance on developing export markets for its products. As the U.S. has taken steps to expand export markets for meat, one major obstacle has been that it remains a relatively high cost producer of these products compared to other net exporters, such as New Zealand, Australia, Brazil, and other Latin American countries, as well as other more established and government-subsidized exporting countries, including Canada and the countries in the European Union. Increasingly, however, continued efficiency gains and low-cost feed are making the U.S. more competitive in world markets for meat.

In contrast, U.S. poultry products account for a significant share of world trade, and exports account for a sizable and growing share of annual U.S. production. However, the U.S. position in the world poultry market has been subject to increasing competition from countries such as Brazil. Because of those, EPA reviewed potential impacts to U.S. poultry exports in more detail. One factor suggests that the impacts of the rule to U.S. poultry exports may be smaller than projected using the market model, at least for poultry products.

The U.S. primarily exports dark poultry meat, which is considered inferior by U.S. consumers, while the U.S. domestic market is dominated by sales of white poultry meat. However, dark meat and white meat are joint products of the poultry industry—one cannot be produced without simultaneously producing the other. Because the market for dark meat, whether domestic or foreign, is secondary to U.S. producers, the marginal cost of producing dark meat, and therefore its price, are relatively low.

This is because chickens are bred, raised, slaughtered, and processed primarily for their white meat. Given that the chicken has already been processed for its white meat, the marginal cost of producing dark meat is relatively low—the incremental cost of processing the dark meat given that the white meat has been processed. This is consistent with trade data: it has been estimated that U.S. production costs per pound of broiler meat exceeds those of Brazil by almost 50 percent. However, while the U.S. export price for both boneless breast meat and whole broilers substantially exceeds the Brazilian export price, the U.S. export price for chicken leg quarters is less than the Brazilian export price.

For the same reason, there should be relatively little increase in the marginal cost of processing dark meat due to the effluent guideline and therefore little increase in its price. The impact on the marginal cost of producing dark meat given that white meat is already produced (and wastewater treatment already purchased for its processing) would be relatively small. Therefore, the increase in the marginal cost of producing dark meat should be smaller than the increase in the marginal cost of producing white meat. The increase in price necessary to earn an adequate rate of return can be smaller for exports than for domestic sales, and therefore the decrease in exports of dark meat should be smaller than projected by the market model, which is based on the change in the overall domestic price. See the Economic and Environmental Benefits Analysis for more details.

As part of its market analysis, EPA evaluated the potential for changes in traded volumes, such as increases in imports and decreases in exports. The results of this analysis are presented in Table IX.E–1.

EPA includes a sensitivity analysis of trade impacts in Table IX.E–1. Under the standard analysis, the compliance costs per pound used to project decrease in supply is calculated as a weighted average of compliance costs per pound of production for direct dischargers and compliance costs per pound for indirect dischargers (which are zero), where the weights are the relative share of total production. The sensitivity analysis assumes the decrease in supply is based on the average compliance costs per pound of production to direct dischargers only. The standard assumption is more appropriate because the competition of indirect dischargers with zero compliance costs will discourage direct dischargers from raising their price in response to their increased costs. The sensitivity analysis provides a conservative upper bound on impacts.

Under the sensitivity analysis, compliance costs per pound are 2.0 (chicken) to 6.3 (turkey) times larger than under the standard analysis. The largest impact under the sensitivity analysis is observed in the beef market, where exports are projected to decrease by 0.11 percent per year, and overall domestic production is projected to

decrease by 0.06 percent per year. Under the more realistic standard analysis, the largest decrease in exports occurs in the chicken market (0.05 percent per year) with an overall decrease in domestic production of 0.02 percent per year.

TABLE IX.E–1.—PROJECTED IMPACTS ON FOREIGN TRADE IN MEAT AND POULTRY PRODUCTS UNDER THE SELECTED OPTION

Option	Price ($/lb.)	Domestic supply (lbs. x 1 mil.)	Domestic demand (lbs. x 1 mil.)	Quantity imported (lbs. x 1 mil.)	Quantity exported (lbs. x 1 mil.)	Compliance costs per pound
Beef						
Baseline	$1.1105	26,386.0	26,843.0	2,874.0	2,417.0	.....
Option 2.5 [1]	1.1108	26,380.3	26,839.6	2,875.4	2,416.3	$0.00050
Sensitivity Analysis [2]	1.1113	26,369.1	26,832.6	2,878.0	2,414.4	0.00147
Pork						
Baseline	1.0038	19,278.0	18,827.0	827.0	1,278.0	.....
Option 2.5 [1]	1.0039	19,277.5	18,826.7	827.1	1,277.8	0.00014
Sensitivity Analysis [2]	1.0040	19,276.8	18,826.6	827.3	1,277.5	0.00034
Chicken						
Baseline	0.5807	29,741.0	24,826.0	5.0	4,920.0	.....
Option 2.5 [1]	0.5809	29,735.4	24,822.8	5.0	4,917.6	0.00079
Sensitivity Analysis [2]	0.5812	29,730.0	24,819.9	5.0	4,915.1	0.00156
Turkey						
Baseline	0.6898	5,297.0	4,919.3	1.3	379.0	.....
Option 2.5 [1]	0.6899	5,296.7	4,919.0	1.3	379.0	0.00030
Sensitivity Analysis [2]	0.6903	5,294.9	4,917.5	1.3	378.7	0.00189

[1] Compliance costs per pound (shift in supply curve) are equal to the weighted average of compliance costs per pound of production for direct dischargers and compliance costs per pound for indirect dischargers (which are zero), where the weights are the relative share of total production.

[2] Compliance costs per pound (shift in supply curve) are equal to the average compliance costs per pound of production to direct dischargers.

F. What Are the Potential Impacts on Communities?

The communities where the meat and poultry products facilities are located may be affected by the final regulation if facilities cut back operations; local employment and income may fall, sending ripple effects throughout the local community. Under the options selected for this rule, EPA projects that no facilities will close, hence EPA concludes that there are no community impacts under the regulation. Under the alternative analysis, there are two closures among subcategory A–D facilities and no change for subcategory K facilities. However, as noted previously, not all surveyed facilities provided facility-level financial data, and EPA therefore adjusted survey weights to account for nonresponse. In essence, survey nonresponse decreases the sample size for this analysis, which increases the variance of the collected data. Because of this, EPA has a somewhat lower level of confidence in these results than it would if all survey recipients had been able to provide facility-level financial data. The facility closure analysis and the company closure analysis show impacts under Option 2.5+P and Option 4 in Subcategory K. The results of this analysis can be found in the rulemaking record. Even under EPA's more conservative alternative analysis where two subcategory A–D facilities are projected to close, at most a handful of communities would be impacted. EPA cannot project how great these impacts would be as it cannot identify the communities where the impacts might occur. In general, the smaller the community, the greater the impact and the larger the community, the smaller the impact.

G. What Are the Projected Barriers to Entry for New Sources?

When establishing NSPS, EPA considers the barrier that compliance costs due to the effluent guidelines regulation may pose to entry into the industry for a new facility. In general, it is less costly to incorporate waste water treatment technologies as a facility is built than it is to retrofit existing facilities. Therefore, where the rule is economically achievable for existing facilities, it will also be economically achievable for new facilities that can meet the same guidelines at lower cost. Similarly, even where the cost of compliance with a given technology is not economically achievable for an existing source, such technology may be less costly for new sources and thus have economically sustainable costs. It is possible, on the other hand, that to the extent the up-front costs of building a new facility are significantly increased as a result of the rule, prospective builders may face difficulties in raising additional capital. This could present a barrier to entry. Therefore, as part of its analysis of new source standards, EPA evaluates barriers to entry. EPA compares estimated average incremental facility or company capital costs incurred to meet the effluent guidelines to average total assets of existing facilities to ensure that additional capital requirements are relatively small.

Tables IX.G–1 and IX.G–2, provide the results of the non-small facility-level and company-level analysis. Average capital costs of $1.9 million per facility under the selected Option 2.5 comprise 1.6 percent of average facility assets in Subcategories A–D. In Subcategory K, average capital costs of $1.1 million per facility are 4.0 percent of average facility assets under the selected option. The company-level ratio of capital costs to total assets under Option 2.5 is 2.6 percent for meat companies, and 1.6 percent for poultry companies. For

companies that own both meat and poultry facilities, the analysis projects that capital costs will comprise about 0.1 percent of company total assets under the selected option. Based on the results of this analysis, EPA concludes that today's rule should not present barriers to entry for new businesses. See Section VII for a more detailed discussion by subcategory of NSPS and barriers to entry.

TABLE IX.G–1.—SUMMARY OF NON-SMALL FACILITY-LEVEL RATIO OF CAPITAL COSTS TO ASSETS (BARRIER TO ENTRY) [1]

Subcategory	Option 2 (%)	Option 2.5 %	Option 2.5+P (%)	Option 4 (%)
A–D	0.6	1.6	2.6	3.3
K	2.1	4.0	4.2	12.3

[1] Percentages are based on those facilities for which EPA had asset data and compliance costs.

TABLE IX.G–2.—SUMMARY OF NON-SMALL COMPANY-LEVEL RATIO OF CAPITAL COSTS TO ASSETS (BARRIER TO ENTRY) [1]

Subcategory	Option 2 (%)	Option 2.5 (%)	Option 2.5+P (%)	Option 4 (%)
Meat	0.8	2.6	3.5	4.4
Poultry	1.0	1.6	2.1	4.6
Mixed Meat	0.1	0.1	0.2	0.3

[1] Percentages are based on those facilities for which EPA had asset data and compliance costs.

Table IX.G–3 provides the small facility-level ratios. In Subcategories A–D, average capital costs comprise between 15 and 20 percent of average facility assets for the non-selected Option 1. Average capital costs are 12.9 percent of average facility assets in Subcategory K for both options, including Option2 which was selected as the basis for the new NSPS.

TABLE IX.G–3.—SUMMARY OF SMALL FACILITY-LEVEL RATIO OF CAPITAL COSTS TO ASSETS (BARRIER TO ENTRY) [1]

Subcategory	Option 1 (%)	Option 2 (%)
A–D [2]	15—20	NA

TABLE IX.G–3.—SUMMARY OF SMALL FACILITY-LEVEL RATIO OF CAPITAL COSTS TO ASSETS (BARRIER TO ENTRY) [1]—Continued

Subcategory	Option 1 (%)	Option 2 (%)
K	12.9	12.9

[1] Percentages are based on those facilities for which EPA had asset data and compliance costs.

[2] Ratio of capital costs to total assets presented as a range to prevent the disclosure of confidential business information.

EPA also compared projected capital costs with estimated total assets for the model facilities used to analyze impacts in Subcategories F–I, J, and L. EPA estimated model facility total assets from model facility income (based on Census data) combined with the median return on assets for the appropriate NAICS code as reported in Dun and Bradstreet (see Proposal EA, Chapter 3 for more details). Thus, the analysis presented below incorporates a greater degree of uncertainty than the results based on detailed survey data for Subcategories A–D and K.

Tables IX.G–4 and IX.G–5 present the results of this analysis to non-small and small facilities respectively. These tables only include facilities with production that is classified solely in the indicated subcategories; the results for mixed processors, with production that is classified in more than one subcategory, are presented in Table IX.G–6 below. In general, the model facility analysis suggests that capital costs are not expected to exceed 2 percent of facility assets.

TABLE IX.G–4.—SUMMARY OF NON-SMALL FACILITY-LEVEL RATIO OF CAPITAL COSTS TO ASSETS (BARRIER TO ENTRY) SCREENER SURVEY FACILITY ANALYSIS

Subcategory	Option 2 (%)	Option 2.5 (%)	Option 2.5+P (%)	Option 4 (%)
F–I	0.2	0.2	0.2	0.4
J	0.1	0.3	0.4	0.5
L [1]	0.1	0.1	0.1	0.6

[1] Results do not include mixed processor facilities.

TABLE IX.G–5.—SUMMARY OF SMALL FACILITY-LEVEL RATIO OF CAPITAL COSTS TO ASSETS (BARRIER TO ENTRY) SCREENER SURVEY FACILITY ANALYSIS

Subcategory	Option 1	Option 2
F–I [1]	1.7%	1.7%

[1] Results do not include mixed processor facilities.

TABLE IX.G–6.—SUMMARY OF MIXED PROCESSOR FACILITY RATIO OF CAPITAL COSTS TO ASSETS (BARRIER TO ENTRY) SCREENER SURVEY FACILITY ANALYSIS

Subcategory combination and option	Ratio of capital costs to assets
Non-small L (Option 2.5), Small F–I (Option 2)	1.1%
Small L (Option 2), Small F–I (Option 2)	0.4%

The results for mixed processors include capital costs for both subcategories in which they operate, even though NSPS was not set for small facilities in Subcategories F–I. Comparing capital costs for only a percentage of production (*i.e.*, small or non-small levels of production in Subcategory L) with a facility's total assets for all production could result in a misleadingly small ratio of capital costs to total assets. Even with this more costly estimate, the ratio of capital costs to total assets does not exceed 1.1 percent for mixed processors.

H. What Do the Cost-Reasonableness and Cost-Effectiveness Analyses Show?

1. For Non-Small Facilities, What Is the Cost-Reasonableness for Removing Pollutants?

EPA based the analysis of Option 2 on the sum of BOD_5 and ammonia (as nitrogen) removals. For Option 2.5, EPA used the sum of BOD_5 and total nitrogen removals, and for Options 2.5+P and 4, EPA used the sum of BOD_5, total nitrogen, and total phosphorus removed. EPA used these sets of pollutant removals to characterize the different intentions of each treatment option. For example, Option 2 is designed to include nitrification to reduce ammonia, while Option 2.5 includes denitrification to reduce TN; Options 2.5+P and 4 also include phosphorus treatment. The average BPT cost and removal comparison of pollutant removals under the selected Option 2 ranges from $2.55 per pound in Subcategories A–D to $29.88 per pound in Subcategory L. Table IX.H–1 presents the results of this analysis for all subcategories and options.

TABLE IX.H–1.—BPT COST & REMOVAL COMPARISON FOR NON-SMALL FACILITIES

Option	Pretax annualized costs (1999$)	Total pounds removed [1]	Average BPT cost & removal comparison (1999$/pound)	Incremental BPT cost & removal comparison (1999$/pound)
Subcategories A–D				
Option 2	$7,287,580	2,859,971	2.55	NA
Option 2.5	16,685,857	16,010,456	1.04	NA
Option 2.5+P	42,914,027	20,530,322	2.09	5.80
Option 4	52,001,157	24,069,226	2.16	2.57
Subcategories F–I				
Option 2	265,976	32,278	8.24	NA
Option 2.5	328,936	21,703	15.16	NA
Option 2.5+P	358,850	21,703	16.53	DOM [3]
Option 4	798,129	104,144	7.66	7.40
Subcategory J				
Option 2	628,890	83,141	7.56	NA
Option 2.5	2,826,384	1,503,583	1.88	NA
Option 2.5+P	7,433,377	2,094,017	3.55	7.80
Option 4	10,171,264	2,311,822	4.40	12.57
Subcategory K				
Option 2	17,738,550	975,803	18.18	NA
Option 2.5	31,816,725	10,011,639	3.18	NA
Option 2.5+P	63,384,016	14,159,024	4.48	7.61
Option 4	109,077,448	26,424,183	4.13	3.73
Subcategory L [2]				
Option 2	556,890	18,635	29.88	NA
Option 2.5	982,661	155,507	6.32	NA
Option 2.5+P	1,475,209	180,519	8.17	19.69
Option 4	3,269,380	400,027	8.17	8.17

[1] Total pounds removed equals the: sum of BOD_5 and ammonia (as nitrogen) for Option 2; sum of BOD_5 and total nitrogen for Option 2.5; and sum of BOD_5, total nitrogen, and total phosphorus for Options 2.5+P and 4.

[2] Includes costs and removals for mixed processors attributable to non-small production in Subcategory L.

DOM [3]: Option is dominated because it has higher cost and lower or equivalent removals.

NA: The incremental cost reasonableness from Option 2 to Option 2.5 cannot be calculated because the pollutants used as the basis for the analysis differs under the two options; the incremental cost reasonableness from Option 2.5 to Option 2.5+P can be calculated because total phosphorus removals are zero under Option 2.5.

2. For Non-Small Facilities, What Is the Cost Effectiveness for Removing Nitrogen and Phosphorus?

Tables IX.H–2 and IX.H–3 in this section provide both the incremental and average nutrient cost-effectiveness values. For nitrogen, EPA used a cost-effectiveness benchmark established by its Chesapeake Bay Program to assess the costs to wastewater treatment plants to implement system retrofits to achieve biological nutrient removal. This nitrogen benchmark estimate is approximately $4 per pound of nitrogen removed.

For phosphorus, EPA assumed a cost-effectiveness benchmark of roughly $10 per pound based on a review of values reported in the agricultural research of the costs to remove phosphorus using various nonpoint source controls and management practices. For more information about the development of these benchmarks, see Appendix E of the Economic Analysis of the Final Revisions to the National Pollutant Discharge Elimination System Regulation and the Effluent Guidelines for Concentrated Animal Feeding Operations'' [EPA–821–R–03–002].

Table IX.H–2 displays the results for the nitrogen cost-effectiveness and, therefore, includes only options specifically designed to remove total nitrogen (*i.e.*, Option 2.5 and Option 4). Option 2.5+P is also omitted from Table IX.H–2 because it provides no additional total nitrogen removals relative to Option 2.5. Similarly, Table IX.H–3 displays the results for the phosphorus cost-effectiveness and, therefore, only includes those options with a chemical phosphorus treatment step (*i.e.*, Option 2.5+P and Option 4).

Average cost-effectiveness (cost per pound of nitrogen removed) ranges from $1.08 in Subcategories A–D to $6.71 in Subcategory L under the selected option. Because Option 2 removes no total nitrogen, the incremental cost-effectiveness for Option 2.5 is identical to the average cost-effectiveness. In Subcategories A–D, Subcategory J, and Subcategory K the average cost per pound of total nitrogen removed is below the $4 per pound benchmark.

The average cost-effectiveness (cost per pound of phosphorus removed) ranges from greater than $10 to $58.98 under Option 2.5+P. Again, incremental cost-effectiveness is identical to the average cost-effectiveness for this option because no total phosphorus is removed under any lower options.

