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DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 567

[No. 95–151]

RIN 1550–AA71

Regulatory Capital: Common Stockholders' Equity

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS), consistent with the other Federal banking agencies (collectively, the Agencies), is amending its capital rule to conform its definition of ''common stockholders' equity'' with the terminology used in referring to available-for-sale equity securities in Statement of Financial Accounting Standard No. 115, ''Accounting for Certain Investments in Debt and Equity Securities'' (SFAS No. 115). Specifically, this rule substitutes the term ''available-for-sale equity securities with readily determinable fair values'' used in SFAS No. 115 for the current reference to ''marketable equity securities'' in the OTS definition of ''common stockholders' equity.''

The OTS has decided not to adopt other provisions of its June 1994 proposal that would include net unrealized gains and losses on all available-for-sale debt and equity securities in regulatory capital.

The OTS and the other Agencies had initially issued proposed rules to change institutions' regulatory capital computations to be consistent with generally accepted accounting principles (GAAP), as amended by SFAS No. 115. Although the Agencies' regulatory capital rules will not conform with SFAS No. 115, institutions will continue to be required to comply with SFAS No. 115 for regulatory reporting purposes, as required by statute.

The Agencies decided not to change their regulatory capital standards to conform with SFAS No. 115 after extensive interagency discussion and consideration of comments received, most of which opposed the Agencies' proposals. Those comments included concerns about capital volatility if institutions were required to compute regulatory capital in accordance with SFAS No. 115, which would also have a prompt corrective action effect.

As a result of not amending the Agencies' capital rules to incorporate SFAS No. 115, available-for-sale debt securities will continue to be valued at amortized cost in computing regulatory capital. (This differs from their valuation at fair value under SFAS No. 115.) Available-for-sale equity securities will continue to be valued at the lower of fair value or amortized cost in computing regulatory capital, as they have been under the Agencies' capital rules.

EFFECTIVE DATE: October 1, 1995.

FOR FURTHER INFORMATION CONTACT: John F. Connolly, Senior Program Manager for Capital Policy, Supervision, (202) 906–6465, or Ellen J. Sazzman, Counsel, Regulations and Legislation Division, Chief Counsel's Office, (202) 906–7133, Office of Thrift Supervision, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

I. Background of SFAS No. 115

Under the current OTS minimum regulatory capital requirements set forth at 12 CFR Part 567, common stockholders' equity is the primary component of core capital for most savings associations. It includes items that are generally the same as the items that comprised GAAP equity when the capital rule was adopted. Common stockholders' equity currently includes: (1) Common stock, (2) common stock surplus, (3) retained earnings, (4) adjustments for the cumulative effect of foreign currency translation, and (5) adjustments for net unrealized losses on non-current marketable equity securities. The net unrealized losses were those recorded under SFAS No. 12, ''Accounting for Certain Marketable Securities.''

In May 1993, the Financial Accounting Standards Board (FASB) amended GAAP by adopting SFAS No. 115, which superseded SFAS No. 12. SFAS No. 115 divides securities held by depository institutions into three categories: (1) Securities held to maturity; (2) trading account securities; and (3) securities available for sale.

Under SFAS No. 115, held-to-maturity securities generally are debt securities that an institution has the positive intent and ability to hold to maturity, as evidenced by standards established by SFAS No. 115. Held-to-maturity securities are to be recorded at amortized cost.

Under SFAS No. 115, trading securities are defined as those securities that an institution buys and holds principally for the purpose of selling in the near term. As under earlier accounting standards, these securities are to be reported at fair value (*i.e.*, generally at market value), with net unrealized changes in their value reported directly in the income statement as part of an institution's earnings.

Securities meeting the definition of the available-for-sale category (*i.e.*, all debt and equity securities not held for trading that an institution does not have the requisite intent and ability to hold to maturity) are to be reported at fair value. This category generally encompasses: (1) nontrading debt securities (*e.g.*, bonds, debentures, collateralized mortgage obligations) that an institution cannot show it will hold to maturity, and (2) nontrading equity securities (e.g., Fannie Mae or Freddie Mac stock). Changes in the fair value of available-for-sale securities are to be reported, net of tax effects, directly in a separate component of common stockholders' equity. Consequently, any unrealized appreciation or depreciation in the value of securities in the available-for-sale category has no impact on the reported earnings of an institution but does affect its GAAP equity capital position.

In August 1993, the Federal Financial Institutions Examination Council (FFIEC) announced the adoption of SFAS No. 115 for regulatory reporting purposes, effective January 1, 1994. The OTS made a similar decision for regulatory reporting by savings associations in an August 16, 1993

policy statement.[1] Accordingly, all savings associations now follow SFAS No. 115 for regulatory reporting purposes. Associations reflect unrealized gains and losses on all available-for-sale securities (debt as well as equity), rather than just the net unrealized losses on marketable equity securities, as a separate capital component for regulatory reporting purposes.

II. OTS Proposed Rule and Interim Policy

The issuance of SFAS No. 115 raised the question of how net unrealized gains and losses on available-for-sale securities should be treated for purposes of calculating the amount of an association's regulatory capital under part 567. In its August 16, 1993 policy statement, the OTS permitted savings associations to adopt SFAS No. 115 for both financial reporting and capital purposes as early as June 30, 1993. This early adoption option was expressly permitted by SFAS No. 115, which did not become mandatory until the fiscal year beginning after December 15, 1993.

On June 22, 1994, the OTS published its proposal to amend the OTS capital rule to include the SFAS No. 115 capital component in core capital, replacing the superseded SFAS No. 12 component.[2] The other Agencies, the Office of the Comptroller of the Currency (OCC), the Federal Reserve Board (FRB), and the Federal Deposit Insurance Corporation (FDIC), published similar proposals to adopt SFAS No. 115 for regulatory capital purposes.[3] The stated rationale for these proposals was to conform the Agencies' capital regulations to GAAP and to include unrealized gains and losses on available-for-sale debt and equity securities in regulatory capital.