EPA notes that the nutrient cost-effectiveness numbers presented on Table IX.H–2 represent upper bounds because they assign all the costs for an option to either total nitrogen or total phosphorus removal even though the options also remove other pollutants. EPA used this approach to provide a conservative estimate of cost-effectiveness and because it does not have a good basis to divide up removal costs among pollutants. EPA received no public comments on this approach in its analysis supporting the proposed rulemaking and NODA.

TABLE IX.H–2.—NUTRIENT COST-EFFECTIVENESS FOR NON-SMALL FACILITIES: TOTAL NITROGEN

Option	Pretax annualized costs (1999$)	Total pounds removed [1]	Average nutrient CE for TN (1999$/pound)	Incremental nutrient CE for TN (1999$/pound)
Subcategories A–D				
Option 2.5	$16,685,857	15,400,791	1.08	1.08
Option 4	52,001,157	18,456,984	2.82	11.56
Subcategory F–I				
Option 2.5	328,936	0	Undefined [2]	DOM [2]
Option 4	798,129	79,677	10.02	10.02
Subcategory J				
Option 2.5	2,826,384	1,469,407	1.92	1.92
Option 4	10,171,264	1,652,506	6.16	40.11
Subcategory K				
Option 2.5	31,816,725	9,367,808	3.40	3.40
Option 4	109,077,448	20,883,771	5.22	6.71
Subcategory L [1]				
Option 2.5	982,661	146,364	6.71	6.71
Option 4	3,269,380	354,355	9.23	10.99

[1] Includes costs and removals for mixed processors attributable to non-small production in Subcategory L.

DOM [2]: Option is dominated because it has higher cost and lower or equivalent removals. ''Undefined'' since removals are estimated to be zero.

TABLE IX.H–3.—NUTRIENT COST-EFFECTIVENESS FOR NON-SMALL FACILITIES: TOTAL PHOSPHORUS

Option	Pretax annualized costs (1999$)	Total pounds removed	Average nutrient CE for TP (1999$/pound)	Incremental nutrient CE for TP (1999$/pound)
Subcategories A–D [1]				
Option 2.5+P	>$42,914,027	4,519,867	>10.00	>10.00
Option 4	52,001,157	4,972,188	10.46	20.09
Subcategory J				
Option 2.5+P	7,433,377	590,434	12.59	12.59
Option 4	10,171,264	622,583	16.34	85.16
Subcategory K				
Option 2.5+P	63,384,016	4,147,385	15.28	15.28
Option 4	109,077,448	4,671,571	23.35	87.17
Subcategory L [2]				
Option 2.5+P	1,475,209	25,012	58.98	58.98
Option 4	3,269,380	27,000	121.09	902.36

[1] Based on comments and further analysis, EPA concludes that the cost of increased alum addition and the resulting increased sludge generation and disposal, may be between $108,000 to $378,000 more per facility for Option 2.5+P than those used in EPA's analysis (see the rulemaking record)

[2] Includes costs and removals for mixed processors attributable to non-small production in Subcategory L. DOM: Option is dominated because it has higher cost and lower or equivalent removals.

3. For Non-Small Facilities, What Is the Cost Effectiveness for Removing Toxic Pollutants

Table IX.H–4 presents the cost-effectiveness of removing toxic pollutants from the wastewater streams of non-small direct dischargers. Pollutant removals included in the analysis are ammonia (as nitrogen) and nitrate/nitrite. Under the selected option, average cost-effectiveness in 1981 dollars ranges from about $2,000 per pound equivalent in Subcategories A–D to $21,300 per pound equivalent in Subcategory L.

TABLE IX.H–4.—TOXIC COST-EFFECTIVENESS FOR NON-SMALL FACILITIES

Option	Pretax annualized costs (1999$)	Total pounds removed [1]	Average cost-effectiveness ($1981/pounds equivalent)	Incremental cost-effectiveness ($1981/pounds equivalent)
Subcategories A–D				
Option 2	$7,287,580	2,250,306	1,032	1,032
Option 2.5	16,685,857	15,824,864	1,963	6,515
Option 2.5+P	42,914,027	15,824,864	5,048	DOM
Option 4	52,001,157	18,684,849	5,787	72,875
Subcategories F–I				
Option 2	265,976	10,575	8,018	8,018
Option 2.5	328,936	10,575	9,917	DOM
Option 2.5+P	358,850	10,575	10,818	DOM
Option 4	798,129	13,804	18,434	52,550
Subcategory J				
Option 2	628,890	48,965	4,095	4,095
Option 2.5	2,826,384	1,513,977	9,139	14,115
Option 2.5+P	7,433,377	1,513,977	24,035	DOM
Option 4	10,171,264	1,700,605	28,929	173,529
Subcategory K				
Option 2	17,738,550	331,973	17,035	17,035
Option 2.5	31,816,725	10,444,933	15,037	13,100
Option 2.5+P	63,384,016	10,444,933	29,955	DOM
Option 4	109,077,448	20,605,243	29,391	48,431

TABLE IX.H–4.—TOXIC COST-EFFECTIVENESS FOR NON-SMALL FACILITIES—Continued

Option	Pretax annualized costs (1999$)	Total pounds removed [1]	Average cost-effectiveness ($1981/pounds equivalent)	Incremental cost-effectiveness ($1981/pounds equivalent)
Subcategory L [1]				
Option 2	556,890	9,492	18,704	18,704
Option 2.5	982,661	162,968	21,324	26,105
Option 2.5+P	1,475,209	162,968	32,012	DOM
Option 4	3,269,380	352,044	37,897	56,902

[1] Includes costs and removals for mixed processors attributable to non-small production in Subcategory L.
DOM: Option is dominated because it has higher cost and/or lower removals.

4. For Small Facilities, What Is the Cost-Reasonableness for Removing Pollutants?

BPT costs per pound removed are significantly higher for small facilities than for non-small facilities. In Subcategory F–I, for example, average cost per pound removed is $24 under Option 2 for small processors compared to $12 per pound for large processors under the same option (Table IX.H–1). In the other subcategories, these figures are even larger: BPT cost per pound approaches $200 in Subcategory A–D, exceeds $1,400 per pound in Subcategory K, and approaches $4,000 per pound in Subcategory L. Table IX.H–5 presents the results of this analysis for all subcategories and options.

TABLE IX.H–5.—BPT COST & REMOVAL COMPARISON FOR SMALL FACILITIES

Option	Pretax annualized costs (1999$)	Total pounds removed [1]	Average BPT cost & removal comparison (1999$/pound)	Incremental BPT cost & removal comparison (1999$/pound)
Subcategories A–D				
Baseline	$0	0	NA	NA
Option 1	CBI	CBI	198	198
Option 2	NA	NA	NA	NA
Subcategories F–I [2]				
Baseline	0	0	NA	NA
Option 1	1,108,033	47,997	23	23
Option 2	1,116,096	53,562	21	1
Subcategory K				
Baseline	0	0	NA	NA
Option 1	CBI	CBI	1,487	DOM
Option 2	CBI	CBI	501	501
Subcategory L [2]				
Baseline	0	0	NA	NA
Option 1	13,258	183	73	73
Option 2	13,476	183	74	DOM

[1] Total pounds removed equals the sum of BOD_5 and ammonia (as nitrogen).
[2] Includes costs and removals attributable to small levels of production in subcategory by mixed processors.
DOM: Option is dominated because it has higher cost and/or lower removals.

X. Water Quality Analysis and Environmental Benefits

A. Summary of the Environmental Benefits

This section presents EPA's estimates of the environmental and human health benefits, including pollutant reductions, that will occur from this rule. Table X.A–1 shows the annualized benefits EPA projects will result from the effluent limitations and guidelines (ELG) requirements for today's rule. The total monetized benefits associated with the ELG requirements are estimated to approximate $2.6 million with a range of approximately zero to $10 million annually. These values represent those benefits which EPA is able to quantify and determine an economic value. Evidence from the nutrient criteria analysis (see Section X.C.3.d) suggests that nutrient loads from MPP facilities are significant, relative to background loads. However, the significance of MPP load reductions may not be fully captured by monetized benefit, due to the fact that the water quality index used in benefits analysis does not acknowledge current information about the contribution of nutrients to water quality, as represented by recent 304(a) recommended ecoregional water quality criteria for nutrients (see DCN 316–511). As discussed later in this section, EPA has also identified additional environmental benefits that will result

from this rule but is unable to attribute a specific economic value to these additional nonmonetized or nonquantified benefits.

EPA's detailed assessment of the environmental benefits that will be gained by this rule, as well as the benefits estimates for other regulatory options considered during this rulemaking, is presented in the Economic and Environmental Benefits Analysis (DCN 320–001).

TABLE X.A–1.—ANNUALIZED BENEFITS OF ELG REQUIREMENTS FOR MEAT AND POULTRY PRODUCT FACILITIES (2003$)

Types of benefits	Total for all MPPs
Recreational and non-use benefits from improved water quality in freshwater rivers, streams, and lakes	$2.6 million.
Reduced loadings of pathogens; oil and grease [1]	Non-monetized.
Reduced public water treatment costs	Negligible.
Reduced aquatic life and human health toxicity	Negligible.
Reduced eutrophication (calculated as reduced exceedences of nutrient criteria) [1]	Non-monetized.
Total Monetized Benefits	$2.6 million.

[1] May be partially captured in the monitized recreational and non-use benefits.

B. What Pollutants Are in MPP Wastewater, and How Do They Affect Human Health and the Environment?

1. What Pollutants Are Present in the MPP Wastewater?

The primary pollutants associated with MPP wastes are nutrients (particularly nitrogen and phosphorus), organic matter, solids, and pathogens. EPA identified 30 pollutants of concern for the meat processing segment of the industry and 27 pollutants of concern for the poultry processing segment of the industry (*see* Section VB). This list includes ammonia (as nitrogen), carbonaceous BOD_5 (CBOD), chemical oxygen demand (COD), nitrate+nitrite (as nitrogen), oil & grease, pH, temperature, total nitrogen and total phosphorus (as PO_4). The following sections discuss the main constituents in meat and poultry processing industry waste streams and information from the National Water Quality Inventory: 2000 Report (hereinafter the ''2000 Inventory''). Prepared every two years under § 305(b) of the Clean Water Act, the 2000 Inventory summarizes State reports of the impairment of their water bodies and their suspected sources.

a. Nutrients

The 2000 Inventory lists nutrients as the leading stressor of impaired lakes, ponds, and reservoirs. Nutrients are also the fifth leading stressor for impaired rivers and streams, among the top 10 stressors of impaired estuaries, and the second leading stressor reported for the Great Lakes.

Nitrogen occurs in several forms, including ammonia and nitrate. These forms of nitrogen may produce adverse environmental impacts when available in excess quantitiest. Ammonia is of environmental concern because it is toxic to aquatic life and exerts a direct oxygen demand on the receiving water as it biodegrades, thereby reducing dissolved oxygen levels and the ability of a water body to support aquatic life. Excessive amounts of ammonia can lead to eutrophication, or nutrient over-enrichment, of surface waters. The most documented impact of nutrient pollution is eutrophication and its attendant overgrowth of plants, including algal blooms, in surface waters. When blooms die and decay oxygen levels are depressed and contribute further to eutrophication.

Like nitrogen, phosphorus is a nutrient that may lead to eutrophication and associated adverse impacts, *e.g.* fish kills, reduced biodiversity, objectionable tastes and odors, increased drinking water treatment costs, and growth of toxic organisms. At concentrations greater than 1.0 milligram per liter, phosphorus may interfere with the coagulation process in drinking water treatment plants thus reducing treatment efficiency. Phosphorus is of particular concern in fresh waters, where plant growth is typically limited by phosphorus levels. Under high pollutant loads of phosphorus, however, fresh water may become nitrogen-limited. Then, because there is an abundance of phosphorus available for plant growth, nitrogen becomes the limiting factor for plants.

b. Organic Matter

BOD_5 and COD are important measures of the organic content of an effluent. The 2000 Inventory indicates that low dissolved oxygen (DO) levels caused by organic enrichment (oxygen-depleting substances) are the third leading stressor in impaired estuaries. They are the fourth greatest stressor in impaired rivers and streams, and the fifth leading stressor in impaired lakes, ponds, and reservoirs. Severe reductions in dissolved oxygen levels may lead to fish kills. Even moderate decreases in oxygen levels may adversely affect water bodies through decreases in biodiversity characterized by the loss of fish and other aquatic animal populations, and a dominance of species that can tolerate low levels of dissolved oxygen.

c. Solids

The 2000 Inventory indicates that dissolved solids are the fourth leading stressor in impaired lakes, ponds, and reservoirs. Excessive solids increase cloudiness of surface waters, physically damage aquatic plants and animals, and provide a protected environment for pathogens. Also, increased cloudiness reduces light penetration through the water column and limits the growth of desirable aquatic plants that are critical habitat for fish, shellfish, and other aquatic organisms. Solids that settle out as bottom deposits may alter or destroy habitat for fish and organisms that live at the bottom of the water.

d. Oil and Grease

Oil and grease may have toxic effects on aquatic organisms (*i.e.,* fish, crustacea, larvae and eggs, gastropods, bivalves, invertebrates, and flora). The marine larvae and benthic invertebrates appear to be the most intolerant of oil and grease, particularly the water-soluble compounds, at concentrations ranging from 0.1 ppm to 25 ppm and 1 ppm to 6,100 ppm, respectively. The oil and grease designation includes many organic compounds with varying physical, chemical, and toxicological properties, and EPA has not established a numerical criterion applicable to all types of oil and grease. Therefore, water quality standards and some permit limits are described as requiring ''no visible sheen.'' For this assessment, EPA does not model the effects of oil and grease on the environment.

e. Pathogens

Pathogens are defined as disease-causing microorganisms. A subset of

microorganisms, including species of bacteria, viruses, and parasites, may cause sickness and disease in humans. The 2000 Inventory indicates that pathogens (specifically bacteria) are the leading stressor in impaired rivers and streams and the fourth leading stressor in impaired estuaries. Pathogens are known to impact a variety of water uses including recreation, drinking water sources, and aquatic life and fisheries (Docket No. W–01–06, Record No. 10024—Pathogen TMDL report). Bacteria (*e.g.*, fecal coliforms, E. coli, and fecal streptococcus) are introduced into natural waters by municipal and industrial wastewater discharges, combined sewer overflows, and urban and rural runoff. High loading rates are most commonly associated with untreated or poorly treated human sewage or animal waste.

There are numerous reports associating E. coli 0157-caused illness with consumption of contaminated beef (Valcour *et al.*, 2002; Michino *et al.*, 1999; Tuttle *et al.*, 1999), wild game (Gagliardi *et al.*, 1999) or under-processed fruit juice (Kudva *et al.*, 1998). Additional cases of illness have been caused by drinking water contaminated with the pathogen (Novello, 1999; Bruce-Grey Owen Sound Health Unit, 2000; Jackson *et al.*, 1998). In most, if not all, these reports, animal feces, bovine in particular, were the probable vehicle for transmitting E. coli 0157:H7 to other animals, food, and into the environment. Epidemiological investigations have demonstrated that cattle, especially young animals, are a principal reservoir of E. coli 0157:H7 (Wang *et al.*, 1996).

f. Other Potential Contaminants

Surfactants have been identified as an emerging issue related to water quality from waste effluent. Alkylphenol polyethoxylates (AP) are nonionic industrial surfactants used globally in detergents, paints, herbicides, and cosmetics. All categories and subcategories of the MPP industry addressed in this final rule conduct relatively thorough sanitation processes, involving large amounts of chemical cleansers. These agents contain alkylphenol ethoxylate (APE) surfactants. Alkylphenols such as octylphenol, nonylphenol, and nonylphenol diethoxylate are commonly found in sewage treatment plant effluents and receiving waters as microbial breakdown products of these surfactants. These degradation products have been shown to be estrogenic (inadvertently mimic the biological activity of the female hormone estrogen) in *in vitro* fish, avian, and mammalian assays, with their molecular action mediated through the estrogen receptor (ER) (White *et al.*, 1994). Findings of AP estrogenicity *in vitro* have been substantiated by reports of inhibited testicular growth after AP exposure of rats (Sharpe *et al.*, 1995) and fish (Jobling *et al.*, 1996) *in vivo*. The potential range of impacts of estrogen receptor binding chemicals include altered protein expression on the cellular level, changes in hormone levels in the ova and testis, expression of secondary sex characteristics and altered reproductive capability of individuals, which may lead to skewed genders within a population which ultimately may impact the long-term efficacy of the population. While these chemicals are relatively weak ER binders they may be of concern due to their hydrophobicity (*i.e.*, repel water) and potential to bioaccumulate (Schmeider *et al.*, 2000). Tighter discharge limits and effluent treatment processes to reduce the concentration of AP and its degradation products have been shown to reduce the estrogenic activity of the watercourses into which the effluents are discharge (Sheehan *et al.*, 2002).

Growth promoters (*e.g.*, trenbolone acetate—a synthetic anabolic steroid used to promote growth in cattle) are extensively used in the United States. These steroids, and more importantly their metabolites (*e.g.*, 17-beta-trenbolone from trenbolone acetate), have been shown to be comparatively stable in animal waste, suggesting the potential for exposure to aquatic animals via direct discharge, runoff, or both. Reproductive alterations have been reported in fish living in waters receiving cattle feedlot effluent (Jegou *et al.*, 2001) and in *in vitro* androgenic activity displayed by feedlot effluent samples (Gray *et al.*, 2001). Little is known of the toxicity of these promoters and metabolites. However, recent studies on one such chemical, 17-beta-trenbolone, indicate the potential for androgenic activity in *in vitro* and *in vivo* assays and induction of developmental abnormalities (Wilson *et al.*, 2002). Furthermore, studies on 17-beta-trenbolone observed androgenic activity in the fathead minnow as evidenced by secondary sex characteristics in females (production of dorsal nuptial tubercles, structures normally present only on the heads of males), and altered reproductive physiology of the male (Ankley *et al.*, 2003). The presence of these chemicals in the environment and their potential toxicity are the subject of further study.

2. How May Water Quality Be Impaired by MPP Wastewater?

EPA identified 10 articles documenting environmental impacts due to meat and poultry processing facilities. Documented impacts include 4 stream reaches with nutrient loadings, 2 sites with contaminated well water, 1 site with contaminated ground water, and 1 lake threatened by nutrient loadings. Additional information may be found in the Economic and Environmental Benefits Analysis (DCN 320–001) in the rulemaking docket.

EPA has made significant progress in implementing Clean Water Act programs and in reducing water pollution. Despite such progress, however, many water quality problems persist throughout the country. Sources of information on these problems include reports from States to EPA, documented in the 2000 Inventory, and the U.S. Geological Survey's National Water Quality Assessment (NAWQA) Program.

The 2000 Inventory data identify the leading pollutants impairing surface water quality in the United States to include nutrients, pathogens, sediment/siltation, and oxygen-depleting substances. These pollutants originate from many different sources, including the animal production industry.

Over 40 percent of our assessed waters amounting to over 20,000 individual river reaches, lakes, and estuaries still do not meet the applicable water quality standards. These impaired waters include approximately 300,000 miles of rivers and shorelines and approximately 5 million acres of lakes. A majority of the U.S. population (218 million) live within 10 miles of the impaired waters.

Under section 303(d) of the 1972 Clean Water Act, states, territories, and authorized tribes are required to assess and develop lists of waters that do not meet water quality standards. The law requires that these jurisdictions establish priority rankings for waters and develop total maximum daily loads (TMDLs) for these waters. A TMDL specifies the maximum amount of a single pollutant that a waterbody can receive and still attain its applicable standard. The calculation of the TMDL must include a margin of safety to ensure that the waterbody can be used for the purposes the jurisdiction has designated. The calculation must also account for seasonal variation in water quality.

MPP facilities primarily discharge pollutants to rivers and streams. EPA has found that 66 of the 112 waterbodies receiving discharges from in scope meat

and poultry facilities are listed as impaired, meaning that these meat and poultry processing facilities may be subject to requirements to reduce their discharges of the impairing pollutants, if appropriate. Of those 66 waterbodies, 19 have proposed or promulgated TMDLs, 11 of which are for nutrients. Eight waterbodies are scheduled for TMDLs, and of those, 5 are impaired for nutrients. The remaining 39 impaired waterbodies have either no information on the timing of TMDLs that EPA could find or the TMDLs are not scheduled. Of those 39 waterbodies, 18 are impairments are due to nutrients.

C. How Will Water Quality and Human Health Be Improved by This Rule?

1. What Reductions in Pollutant Discharges Will Result From This Rule?

The pollutant load reductions due to today's requirements were estimated based on the additional wastewater treatment needed by facilities to achieve the limits specified by this rule. See Section VIII.A for discussion on EPA's pollutant loading reduction. These estimates were used in the water quality models and other environmental benefits assessment models to estimate the human health and environmental benefits accruing from this rule.

EPA estimated the reduction of nitrogen and the metals barium, chromium, copper, manganese, molybdenum, nickel, titanium, vanadium, and zinc for the final rule. Fecal coliform was used as a surrogate measure to estimate pathogen reductions that would be achieved by this rule. EPA expects that other pathogens (*e.g.*, E. coli) will also be reduced to a similar degree due to disinfection requirements. Table X.C–1 presents the pollutant reductions expected to result from this rule.

TABLE X.C–1.—POLLUTANT REDUCTIONS: COMBINED TOTAL FOR ALL MPP FACILITIES

[Includes baseline closures facilities]

Parameter	Baseline pollutant loading (pre-regulation)	Post-regulation pollutant loading	Pollutant reduction
Nitrogen (million lb)	48.4	20.0	28.5
Pathogens (10^{19} cfu)	1,340.2	249.0	1,091.2
Sediment (million lb)	8.5	6.1	2.4

2. What Was the Approach for Determining the Benefits of This Rule?

EPA modeled the water quality improvements expected to result from the new requirements being promulgated today and estimated the environmental and human health benefits of the pollutant reductions. The benefits described in this section are primarily associated with direct improvements in surface water quality.

For this rule, EPA conducted five benefit studies to estimate the impacts of reductions in pollutant discharges from MPP facilities. The first study used the National Water Pollution Control Assessment Model (NWPCAM) that estimates pollutant discharge to rivers, streams, and, to a lesser extent, lakes in the U.S. in order to estimate the value society places on improvements in surface water quality associated with today's rule. As noted in Section X.C.3.a, EPA is using a newer version of the NWPCAM than was used for the proposal that enables us to model nutrient loadings. The second study evaluated reduced public water treatment costs. The second study differs from the other four by providing a change in costs. The third study assessed the potential impacts of ten pollutants on aquatic life or human health by comparing the modeled instream pollutant concentrations under baseline treatment levels to EPA's published guidance for aquatic life criteria or human health criteria. The fourth study assessed reductions of nutrient criteria exceedances under today's technology options. In the fifth study ORD compared the background concentrations of nitrogen with the facility-generated loads.

For the benefits analyses, EPA translates, where possible, pollutant reductions and other environmental improvements on human health and the ecosystem to monetary values. In some cases, EPA could identify some improvements that will result from this rule, but could not estimate the monetary value of the improvement or quantify the amount of improvement expected. Nevertheless, these environmental improvements most likely result in improved ecological conditions. The following discussion details these non-monetized and non-quantified benefits. Given the limitations to assigning monetary values to some of the improvements, the monetized benefit values described here and in the Economic and Environmental Benefits Analysis should be considered as a subset of the total benefits of this rule. For example, the economic valuation EPA used for this rule assigns monetary values for the improvements due to reductions of certain important pollutants from MPP facilities (*e.g.*, nitrogen). It does not include values for improvements expected from reductions of other pollutants of potential importance, such as oil and grease.

3. Benefits From Improved Surface Water Quality

Economic benefits of the MPP rule can be broadly defined according to categories of goods and services provided by improved water quality. The first category includes benefits that pertain to the use (direct or indirect) of the affected resources. The direct use benefits can be further categorized according to whether or not affected goods and services are traded in the market. For this rule, EPA has not identified any goods that are traded. The non-traded or non-market ''use'' benefits assessed in this final rule include recreational activities and drinking water (treatment). The second category includes benefits that are independent of any current or anticipated use of the affected resource; these are known as ''nonuse'' or ''passive use'' values. Nonuse benefits reflect human values associated with existence and bequest motives associated with preservation and/or quality of environmental resources. Although the public may not use a resource directly, they may nevertheless be affected by changes in the status or quality of that resource.

The economic value of benefits is estimated using a range of valuation methods, with the specific approach being dependent on the type of benefit category, data availability, and other suitable factors. Recreational use benefits can be valued using primary (original) or secondary research involving revealed preference methods (*e.g.*, random utility models). Estimating nonuse benefits is more challenging because these values cannot be observed in markets or inferred from revealed or observed behavior. Researchers

therefore rely on stated preference methods to derive nonuse values, whereby individuals are asked to ''state'' their preference or value for particular (and often hypothetical) resource conditions outlined in survey questions. For this final rule, time and resource constraints preclude the use of primary research for deriving use or nonuse benefit values. EPA therefore does not conduct primary research to support the benefits analysis and instead relies on benefit transfer of values from existing studies to monetize benefits. EPA's Guidelines for Preparing Economic Analyses (EPA 240–R–00–003) recommends consideration of benefits transfer under these conditions. The following sections outline the methods and results of the benefits analysis

a. Freshwater Recreational Benefits

EPA used the NWPCAM to estimate the national economic benefits to surface water quality that will result from implementation of today's requirements. EPA used the NWPCAM to simulate the results of reductions in pollutant loadings from meat and poultry product facilities on water quality in the Nation's surface waters. MPP loads data for nitrogen, phosphorus, pathogen indicators, BOD_5, DO, and TSS were used as inputs to the NWPCAM for this analysis. EPA modeled a sample set of 65 facilities. EPA estimates that the final rule will improve overall use of approximately 631 stream miles for the sample set. Most of the improvements came from within a use designation (*e.g.*, boatable waters moved closer to becoming fishable waters). The MPP loadings were used as inputs to the NWPCAM to estimate in-stream pollutant concentrations on a detailed spatial scale and to produce estimates for changes in concentrations resulting from this rule. EPA used the NWPCAM modeling output (improved water quality) to monetize improvements to water quality, and as inputs for other benefits analyses used to support this rule.

EPA used a water quality valuation technique to estimate the monetary value of the recreation and nonuse benefits associated with the changes in water quality. This method uses a composite measure of water quality calculated from six parameters (called the ''water quality index'' approach) and further assigns monetary values along a continuum of water quality improvements. The monetary value assigned to the benefits captures what the public is willing to pay for these improvements to water quality. The benefits of improved surface water quality resulting from reduced pollutant discharges from the 65 non-small direct discharge facilities are estimated to be $841,000 annually (2003$).

Raking post-stratification was used to extrapolate these results from the 65 non-small direct discharge facilities to the universe of 169 regulated facilities. The basic concept of the raking method is that facility sample weights derived from the size of the plant and type of production may not be the most appropriate for extrapolating benefits to non-sample plants. Other factors influence the occurrence and size of benefits so their omission can lead to a conditional bias in the extrapolated results. The raking process proceeds by categorizing all of the facilities that will be affected by the regulation by their receiving waters and local population. The goal of the post-stratification weighting process is to ensure that the revised sample weights generate the same marginal percentages for the receiving waters and local population categorization as found in the affected population. For information see the Economic and Environmental Benefits Analysis in the rulemaking docket.

The revised weights are applied to sample facilities to generate a national total. However, the NWPCAM calculates changes in water quality by river reach rather than facility. Using network analysis tools, EPA identified the MPP model facilities upstream from each affected reach. Up to six facilities may have contributed to the changes in any particular reach. For most reaches, there was only one model facility upstream so only that weight was used. Otherwise, the average raking weight for all of the facilities upstream of the reach was applied to aggregate the benefits estimated for reaches affected by the model facilities to an estimate for all of the facilities within the scope of the rule. Based on the NWPCAM analysis using the water quality index approach, EPA estimates the benefits of improved surface water quality resulting from reduced pollutant discharges from MPP facilities to be $2.6 million annually (2003$).

Water quality predictions generated by the NWPCAM, as well as by other models, contain prediction errors. As a consequence, there is some degree of uncertainty associated with calculated values of benefits. Monte Carlo analysis is used to characterize the uncertainty and compute error bounds around calculated benefit values (see EEBA, DCN 320–001). The range of benefits estimated by uncertainty analysis is approximately zero to $10 million per year (2003$), based on 10 percent lower and 90 percent upper bound values respectively. The broad range in values is not uncommon for large scale (*i.e.*, national-level) water quality models and is expected given the relatively small number of facilities affected by the rule and the choice of the 10th and 90th percentiles as uncertainty bounds.

b. Reduced Public Water Treatment Costs

Total suspended solids (TSS) entering surface waters from MPP facilities may hinder effective drinking water treatment by interfering with coagulation, filtration, and disinfection processes. EPA used the NWPCAM to predict how pollutant reductions from MPP facilities would affect the concentration of TSS in the source waters of public water supply systems. To measure the value of reductions in TSS concentrations, EPA estimated the extent to which lower TSS concentrations reduce operation and maintenance (O&M) costs related to conventional treatment techniques. EPA estimates reduced drinking water treatment costs will be negligible from reduced discharges of pollutants due to today's rule (see DCN 316–511 for details about the reduced drinking water treatment costs).

c. Toxicity Assessment

EPA used a stream dilution modeling technique to assess the aquatic life and human health toxicity impacts of releases of ten pollutants (ammonia, barium, chromium, copper, manganese, molybdenum, nickel, titanium, vanadium, and zinc). The stream dilution modeling techniques assume complete immediate mixing of effluents and receiving water flows and do not take into account fate processes other than complete immediate mixing. These simplified stream dilution techniques have been used in other effluent guidelines (*e.g.*, Iron and Steel, Metal Products and Machinery, and Transportation Equipment Cleaning). EPA based this analysis on 53 MPP facilities that responded to detailed surveys and directly discharge wastewaters to streams.

EPA projected possible impacts on aquatic life by comparing the modeled instream pollutant concentrations under baseline treatment levels to EPA's published aquatic life criteria guidance [2]

[2] In performing this analysis, EPA uses guidance documents published by EPA that recommend numeric human health and aquatic life water quality criteria for numerous pollutants. States often use these guidance documents when adopting criteria as part of their water quality standards. The simplified stream dilution techniques are used for screening priority pollutants. Therefore, EPA uses

or, for pollutants for which there are no water quality criteria, to toxic effect levels (*i.e.*, lowest reported or estimated concentration that is toxic to aquatic life).

EPA projects impacts to human health by (1) comparing estimated instream pollutant concentrations to health-based toxic effect values or criteria, and (2) estimating the potential noncarcinogenic hazards from eating contaminated fish or drinking contaminated water. EPA evaluated systemic hazards for the general population for drinking water, and evaluated systemic hazards for sport and subsistence fishers and their families from eating contaminated fish. However, EPA did not look at carcinogenic risks because none of these 10 pollutants discharged by MPP facilities and considered in this analysis are known carcinogens.

EPA projects that modeled instream pollutant concentrations of copper, at current discharge levels, will slightly exceed chronic aquatic life criteria or toxic effects levels in one of the 53 receiving streams. The model did not predict any exceedances of acute aquatic life criteria or toxic effect levels. EPA also projects that manganese will marginally exceed human health criterion or toxic effect levels in one of the receiving streams. At current discharge levels, no systemic toxic effects are projected for fishers and their families from eating fish they catch from any of the receiving streams. Because EPA did not identify damages resulting from the MPP discharges for the 10 pollutants identified at the beginning of this section, EPA projects no meaningful health or aquatic life benefits as a result of the selected BPT or BAT options. (see DCN 316–518 for details about the toxicity assessment).

d. Nutrient Criteria Assessment

EPA's recommended section 304(a) ecoregional water quality criteria for nutrients were developed with the aim of reducing and preventing cultural eutrophication (*i.e.*, over enrichment of nutrient levels associated with human activities) on a national scale. The criteria were empirically derived to represent conditions of surface waters that are minimally impacted by human activities and protective of aquatic life and recreational uses. The nutrient criteria are numerical values for both causative (phosphorus and nitrogen) and response (chlorophyll a and turbidity) variables associated with the prevention and assessment of eutrophic conditions. The problem of cultural eutrophication is national in scope, but specific levels of overenrichment leading to these problems vary from one region of the country to another because of factors such as geographical variations in geology, vegetation, climate, and soil types. EPA has, therefore, developed its recommended nutrient criteria on an ecoregional basis.

For this analysis, EPA estimates nutrient concentrations one kilometer downstream from facilities assuming (1) no background concentrations of nitrogen, (2) 7Q10 and mean flow conditions, and (3) exponential decay of nitrogen within the one kilometer stretch. EPA then compares estimated concentrations with 304(a) criteria or reference conditions. Given the assumptions, this analysis is not designed to predict actual concentrations, but instead evaluate, at a screening level, the relative impacts of MPP facilities and treatment controls required under this rule. In the absence of all other sources of nitrogen and assuming 7Q10 flow, the results of this analysis show that, prior to the rule, loads from 45 MPP facilities (out of 63), are projected as being capable of creating instream nitrogen concentrations that exceed 304(a) nitrogen criteria representing the upper 25th percentile reference conditions of ''least impacted'' streams in respective subecoregions. The 25th percentile was chosen by EPA to represent reference conditions; the natural least impacted conditions, or what is considered the most attainable condition. The number of exceedances drops to 41 facilities when estimated instream nitrogen concentrations are compared to the 50th (*i.e.*, median) percentile reference conditions. It is possible, in reality, that many of these streams will exceed the 25th and 50th percentile reference conditions, even in the absence of MPP facility loads, but these results are provided to demonstrate the potential for MPP loads to affect nutrient water quality. The complete analysis is available in the EEBA.

When loads from the MPP facilities are reduced in accordance with the requirements under this rule, a total of six of the 45 25th percentile exceedances are projected to be eliminated. Correspondingly, a total of four out of the 41 50th percentile exceedances are projected to be eliminated. When mean flow (versus 7Q10) is assumed, eight out of 16 projected 25th percentile exceedances are estimated to be eliminated, and seven out of 14 projected 50th percentile exceedances are estimated to be eliminated. In reality, these exceedances may not in fact be eliminated due to the assumptions outlined above for this analysis, but these results demonstrate the potential capacity of this rule to affect water quality related to nutrient loads.

Similar analyses have been conducted by EPA's Office of Research and Development (DCN 317–001). Using land cover data, ORD estimated non-point source (NPS) loads for watersheds containing MPP facilities. NPS loads and recommended loads based on EPA's 304(a) nutrient criteria guidance were compared to MPP loads. The results identified several MPPs where NPS loads were substantially lower than MPP loads and BAT Option 2.5 could significantly improve water quality. Other plants were identified that currently exceed established EPA nutrient criteria levels, and implementing BAT Option 2.5 would decrease nutrient loads.

XI. What Are the Other (Non-Water Quality) Environmental Impacts and Benefits?

Under Sections 304(b) and 306 of the Clean Water Act, EPA may consider non-water quality environmental impacts (including energy requirements) when developing effluent limitations guidelines and standards. Accordingly, EPA has considered the potential impact of today's final regulation on air emissions, energy consumption, and solid waste generation.

While it is difficult to calculate environmental impacts across all media and energy use, EPA has determined that the benefits from complying with these limitations and standards justify the multi-media impacts identified in this section (see Section X for a discussion on the environmental benefits associated with this regulation). Because today's rule only affects non-small facilities who directly discharge their wastewaters, impacts from those facilities are the only ones discussed here. For impacts associated with treatment options that were not selected for the final regulation and other information on non-water quality impacts, see Section 12 of the ''Technical Development Document for the Final Effluent Limitations Guidelines and Standards for the Meat and Poultry Products Point Source Category.''

the national criteria values in lieu of more site-specific values. We do not use this as a comprehensive analysis, but rather as a trigger to identify potential impacts on aquatic life and human health. A more site-specific analysis could be undertaken if the simplified stream dilution technique projected in-stream exceedances of national aquatic life and human health criteria.