In its June 22, 1994 notice of proposed rulemaking, the OTS requested comment on all aspects of the proposed rule, and specifically solicited comment on whether unrealized gains and losses under SFAS No. 115 should be included in core capital for purposes of the leverage ratio requirement, for purposes of the risk-based capital requirements and for purposes of Prompt Corrective Action (PCA).[4] The OTS also specifically solicited comment on what changes, if any, in asset liability management or risk management would likely result from the inclusion of SFAS No. 115 unrealized gains and losses in capital and whether such changes would increase or decrease risk to the Savings Association Insurance Fund (SAIF).[5]

The proposal's comment period closed on July 22, 1994. After consideration of the comments received and in anticipation of its final rule, the OTS issued a November 28, 1994 interim policy statement, which provided that the SFAS No. 115 capital component could no longer be included in regulatory capital.[6]

III. Comment Summary

In response to its notice of proposed rulemaking, the OTS received 10 comments: five from savings associations, one from a commercial bank, one from a state-chartered savings bank, two from financial institution trade associations, and one from an investment banking firm. Eight of the commenters generally opposed the OTS proposal, while two commenters strongly supported the proposal. The OTS has also considered the comments received by the other federal banking agencies in working with the other agencies to develop a consistent interagency position on SFAS No. 115.

A. Comments Opposing a SFAS No. 115 Component

Commenters opposing the proposal raised a number of common concerns. Their primary concern was a belief that the proposal would distort the true picture of savings associations' core capital. These commenters reasoned that the SFAS No. 115 capital component has less bearing on their institutions' financial strength than the institutions' more permanent base of common stock, paid-in surplus and retained earnings. Under SFAS 115, changes in interest rates could dramatically affect institutions' capital positions without affecting their amount of common stock and retained earnings and without them suffering any losses through their income statements. Commenters asserted that another distortion arises because SFAS No. 115 requires that the change in fair value of securities subject to SFAS No. 115 be included in GAAP capital, but does not require that any offsetting changes in the value of associations' deposit bases and hedging instruments be included in GAAP capital.

A second related concern of commenters objecting to the proposal was that adopting the proposal would result in excessive volatility in associations' regulatory capital levels and present an inaccurate picture of associations' long-range viability. Commenters observed that associations' capital levels would change with temporary movements in interest rates, which in turn cause temporary changes in a security's market value. Commenters argued that associations may have sufficient capital and liquidity to give them the discretion to determine not to sell those securities when the market is unfavorable. These commenters submitted that because associations would not be forced to sell their available-for-sale securities in a market trough, they should not be required to include those unrealized losses on securities in their regulatory capital calculations. Such inclusion could result in volatile temporary fluctuations in the associations' regulatory capital levels, which in turn could trigger more permanent regulatory limitations and subject associations to increased deposit insurance premiums or PCA sanctions. These commenters argued that in the worst case, some associations with the ability to survive a temporary market trough might be forced into receivership because of unrealized losses in their SFAS No. 115 capital component.

A number of commenters stressed that associations might take steps to avoid unrealized losses that could harm their long-term financial viability. Some commenters said that associations would purchase shorter duration securities to avoid the greater volatility in the value of longer term securities. This action would lower the yield on associations' securities and reduce the net income that they could add to their retained earnings. Some commenters added that associations would have the incentive to make up for this lower yield by increasing the credit risk in their portfolios. This strategy would increase associations' yield in a potentially dangerous way not captured by SFAS No. 115 without necessarily affecting their reported capital levels.

Some commenters also contended that because SFAS No. 115 only applies to securities, associations would avoid

[1] *See* letter of August 16, 1993, from Acting Director Fiechter to the Chief Executive Officers of Savings Associations.

[2] 59 FR 32143 (June 22, 1994).

[3] *See* 59 FR 18328 (April 18, 1994) (OCC); 58 FR 68563 (December 28, 1993) (FRB); 58 FR 68781 (December 29, 1993) (FDIC).

[4] *See* 59 FR at 32144. The OTS's risk-based capital requirements are located at 12 CFR Part 567 and its PCA requirements are located at 12 CFR Part 565.

[5] *See* 59 FR at 32144.

[6] *See* letter dated November 28, 1994, from Acting Director Fiechter to the Chief Executive Officers of Savings Associations, which revised the August 16, 1993 interim policy statement (permitting associations to adopt SFAS No. 115 for financial reporting and capital purposes). The November 28 policy statement gave associations the option either to follow the revised policy for submission of their December 1994 Thrift Financial Reports (TFRs), or to defer implementation as late as submission of their June 1995 TFRs. The OTS provided this optional transition period to give associations sufficient time to plan for the effects of the revised policy on their regulatory capital and to take any appropriate business actions.

SFAS No. 115's mark-to-market requirements by purchasing or retaining whole loans instead of similar loans that had been securitized and guaranteed by government sponsored enterprises or the private market. This approach could harm associations because many loans have greater credit risk than guaranteed, high-quality mortgage-related securities.

Other commenters submitted that the OTS interest-rate risk model and capital component already capture and address associations' interest rate risk exposure. They argued that adoption of SFAS No. 115 for capital purposes was unnecessary, could conflict with the interest-rate risk model and component, and could result in a double hit to capital for interest rate swings.

Commenters opposing the proposal also argued that its adoption would lead to associations' focusing too much attention on the short-term effects of investment decisions instead of long-term economic viability. Commenters also raised the possibility that adoption of the proposal would make an association reluctant to sell securities from its held-to-maturity portfolio for fear of having its entire held-to-maturity portfolio reclassified as available-for-sale, thereby limiting an association's flexibility to manage its investments properly.

Several commenters were critical of the market value accounting approach imposed by SFAS 115 because it includes in capital unrealized gains and losses that might never be realized by an association and so could present a misleading picture of an association's current financial condition. Commenters also submitted that SFAS 115 is inconsistent in its approach because it requires institutions to account for certain assets at fair market value while liabilities are valued at cost.

B. Comments Supporting a SFAS No. 115 Component

The two commenters supporting the OTS proposed rule believed that the OTS's adoption of SFAS No. 115 for regulatory capital purposes was consistent with GAAP and the Agencies' requirements that institutions comply with SFAS No. 115 for regulatory reporting purposes. These commenters reasoned that the proposal would minimize the reporting and systems burden that would otherwise result if the SFAS No. 115 capital component is treated differently in regulatory capital calculations than in GAAP and regulatory reports. Second, these commenters stated that the OTS's adoption of SFAS No. 115 for regulatory capital purposes would be consistent with Congressional intent as manifested in section 121 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA),[7] which provides that Federal banking agency regulatory accounting policy applicable to reports or statements filed with those agencies be no less stringent than GAAP. One commenter contended that including the SFAS No. 115 equity component in regulatory capital would protect associations and the deposit insurance fund by causing associations to control their interest-rate risk exposure. This commenter believed that SFAS No. 115 gives associations the appropriate incentive to hold shorter duration securities and to limit their interest-rate risk exposure to avoid drops in their capital levels.

Finally, one commenter contended that not adopting SFAS No. 115 for regulatory capital purposes would arguably allow institutions temporarily to hide their losses and to defer appropriate supervisory action. This would be inconsistent with prudent asset liability management and ultimately with protecting the SAIF from losses not otherwise included in regulatory capital. Furthermore, failure to include unrealized losses in regulatory capital would give associations, particularly undercapitalized ones, an incentive to speculate on interest rates by holding unhedged long-term securities.

C. Comments Suggesting Alternative Ways of Incorporating a SFAS No. 115 Component

The majority of commenters opposing the proposal supported excluding the SFAS No. 115 equity component from regulatory capital altogether. Several commenters, however, suggested alternative methods of incorporating SFAS 115 into the OTS's regulatory capital regulation. One commenter recommended that, if SFAS No. 115 was going to affect regulatory capital, that it only be included in supplementary capital or in risk-based capital computations. Commenters also argued that, even if the SFAS No. 115 equity component was included in regulatory capital, it should be excluded from computations and determinations relating to PCA, insurance premiums, lending limits, and other differential regulations based on capital levels. Other commenters recommended that the OTS propose a method for balancing the mark-to-market adjustment for available-for-sale securities with offsetting adjustments to associations' deposits, other liabilities, and hedging instruments. Finally, several commenters recommended that OTS institute a three-quarter lag similar to that used with the interest-rate risk component to reduce the effects of temporary market fluctuations and to give associations time to take action ameliorating the effects of their unrealized losses.

IV. The Final Rule

After considering all the comments received, the OTS, in consultation with the other Agencies, has decided not to adopt its proposal to include the SFAS No. 115 equity component in computing regulatory capital. Savings associations, however, must follow SFAS No. 115 for regulatory reporting purposes, as required by statute. This decision leaves in effect the OTS's current requirement that nontrading debt securities be valued at amortized cost and nontrading marketable equity securities be valued at the lower of fair value or amortized cost for computing regulatory capital.[8] This decision is consistent with the recommendation of the Task Force on Supervision of the FFIEC and the policies of the other Agencies.[9]

Based on the comment letters received, the OTS determined that adoption of the proposal could potentially have an inappropriate impact on associations' regulatory capital and result in an inaccurate picture of their capital positions. For example, fluctuations in interest rates could cause temporary changes in regulatory capital levels, which in turn could trigger more permanent regulatory intervention and inappropriately affect industry profitability. In addition, including the SFAS No. 115 adjustment in capital could potentially distort an association's capital position by giving the same weight to an association's SFAS 115 component as is given to its common stock, paid-in surplus, and retained earnings. Also, changes in the value of institutions' assets from interest rate changes would not be properly balanced by offsetting changes in the value of institutions' liabilities and hedge positions.

The OTS is also concerned that adoption of the proposal would encourage management to place excessive weight on the accounting implications of their decisions, rather than on their long-term economic impacts. Associations could potentially take actions or make investment

[7] Pub. L. 102–242 (1991).

[8] *See* current 12 CFR 567.1(d) and the OTS's November 28, 1994 interim policy statement, which provided that the SFAS No. 115 capital component could no longer be included in regulatory capital.

[9] *See* 59 FR 60552 (November 25, 1994) (OCC), 59 FR 63241 (December 8, 1994) (FRB), and 59 FR 66662 (December 28, 1994) (FDIC).

decisions to avoid the effects of SFAS No. 115 that could give associations more flexibility in the short run but might not enhance the associations' long-term viability.

The OTS considered the comments received regarding FDICIA's requirement that regulatory accounting policy be no less stringent than GAAP. Section 121 of FDICIA [10] requires that policies applicable to reports and statements filed with the Federal banking agencies generally conform to GAAP. The section, however, does not require the calculation of an institution's regulatory capital or the components of regulatory capital to conform to GAAP, and the legislative history of the section indicates that was not necessarily the intent of Congress.[11] Furthermore, calculation of associations' risk-based capital requirements under the OTS capital rule is based on principles that are so fundamentally different from GAAP that comparing the stringency of the OTS rule with GAAP is not meaningful. Accordingly, we do not believe that Congress intended the OTS to make such a comparison.

By adopting SFAS No. 115 for regulatory reporting purposes, the OTS is complying with the requirements of section 121 and is utilizing a uniform approach with the other Agencies. Adoption of such a uniform approach also complies with FDICIA's requirement that each Federal banking agency ''maintain uniform accounting standards to be used for determining compliance with statutory or regulatory requirements of depository institutions.'' [12] Adoption of this uniform interagency policy also is consistent with the general goal of regulatory uniformity set forth in Section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA).[13]

The OTS did consider alternatives suggested by several commenters including counting the net unrealized holding gains and losses on available-for-sale securities in risk-based or supplementary capital calculations, or including net unrealized holding gains and losses on available-for-sale securities in regulatory capital but excluding the adjustment from capital calculations tied to other regulations. However, the OTS believes such approaches would be too complex and burdensome and potentially could require a savings association to maintain yet another set of capital calculations. Furthermore, because SFAS No. 115 significantly increased the number of securities subject to market valuation, including the unrealized gains and losses in risk-based capital may contribute to volatility in regulatory capital levels.

The OTS has decided, therefore, to retain its current requirements that available-for-sale debt securities be valued at amortized cost and that marketable equity securities be valued at the lower of amortized cost or fair value. This is consistent with the current capital treatment of these securities by the other Federal banking agencies.

To conform the capital rule's definition of ''common stockholders' equity'' to the terminology and standards used in SFAS No. 115, however, this rule substitutes the phrase ''net unrealized losses on available-for-sale equity securities with readily determinable fair values'' instead of ''net unrealized losses on non-current marketable equity securities.'' [14] The latter phrase was based on terminology included in the SFAS No. 12 accounting standard, which was superseded by SFAS No. 115. The new terminology of the revised regulation encompasses the identical types of securities as the pre-existing regulation.

Finally, the OTS will continue to consider unrealized gains and losses on securities, regardless of their classification under SFAS No. 115 or this rule, as a factor in various supervisory determinations. For example, an association's unrealized gain or loss on securities would be an appropriate factor for an examiner to consider in evaluating the adequacy of the association's level of regulatory capital or in making discretionary supervisory determinations, such as the reasonableness of associations' capital distributions.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, it is hereby certified that this final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This final rule is not expected to increase the capital requirements of a substantial number of small entities. This final rule is not expected to have a disparate effect on the capital levels of small entities as opposed to larger entities; rather the effect on capital will be minimal regardless of savings association size.

Executive Order 12866

The OTS has determined that this final rule is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Reform Act of 1995

The OTS has determined that this final rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and therefore is not a significant regulatory action under Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4, 109 Stat. 64 (signed into law on March 22, 1995).