A. Air Emissions

EPA has determined that wastewater treatment processes recommended in this rule will not generate significant air emissions above the current emissions, either directly from the facility or indirectly from the facilities that provide energy to MPP facilities. Possible non-odorous gases that may be emitted from these processes include nitrogen and carbon dioxide. Nitrogen gas will be formed during the denitrification process, and will escape to the atmosphere. Since nitrogen comprises over 78% of the Earth's atmosphere and is not considered a greenhouse gas, its generation is not considered to pose an environmental impact. Carbon dioxide will be released when BOD is oxidized by oxygen-containing compounds. However, the BOD being treated will generally not increase, and therefore there will generally be no incremental increase in carbon dioxide over current treatment levels. Carbon dioxide will be incrementally increased only for facilities requiring additional BOD for denitrification, which constitutes approximately 20% of the MPP facilities.

Odors are the only significant air pollution problem associated with the treatment of MPP wastewaters and generally are associated with anaerobic conditions. Thus, flow equalization basins, dissolved air flotation (DAF) units, and anaerobic lagoons are possible sources of malodors. Potential odorous substances associated with MPP wastewater include ammonia, hydrogen sulfide, and organic compounds. Ammonia in MPP wastewaters is typically due to breakdown of more complex substances, and can be released under certain circumstances. However, aerobic nitrifying conditions will favor keeping ammonia in solution as it is converted to nitrate, meaning that odors will generally be suppressed. In addition, maintenance of pH around neutral conditions will disfavor stripping ammonia, leaving it in the wastewater to be oxidized or assimilated. Furthermore, denitrification processes will favor additional conversion of ammonia. Thus, any incremental ammonia generation will be minimal.

Hydrogen sulfide can be formed under anaerobic and anoxic conditions such as in the denitrification reactors. Hydrogen sulfide generation requires the presence of sulfate in the wastewater, which is typically low in MPP wastes. (In most cases the source of sulfates in MPP wastewater is the source water supply.) In addition, the formation of sulfide is less favored than the reduction of nitrate to nitrogen, meaning that under most circumstances, sulfide will not be formed to a greater degree than is currently the case, especially if the facility is well-managed. Review of the MPP detailed surveys shows that only 20% of the MPP facilities that currently do not denitrify or treat their wastewater anaerobically have the potential for increased hydrogen sulfide generation.

Volatile odorous organic compounds can be generated in anaerobic lagoons. However, most facilities currently have such lagoons in place, meaning that incremental additional generation of such substances will be minimal. If specific facilities have odor difficulties, then covers over the lagoons can be used to capture odorous substances that are then subsequently destroyed by some oxidation or combustion process. Some facilities capture anaerobically generated methane for fuel; if that gas stream must be scrubbed before use, the waste will be recycled to the wastewater treatment plant, resulting in no net environmental impact. Such oxidation and combustion processes will potentially result in additional carbon dioxide generation; however, that generation constitutes minimal incremental generation, since the organic substances involved would have gone through oxidation naturally. Typically, odorous organic compounds are well-destroyed in aerobic systems. Overall, the incremental odor problems associated with this regulation are small. Odor problems usually are significant only when the sulfur content of MPP wastewaters is high, especially when treatment facilities are not well managed. Generally, MPP wastewater treatment facilities using anaerobic processes for treating wastewater with a low sulfur concentration have few odor problems. At such facilities, maintaining a naturally occurring layer of floating solids in anaerobic contact basins and lagoons generally minimizes odors. Thus, the technology options should not increase emissions of odorous compounds from well-managed MPP wastewater treatment facilities. EPA visited several MPP facilities, and none had odor control problems.

If a facility uses nitrification to meet the ammonia limitations, then any ammonia odors will be minimal because the process keeps the ammonia in solution as it is converted to nitrate. However, using anaerobic treatment for initial BOD reduction before aerobic treatment will increase emissions of methane and volatile organic compounds, but the increases should be negligible given today's extensive use of lagoons and other anaerobic processes in MPP wastewater treatment. In addition, covering anaerobic lagoons and flaring the gas captured can reduce these emissions. If the volume of captured gas is sufficient, it can be used as a fuel to produce process heat or electricity. EPA observed a couple of facilities capturing gas for use as fuel during its site visits.

B. Energy Consumption

EPA estimates that compliance with this rule will create a small increase in nationwide energy consumption for all subcategories, except Subcategory J, which is projected to have decreased energy requirements. This estimated decrease for Subcategory J is because the facilities will all have decreased aeration requirements due to BOD removal during anoxic processes (before the aeration tank); because the BOD is removed beforehand, less aeration is needed for BOD removal in the aeration process. Although other subcategories may also decrease their aeration requirements, that decrease may be offset by requirements associated with ensuring there is enough BOD to achieve the desired nitrate reduction. For non-small direct discharging facilities nationwide, EPA estimates a 7.3 percent increase in annual energy consumption for wastewater treatment (about 17.7 million kilowatt-hours per year). Table XI.B–1 presents the estimates of energy use EPA expects as a result of this regulation, organized by subcategory.

By comparison, electric power generation facilities generated 3.123 billion megawatt-hours of electric power in the United States in 1997 (Energy Information Administration, Electric Power Annual 1998 Volume 1, Table A1). Additional energy requirements for EPA's selected options are acceptable (*i.e.*, significantly less than 0.001 percent of national requirements).

TABLE XI.B–1.—INCREMENTAL ENERGY USE FOR NON-SMALL DIRECT DISCHARGING MPP FACILITIES

40 CFR 432 subcategory[a]	Baseline energy use for MPP WWTP (KWH/yr)	Incremental energy use for MPP WWTP (KWH/yr) [% Increase]
A, B, C, D	62,381,835	8,100,573 [11.5]
F, G, H, I	1,711,465	51,931 [2.9]
J	10,440,620	−611,232 [−6.2]
K	162,511,445	9,891,034 [5.7]
L	6,470,812	346,789 [5.1]

[a] Facilities in Subcategory E are not affected by today's rule, therefore, there is no net incremental energy use.

These are national estimates. Individual facilities may decrease their energy consumption if they use the anaerobic lagoon effluent as the source of organic carbon necessary for denitrification. BOD reduction that occurs during denitrification reduces the oxygen transfer requirements and associated electricity needed for aerobic BOD reduction after the anaerobic treatment. For other facilities, energy use may increase due to additional pumping requirements.

C. Solid Waste Generation

The most significant non-water quality impact for this rule is the generation of solid wastes from MPP wastewater treatment. EPA estimates that compliance with the final rule will slightly increase the amount of wastewater treatment sludge generated for meat first and further processors and decrease the amount for renderers and poultry first and further processors. For non-small direct discharging facilities nationwide, EPA estimates a 2.3 percent reduction in total annual sludge produced (or about 3,200 tons). The reduction in sludge generation for renderers and poultry processes is due to the increased use of anoxic processes, which inherently tend to generate less sludge than aerobic processes, while not having increased sludge generation from TSS removal. Table XI.C–1 presents the amount of wastewater treatment sludge expected to be generated at non-small direct discharging facilities as a result of this regulation. Actual sludge generation at individual facilities will vary from the percentages shown in the table. Depending on the current treatment process, a facility's sludge generation may increase even though the total amount for the subcategory decreases.

TABLE XI.B–1. INCREMENTAL SLUDGE GENERATION FOR NON-SMALL DIRECT DISCHARGING MPP FACILITIES

40 CFR 432 subcategory[a]	Baseline Sludge Generation for MPP WWTP (tons/yr)	Incremental Sludge Generation for MPP WWTP (tons/yr) [% Increase]
A, B, C, D	25,503	675 [2.6]
F, G, H, I	1,586	0.64 [0.04]
J	6,514	−568 [−9.5]
K	96,846	−3,203 [−3.4]
L	7,606	−126 [−1.7]

[a] Facilities in Subcategory E are not affected by today's rule, therefore, there is no net incremental sludge generation.

The estimates of sludge production in Table XI.B–1 are based on the concentrations of BOD entering the biological part of the treatment system after pretreatment (*e.g.*, DAF or anaerobic lagoon), and include sludge generation by facilities that may require a supplemental carbon source for denitrification. In a denitrification/nitrification process, the denitrification portion of the process removes a significant portion of BOD in the wastewater, thereby reducing the amount of BOD available for removal during the aerobic portion of the treatment process. The sludge yield coefficient for the denitrification process is lower than the coefficient for the aerobic process, therefore the amount of sludge generated per BOD unit will be lower for the denitrification part than the nitrification part. The majority of MPP facilities perform nitrification; converting a nitrification treatment system to one that includes denitrification reduces the amount of sludge generated.

EPA also expects that more emphasis on pollution prevention (*e.g.*, by increased segregation of waste materials that can be used for producing rendered products from wastewater flows) could further reduce sludge generation,

although the Agency did not calculate these potential reductions as they are not attributable to the rule. Examples of such pollution prevention practices include using alternatives to fluming to remove viscera from processing areas and ''dry cleaning'' facilities as the initial step in the daily cleaning of equipment and facilities. If contact with water is prevented, fats and proteins (that would otherwise dissolve and pass through screening and dissolved air flotation) do not become sources of BOD and ammonia and, consequently, sources of sludge.

XII. How Will This Rule Be Implemented?

This section helps permit writers and MPP facilities implement this regulation. This section also discusses the relationship of upset and bypass provisions, variances, and modifications to the final limitations and standards. For additional implementation information, see Section 15 of the Technical Development Document for today's final rule.

A. Implementation of the Limitations and Standards for Direct Dischargers

Effluent limitations and new source performance standards act as important mechanisms to control the discharges of pollutants to waters of the United States. These limitations and standards are applied to individual facilities through NPDES permits issued by the EPA or authorized States under Section 402 of the Act.

In specific cases, the NPDES permitting authority may elect to establish technology-based permit limits for pollutants not covered by this regulation. In addition, where State water quality standards or other provisions of State or Federal law require limits on pollutants not covered by this regulation (or require more stringent limits or standards on covered pollutants in order to attain and maintain water quality standards), the permitting authority must apply those limitations or standards. See CWA Section 301(b)(1)(C).

1. What Are the Compliance Dates for Existing and New Sources?

New and reissued NPDES permits to direct dischargers must include these effluent limitations, and the permits must require immediate compliance with such limitations. If the permitting authority wishes to provide a compliance schedule, it must do so through an enforcement mechanism.

New sources must comply with the new source standards (NSPS) of this rule when they commence discharging MPP process wastewater. Because the final rule was not promulgated within 120 days of the proposed rule, the Agency considers a discharger to be a new source if its construction commences after October 8, 2004.

There are meat product facilities that were new sources subject to the earlier NSPS provisions because they commenced construction after promulgation of the earlier NSPS. The CWA provides for a protection period for such facilities from any more stringent standards. The protection period is generally 10 years from the completion of construction. See section 306(d) of the CWA, 33 U.S.C. 1316(d) and 40 CFR 122.29(d). Thus, any source that commenced construction after promulgation of the earlier NSPS and before promulgation of today's NSPS will not be subject to any more stringent BAT limitations in today's rule until the protection period identified in 40 CFR 122.29(d) expires.

2. Who Does Part 432 Apply To?

In Section VI of this preamble and Section 2 of the TDD, EPA provides detailed information on the applicability of this rule. The revised 40 CFR part 432 will apply to all existing and new meat first processing (slaughtering) and further processing facilities; existing and new independent rendering facilities over a certain production threshold (10 million pounds/year); existing poultry first processing (slaughtering) and further processing facilities over a certain production threshold (100 million pounds LWK/year and 7 million pounds/year of finished product, respectively); and all new poultry first processing and further processing facilities. EPA notes that in some cases the limitations and standards for small MPP facilities may be different (*e.g.*, less stringent and/or production-based) than for non-small MPP facilities in the same subpart.

3. How Will This Rule Be Implemented for Facilities That Perform Multiple Operations?

The applicability of subparts A–D and subpart K are defined not only to include wastewater discharges from first processing operations, but also from further processing and rendering operations at the same facility. For example, a facility that has wastewater discharges from meat slaughtering and meat further processing would fall within subparts A–D (whether it was subpart A, B, C, or D would depend on the specific slaughtering operations), but would not be covered by any of subparts E–I.

Facilities that discharge wastewater from both meat and poultry processing operations, however, will have to comply with limitations and standards from two subcategories. Permit writers would use the ''building block approach'' based on production or wastewater discharge flow to combine the two sets of limitations into one final effluent limitation in the facility's permit. For example, if an existing facility discharges wastewater from meat slaughtering operations commingled with wastewater discharges from poultry further processing operations, the permit writer must calculate a single effluent limit for the permit that is a weighted combination of the limitations for subparts A–D and subpart L with the weights based on relative production or wastewater discharge for the two types of operations. In cases where one part of the wastewater comes from operations with no limitations, (*e.g.*, small poultry), the permit writer must first establish best professional judgement (BPJ) limitations for this portion of the wastewater, and then combine these with any applicable national limitations using the building block approach.

4. How Can a Facility Get a Waiver for Pollutants That Are Not Present?

In May 2000, EPA promulgated a regulation streamlining the NPDES regulations (''Amendments to Streamline the National Pollutant Discharge Elimination System Program Regulations: Round Two'' (see 65 FR 30886; May 15, 2000)) which includes a monitoring waiver for direct dischargers subject to effluent guidelines. Direct discharge facilities may choose not to sample a guideline-limited pollutant if that discharger ''has demonstrated through sampling and other technical factors that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger'' (see 65 FR 30908; 40 CFR 122.44). EPA noted in the preamble to the final NPDES streamlining rule that the Agency is granting a waiver from monitoring requirements but not a waiver from the limit. In addition, the provision does not waive monitoring for any pollutants for which there are limits based on water quality standards. The waiver for direct dischargers lasts for the term of the NPDES permit and is not available during the term of the first permit issued to a discharger. Any request for this waiver must be submitted with the application for a reissued permit or a request for modification of a reissued permit. When

their permit writer authorizes it, direct discharge facilities covered by any effluent guidelines (including today's rule) may use the monitoring waiver contained in the NPDES streamlining final rule.

5. Compliance With Limitations and Standards

The same basic procedures apply to the calculation of all effluent limitations guidelines and standards for this industry, regardless of whether the technology is BPT, BCT, BAT, or NSPS. For simplicity, the following discussion refers only to effluent limitations guidelines; however, the discussion also applies to new source standards.

a. Definitions

The limitations for pollutants for each option, as presented in today's notice, are expressed as maximum daily discharge limitations and maximum monthly average discharge limitations. Definitions provided in 40 CFR 122.2 state that the ''maximum daily discharge limitation'' is the ''highest allowable 'daily discharge' '' and the ''maximum average for monthly discharge limitation'' is the ''highest allowable average of 'daily discharges' over a calendar month, calculated as the sum of all 'daily discharges' measured during a calendar month divided by the number of 'daily discharges' measured during that month.'' Daily discharge is defined as the ''discharge of a pollutant'' measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.''

b. Percentile Basis for Limits, Not Compliance

EPA promulgates limitations that facilities are capable of complying with at all times by properly operating and maintaining their processes and treatment technologies. EPA established these limitations on the basis of percentiles estimated using data from facilities with well-operated and controlled processes and treatment systems. However, because EPA uses a percentile basis, the issue of exceedences (*i.e.*, values that exceed the limitations) or excursions is often raised in public comments on limitations. For example, comments often suggest that EPA include a provision that allows a facility to be considered in compliance with permit limitations if its discharge exceeds the specified monthly average limitations one month out of 20 and the daily average limitations one day out of 100. As explained in Section 14 of the TDD, these limitations were never intended to have the rigid probabilistic interpretation implied by such comments. The following discussion provides a brief overview of EPA's position on this issue.

EPA expects that all facilities subject to the limitations will design and operate their treatment systems to achieve the long-term average performance level on a consistent basis because facilities using well-designed and operated treatment systems have demonstrated that this can be done. Facilities that are designed and operated to achieve the long-term average effluent levels used in developing the limitations should be capable of compliance with the limitations at all times, because the limitations incorporate an allowance for variability in effluent levels about the long-term average. The allowance for variability is based on control of treatment variability demonstrated in normal operations.

EPA recognizes that, as a result of modifications to 40 CFR Part 432, some dischargers may need to improve treatment systems, process controls, and/or treatment system operations in order to consistently meet the new and/or revised effluent limitations and standards. As noted previously, however, given the fact that the promulgated limitations reflect an allowance for variability and the demonstrated ability of facilities to achieve the LTA, the limitations are achievable.

c. Requirements of Laboratory Analysis

The permittee is responsible for communicating the requirements of the analysis to the laboratory, including the sensitivity required to meet the regulatory limits associated with each analyte of interest. In turn, the laboratory is responsible for employing the appropriate set of method options and a calibration range in which the concentration of the lowest non-zero standard represents a sample concentration no higher than the regulatory limit for each analyte. (See *Sierra Club* v. *Union Oil*, 813 F.2d 1480, page 1492 (9th Cir. 1987).)

d. Monitoring

In developing the limitations and standards for today's rule, EPA assumed a weekly monitoring frequency (approximately four times a month). (The assumed daily monitoring frequency remains the same for the unchanged limitations and standards.) EPA incorporated this assumed monitoring frequency into the monitoring costs and determination of the limitations for the final rule. However, actual monitoring requirements for individual facilities are specified in the NPDES permits issued by the States (or other authorized permitting authority). EPA has concluded that facilities properly operating and maintaining the treatment technology, used as the basis of today's limitations, will comply with the monthly average limitation/standard when they sample at the assumed weekly monitoring frequency, although compliance is required regardless of the number of samples analyzed and averaged in a month. EPA would, however, discourage the practice of allowing the number of monitoring samples to vary arbitrarily merely to allow a facility to achieve a desired average concentration, i.e., a value below the limit. EPA expects that enforcement authorities would prefer, or even require, monitoring samples at some regular, pre-determined frequency. If a facility has difficulty complying with the standards on an ongoing basis, then the facility should improve its equipment, operations, and/or maintenance.

B. Upset and Bypass Provisions

A ''bypass'' is an intentional diversion of the streams from any portion of a treatment facility. An ''upset'' is an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations beyond the reasonable control of the permittee. You can find EPA's regulations concerning bypasses and upsets for direct dischargers at 40 CFR 122.41(m) and (n) and for indirect dischargers at 40 CFR 403.16 and 403.17.