Paperwork Reduction Act

The OTS has determined that this final rule will not increase the regulatory paperwork burden of savings associations pursuant to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 12 CFR Part 567

Capital, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons set forth in the preamble, the Office of Thrift Supervision hereby amends part 567, chapter V, title 12, Code of Federal Regulations, as set forth below:

Subchapter D—Regulations Applicable to All Savings Associations

PART 567—[AMENDED]

1. The authority for part 567 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1828 (note).

2. Section 567.1 is amended by revising paragraph (d) to read as follows:

§ 567.1 Definitions.

* * * * *

(d) *Common stockholders' equity.* The term *common stockholders' equity* means common stock, common stock surplus, retained earnings, and adjustments for the cumulative effect of foreign currency translation, less net unrealized losses on available-for-sale equity securities with readily determinable fair values.

* * * * *

Dated: August 3, 1995.

[10] 12 U.S.C. 1831n(a).

[11] *See generally* H.R. Rep. No. 102–330, 102d Cong., 2d Sess. 119 (1991).

[12] 12 U.S.C. 1831n(b).

[13] Pub. L. 103–325, 108 Stat. 2160.

[14] See current version of 12 CFR 567.1(d).

By the Office of Thrift Supervision.

Jonathan L. Fiechter,

Acting Director.

[FR Doc. 95–19854 Filed 8–14–95; 8:45 am]

BILLING CODE 6720–01–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 618, and 620

RIN 3052–AB43

Organization; General Provisions; Disclosure to Shareholders; Technical Assistance and Financially Related Services; Member Insurance; Correction and Effective Date

AGENCY: Farm Credit Administration.

ACTION: Final rule correction and notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final regulation under parts 611, 618, and 620 on June 30, 1995 (60 FR 34090). The final regulation defines what constitutes technical assistance, financial assistance, and financially related services and what types of activities the Farm Credit System institutions are authorized to provide. This regulation supersedes and replaces the existing FCA Board Policy and Bookletter on Out-of-Territory Financially Related Services published in 1993. This document also corrects a typographical error that appeared in the publication of the final regulation. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulation is August 8, 1995.

EFFECTIVE DATE: The regulation amending 12 CFR parts 611, 618, and 620 published on June 30, 1995 (60 FR 34090) and this correction to that final regulation are effective August 8, 1995.

FOR FURTHER INFORMATION CONTACT: Linda C. Sherman, Policy Analyst, Regulation Development, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4498, TDD (703) 883–4444,

or

Joy E. Strickland, Senior Attorney, Regulatory Operations Division, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: In preparing the final rule for publication in the **Federal Register**, a portion of the text was inadvertently omitted in the first sentence of § 618.8025(a).

List of Subjects

12 CFR Part 611

Agriculture, Banks, banking, Rural areas.

12 CFR Part 618

Agriculture, Archives and records, Banks, banking, Insurance, Reporting and recordkeeping requirements, Rural areas, Technical assistance.

12 CFR Part 620

Accounting, Agriculture, Banks, banking, Reporting and recordkeeping requirements, Rural areas.

PART 618—GENERAL PROVISIONS

1. The authority citation for part 618 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.4, 2.5, 2.12, 3.1, 3.7, 4.12, 4.13A, 4.25, 4.29, 5.9, 5.10, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2019, 2020, 2073, 2075, 2076, 2093, 2122, 2128, 2183, 2200, 2211, 2218, 2243, 2244, 2252).

Subpart A—Related Services

2. On page 34101, first column, the first sentence of paragraph (a) is corrected to read as follows:

§ 618.8025 Feasibility reviews.

(a) Prior to an association offering a related service program for the first time or offering a service that it did not offer during the most recently completed business cycle (generally 1 year), the board of directors of the funding bank must verify that the association has performed a feasibility analysis pursuant to § 618.8020. * * *

* * * * *

Dated: August 9, 1995.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 95–20161 Filed 8–14–95; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM–116; Special Condition No. 25–ANM–104]

Special Condition: Israel Aircraft Industries (IAI), Model Astra SPX, High-Intensity Radiated Fields

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special condition; request for comments.

SUMMARY: This special condition is issued for the Israel Aircraft Industries (IAI) Model Astra SPX airplane. This new airplane utilizes new avionics/electronic systems, such as electronic displays and electronic engine controls, that perform critical functions. The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields (HIRF). This special condition contains the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of this special condition is July 26, 1995. Comments must be received on or before September 14, 1995

ADDRESSES: Comments on this special condition may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM–7), Docket No. NM–116, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM–116. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Timothy Dulin, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4506; telephone (206) 227–2141.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA has determined that good cause exists for making this special condition effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and special condition number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. This special condition may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public

contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. NM–116.'' The postcard will be date stamped and returned to the commenter.

Background

On February 15, 1994, Israel Aircraft Industries (IAI), Ben Gurion International Airport, Tel Aviv 70100, Israel, applied for an amendment to Type Certificate (TC) A16NM to incorporate the Model Astra SPX airplane. The Astra SPX is a derivative of the Model 1125 Westwind Astra. The changes include installation of new Allied Signal (Garrett) TFE731–40/40A engines, which are a derivative of the existing TFE731–3A–200G engines; installation of winglets and minor structural modifications to the wing; and installation of new avionics.

Type Certification Basis

Under the provisions of § 21.101 of 14 CFR part 21, IAI must show that the Model Astra SPX meets the applicable regulations incorporated by reference in TC A16NM, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporate by reference in TC A16NM are as follows: Part 25, effective February 1, 1965, as amended by Amendments 25–1 through 25–54. The regulations in effect on the date of application include the applicable provisions of part 25 effective February 1, 1965, as amended by Amendments 25–1 through 25–79. In addition, the certification basis for the Model Astra SPX includes part 34, effective September 10, 1990, plus any amendments in effect at the time of certification; and part 36, effective December 1, 1969, as amended by Amendment 36–1 through the amendment in effect at the time of certification. This special condition will form an additional part of the type certification basis. In addition, the certification basis may include exemptions and other special conditions that are not relevant to this special condition.