C. Variances and Modifications

While the CWA requires application of effluent limitations established pursuant to section 301 to all direct dischargers, the statute also provides for the modification of these national requirements in a limited number of circumstances. Moreover, the Agency established administrative mechanisms to provide an opportunity for relief from the application of the national effluent limitations guidelines for categories of existing sources for toxic, conventional, and nonconventional pollutants.

1. Fundamentally Different Factors Variances

EPA will develop effluent limitations or standards different from the otherwise applicable requirements if an individual discharging facility is fundamentally different with regard to the factors the Agency used to establish the limitations or standards. Such a modification is known as a

''fundamentally different factors'' (FDF) variance.

Early on, EPA by regulation provided for the FDF modifications for direct dischargers from the best practicable control technology effluent limitations (BPT), best available technology economically achievable limitations for toxic and nonconventional pollutants, and BPT limitations for conventional pollutants. For indirect dischargers, EPA provided for modifications from pretreatment standards. FDF variances for toxic pollutants were challenged judicially and ultimately affirmed by the Supreme Court (*Chemical Manufacturers Assn* v. *NRDC*, 479 U.S. 116 (1985)).

Subsequently, in the Water Quality Act of 1987, Congress added a new section 301(n) explicitly authorizing modifications of the otherwise applicable BAT effluent limitations or categorical pretreatment standards for existing sources if a facility is fundamentally different with regard to the factors EPA used to establish the effluent limitations or pretreatment standards. Section 301(n) also defined the conditions under which EPA may establish alternate requirements. Under Section 301(n), an application for a FDF variance must be based solely on (1) information submitted during rulemaking raising the factors that are fundamentally different or (2) information the applicant did not have an opportunity to submit. The alternate limitation or standard must be no less stringent than justified by the difference and must not result in markedly more adverse non-water quality environmental impacts than the national limitation or standard would create.

EPA regulations (40 CFR part 125 Subpart D), authorizing the Regional Administrators to establish alternate limitations and standards, further detail the criteria used to evaluate FDF variance requests for direct dischargers. Thus, 40 CFR 125.31(d) identifies six factors (for example, volume of process wastewater or age and size of a discharger's facility) that may be considered in determining if a facility is fundamentally different. The Agency must determine whether, on the basis of one or more of these factors, the facility is fundamentally different from facilities and factors used by EPA to develop the nationally applicable effluent guidelines. The regulation also lists four other factors (for example, infeasibility of installation within the time allowed or a discharger's ability to pay) that may not be a basis for an FDF variance. In addition, under 40 CFR 125.31(b)(3), a request for limitations less stringent than the national limitation may be approved only where compliance with the national limitations would result in either (a) a removal cost wholly out of proportion to the removal cost considered during development of the national limitations or (b) a non-water quality environmental impact (including energy requirements) fundamentally worse than the impact considered during development of the national limits. The conditions for approval of and factors considered for a request to modify applicable pretreatment standards are the same as those for direct dischargers.

The legislative history of Section 301(n) underscores the necessity for the FDF variance applicant to establish eligibility for the variance. EPA's regulations at 40 CFR 125.32(b)(1) explicitly impose this burden upon the applicant. The applicant must show that the factors controlled by the applicant's permit which the applicant claims to be fundamentally different are, in fact, fundamentally different from those factors EPA used to establish the guidelines. The pretreatment regulations incorporate a similar requirement at 40 CFR 403.13(h)(9).

Facilities must submit all FDF variance applications to the appropriate Director (defined at 40 CFR 122.2) no later than 180 days from the date the limitations or standards are established or revised (see CWA section 301(n)(2) and 40 CFR 122.21(m)(1)(i)(B)(2)). EPA regulations clarify that effluent limitations guidelines are ''established'' or ''revised'' on the date those effluent limitations guidelines are published in the **Federal Register** (see 40 CFR 122.21(m)(1)(i)(B)(2)). Therefore, all facilities requesting FDF variances from the effluent limitations guidelines in today's final rule must submit FDF variance applications to their Director (as defined at 40 CFR 122.2) no later than March 7, 2005.

An FDF variance is not available to a new source subject to New Source Performance Standards.

2. Water Quality Variances

So long as the discharge does not violate any water quality-based effluent limitations, Section 301(g) of the CWA authorizes a variance from best available technology economically achievable (BAT) effluent guidelines for certain non-conventional pollutants due to local environmental factors. These pollutants include ammonia, chlorine, color, iron, and phenols (as measured by the colorimetric 4-aminoantipyrine (4AAP) method). Dischargers subject to new or revised BAT limitations promulgated today for those pollutants may be eligible for a section 301(g) variance. Please note that section 301(g)(4)(c) requires that section 301(g) variance applications pertaining to the new or revised limits in this rule be filed not later than June 6, 2005. Existing section 301(g) variances for limitations not being revised today are not affected by today's action.

3. Permit Modifications

Even after the permitting authority has issued a final permit to a direct discharger, the permit may still be modified under certain conditions. (When a permit modification is under consideration, however, all other permit conditions remain in effect.) A permit modification may be triggered by several circumstances, including a regulatory inspection or information submitted by the permittee which reveals the need for modification. Any interested person may request a permit modification. There are two classifications of modifications: Major and minor. From a procedural standpoint, they differ primarily with respect to public notice. Major modifications require public notice, while minor modifications do not. Virtually any modification that results in less stringent conditions is treated as a major modification, with provisions for public notice and comment. Conditions that would necessitate a major modification of a permit are described at 40 CFR 122.62. Minor modifications are generally non-substantive changes. The conditions for minor modification are described at 40 CFR 122.63.

XIII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 [58 FR 51,735 (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 impact 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.'' As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* All facilities within the scope of the final regulations are direct dischargers that, regardless of whether or not they are currently regulated by effluent guidelines, must follow the compliance monitoring and reporting requirements of the National Pollutant Discharge Elimination System (NPDES). Therefore, there is no information collection associated with this rulemaking.

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 in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For the purposes of assessing the impacts of today's rule on small entities, small entity is defined as (1) a small business that is small according to RFA default definitions for small business (based on Small Business Administration (SBA) size standards); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

EPA expects this final rule to regulate up to 33 small businesses that own MPP facilities. All small business-owned facilities that EPA found to be affected by the rule are in Subcategories F–I, Subcategory J, and Subcategory L. Thus, the economic impact analysis for these facilities is based on screener survey data (see Section IX). The scope of the final rule does not include any small governmental jurisdictions or not-for-profit organizations.

Only facilities that exceed the subcategory-specific production thresholds are subject to this rule. EPA projected no small business-owned facility closures for the final rule. However, EPA cannot state that the probability of closure as a result of the rule is zero for those facilities, although it is small (see Table IX.B–4). In addition, of the 33 potentially small entities, 2 entities are estimated to incur annualized post-tax compliance costs greater than three percent of revenues; 5 are estimated to incur compliance costs composing more than one but less than three percent of revenues; 24 small entities are estimated to incur compliance costs of less than one percent of revenues. The scope of the final rule does not include any small governmental jurisdictions or not-for-profit organizations.

Although this final rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. The final rule will include subcategory-specific production thresholds that will allow smaller production facilities to retain their existing limitations or to remain without national effluent limitations. In addition, EPA is not promulgating pretreatment standards. In total, EPA is excluding more than 6,400 of the estimated 6,600 MPP facilities.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, 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, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 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 provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. The total annual cost of this rule is estimated to be no more than $60 million. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. The facilities which are affected by today's rule are direct dischargers engaged in the slaughtering

or processing of meat and poultry and the rendering of by-products resulting from these activities. These facilities are subject to today's requirements through the issuance or renewal of an NPDES permit either from the Federal EPA or authorized State governments. These facilities should already have NPDES permits as the Clean Water Act requires a permit be held by any point source discharger before that facility may discharge wastewater pollutants into surface waters. Therefore, today's rule requires these permits to be revised to comply with revised Federal standards, but should not require a new permit program be implemented. In addition, EPA did not propose and is not promulgating pretreatment standards for indirect dischargers in this point source category, therefore, there would be no impact on States or local governments to oversee a pretreatment program. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. First, no governments are directly regulated by this rulemaking. Second, as discussed above, these regulated facilities should already have NPDES permits as the Clean Water Act requires a permit be held by any point source discharger before that facility may discharge wastewater pollutants into surface waters. Therefore, today's rule requires these permits to be revised to comply with revised Federal standards, but should not require a new permit program be implemented.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.''

This final rule does not have federalism implications. It 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, as specified in Executive Order 13132. EPA estimates that, when promulgated, these revised effluent guidelines and standards will be incorporated into NPDES permits with minimal costs to authorized States. Further, the revised regulations would not alter the basic State-Federal scheme established in the Clean Water Act under which EPA authorizes States to carry out the NPDES permitting program. The final rule maintains the existing relationship between the national government and the States in the administration of the NPDES program; and it preserves the existing distribution of power and responsibilities among various levels of government. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination With Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between Federal government and Indian tribes.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or the distribution of power and responsibilities between the Federal government and Indian tribes as specified in Executive Order 13175. The MPP effluent limitations guidelines and standards will be implemented through permits issued under the NPDES program. No tribal governments are currently authorized pursuant to section 402(b) of the CWA to implement the NPDES program. In addition, EPA's analyses show that no facility subject to this rule is owned by tribal governments and thus this rule does not affect Tribes in any way in the foreseeable future. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

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 Executive Order 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.

Today's rule is not subject to Executive Order 13045 because it is not economically significant under Executive Order 12866. Further, this regulation does not concern an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. As discussed in Section XI, EPA estimates that compliance with this rule will create a small increase in nationwide energy consumption for MPP facilities. For non-small direct discharging facilities nationwide, EPA estimates an approximate increase of 17.7 million kilowatt-hours per year for wastewater treatment. By comparison, electric power generation facilities generated 3,123 billion kilowatt hours of electric power in the United States in 1997 (Energy Information Administration, Electric Power Annual 1998 Volume 1, Table A1). Additional energy requirements for EPA's selected options are acceptable (*i.e.*, significantly less than 0.001 percent of national requirements), and not significant under the terms of Executive Order 13211.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 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 the OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. Today's rule requires certain facilities that produce meat or poultry products to monitor for fecal coliform, BOD_5, TSS, oil & grease (as HEM), ammonia and total nitrogen (sum of nitrate/nitrite and total Kjeldahl nitrogen (TKN)). As discussed in the proposed rule, EPA performed a search to identify potentially voluntary consensus standards that could be used to measure the parameters in today's guideline. EPA's search revealed that consensus standards for these parameters exist and are already specified in the tables at 40 CFR 136.3. In addition, EPA proposed to add another method (Method 300.0) for measuring nitrate/nitrite and solicited public comment. EPA did not receive any comments on this aspect of the proposed rulemaking and is therefore adding Method 300.0 to measure nitrate/nitrite for the final rule.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 requires that, to the greatest extent practicable and permitted by law, each Federal agency must make achieving environmental justice part of its mission. Executive Order 12898 states that each Federal agency must conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies, and activities because of their race, color, or national origin.

Today's final rule would require non-small MPP facilities to meet specified technology-based limitations and standards to control the discharge of conventional pollutants, ammonia, and nitrogen. EPA has determined that this rulemaking will not have a disproportionate effect on minority or low income communities because the technology-based effluent limitations guidelines are uniformly applied nationally irrespective of geographic location. The final regulation will reduce the negative effects of meat and poultry products industry waste in our nation's waters to benefit all of society, including minority and low-income communities. The cost impacts of the rule should likewise not disproportionately affect low-income communities given the relatively low economic impacts of the rule.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act (SBREFA) 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**. A major rule may not take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective 30 days from the date of publication.

List of Subjects in 40 CFR Part 432

Environmental protection, incorporation by reference, meat and meat products, poultry and poultry products, waste treatment and disposal, water pollution control.

Dated: February 26, 2004.

Michael O. Leavitt,

Administrator.

■ For the reasons set forth in this preamble, 40 CFR part 432 is revised as follows:

PART 432—MEAT AND POULTRY PRODUCTS POINT SOURCE CATEGORY

Sec

432.1 General applicability.
432.2 General definitions.
432.3 General limitation or standard for pH.
432.5 Incorporation by reference.

Subpart A—Simple Slaughterhouses

432.10 Applicability.
432.11 Special definitions.
432.12 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.13 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.14 Pretreatment standards for existing sources (PSES).
432.15 New source performance standards (NSPS).
432.16 Pretreatment standards for new sources (PSNS).
432.17 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart B—Complex Slaughterhouses

432.20 Applicability.
432.21 Special definitions.
432.22 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.23 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.24 Pretreatment standards for existing sources (PSES).
432.25 New source performance standards (NSPS).
432.26 Pretreatment standards for new sources (PSNS).
432.27 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart C—Low-Processing Packinghouses

432.30 Applicability.
432.31 Special definitions.
432.32 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.33 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.34 Pretreatment standards for existing sources (PSES).
432.35 New source performance standards (NSPS).
432.36 Pretreatment standards for new sources (PSNS).
432.37 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart D—High-Processing Packinghouses

432.40 Applicability.
432.41 Special definitions.
432.42 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.43 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.44 Pretreatment standards for existing sources (PSES).
432.45 New source performance standards (NSPS).
432.46 Pretreatment standards for new sources (PSNS).
432.47 Effluent limitations attainable by the application of the best control

technology for conventional pollutants (BCT).

Subpart E—Small Processors

432.50 Applicability.
432.51 Special definitions.
432.52 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.54 Pretreatment standards for existing sources (PSES).
432.55 New source performance standards (NSPS).
432.56 Pretreatment standards for new sources (PSNS).
432.57 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart F—Meat Cutters

432.60 Applicability.
432.61 Special definitions.
432.62 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.63 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.64 Pretreatment standards for existing sources (PSES).
432.65 New source performance standards (NSPS).
432.66 Pretreatment standards for new sources (PSNS).
432.67 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart G—Sausage and Luncheon Meats Processors

432.70 Applicability.
432.71 Special definitions.
432.72 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.73 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.74 Pretreatment standards for existing sources (PSES).
432.75 New source performance standards (NSPS).
432.76 Pretreatment standards for new sources (PSNS).
432.77 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart H—Ham Processors

432.80 Applicability.
432.81 Special definitions.
432.82 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.83 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.84 Pretreatment standards for existing sources (PSES).
432.85 New source performance standards (NSPS).
432.86 Pretreatment standards for new sources (PSNS).
432.87 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart I—Canned Meats Processors

432.90 Applicability.
432.91 Special definitions.
432.92 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.93 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.94 Pretreatment standards for existing sources (PSES).
432.95 New source performance standards (NSPS).
432.96 Pretreatment standards for new sources (PSNS).
432.97 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart J—Renderers

432.100 Applicability.
432.101 Special definitions.
432.102 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.103 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.104 Pretreatment standards for existing sources (PSES).
432.105 New source performance standards (NSPS).
432.106 Pretreatment standards for new sources (PSNS).
432.107 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart K—Poultry First Processing

432.110 Applicability.
432.111 Special definitions.
432.112 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.113 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.114 Pretreatment standards for existing sources (PSES).
432.115 New source performance standards (NSPS).
432.116 Pretreatment standards for new sources (PSNS).
432.117 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Subpart L—Poultry Further Processing

432.120 Applicability.
432.121 Special definitions. [Reserved]
432.122 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).
432.123 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).
432.124 Pretreatment standards for existing sources (PSES).
432.125 New source performance standards (NSPS).
432.126 Pretreatment standards for new sources (PSNS).
432.127 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Authority: 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342 and 1361.

§ 432.1 General Applicability.

As defined more specifically in subparts A through L of this part, this part applies to discharges of process wastewater to waters of the U.S. from facilities engaged in the slaughtering, dressing and packing of meat and poultry products for human consumption and/or animal food and feeds. Meat and poultry products for human consumption include meat and poultry from cattle, hogs, sheep, chickens, turkeys, ducks and other fowl as well as sausages, luncheon meats and cured, smoked or canned or other prepared meat and poultry products from purchased carcasses and other materials. Meat and poultry products for animal food and feeds include animal oils, meat meal and facilities that render grease and tallow from animal fat, bones and meat scraps. Manufacturing activities which may be subject to this part are generally reported under the following industrial classification codes:

Standard industrial classification [1]	North American industrial classification system [2]
SIC 0751	NAICS 311611.
SIC 2011	NAICS 311612.
SIC 2013	NAICS 311615.
SIC 2015	NAICS 311613.
SIC 2047	NAICS 311111.
SIC 2048	NAICS 311119.
SIC 2077	NAICS 311999.

[1] Source: 1987 SIC Manual
[2] Source: 1997 NAICS Manual

§ 432.2 General definitions.

As used in this part:

(a) The general definitions and abbreviations in 40 CFR part 401 shall apply.

(b) *ELWK (equivalent live weight killed)* means the total weight of animals

slaughtered at locations other than the slaughterhouse or packinghouse that processes the animals hides, blood, viscera or other renderable materials.

(c) *Fecal coliform* means the bacterial count, as determined by approved methods of analysis for Parameter 1 in Table 1A in 40 CFR 136.3.

(d) *Finished product* means the final fresh or frozen products resulting from the further processing as defined below of either whole or cut-up meat or poultry carcasses.

(e) *Further processing* means operations that utilize whole carcasses or cut-up meat or poultry products for the production of fresh or frozen products, and may include the following types of processing: Cutting and deboning, cooking, seasoning, smoking, canning, grinding, chopping, dicing, forming, breading, breaking, trimming, skinning, tenderizing, marinating, curing, pickling, extruding and/or linking.

(f) *LWK (live weight killed)* means the total weight of animals slaughtered.

(g) *Meat* means products derived from the slaughter and processing of cattle, calves, hogs, sheep and any meat that is not listed under the definition of poultry below.

(h) *Packinghouse* means a plant that both slaughters animals and subsequently processes carcasses into cured, smoked, canned or other prepared meat products.

(i) *Poultry* means products derived from the slaughter and processing of broilers, other young chickens, mature chickens, hens, turkeys, capons, geese, ducks, small game fowl such as quail or pheasants, and small game such as rabbits.

(j) *Raw material* means the basic input materials to a renderer composed of animal and poultry trimmings, bones, blood, meat scraps, dead animals, feathers and related usable by-products.