If the Administrator finds that the applicable airworthiness regulation (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Astra SPX because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Model Astra SPX incorporates new avionic/electronic systems, such as electronic displays and electronic engine controls, that perform critical functions. These systems may be vulnerable to HIRF external to the airplane.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, a special condition is needed for the IAI Astra SPX, which would require that new electrical and electronic systems that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1, or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 KHz–100 KHz	50	50
100 KHz–500 KHz	60	60
500 KHz–2 MHz	70	70
2 MHz–30 MHz	200	200
30 MHz–100 MHz	30	30
100 MHz–200 MHz	150	33
200 MHz–400 MHz	70	70
400 MHz–700 MHz	4,020	935
700 MHz–1 GHz	1,700	170
1 GHz–2 GHz	5,000	990
2 GHz–4 GHz	6,680	840
4 GHz–6 GHz	6,850	310
6 GHz—8 GHz	3,600	670
8 GHz–12 GHz	3,500	1,270
12 GHz–18 GHz	3,500	360
18 GHz–40 GHz	2,100	750

As discussed above, this special condition would be applicable initially to the IAI Model Astra SPX. Should IAI apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, this special condition would apply to that model as well, under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain design features on the IAI Astra SPX airplane. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

The substance of the special condition for this airplane has been subjected to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change

from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting this special condition immediately. Therefore, this special condition is being made effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for this special condition is as follows:

Authority: 49 U.S.C. app. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430, and 49 U.S.C. 106(g).

The Special Condition

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special condition is issued as part of the type certification basis for the Israel Aircraft Industries (IAI) Model Astra SPX airplanes.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high intensity radiated fields.

2. For the purpose of this special condition, the following definition applies: *Critical Functions.* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on July 26, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–20151 Filed 8–14–95; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 94–ASO–8]

Establishment of Class E Airspace; Thomaston, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the geographic position coordinates of a final rule that was published in the **Federal Register** on August 3, 1994, Airspace Docket No. 94–ASO–8. The position coordinates are published in the **Federal Register** on August 3, 1994, for the Thomaston-Upson County Airport at Thomaston, GA, are incorrect. The correct position coordinates are lat. 32°57′17″ N, long. 84°15′48″ W.

EFFECTIVE DATE: 0901 UTC, November 9, 1995.

FOR FURTHER INFORMATION CONTACT: Stanley Zylowski, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 94–18810, Airspace Docket No. 94–ASO–8, published on August 3, 1994 (59 FR 39434), established Class E airspace at Thomaston, GA, to provide adequate Class E airspace for IFR operations at Thomaston-Upson County Airport. The geographic position coordinates as published in the **Federal Register** on August 3, 1994, for the Thomaston-Upson County Airport at Thomaston, GA, are incorrect. The correct position coordinates at lat. 31°57′17″ N, long. 84°15′48″ W.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the geographic position coordinates at Thomaston, GA, for the Thomaston-Upson County Airport as published in the **Federal Register** on August 3, 1994 (59 FR 39434), (**Federal Register** Document 94–18810; page 39434, column 3), and the description in FAA Order 7400.9B, which is incorporated by reference in 14 CFR 71.1, are corrected as follows:

§ 71.1 [Corrected]

* * * * *

ASO GA E5 Thomaston, GA [Corrected]

By removing ''(lat. 32°57′17″ N, long. 84°11′14″ W)'' and substituting ''(lat. 32°57′17″ N, long. 84°15′48″ W).''

* * * * *

Issued in College Park, Georgia, on August 4, 1995.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 95–20131 Filed 8–14–95; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 14

Administrative Interpretations, General Policy Statements, and Enforcement Policy Statements

AGENCY: Federal Trade Commission.

ACTION: Final amendments to interpretations and policy statements.

SUMMARY: The Federal Trade Commission (''Commission'') is rescinding certain unnecessary or superfluous interpretations and policy statements in the Administrative Interpretations, General Policy Statements, and Enforcement Policy Statements (''Interpretations and Policy Statements'') and revising one policy statement to bring it up to date.

EFFECTIVE DATE: August 15, 1995.

ADDRESSES: Requests for copies of this notice should be sent to the Federal Trade Commission, Public Reference Branch, Room 130, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, Attorney, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, Room S–4302, Sixth Street and Pennsylvania Avenue NW., Washington, DC 20580, (202) 326–3013.

SUPPLEMENTARY INFORMATION:

I. Background

As a part of its ongoing program to review all of its mandatory rules and voluntary guides, the Commission has determined to amend 16 CFR part 14, Administrative Interpretations, General Policy Statements, and Enforcement Policy Statements (''Interpretations and Policy Statements'').[1] In this notice, the Commission announces its determinations to repeal §§ 14.2, 14.4, 14.7, 14.11 and 14.17, and to revise § 14.16.[2] As explained below, the Commission is rescinding certain interpretations, guidelines and policy statements that are unnecessary, superfluous or obsolete and revising one policy statement to reflect current law and policy. Sections 14.9, 14.12 and 14.15 remain in effect and are not

[1] Part 14 of title 16 of the Code of Federal Regulations is not a comprehensive record of all the Commission's formal interpretations, guides, and policy statements. The Commission's Office of General Counsel is currently working on a project to make other such materials more readily available to the public.

[2] This matter has been designated as file number P954215 in the Commission's records.

affected by the amendments described in this notice.

The Commission is not seeking public comment on these amendments to repeal §§ 14.2, 14.4, 14.7, 14.11 and 14.17, and to revise § 14.16. These interpretations, guidelines and policy statements are not regulations, only interpretative guides and general statements of policy. Therefore, the Commission does not need to seek public comment before repealing or revising them.[3] Further, because the Commission's determinations to repeal or revise these interpretations, guidelines and policy statements are based upon changes in the law and regulations, the existence of other laws, regulations or legal decisions, facts concerning current industry practices that do not appear to be in controversy, or current Commission policy, public comment is not likely to aid the Commission significantly in making these determinations. The amendments become effective upon publication in the **Federal Register**.

II. Sections Revised or Repealed

A. Section 14.2

Section 14.2 states that it is not the Commission's policy to consider the use of the word ''tile'' in the designation of non-ceramic products to be false and misleading, provided that either the true composition of such products or the fact that they are not ceramic products is plainly disclosed. The Commission issued this policy statement in 1950 as guidance to industry and to amend certain stipulations covering specific companies that the Commission published between 1937 and 1945.

The Commission has no reason to believe that sellers of non-ceramic tile products currently fail to disclose the composition of their products or misrepresent their composition. In any event, the Commission can prosecute misrepresentations of product composition, or the failure to disclose, prior to sale, information that is material to a consumer's purchasing decision, as unfair or deceptive acts or practices under section 5 of the FTC Act, 15 U.S.C. 45.

For these reasons, the Commission has determined that § 14.2 is unnecessary and superfluous.