(k) *Slaughterhouse* means a facility that slaughters animals and has as its main product fresh meat as whole, half or quarter carcasses or small meat cuts.

(l) The approved methods of analysis for the following six parameters are found in Table 1B in 40 CFR 136.3. The nitrate/nitrite part of total nitrogen may also be measured by EPA Method 300.0 (incorporated by reference, see § 432.5).

(1) *Ammonia (as N)* means ammonia measured as nitrogen.

(2) *BOD_5* means 5-day biochemical oxygen demand.

(3) *O&G* means total recoverable oil and grease.

(4) *O&G (as HEM)* means total recoverable oil and grease measured as n-hexane extractable material.

(5) *Total Nitrogen* means the total of nitrate/nitrite and total Kjeldahl nitrogen.

(6) *TSS* means total suspended solids.

§ 432.3 General limitation or standard for pH.

Any discharge subject to BPT, BCT, or NSPS limitations or standards in this part must remain within the pH range of 6 to 9.

§ 432.5 Incorporation by reference.

(a) The material listed in this section is incorporated by reference in the corresponding sections in this part, as noted. The Director of the Federal Register approves the incorporation by reference of this material in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. This material is incorporated as it exists on the date of the approval, and notice of any change in this material will be published in the **Federal Register**. The material is available for purchase at the address in paragraph (b) of this section and is available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC, or at the EPA Docket Center, 1301 Constitution Ave., NW., EPA West Room B–102, Washington, DC.

(b) The following material is available for purchase from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The toll-free telephone number is (800) 553–6847.

(1) ''Method 300.0 Determination of Inorganic Anions by Ion Chromatography'' (Revision 2.1) found in ''Methods for the Determination of Inorganic Substances in Environmental Samples,'' EPA 600-R–93/100 (order number PB94–120821), August 1993, IBR approved for § 432.2(l).

(2) [Reserved]

Subpart A—Simple Slaughterhouses

§ 432.10 Applicability.

This part applies to discharges of process wastewater resulting from the production of meat carcasses, in whole or in part, by simple slaughterhouses. Process wastewater includes water from animal holding areas at these facilities.

§ 432.11 Special definitions.

For the purpose of this subpart: *Simple slaughterhouse* means a slaughterhouse that provides only minimal, if any, processing of the by-products of meat slaughtering. A simple slaughterhouse would include usually no more than two by-product processing operations such as rendering, paunch and viscera handling, or processing of blood, hide or hair.

§ 432.12 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK) must achieve the following limitations:

(1) In the case of process wastewater associated with the slaughtering of animals on-site or the processing of the carcasses of animals slaughtered on-site:

EFFLUENT LIMITATIONS

[BPT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg. [1]
BOD_5	0.24	0.12
Fecal Coliform	([2])	([3])
O&G [4]	0.12	0.06
TSS	0.40	0.20

[1] Pounds per 1000 lbs (or g/kg) LWK.

[2] Maximum of 400 most probable number (MPN) or colony forming units (CFU) per 100 mL at any time.

[3] No maximum monthly average limitation.

[4] May be measured as hexane extractable material (HEM).

(2) In addition to the limitations specified in paragraph (a)(1) of this section, in the case of process wastewater associated with the processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off-site, the following limitations apply:

EFFLUENT LIMITATIONS

[BPT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg. [1]
BOD_5	0.04	0.02
TSS	0.08	0.04

[1] Pounds per 1000 lbs (or g/kg) ELWK.

(3) In addition to the limitations specified in paragraph (a)(1) of this section, in the case of process wastewater associated with the processing of blood derived from animals slaughtered at locations off-site, the following limitations apply:

EFFLUENT LIMITATIONS

[BPT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg. [1]
BOD_5	0.04	0.02
TSS	0.08	0.04

[1] Pounds per 1000 lbs (or g/kg) ELWK.

(4) In addition to the limitations specified in paragraph (a)(1) of this section, in the case of process wastewater associated with wet or low-temperature rendering of material derived from animals slaughtered at locations off-site and dead animals, the following limitations apply:

EFFLUENT LIMITATIONS

[BPT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg. [1]
BOD_5	0.06	0.03
TSS	0.12	0.06

[1] Pounds per 1000 lbs (or g/kg) ELWK.

(5) In addition to the limitations specified in paragraph (a)(1) of this section, in the case of process wastewater associated with dry rendering of material derived from animals slaughtered at locations off-site and dead animals, the following limitations apply:

EFFLUENT LIMITATIONS

[BPT]

Regulated parameter	Maximum daily[1]	Maximum monthly avg.[1]
BOD_5	0.02	0.01
TSS	0.04	0.02

[1] Pounds per 1000 lbs (or g/kg) ELWK.

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK) must achieve the following limitations:

(1) All facilities must achieve the following effluent limitation for ammonia (as N):

EFFLUENT LIMITATIONS

[BPT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0

[1] mg/L (ppm).

(2) In the case of process wastewater associated with the slaughtering of animals on-site, the limitations for BOD_5, fecal coliform, O&G, and TSS specified in paragraph (a)(1) of this section apply.

(3) In addition to the limitations specified in paragraphs (b)(1) and (2) of this section, in the case of process wastewater associated with the processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off-site, the limitations for BOD_5 and TSS specified in paragraph (a)(2) of this section also apply.

(4) In addition to the limitations specified in paragraphs (b)(1) and (2) of this section, in the case of process wastewater associated with the processing of blood derived from animals slaughtered at locations off-site, the limitations for BOD_5 and TSS specified in paragraph (a)(3) of this section apply.

(5) In addition to the limitations specified in paragraphs (b)(1) and (2) of this section, in the case of process wastewater associated with wet or low-temperature rendering of material derived from animals slaughtered at locations off-site and dead animals, the limitations for BOD_5 and TSS specified in paragraph (a)(4) of this section apply.

(6) In addition to the limitations specified in paragraphs (b)(1) and (2) of this section, in the case of process wastewater associated with dry rendering of material derived from animals slaughtered at locations off-site and dead animals, the limitations for BOD_5 and TSS specified in paragraph (a)(5) of this section apply.

§ 432.13 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart that slaughters more than 50 million pounds per year (in units of LWK) must achieve the following effluent limitations representing the application of BAT:

EFFLUENT LIMITATIONS

[BAT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0
Total Nitrogen	194	134

[1] mg/L (ppm).

§ 432.14 Pretreatment standards for existing sources (PSES). [Reserved]

§ 432.15 New source performance standards (NSPS).

Except as provided in paragraph (c) of this section, any source that is a new source subject to this subpart must achieve the following performance standards:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK) must achieve the following performance standards:

(1) In the case of process wastewater associated with the slaughtering of animals on-site or the processing of the carcasses of animals slaughtered on-site, the standards for BOD_5, fecal coliform, O&G, and TSS are the same as the corresponding limitations specified in § 432.12(a)(1); and standards for ammonia (as N) are as follows:

PERFORMANCE STANDARDS

[NSPS]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.34	0.17

[1] Pounds per 1000 lbs (or g/kg) LWK.

(2) In addition to the standards specified in paragraph (a)(1) of this section, in the case of process wastewater associated with processing of blood derived from animals slaughtered at locations off-site, the standards for BOD_5 and TSS specified in § 432.12(a)(3) and the following standards for ammonia (as N) apply:

PERFORMANCE STANDARDS

[NSPS]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.06	0.03

[1] Pounds per 1000 lbs (or g/kg) ELWK.

(3) In addition to the standards specified in paragraph (a)(1) of this section, in the case of process wastewater associated with wet or low-temperature rendering of material derived from animals slaughtered at locations off-site and dead animals, the standards for BOD_5 and TSS specified in § 432.12(a)(4) and the following standards for ammonia (as N) apply:

PERFORMANCE STANDARDS

[NSPS]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.10	0.05

[1] Pounds per 1000 lbs (or g/kg) ELWK.

(4) In addition to the standards specified in paragraph (a)(1) of this section, in the case of case of process

wastewater associated with dry rendering of material derived from animals slaughtered at locations off-site and dead animals, the standards for BOD_5 and TSS specified in § 432.12(a)(5) and the following standards for ammonia (as N) apply:

PERFORMANCE STANDARDS
[NSPS]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.04	0.02

[1] Pounds per 1000 lbs (or g/kg) ELWK.

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK) must achieve the following performance standards.

(1) In the case of process wastewater associated with the slaughtering of animals on-site or the processing of the carcasses of animals slaughtered on-site, the standards for BOD_5, fecal coliform, O&G, and TSS are the same as the limitations specified in § 432.12(a)(1) and the standards for ammonia (as N) and total nitrogen are as follows:

PERFORMANCE STANDARDS
[NSPS]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0
Total Nitrogen	194	134

[1] mg/L (ppm).

(2) In addition to the standards specified in paragraph (b)(1) of this section, in the case of process wastewater associated with processing of blood derived from animals slaughtered at locations off-site, the standards for BOD_5 and TSS specified in § 432.12(a)(3) apply.

(3) In addition to the standards specified in paragraph (b)(1) of this section, in the case of process wastewater associated with wet or low-temperature rendering of material derived from animals slaughtered at locations off-site and dead animals, the standards for BOD_5 and TSS specified in § 432.12(a)(4) apply.

(4) In addition to the standards specified in paragraph (b)(1) of this section, in the case of process wastewater associated with dry rendering of material derived from animals slaughtered at locations off-site and dead animals, the standards for BOD_5 and TSS specified in § 432.12(a)(5) apply.

(c) Any source that was a new source subject to the standards specified in § 432.15 of title 40 of the Code of Federal Regulations, revised as of July 1, 2003, must continue to achieve the standards specified in this section until the expiration of the applicable time period specified in 40 CFR 122.29(d)(1) after which it must achieve the effluent limitations specified in §§ 432.12 and 432.13.

§ 432.16 Pretreatment standards for new sources (PSNS). [Reserved]

§ 432.17 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for BOD_5, TSS, O&G, and fecal coliform are the same as the corresponding limitation specified in § 432.12.

Subpart B—Complex Slaughterhouses

§ 432.20 Applicability.

This part applies to discharges of process wastewater associated with the production of meat carcasses, in whole or in part, by complex slaughterhouses. Process wastewater includes water from animal holding areas at these facilities.

§ 432.21 Special definitions.

For the purpose of this subpart: *Complex slaughterhouse* means a slaughterhouse that provides extensive processing of the by-products of meat slaughtering. A complex slaughterhouse would usually include at least three processing operations such as rendering, paunch and viscera handling, or processing of blood, hide or hair.

§ 432.22 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK) must achieve the following effluent limitations:

(1) In the case of process wastewater associated with the slaughtering of animals on-site or the processing of the carcasses of animals slaughtered on-site:

EFFLUENT LIMITATIONS
[BPT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.42	0.21
Fecal Coliform	([2])	([3])
O&G [4]	0.16	0.08
TSS	0.50	0.25

[1] Pounds per 1000 lbs (or g/kg) LWK.
[2] Maximum of 400 MPN or CFU per 100 mL at any time.
[3] No maximum monthly average limitation.
[4] May be measured as hexane extractable material (HEM).

(2) In addition to the limitations specified in paragraph (a)(1) of this section, in the case of process wastewater associated with the processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off-site, the limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply.

(3) In addition to the limitations specified in paragraph (a)(1) of this section, in the case of process wastewater associated with the processing of blood derived from animals slaughtered at locations off-site, the limitations for BOD_5 and TSS specified in § 432.12(a)(3) apply.

(4) In addition to the limitations specified in paragraph (a)(1) of this section, in the case of process wastewater associated with wet or low-temperature rendering of material derived from animals slaughtered at locations off-site and dead animals, the limitations for BOD_5 and TSS specified in § 432.12(a)(4) apply.

(5) In addition to the limitations specified in paragraph (a)(1) of this section, in the case of process wastewater associated with dry rendering of material derived from animals slaughtered at locations off-site and dead animals, the limitations for BOD_5 and TSS specified in § 432.12(a)(5) apply.

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK) must achieve the following limitations:

(1) All facilities must achieve the following effluent limitation for ammonia (as N):

EFFLUENT LIMITATIONS
[BPT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0

[1] mg/L (ppm).

(2) In the case of process wastewater associated with the slaughtering of animals on-site or the processing of the carcasses of animals slaughtered on-site, the limitations for BOD_5, fecal coliform, O&G, and TSS are the same as the limitations specified in paragraph (a)(1) of this section.

(3) In addition to the limitations specified in paragraphs (b)(1) and (2) of this section, in the case of process wastewater associated with the processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off-site, the limitations for BOD_5 and TSS specified in paragraph (a)(2) of this section apply.

(4) In addition to the limitations specified in paragraphs (b)(1) and (2) of this section, in the case of process wastewater associated with the processing of blood derived from animals slaughtered at locations off-site, the limitations for BOD_5 and TSS specified in paragraph (a)(3) of this section apply.

(5) In addition to the limitations specified in paragraphs (b)(1) and (2) of this section, in the case of process wastewater associated with wet or low-temperature rendering of material derived from animals slaughtered at locations off-site and dead animals, the limitations for BOD_5 and TSS specified in paragraph (a)(4) of this section apply.

(6) In addition to the limitations specified in paragraphs (b)(1) and (2) of this section, in the case of process wastewater associated with dry rendering of material derived from animals slaughtered at locations off-site and dead animals, the limitations for BOD_5 and TSS specified in paragraph (a)(5) of this section apply.

§ 432.23 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart that slaughters more than 50 million pounds per year (in units of LWK) must achieve the following effluent limitations representing the application of BAT: Limitations for ammonia (as N) and total nitrogen are the same as specified in § 432.13.

§ 432.24 Pretreatment standards for existing sources (PSES). [Reserved]

§ 432.25 New source performance standards (NSPS).

Except as provided in paragraph (c) of this section, any source that is a new source subject to this subpart must achieve the following performance standards:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK) must achieve the following performance standards:

(1) In the case of process wastewater associated with slaughtering of animals on-site or the processing of the carcasses of animals slaughtered on-site, the standards for BOD_5, fecal coliform, O&G, and TSS are the same as the limitations specified in § 432.22(a)(1), and the standards for ammonia (as N) are as follows:

PERFORMANCE STANDARDS
[NSPS]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.48	0.24

[1] Pounds per 1000 lbs (or g/kg) LWK.

(2) In addition to the standard specified in paragraph (a)(1) of this section, in the case of process wastewater associated with the processing of blood derived from animals slaughtered at locations off-site, the supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(3) and the standards for ammonia (as N) specified in § 432.15(a)(2) apply.

(3) In addition to the standard specified in paragraph (a)(1) of this section, in the case of associated with the wet or low-temperature rendering of material derived from animals slaughtered at locations off-site and dead animals, the supplemental limitations for BOD_5 and TSS specified in § 432.12(a)(4) and the standards for ammonia (as N) specified in § 432.15(a)(3) apply.

(4) In addition to the standard specified in paragraph (a)(1) of this section, in the case of process wastewater associated with the dry rendering of material derived from animals slaughtered at locations off-site and dead animals, the limitations for BOD_5 and TSS specified in § 432.12(a)(5) and the standards for ammonia (as N) specified in § 432.15(a)(4) apply.

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK) must achieve the following performance standards:

(1) In the case of process wastewater associated with the slaughtering of animals on-site or the processing of the carcasses of animals slaughtered on-site, the standards for BOD_5, fecal coliform, O&G, and TSS are the same as the corresponding limitations specified in § 432.22(a)(1) and the standards for ammonia (as N) and total nitrogen are the same as the limitations specified in § 432.15(b)(1).

(2) In addition to the standards specified in paragraph (b)(1) of this section, in the case of process wastewater associated with the processing of blood derived from animals slaughtered at locations off-site, the standards for BOD_5 and TSS specified in § 432.12(a)(3) apply.

(3) In addition to the standards specified in paragraph (b)(1) of this section, in the case of process wastewater associated with the wet or low-temperature rendering of material derived from animals slaughtered at locations off-site and dead animals, the standards for BOD_5 and TSS specified in § 432.12(a)(4) apply.

(4) In addition to the standards specified in paragraph (b)(1) of this section, in the case of process wastewater associated with the dry rendering of material derived from animals slaughtered at locations off-site and dead animals, the standards for BOD_5 and TSS specified in § 432.12(a)(5) apply.

(c) Any source that was a new source subject to the standards specified in § 432.25 of title 40 of the Code of Federal Regulations, revised as of July 1, 2003, must continue to achieve the standards specified in this section until the expiration of the applicable time period specified in 40 CFR 122.29(d)(1) after which it must achieve the effluent limitations specified in §§ 432.22 and 432.23.

§ 432.26 Pretreatment standards for new sources (PSNS). [Reserved]

§ 432.27 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for BOD_5, fecal coliform, TSS, and O&G are the same as the corresponding limitation specified in § 432.22.

Subpart C—Low-processing Packinghouses

§ 432.30 Applicability.

This part applies to discharges of process wastewater resulting from the production of meat carcasses, in whole or in part, by low-processing packinghouses. Process wastewater includes water from animal holding areas at these facilities.

§ 432.31 Special definitions.

For the purpose of this subpart: *Low-processing packinghouse* means a packinghouse that processes no more, and usually fewer than, the total number of animals slaughtered at that plant.

§ 432.32 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK) must achieve the following limitations:

(1) In the case of process wastewater associated with slaughtering of animals on-site or the processing of the carcasses of animals slaughtered on-site:

EFFLUENT LIMITATIONS

[BPT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.34	0.17
Fecal Coliform	([2])	([3])
O&G [4]	0.16	0.08
TSS	0.48	0.24

[1] Pounds per 1000 lbs (or g/kg) LWK.
[2] Maximum of 400 MPN or CFU per 100 mL at any time.
[3] No maximum monthly average limitation.
[4] May be measured as hexane extractable material (HEM).

(2) In addition to the limitations specified in paragraph (a)(1) of this section, in the case of process wastewater associated with the processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off-site, the limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply.

(3) In addition to the limitations specified in paragraph (a)(1) of this section, in the case of process wastewater associated with the processing of blood derived from animals slaughtered at locations off-site, the limitations for BOD_5 and TSS specified in § 432.12(a)(3) apply.