B. Section 14.4

Section 14.4 contains the Commission's interpretation of the requirements of section 5 of the FTC Act concerning yarn and fabric that contain metallically weighted silk fiber. The Commission issued this interpretation in 1960 to supplement the fiber identification requirements of the Textile Fiber Products Identification Act (''Textile Act''), 15 U.S.C. 70, and the rules and regulations issued under the Textile Act.[4]

Specifically § 14.4 states that the fiber identification required by the Textile Act shall be immediately accompanied by a clear and non-deceptive disclosure that the silk fiber present is weighted, along with the percentage of the total weight of the silk fiber content in its finished state that the weighting represents. Section 14.4 further states that the disclosure shall appear on the same label that contains the fiber identification required by the Textile Act, and the rules and regulations issued under it, and in immediate conjunction with any representation in advertisements, sales promotional literature, or invoices that relates to fiber content.

During at least the past 15 years, the Commission has not been aware of any problems concerning the sale of ''metallically weighted silk'' yarn and fabric products. In any event, the Commission can prosecute misrepresentations concerning ''metallically weighted silk'' products, or the failure to disclose, prior to sale, information that is material to a consumer's purchasing decision, as unfair or deceptive acts or practices under section 5 of the FTC Act.

For these reasons, the Commission has determined that § 14.4 is unnecessary and superfluous.

C. Section 14.7

Section 14.7 contains interpretations of legal requirements concerning the payment by industry members of so-called ''push money.''[5] These interpretations, which the Commission issued in 1962, prohibit industry members from providing anything of value to a salesperson employed by a customer of the industry member as inducement to obtain greater effort in promoting the resale of the industry member's products when: (i) The agreement or payment is made ''without the knowledge and consent of the salesperson's employer,'' (ii) the benefit to the salesperson or customer is dependent on lottery; (iii) ''any provision of the agreement or understanding requires or contemplates practices or a course of conduct unduly and intentionally hampering the sales of products of competitors * * *;'' (iv) ''the effect may be to substantially lessen competition or tend to create a monopoly;'' or (v) ''similar payments are not accorded to salespersons of competing customers on proportionally equal terms in compliance with sections 2 (d) and (e) of the Clayton Act,'' 15 U.S.C. 13 (d) and (e).

To the extent that the interpretations prohibit industry members from surreptitiously compensating employees of their customers in exchange for greater effort on the part of those employees, they address commercial bribery, which may be prohibited under section 2(c) of the Clayton Act, 15 U.S.C. 13(c), and is proscribed by many state criminal statutes.[6] To the extent that they prohibit bonus plans dependent on lottery, they address business conduct which may be proscribed by section 5 of the FTC Act and by state statutes relating to lotteries and similar promotions.[7] To the extent the interpretations require payments to salespersons of competing customers to be on proportionally equal terms, they restate general principles of competition law that are set forth in section 2 of the Clayton Act and the Guides for Advertising Allowances and Other Merchandising Payments and Services (''Fred Meyer Guides''), 16 CFR part 240.

For these reasons, the Commission has determined that § 14.7 is unnecessary and superfluous.

D. Section 14.11

Section 14.11, which the Commission issued in 1979, contains guidelines designed to prevent deception and to advise manufacturers and dealers of motor vehicles built for use upon public highways about how they can avoid violating the FTC Act. These vehicles include truck chassis and incomplete vehicles used in building motor homes. The Commission issued the guidelines because it was concerned about misleading practices some manufacturers had used to identify the model years of heavy duty trucks and other vehicles whose features changed little from year to year.

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[3] *See* section 553(b)(A) of the Administrative Procedure Act, 15 U.S.C. 553(b)(A).

[4] *See* Rules and regulations under the Textile Fiber Products Identification Act, 16 CFR part 303.

[5] Section 14.7 is, in all substantive respects, identical to § 248.8 of the Commission's Guides for the Beauty and Barber Equipment and Supplies Industry (''Beauty/Barber Guides''), 16 CFR part 248. For the same reasons the Commission has determined to eliminate section 14.7, it has determined that § 248.8 of the Beauty/Barber Guides also should be eliminated. The Commission is publishing its determination concerning § 248.8 in a separate notice.

[6] *See e.g.*, Cal. Penal Code sec. 641.3 *et seq.* (Deering 1995); Ill. Rev. Stat., Ch. 38, para. 29A–1 (1995); N.Y. Penal Law sec. 180.00 (McKinney 1976).

[7] *See e.g.*, Tex. Penal Code sec. 32.42 (West 1995); Cal. Bus. & Prof. Code sec. 17539.1 (Deering 1995); Cal. Penal Code sec. 319 *et seq.* (Deering 1995).

After it issued the guidelines, the Commission accepted consent agreements with most of the manufacturers of those heavy duty trucks and other vehicles.[8] The consent agreements provide adequate guidance for manufacturers of such vehicles and others concerning how to avoid violating the FTC Act regarding a vehicle's model year.

For these reasons, the Commission has determined that § 14.11 is unnecessary and superfluous.

E. Section 14.16

Section 14.16 contains interpretations, published in 1982, concerning the compliance responsibilities under the Truth-in-Lending Simplification and Reform Act of 1980, Pub. L. 96–221, 94 Stat. 168, and the revisions of Regulation Z, 12 CFR part 226, that were published by the Federal Reserve Board in 1981, 46 FR 20848, for those creditors and advertisers subject to final cease and desist orders issued by the Commission prior to April 1, 1981 that require compliance with provisions of the original Turth-In-Lending Act (''TILA''), 15 U.S.C. 1601 *et seq.*, and prior Regulation Z. This section, therefore, applies Congress' simplification of TILA to pre-existing orders issued by the Commission that compel compliance with the TILA and Regulation Z.

The Commission believes that the current language in § 14.16 might be interpreted to freeze orders enacted prior to April 1, 1981 to the requirements of the TILA and Regulation Z as of April 1, 1981, and not to allow or require parties subject to Commission orders to meet the requirements of subsequent amendments to the TILA and Regulation Z. It is not the Commission's intent that section 14.16 have this effect. For this reason, the Commission has determined to revise § 14.16 to state clearly that the Commission will interpret TILA and Regulation Z provisions of all orders consistent with the current requirements of the TILA and Regulation Z, and with any subsequent amendments to the TILA and Regulation Z.

Further, §§ 1416(b)(1) and (b)(2) specify enforcement responsibilities during a transition period in 1981 and 1982. Because these sections no longer are relevant, the Commission has determined to delete these provisions, and to renumber and revise the remainder of § 14.16(b).

F. Section 14.17

Section 14.17 contains an explanation of the Commission's policy concerning questions that are relevant when the Commission decides whether to initiate an enforcement action under the trade regulation rule regarding Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures (''Franchise Rule''), 16 CFR part 436. The Commission, however, has investigated and filed in court the vast bulk of its Franchise Rule enforcement actions since it published this Franchise Rule enforcement protocol in 1984. Thus, the protocol does not reflect, fully and accurately, the Commission's present enforcement policy. Moreover, the Commission currently is reviewing the Franchise Rule under its ongoing regulatory review program.[9]

For these reasons, the Commission repeals § 14.17. The Commission will consider whether it is necessary to issue an updated version of the protocol to reflect current law, fact and policy after it completes its regulatory review of the Franchise Rule.

Authority: 15 U.S.C. 41–58.

List of Subjects in 16 CFR Part 14

Advertising, motor vehicles, silk, textiles, trade practices, truth-in-lending.

Text of Amendments

Accordingly, under the authority of 15 U.S.C. 41–58, the Commission amends 16 CFR part 14 as follows:

PART 14—ADMINISTRATIVE INTERPRETATIONS, GENERAL POLICY STATEMENTS, AND ENFORCEMENT POLICY STATEMENTS

1. Sections 14.2, 14.4, 14.7, 14.11 and 14.17 are removed.

2. Section 14.16 is revised to read as follows:

14.16 Interpretation of Truth-in-Lending Orders consistent with amendments to the Truth-in-Lending Act and Regulation Z.

Introduction

The Federal Trade Commission (FTC) has determined that there is a need to clarify the compliance responsibilities under the Truth-in-Lending Act (TILA) (Title I, Consumer Credit Protection Act, 15 U.S.C. 1601 *et seq.*), as amended by the Truth-in-Lending Simplification and Reform Act of 1980 (Pub. L. 96–221, 94 Stat. 168), and under revised Regulation Z (12 CFR part 226, 46 FR 20848), and subsequent amendments to the TILA and Regulation Z, of those creditors and advertisers who are subject to final cease and desist orders that require compliance with provisions of the Truth-in-Lending statute or Regulation Z. Clarification is necessary because the Truth-in-Lending Simplification and Reform Act and revised Regulation Z significantly relaxed prior Truth-in-Lending requirements on which provisions of numerous outstanding orders were based. The Policy Statement provides that the Commission will interpret and enforce Truth-in-Lending provisions of all orders so as to impose no greater or different disclosure obligations on creditors and advertisers named in such orders than are required generally of creditors and advertisers under the TILA and Regulation Z, and subsequent amendments to the TILA and Regulation Z.

Policy Statement

(a) All cease and desist orders issued by the FTC that require compliance with provisions of the Truth-in-Lending Act and Regulation Z (12 CFR part 226) will be interpreted and enforced consistent with the amendments to the TILA incorporated by the Truth-in-Lending Simplification and Reform Act of 1980, and the revision of Regulation Z implementing the same, promulgated on April 1, 1981 by the Board of Governors of the Federal Reserve System (46 FR 20848), and by subsequent amendments to the TILA and Regulation Z. Likewise, the Federal Reserve Board staff commentary to revised Regulation Z (46 FR 50288, October 9, 1981), and subsequent revisions to the Federal Reserve Board staff commentary to Regulation Z, will be considered in interpreting the requirements of existing orders.

(b) After an amendment to Regulation Z becomes effective, compliance with the revised credit disclosure requirements will be considered compliance with the existing order, and:

(1) To the extent that revised Regulation Z deletes disclosure requirements imposed by any Commission order, compliance with these requirements will no longer be required; however,

(2) To the extent that revised Regulation Z imposes additional disclosure or format requirements, a failure to comply with the added requirements will be considered a violation of the TILA.

(c) A creditor or advertiser must continue to comply with all provisions

[8] *See* Mack Trucks, Inc., 94 F.T.C. 236 (1979); Chrysler Motors Corp., 94 F.T.C. 245 (1979); Ford Motor Company, 94 F.T.C. 254 (1979); Paccar. Inc., 94 F.T.C. 263 (1979); White Motor Corp., 94 F.T.C. 272 (1979); and International Harvester 94 F.T.C. 281 (1979).

[9] Request for comments, 60 FR 17656 (April 7, 1995).

of the order which do not relate to Truth-in-Lending Act requirements or are unaffected by Regulation Z. These provisions are not affected by this policy statement and will remain in full force and effect.

Staff Clarifications

The Commission intends that this Enforcement Policy Statement obviate the need for any creditor or advertiser to file a petition to reopen and modify any affected order under section 2.51 of the Commission's rules of practice (16 CFR 2.51). However, the Commission recognizes that the policy statement may not provide clear guidance to every creditor or advertiser under order. The staff of the Division of Enforcement, Bureau of Consumer Protection, will respond to written requests for clarification of any order affected by this policy statement.

By direction of the Commission.

Donald S. Clark,

Secretary.

Statement of Commissioner Mary L. Azcuenaga Concurring in 16 CFR Part 14, Matter No. P954215; Repeal of Mail Order Insurance Guides, Matter No. P954903; Repeal of Guides Re: Debt Collection, Matter No. P954809; and Free Film Guide Review, Matter No. P959101

In a flurry of deregulation, the Commission today repeals or substantially revises several Commission guides and other interpretive rules.[1] The Commission does so without seeking public comment. I have long supported the general goal of repealing or revising unnecessary, outdated, or unduly burdensome legislative and interpretive rules, and I agree that the repeal or revision of these particular guides and interpretive rules appears reasonable. Nevertheless, I cannot agree with the Commission's decision not to seek public comment before making these changes.

Although it is not required to do so under the Administrative Procedure Act, 5 U.S.C. 553(b)(A), the Commission traditionally has sought public comment before issuing, revising, or repealing its guides and other interpretive rules. More specifically, the Commission adopted a policy in 1992 of reviewing each of its guides at least once every ten years and issuing a request for public comment as part of this review. *See* FTC Operating Manual ch. 8.3.8. The Commission decided to seek public comment on issues such as: (1) The economic impact of and continuing need for the guide; (2) changes that should be made in the guide to minimize any adverse economic effect; (3) any possible conflict between the guide and any federal, state, or local laws; and (4) the effect on the guide of technological, economic, or other industry changes, if any, since the guide was promulgated.

Id. The Commission has sought public comment and has posed these questions concerning a number of guides since adopting its procedures for regulatory review in 1992.[2]

Notwithstanding its long-standing, general practice of seeking public comment and its specific policy of seeking public comment as part of its regulatory review process, the Commission has chosen not to seek public comment before repealing or revising these guides and interpretive rules. Why not? Has the Commission changed its view about the potential value of public comment? Perhaps the Commission knows all the answers, but then again, perhaps not. Although reasonable arguments can be made for repeal or revision of these guides and interpretive rules, public comment still might prove to be beneficial.