(4) In addition to the limitations specified in paragraph (a)(1) of this section, in the case of process wastewater associated with the wet or low-temperature rendering of material derived from animals slaughtered at locations off-site and dead animals, the limitations for BOD_5 and TSS specified in § 432.12(a)(4) apply.

(5) In addition to the limitations specified in paragraph (a)(1) of this section, in the case of process wastewater associated with the dry rendering of material derived from animals slaughtered at locations off-site and dead animals, the limitations for BOD_5 and TSS specified in § 432.12(a)(5) apply.

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK) must achieve the following limitations:

(1) All facilities must achieve the following effluent limitation for ammonia (as N):

EFFLUENT LIMITATIONS

[BPT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0

[1] mg/L (ppm).

(2) In the case of process wastewater associated with the slaughtering of animals on-site or the processing of the carcasses of animals slaughtered on-site, the limitations for BOD_5, fecal coliform, O&G, and TSS are the same as the corresponding limitations specified in paragraph (a)(1) of this section.

(3) In addition to the limitations specified in paragraphs (b)(1) and (2) of this section, in the case of process wastewater associated with the processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off-site, the limitations for BOD_5 and TSS specified in paragraph (a)(2) of this section apply.

(4) In addition to the limitations specified in paragraphs (b)(1) and (2) of this section, in the case of process wastewater associated with the processing of blood derived from animals slaughtered at locations off-site, the limitations for BOD_5 and TSS specified in paragraph (a)(3) of this section apply.

(5) In addition to the limitations specified in paragraphs (b)(1) and (2) of this section, in the case of process wastewater associated with the wet or low-temperature rendering of material derived from animals slaughtered at locations off-site and dead animals, the limitations for BOD_5 and TSS specified in paragraph (a)(4) of this section apply.

(6) In addition to the limitations specified in paragraphs (b)(1) and (2) of this section, in the case of process wastewater associated with the dry rendering of material derived from animals slaughtered at locations off-site and dead animals, the limitations for BOD_5 and TSS specified in paragraph (a)(5) of this section apply.

§ 432.33 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart that slaughters more than 50 million pounds per year (in units of LWK) must achieve the following effluent limitations representing the application of BAT: the limitations for ammonia (as N) and total nitrogen are the same as specified in § 432.13.

§ 432.34 Pretreatment standards for existing sources (PSES). [Reserved]

§ 432.35 New source performance standards (NSPS).

Except as provided in paragraph (c) of this section, any source that is a new source subject to this subpart must achieve the following performance standards:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK) must achieve the following performance standards:

(1) In the case of process wastewater associated with the slaughtering of animals on-site or the processing of the carcasses of animals slaughtered on-site, the standards for BOD_5, fecal coliform, TSS, and O&G are the same as the limitations specified in § 432.32(a)(1) and the standards for ammonia (as N) are as follows:

PERFORMANCE STANDARDS

[NSPS]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	0.48	0.24

[1] Pounds per 1000 lbs (or g/kg) LWK.

(2) In addition to the standards specified in paragraph (a)(1) of this section, in the case of process wastewater associated with the processing of blood derived from animals slaughtered at locations off-site, the limitations for BOD_5 and TSS specified in § 432.12(a)(3) and the standards for ammonia (as N) specified in § 432.15(a)(2) apply.

(3) In addition to the standards specified in paragraph (a)(1) of this section, in the case of process wastewater associated with the wet or low-temperature rendering of material derived from animals slaughtered at locations off-site and dead animals, the limitations for BOD_5 and TSS specified in § 432.12(a)(4) and the standards for ammonia (as N) specified in

§ 432.15(a)(3) apply in addition to the standards specified in paragraph (a)(1) of this section.

(4) In addition to the standards specified in paragraph (a)(1) of this section, in the case of process wastewater associated with the dry rendering of material derived from animals slaughtered at locations off-site and dead animals, the limitations for BOD_5 and TSS specified in § 432.12(a)(5) and the standards for ammonia (as N) specified in § 432.15(a)(4) apply.

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK) must achieve the following performance standards:

(1) In the case of process wastewater associated with the slaughtering of animals on-site or the processing of the carcasses of animals slaughtered on-site, the standards for BOD_5, fecal coliform, TSS, and O&G are the same as the corresponding limitations specified in § 432.32(a)(1) and the standards for ammonia (as N) and total nitrogen are the same as the limitations specified in § 432.15(b)(1).

(2) In addition to the standards specified in paragraph (b)(1) of this section, in the case of process wastewater associated with the processing of blood derived from animals slaughtered at locations off-site, the standards for BOD_5 and TSS specified in § 432.12(a)(3) apply.

(3) In addition to the standards specified in paragraph (b)(1) of this section, in the case of process wastewater associated with the wet or low-temperature rendering of material derived from animals slaughtered at locations off-site and dead animals, the standards for BOD_5 and TSS specified in § 432.12(a)(4) apply.

(4) In addition to the standards specified in paragraph (b)(1) of this section, in the case of process wastewater associated with the dry rendering of material derived from animals slaughtered at locations off-site and dead animals, the standards for BOD_5 and TSS specified in § 432.12(a)(5) apply.

(c) Any source that was a new source subject to the standards specified in § 432.35 of title 40 of the Code of Federal Regulations, revised as of July 1, 2003, must continue to achieve the standards specified in this section until the expiration of the applicable time period specified in 40 CFR 122.29(d)(1) after which it must achieve the effluent limitations specified in §§ 432.32 and 432.33.

§ 432.36 Pretreatment standards for new sources (PSNS). [Reserved]

§ 432.37 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for BOD_5, fecal coliform, TSS, and O&G are the same as the corresponding limitation specified in § 432.32.

Subpart D—High-Processing Packinghouse

§ 432.40 Applicability.

This part applies to discharges of process wastewater resulting from the production of meat carcasses, in whole or in part, by high-processing packinghouses. Process wastewater includes water from animal holding areas at these facilities.

§ 432.41 Special definitions.

For the purpose of this subpart: *High-processing packinghouse* means a packinghouse which processes both animals slaughtered at the site and additional carcasses from outside sources.

§ 432.42 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK) must achieve the following limitations:

(1) In the case of process wastewater associated with the slaughtering of animals on-site or the processing of the carcasses of animals slaughtered on-site:

EFFLUENT LIMITATIONS

[BPT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg. [1]
BOD_5 [2]	0.48	0.24
Fecal Coliform	([3])	([4])
O&G [5]	0.26	0.13
TSS [2]	0.62	0.31

[1] Pounds per 1000 lbs (or g/kg) LWK.

[2] The values for BOD_5 and TSS are for average plants, *i.e.*, plants where the ratio of avg. wt. of processed meat products/avg. LWK is 0.55. Adjustments can be made for high-processing packinghouses operating at other such ratios according to the following equations: lbs BOD_5/1000 lbs LWK = 0.21 + 0.23 (v—0.4) and lbs TSS/1000 lbs LWK = 0.28 + 0.3 (v—0.4), where v equals the following ratio: lbs processed meat products/lbs LWK.

[3] Maximum of 400 MPN or CFU per 100 mL at any time.

[4] No maximum monthly average limitation.

[5] May be measured as hexane extractable material (HEM).

(2) In addition to the limitations specified in paragraph (a)(1) of this section, in the case of process wastewater associated with the processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off-site, the limitations for BOD_5 and TSS specified in § 432.12(a)(2) apply.

(3) In addition to the limitations specified in paragraph (a)(1) of this section, in the case of process wastewater associated with the processing of blood derived from animals slaughtered at locations off-site, the limitations for BOD_5 and TSS specified in § 432.12(a)(3) apply.

(4) In addition to the limitations specified in paragraph (a)(1) of this section, in the case of process wastewater associated with the wet or low-temperature rendering of material derived from animals slaughtered at locations off-site and dead animals, the limitations for BOD_5 and TSS specified in § 432.12(a)(4) apply.

(5) In addition to the limitations specified in paragraph (a)(1) of this section, in the case of process wastewater associated with dry rendering of material derived from animals slaughtered at locations off-site and dead animals, the limitations for BOD_5 and TSS specified in § 432.12(a)(5) apply.

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK) must achieve the following limitations:

(1) All facilities must achieve the following effluent limitations for ammonia (as N):

EFFLUENT LIMITATIONS

[BPT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg. [1]
Ammonia (as N)	8.0	4.0

[1] mg/L (ppm).

(2) In the case of process wastewater associated with the slaughtering of animals on-site or the processing of the carcasses of animals slaughtered on-site,

the limitations for BOD_5, fecal coliform, TSS, and O&G are the same as the limitations specified in paragraph (a)(1) of this section.

(3) In addition to the limitations specified in paragraphs (b)(1) and (2) of this section, in the case of process wastewater associated with the processing (defleshing, washing and curing) of hides derived from animals slaughtered at locations off-site, the limitations for BOD_5 and TSS specified in paragraph (a)(2) of this section apply.

(4) In addition to the limitations specified in paragraphs (b)(1) and (2) of this section, in the case of process wastewater associated with the processing of blood derived from animals slaughtered at locations off-site, the limitations for BOD_5 and TSS specified in paragraph (a)(3) of this section apply.

(5) In addition to the limitations specified in paragraphs (b)(1) and (2) of this section, in the case of process wastewater associated with wet or low-temperature rendering of material derived from animals slaughtered at locations off-site and dead animals, the limitations for BOD_5 and TSS specified in paragraph (a)(4) of this section apply.

(6) In addition to the limitations specified in paragraphs (b)(1) and (2) of this section, in the case of process wastewater associated with the dry rendering of material derived from animals slaughtered at locations off-site and dead animals, the limitations for BOD_5 and TSS specified in paragraph (a)(5) of this section apply.

§ 432.43 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart that slaughters more than 50 million pounds per year (in units of LWK) must achieve the following effluent limitations representing the application of BAT: Limitations for ammonia (as N) and total nitrogen are the same as specified in § 432.13.

§ 432.44 Pretreatment standards for existing sources (PSES). [Reserved]

§ 432.45 New source performance standards (NSPS).

Except as provided in paragraph (c) of this section, any source that is a new source subject to this subpart must achieve the following performance standards:

(a) Facilities that slaughter no more than 50 million pounds per year (in units of LWK) must achieve the following performance standards:

(1) In the case of process wastewater associated with the slaughtering of animals on-site or the processing of the carcasses of animals slaughtered on-site, the standards for BOD_5, fecal coliform, TSS, and O&G are the same as the limitations specified in § 432.42(a)(1); and standards for ammonia (as N) are as follows:

PERFORMANCE STANDARDS
[NSPS]

Regulated parameter	Maximum daily [1]	Maximum monthly avg. [1]
Ammonia (as N)	0.80	0.40

[1] Pounds per 1000 lbs (or g/kg) LWK.

(2) In addition to the standards specified in paragraph (a)(1) of this section, in the case of process wastewater associated with the processing of blood derived from animals slaughtered at locations off-site, the limitations for BOD_5 and TSS specified in § 432.12(a)(3) and the standards for ammonia (as N) specified in § 432.15(a)(2) apply.

(3) In addition to the standards specified in paragraph (a)(1) of this section, in the case of process wastewater associated with the wet or low-temperature rendering of material derived from animals slaughtered at locations off-site and dead animals, the limitations for BOD_5 and TSS specified in § 432.12(a)(4) and the standards for ammonia (as N) specified in § 432.15(a)(3) apply.

(4) In addition to the standards specified in paragraph (a)(1) of this section, in the case of process wastewater associated with the dry rendering of material derived from animals slaughtered at locations off-site and dead animals, the limitations for BOD_5 and TSS specified in § 432.12(a)(5) and the standards for ammonia (as N) specified in § 432.15(a)(4) apply:

(b) Facilities that slaughter more than 50 million pounds per year (in units of LWK) must achieve the following performance standards:

(1) In the case of process wastewater associated with the slaughtering of animals on-site or the processing of the carcasses of animals slaughtered on-site, the standards for BOD_5, fecal coliform, TSS, and O&G are the same as the limitations specified in § 432.42(a)(1); and standards for ammonia (as N) and total nitrogen are the same as the limitations specified in § 432.15(b)(1).

(2) In addition to the standards specified in paragraph (b)(1) of this section, in the case of process wastewater associated with the processing of blood derived from animals slaughtered at locations off-site, the standards for BOD_5 and TSS specified in § 432.12(a)(3) apply.

(3) In addition to the standards specified in paragraph (b)(1) of this section, in the case of process wastewater associated with the wet or low-temperature rendering of material derived from animals slaughtered at locations off-site and dead animals, the standards for BOD_5 and TSS specified in § 432.12(a)(4) apply in addition to the standards specified in paragraph (b)(1) of this section.

(4) In addition to the standards specified in paragraph (b)(1) of this section, in the case of process wastewater associated with the dry rendering of material derived from animals slaughtered at locations off-site and dead animals, the standards for BOD_5 and TSS specified in § 432.12(a)(5) apply.

(c) Any source that was a new source subject to the standards specified in § 432.45 of title 40 of the Code of Federal Regulations, revised as of July 1, 2003, must continue to achieve the standards specified in this section until the expiration of the applicable time period specified in 40 CFR 122.29(d)(1) after which it must achieve the effluent limitations specified in §§ 432.42 and 432.43.

§ 432.46 Pretreatment standards for new sources (PSNS). [Reserved]

§ 432.47 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for BOD_5, fecal coliform, TSS, and O&G are the same as the corresponding limitation specified in § 432.42.

Subpart E—Small Processors

§ 432.50 Applicability.

This part applies to discharges of process wastewater resulting from the production of finished meat products such as fresh meat cuts, smoked products, canned products, hams, sausages, luncheon meats, or similar products by a small processor.

§ 432.51 Special definitions.

For the purpose of this subpart:

(a) *Finished product* means the final product, such as fresh meat cuts, hams, bacon or other smoked meats, sausage,

luncheon meats, stew, canned meats or related products.

(b) *Small processor* means an operation that produces no more than 6000 lbs (2730 kg) per day of any type or combination of finished products.

§ 432.52 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

EFFLUENT LIMITATIONS

[BPT]

Regulated parameter	Maximum daily[1]	Maximum monthly avg.[1]
BOD_5	2.0	1.0
Fecal Coliform	([2])	([2])
O&G[3]	1.0	0.5
TSS	2.4	1.2

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] No limitation.
[3] May be measured as hexane extractable material (HEM).

§ 432.54 Pretreatment standards for existing sources (PSES). [Reserved]

§ 432.55 New source performance standards (NSPS).

Any source that is a new source subject to this subpart must achieve the following performance standards:

PERFORMANCE STANDARDS

(NSPS)

Regulated parameter	Maximum daily[1]	Maximum monthly avg.[1]
BOD_5	1.0	0.5
Fecal Coliform	([2])	([2])
O&G[3]	0.5	0.25
TSS	1.2	0.6

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] No limitation.
[3] May be measured as hexane extractable material (HEM).

§ 432.56 Pretreatment standards for new sources (PSNS). [Reserved]

§ 432.57 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for BOD_5, TSS and O&G are the same as the corresponding standard specified in § 432.55.

Subpart F—Meat Cutters

§ 432.60 Applicability.

This part applies to discharges of process wastewater resulting from the production of fresh meat cuts, such as steaks, roasts, chops, etc. by a meat cutter.

§ 432.61 Special definitions.

For the purpose of this subpart:

(a) *Finished product* means the final product, such as fresh meat cuts including, but not limited to, steaks, roasts, chops, or boneless meats.

(b) *Meat cutter* means an operation which cuts or otherwise produces fresh meat cuts and related finished products from larger pieces of meat (carcasses or not carcasses), at rates greater than 6000 lbs (2730 kg) per day.

§ 432.62 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Facilities that generate no more than 50 million pounds per year of finished products must achieve the following effluent limitations:

EFFLUENT LIMITATIONS

[BPT]

Regulated parameter	Maximum daily[1]	Maximum monthly avg.[1]
BOD_5	0.036	0.018
Fecal Coliform	([2])	([3])
O&G[4]	0.012	0.006
TSS	0.044	0.022

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] Maximum of 400 MPN or CFU per 100 mL at any time.
[3] No maximum monthly average limitation.
[4] May be measured as hexane extractable material (HEM).

(b) Facilities that generate more than 50 million pounds per year of finished products must achieve the limitations for BOD_5, fecal coliform, O&G, and TSS specified in paragraph (a) of this section.

§ 432.63 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT:

(a) Facilities that generate no more than 50 million pounds per year of finished products must achieve the following effluent limitations:

EFFLUENT LIMITATIONS

[BAT]

Regulated parameter	Maximum daily[1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0

[1] mg/L (ppm).

(b) Facilities that generate more than 50 million pounds per year of finished products must achieve the following effluent limitations:

EFFLUENT LIMITATIONS

[BAT]

Regulated parameter	Maximum daily[1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0
Total Nitrogen	194	134

[1] mg/L (ppm).

§ 432.64 Pretreatment standards for existing sources (PSES). [Reserved]

§ 432.65 New source performance standards (NSPS).

Except as provided in paragraph (c) of this section, any source that is a new source subject to this subpart must achieve the following performance standards:

(a) Facilities that generate no more than 50 million pounds per year of finished products must achieve the limitations for BOD_5, fecal coliform, O&G, and TSS specified in § 432.62(a).

(b) Facilities that generate more than 50 million pounds per year of finished products must achieve the limitations for BOD_5, fecal coliform, O&G, and TSS specified in § 432.62(b) and the limitations for ammonia (as N) and total nitrogen specified in § 432.63(b).

(c) Any source that was a new source subject to the standards specified in § 432.65 of title 40 of the Code of Federal Regulations, revised as of July 1, 2003, must continue to achieve the standards specified in this section until the expiration of the applicable time period specified in 40 CFR 122.29(d)(1) after which it must achieve the effluent limitations specified in §§ 432.62 and 432.63.

§ 432.66 Pretreatment standards for new sources (PSNS). [Reserved]

§ 432.67 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for BOD_5, fecal coliform, O&G, and TSS are the same as the corresponding limitation specified in § 432.62.

Subpart G—Sausage and Luncheon Meats Processors

§ 432.70 Applicability.

This part applies to discharges of process wastewater resulting from the production of fresh meat cuts, sausage, bologna and other luncheon meats by a sausage and luncheon meat processor.

§ 432.71 Special definitions.

For the purpose of this subpart:

(a) *Finished product* means the final product as fresh meat cuts, which includes steaks, roasts, chops or boneless meat, bacon or other smoked meats (except hams) such as sausage, bologna or other luncheon meats, or related products (except canned meats).

(b) *Sausage and luncheon meat processor* means an operation which cuts fresh meats, grinds, mixes, seasons, smokes or otherwise produces finished products such as sausage, bologna and luncheon meats at rates greater than 6000 lbs (2730 kg) per day.

§ 432.72 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Facilities that generate no more than 50 million pounds per year of finished products must achieve the following effluent limitations:

EFFLUENT LIMITATIONS

[BPT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.56	0.28
Fecal Coliform	([2])	([3])
O&G [4]	0.20	0.10
TSS	0.68	0.34

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] Maximum of 400 MPN or CFU per 100 mL at any time.
[3] No maximum monthly average limitation.
[4] May be measured as hexane extractable material (HEM).

(b) Facilities that generate more than 50 million pounds per year of finished products must achieve the limitations for BOD_5, fecal coliform, O&G, and TSS specified in paragraph (a) of this section.

§ 432.73 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided by 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT:

(a) Facilities that generate no more than 50 million pounds per year of finished products must achieve the following effluent limitations:

EFFLUENT LIMITATIONS

[BAT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0

[1] mg/L (ppm).

(b) Facilities that generate more than 50 million pounds per year of finished products must achieve the following effluent limitations:

EFFLUENT LIMITATIONS

[BAT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0
Total Nitrogen	194	134

[1] mg/L (ppm).

§ 432.74 Pretreatment standards for existing sources (PSES). [Reserved]

§ 432.75 New source performance standards (NSPS).

Except as provided in paragraph (c) of this section, any source that is a new source subject to this subpart must achieve the following performance standards:

(a) Facilities that generate no more than 50 million pounds per year of finished products must achieve the standards for BOD_5, fecal coliform, O&G, and TSS specified in § 432.72(a).

(b) Facilities that generate more than 50 million pounds per year of finished products must achieve the limitations for BOD_5, fecal coliform, O&G, and TSS specified in § 432.72(b) and the limitations for ammonia (as N) and total nitrogen specified in § 432.73(b).

(c) Any source that was a new source subject to the standards specified in § 432.75 of title 40 of the Code of Federal Regulations, revised as of July 1, 2003, must continue to achieve the standards specified in this section until the expiration of the applicable time period specified in 40 CFR 122.29(d)(1) after which it must achieve the effluent limitations specified in §§ 432.72 and 432.73.

§ 432.76 Pretreatment standards for new sources (PSNS). [Reserved]

§ 432.77 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for BOD_5, fecal coliform, O&G, and TSS are the same as the corresponding limitation specified in § 432.72.

Subpart H—Ham Processors

§ 432.80 Applicability.

This part applies to discharges of process wastewater resulting from the production of hams, alone or in combination with other finished products, by a ham processor.

§ 432.81 Special definitions.

For the purpose of this subpart:

(a) *Finished products* means the final product as fresh meat cuts, which includes steaks, roasts, chops or boneless meat, smoked or cured hams, bacon or other smoked meats, sausage, bologna or other luncheon meats (except canned meats).

(b) *Ham processor* means an operation producing hams, alone or in combination with other finished products, at rates greater than 6000 lbs (2730 kg) per day.

§ 432.82 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Facilities that generate no more than 50 million pounds per year of finished products must achieve the following effluent limitations:

EFFLUENT LIMITATIONS

[BPT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.62	0.31
Fecal Coliform	([2])	([3])
O&G [4]	0.22	0.11
TSS	0.74	0.37

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] Maximum of 400 MPN or CFU per 100 mL at any time.
[3] No maximum monthly average limitation.
[4] May be measured as hexane extractable material (HEM).

(b) Facilities that generate more than 50 million pounds per year of finished products must achieve the limitations for BOD_5, fecal coliform, O&G, and TSS specified in paragraph (a) of this section.

§ 432.83 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided by 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT:

(a) Facilities that generate no more than 50 million pounds per year of finished products must achieve the following effluent limitations:

EFFLUENT LIMITATIONS

[BAT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0

[1] mg/L (ppm).

(b) Facilities that generate more than 50 million pounds per year of finished products must achieve the following effluent limitations:

EFFLUENT LIMITATIONS

[BAT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0
Total Nitrogen	194	134

[1] mg/L (ppm).

§ 432.84 Pretreatment standards for existing sources (PSES). [Reserved]

§ 432.85 New source performance standards (NSPS).

Except as provided in paragraph (c) of this section, any source that is a new source subject to this subpart must achieve the following performance standards:

(a) Facilities that generate no more than 50 million pounds per year of finished products must achieve the standards for BOD_5, fecal coliform, O&G, and TSS specified in § 432.82(a).

(b) Facilities that generate more than 50 million pounds per year of finished products must achieve the limitations for BOD_5, fecal coliform, O&G, and TSS specified in § 432.82(b) and the limitations for ammonia (as N) and total nitrogen specified in § 432.83(b).

(c) Any source that was a new source subject to the standards specified in § 432.85 of title 40 of the Code of Federal Regulations, revised as of July 1, 2003, must continue to achieve the standards specified in this section until the expiration of the applicable time period specified in 40 CFR 122.29(d)(1) after which it must achieve the effluent limitations specified in §§ 432.82 and 432.83.

§ 432.86 Pretreatment standards for new sources (PSNS). [Reserved]

§ 432.87 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for BOD_5, fecal coliform, O&G, and TSS are the same as the corresponding limitations specified in § 432.82.

Subpart I—Canned Meats Processors

§ 432.90 Applicability.

This part applies to discharges of process wastewater resulting from the production of canned meats, alone or in combination with any other finished products, by a canned meats processor.

§ 432.91 Special definitions.

For the purpose of this subpart:

(a) *Canned meats processor* means an operation which prepares and cans meats (stew, sandwich spreads, or similar products), alone or in combination with other finished products, at rates greater than 6000 lbs (2730 kg) per day.

(b) *Finished products* means the final product, such as fresh meat cuts which includes steaks, roasts, chops or boneless meat, smoked or cured hams, bacon or other smoked meats, sausage, bologna or other luncheon meats, stews, sandwich spreads or other canned meats.

§ 432.92 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

(a) Facilities that generate no more than 50 million pounds per year of finished products must achieve the following effluent limitations:

EFFLUENT LIMITATIONS

[BPT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.74	0.37
Fecal Coliform	([2])	([3])
O&G [4]	0.26	0.13
TSS	0.90	0.45

[1] Pounds per 1000 lbs (or g/kg) of finished product.
[2] Maximum of 400 MPN or CFU per 100 mL at any time.
[3] No maximum monthly average limitation.
[4] May be measured as hexane extractable material (HEM).

(b) Facilities that generate more than 50 million pounds per year of finished products must achieve the limitations for BOD_5, fecal coliform, O&G, and TSS specified in paragraph (a) of this section.

§ 432.93 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided by 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT:

(a) Facilities that generate no more than 50 million pounds per year of finished products must achieve the following effluent limitations:

EFFLUENT LIMITATIONS

[BAT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0

[1] mg/L (ppm).

(b) Facilities that generate more than 50 million pounds per year of finished products must achieve the following effluent limitations:

EFFLUENT LIMITATIONS

[BAT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0
Total Nitrogen ...	194	134

[1] mg/L (ppm).

§ 432.94 Pretreatment standards for existing sources (PSES). [Reserved]

§ 432.95 New source performance standards (NSPS).

Except as provided in paragraph (c) of this section, any source that is a new source subject to this subpart must achieve the following performance standards:

(a) Facilities that generate no more than 50 million pounds per year of finished products must achieve the standards for BOD_5, fecal coliform, O&G, and TSS specified in § 432.92(a).

(b) Facilities that generate more than 50 million pounds per year of finished products must achieve the limitations for BOD_5, fecal coliform, O&G, and TSS specified in § 432.92(b) and the limitations for ammonia (as N) and total nitrogen specified in § 432.93(b).

(c) Any source that was a new source subject to the standards specified in § 432.95 of title 40 of the Code of Federal Regulations, revised as of July 1, 2003, must continue to achieve the standards specified in this section until the expiration of the applicable time period specified in 40 CFR 122.29(d)(1) after which it must achieve the effluent limitations specified in §§ 432.92 and 432.93.

§ 432.96 Pretreatment standards for new sources (PSNS). [Reserved]

§ 432.97 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for BOD_5, fecal coliform, O&G, and TSS are the same as the corresponding limitation specified in § 432.92.

Subpart J—Renderers

§ 432.100 Applicability.

This part applies to discharges of process wastewater resulting from the production of meat meal, dried animal by-product residues (tankage), animal oils, grease and tallow, and in some cases hide curing, by a renderer.

§ 432.101 Special definitions.

For the purpose of this subpart:

(a) *Raw material (RM)* means the basic input materials to a renderer composed of animal and poultry trimmings, bones, meat scraps, dead animals, feathers and related usable by-products.

(b) *Renderer* means an independent or off-site rendering operation, which is conducted separate from a slaughterhouse, packinghouse or poultry dressing or processing operation, uses raw material at rates greater than 10 million pounds per year, produces meat meal, tankage, animal fats or oils, grease, and tallow, and may cure cattle hides, but excludes marine oils, fish meal, and fish oils.

(c) *Tankage* means dried animal by-product residues used in feedstuffs.

(d) *Tallow* means a product made from beef cattle or sheep fat that has a melting point of 40°C or greater.

§ 432.102 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BPT:

EFFLUENT LIMITATIONS

[BPT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
BOD_5	0.34	0.17
Fecal Coliform ..	([2])	([3])
O&G [4]	0.20	0.10
TSS	0.42	0.21

[1] Pounds per 1000 lbs (or g/kg) of raw material (RM).

[2] Maximum of 400 MPN or CFU per 100 mL at any time.

[3] No maximum monthly average limitation.

[4] May be measured as hexane extractable material (HEM).

(b) The limitations for BOD_5 and TSS specified in paragraph (a) of this section were derived for a renderer which does not cure cattle hide. If a renderer does cure cattle hide, the following formulas should be used to calculate BOD_5 and TSS limitations for process wastewater associated with cattle hide curing that apply in addition to the limitation specified in paragraph (a) of this section:

lbs BOD_5/1000 lbs RM = 17.6 × (no. of hides)/lbs RM

kg BOD_5/kkg RM = 8 × (no. of hides)/kg RM

lbs TSS/1000 lbs RM = 24.2 × (no. of hides)/lbs RM

kg TSS/kkg RM = 11 × (no. of hides)/kg RM

§ 432.103 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided by 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BAT:

EFFLUENT LIMITATIONS

[BAT]

Regulated parameter	Maximum daily	Maximum monthly avg.
Ammonia (as N) [1]	0.14	0.07
Total Nitrogen [2]	194	134

[1] Pounds per 1000 lbs (g/kg) of raw material (RM).

[2] mg/L (ppm).

§ 432.104 Pretreatment standards for existing sources (PSES). [Reserved]

§ 432.105 New source performance standards (NSPS).

(a) Except as provided in paragraph (c) of this section, any source that is a new source subject to this subpart must achieve the following performance standards:

PERFORMANCE STANDARDS

[NSPS]

Regulated parameter	Maximum daily	Maximum monthly avg.
Ammonia (as N) [1]	0.14	0.07
BOD_5 [1]	0.18	0.09
Fecal coliform ...	([2])	([3])
O&G [1] [4]	0.10	0.05
Total Nitrogen [5]	194	134
TSS [1]	0.22	0.11

[1] Pounds per 1000 lbs (or g/kg) of raw material (RM).

[2] Maximum of 400 MPN or CFU per 100 mL at any time.

[3] No maximum monthly average limitation.

[4] May be measured as hexane extractable material (HEM).
[5] mg/L (ppm).

(b) The standards for BOD_5 and TSS specified in paragraph (a) of this section were derived for a renderer that does not cure cattle hide as part of the plant operations. If a renderer does cure hide, the same empirical formulas specified in § 432.107(b) should be used to calculate BOD_5 and TSS limitations for process wastewater associated with cattle hide curing that apply in addition to the standards specified in paragraph (a) of this section.

(c) Any source that was a new source subject to the standards specified in § 432.105 of title 40 of the Code of Federal Regulations, revised as of July 1, 2003, must continue to achieve the standards specified in this section until the expiration of the applicable time period specified in 40 CFR 122.29(d)(1) after which it must achieve the effluent limitations specified in §§ 432.103 and 432.107.

§ 432.106 Pretreatment standards for new sources (PSNS). [Reserved]

§ 432.107 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

(a) Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for BOD_5, fecal coliform, O&G, and TSS are the same as the corresponding limitation specified in § 432.105(a).

(b) The limitations for BOD_5 and TSS specified in paragraph (a) of this section were derived for a renderer which does not cure cattle hide. If a renderer does cure hide, the following formulas should be used to calculate BOD_5 and TSS limitations for process wastewater associated with cattle hide curing, in addition to the limitation specified in paragraph (a) of this section:

lbs BOD_5/1000 lbs RM = 7.9 × (no. of hides)/lbs RM

kg BOD_5/kkg RM = 3.6 × (no. of hides)/kg RM

lbs TSS/1000 lbs RM = 13.6 × (no. of hides)/lbs RM

kg TSS/kkg RM = 6.2 × (no. of hides)/kg RM

Subpart K—Poultry First Processing

§ 432.110 Applicability.

This part applies to discharges of process wastewater resulting from the slaughtering of poultry, further processing of poultry and rendering of material derived from slaughtered poultry. Process wastewater includes water from animal holding areas at these facilities.

§ 432.111 Special definitions.

For the purpose of this subpart: *Poultry first processing* means slaughtering of poultry and producing whole, halved, quarter or smaller meat cuts.

§ 432.112 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart that slaughters more than 100 million pounds per year (in units of LWK) must achieve the following effluent limitations representing the application of BPT:

EFFLUENT LIMITATIONS
[BPT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0
BOD_5	26	16
Fecal Coliform	([2])	([3])
O&G (as HEM)	14	8.0
TSS	30	20

[1] mg/L (ppm).
[2] Maximum of 400 MPN or CFU per 100 mL at any time.
[3] No maximum monthly average limitation.

§ 432.113 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart that slaughters more than 100 million pounds per year (in units of LWK) must achieve the following effluent limitations representing the application of BAT:

EFFLUENT LIMITATIONS
[BAT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0
Total Nitrogen	147	103

[1] mg/L (ppm).

§ 432.114 Pretreatment standards for existing sources (PSES). [Reserved]

§ 432.115 New source performance standards (NSPS).

Any source that is a new source subject to this subpart must achieve the following performance standards:

(a) Facilities that slaughter no more than 100 million pounds per year (in units of LWK) must achieve the following performance standards:

PERFORMANCE STANDARDS
[NSPS]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0
BOD_5	26	16
Fecal Coliform	([2])	([3])
O&G (as HEM)	14	8.0
TSS	30	20

[1] mg/L (ppm).
[2] Maximum of 400 MPN or CFU per 100 mL at any time.
[3] No maximum monthly average limitation.

(b) Facilities that slaughter more than 100 million pounds per year (in units of LWK) must achieve the following performance standards:

PERFORMANCE STANDARDS
[NSPS]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0
BOD_5	26	16
Fecal Coliform	([2])	([3])
O&G (as HEM)	14	8.0
TSS	30	20
Total Nitrogen	147	103

[1] mg/L (ppm).
[2] Maximum of 400 MPN or CFU per 100 mL at any time.
[3] No maximum monthly average limitation.

§ 432.116 Pretreatment standards for new sources (PSNS). [Reserved]

§ 432.117 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for BOD_5, TSS, O&G (as HEM), and fecal coliform are the same as the corresponding limitation specified in § 432.112.

Subpart L—Poultry Further Processing

§ 432.120 Applicability.

This part applies to discharges of process wastewater resulting from further processing of poultry.

§ 432.121 Special definitions. [Reserved]

§ 432.122 Effluent limitations attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart that further processes more than 7 million pounds per year (in units of finished product) must achieve the following effluent limitations representing the application of BPT:

EFFLUENT LIMITATIONS

[BPT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0
BOD_5	26	16
Fecal Coliform	([2])	([3])
O&G (as HEM)	14	8.0
TSS	30	20

[1] mg/L (ppm).
[2] Maximum of 400 MPN or CFU per 100 mL at any time.
[3] No maximum monthly average limitation.

§ 432.123 Effluent limitations attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart that further processes more than 7 million pounds per year (in units of finished product) must achieve the following effluent limitations representing the application of BAT:

EFFLUENT LIMITATIONS

[BAT]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0
Total Nitrogen	147	103

[1] mg/L (ppm).

§ 432.124 Pretreatment standards for existing sources (PSES). [Reserved]

§ 432.125 New source performance standards (NSPS).

Any source that is a new source subject to this subpart must achieve the following performance standards:

(a) Facilities that further process no more than 7 million pounds per year (in units of finished product) must achieve the following performance standards:

PERFORMANCE STANDARDS

[NSPS]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0
BOD_5	26	16
Fecal Coliform	([2])	([3])
O&G (as HEM)	14	8.0
TSS	30	20

[1] mg/L (ppm).
[2] Maximum of 400 MPN or CFU per 100 mL at any time.
[3] No maximum monthly average limitation.

(b) Facilities that further process more than 7 million pounds per year (in units of finished product) must achieve the following performance standards:

EFFLUENT LIMITATIONS

[NSPS]

Regulated parameter	Maximum daily [1]	Maximum monthly avg.[1]
Ammonia (as N)	8.0	4.0
BOD_5	26	16
Fecal Coliform	([2])	([3])
O&G (as HEM)	14	8.0
TSS	30	20
Total Nitrogen	147	103

[1] mg/L (ppm).
[2] Maximum of 400 MPN or CFU per 100 mL at any time.
[3] No maximum monthly average limitation.

§ 432.126 Pretreatment standards for new sources (PSNS). [Reserved]

§ 432.127 Effluent limitations attainable by the application of the best control technology for conventional pollutants (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the application of BCT: Limitations for BOD_5, TSS, O&G (as HEM), and fecal coliform are the same as the corresponding limitation specified in § 432.122.

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal_register/public_laws/public_laws.html*.

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