In addition, the relatively short period of time that would be required for public comment should not be problematic. The Commission has not addressed any of these guides or interpretive rules in the last ten years. Indeed, it has not addressed some of them for thirty years or more. For example, the Commission apparently has not addressed the interpretive rule concerning the use of the word ''tile'' in designation of non-ceramic products since it was issued in 1950.[3] The continued existence of these guides and interpretive rules during a brief public comment period surely would cause no harm because they are not binding and because, arguably, they are obsolete. I seriously question the need to act so precipitously as to preclude the opportunity for public comment.[4]

In 1992, the Commission announced a careful, measured approach for reviewing its guides and interpretive rules, and public comment has been an important part of that process. Incorporating public comment into the review is appropriate and sensible. Although I have voted in favor of repealing or revising these guides and interpretive rules, I strongly would have preferred that the Commission seek public comment before doing so.

[FR Doc. 95–19926 Filed 8–14–95; 8:45 am]

BILLING CODE 6750–01–M

[1] Administrative Interpretations, General Policy Statements, and Enforcement Policy Statements, 16 CFR part 14; Guides for the Mail Order Insurance Industry, 16 CFR part 234; Guides Against Debt Collection Deception, 16 CFR part 237; and Guide Against Deceptive Use of the Word ''Free'' in Connection With the Sale of Photographic Film and Film Processing Services, 16 CFR part 242.

[2] *See, e.g.,* Requests for Comments Concerning Guides for the Hosiery Industry, 59 FR 18004 (Apr. 15, 1994); Request for Comment Concerning Guides for the Feather and Down Products Industry, 59 FR 18006 (Apr. 15, 1994).

[3] 16 CFR 14.2.

[4] Unfortunately, seeking public comment would not permit the Commission to count the repeal and revision of these guides and interpretive rules in its tally of completed actions in the Regulatory Reinvention Initiative Report that will be sent to the President on August 1, 1995, but perhaps that harm could be mitigated by reporting to the President that the Commission is seeking public comment concerning repeal or revision.

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[Public Notice 2238]

Visas: Documentation of Nonimmigrants Under the Immigration and Nationality Act, as Amended; Business and Media Visas

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Final rule.

SUMMARY: This rule implements the provisions of section 209 of the Immigration Act of 1990. This section creates a new nonimmigrant classification under INA 101(a)(15)(R). The new nonimmigrant visa classification provides for the temporary admission into the United States of ''aliens in religious occupations.''

DATES: August 15, 1995.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel, Chief, Legislation and Regulations Division, 202–663–1204.

SUPPLEMENTARY INFORMATION: On January 6, 1992, at 57 FR 341, the Department of State published an interim rule in the **Federal Register** and requested comments from interested parties by February 5, 1992. The Visa Office received six comments on the interim rule and considered each one of the comments in the preparation of the final rule.

General

As explained in the preamble to the interim rule, the Immigration Act of 1990, Public Law 101–649, amended INA 101(a)(27)(C) and created INA 101(a)(15)(R). The substantive standards for the nonimmigrant and immigrant provisions are the same with the exception that the immigrant category requires that the immigrant alien must have been performing out one of the vocations and activities listed in INA 101(a)(27)(C) during the 2 years immediately preceding the petition for special immigrant status. A significant procedural difference between the nonimmigrant visa classification and the special immigrant category lies in the fact that a petition must be filed with and approved by the Immigration and Naturalization Service (INS) to accord special immigrant status. Although no petition is required to establish entitlement under the ''R'' visa classification, the applicable standards common to the two visas must be applied by the INS and the Department

of State. It is essential, therefore, that the standards be the same. To ensure that the regulatory standards were indeed the same, the publication of the Department's interim rule was delayed until the publication on December 27, 1991 of INS' final rule relating to the ''R'' visa. A comparison of the two regulations reveals that the language of the portions common to both agencies is almost identical.

Comments

One commenter objected to the rule being published as an interim rule rather than as a proposed rule. The commenter expressed concern that the interim rule was published prior to the solicitation of public comments rather than afterward. He saw this as a violation of the Administrative Procedure Act, 5 U.S.C. 551 et seq. Section 553(b)(3) of the Administrative Procedure Act exempts Federal agencies from the more extensive notice requirements of proposed rule making when such notice is ''impracticable * * * or contrary to the public interest.'' As the commenter correctly pointed out, however, where a Federal agency finds that proposed rule making is ''contrary to the public interest,'' section 553(b)(3)(B) requires the Federal agency to provide a statement of reasons for that finding. Although the Department failed to provide such a statement when it published the interim rule, the Department believes that the public interest standard was, in fact, met. The Department sought to publish a regulation governing the issuance of R visas as soon as possible as the INS final rule on R visas (upon which our regulations are dependent) had been published on December 27, 1991. The Department sought prompt publication of this rule to ensure consistency. This interim rule also called for public comment, soliciting comments for any possible amendments in the final rule.

The Department received one comment concerning the definition of religious denomination at § 41.58(b). The commenter made the point that the use of the word ''interdenominational'' may cause ambiguity. Consequently, it was suggested that either ''interdenominational'' be deleted or that the sentence be amended to read ''interdenominational as well as religious organizations.'' The purpose of the use of the term ''interdenominational'' is to be expansive and to include not just single religious groups, i.e., denominations, but also, those entities which consist of two or more religious groups. As the language of the interim rule conveys the intended meaning, it will be retained in the final rule.

One commenter suggested that the definition of ''bona fide nonprofit religious organization in the United States'' is too narrow. The interim rule defines such organization as one which has been found to be tax exempt as described in section 501(c)(3) of the Internal Revenue Code of 1986, as it relates to religious organizations, or as an organization which would in the opinion of a consular officer be eligible for such tax exempt status had application been made. The commenter stated that the definition was overly restrictive for four reasons: first, the statute does not require that definitional standard; secondly, the rule conflicts with agency policy; thirdly, the rule conflicts with legislative history; and fourthly, the tax exempt status is not a viable means to determine nonprofit status. The Immigration Act of 1990 amended the definition of a religious organization by adding a specific reference to the tax exempt provisions of the Internal Revenue Code. Formerly, INA 101(a)(27)(C) required the applicant to submit proof of tax exempt status as accorded by the IRS. Practice has found that this is the most viable way to address the issue of qualifying organizations. The definition of religious organization in connection with the Internal Revenue Code is, therefore, entirely consistent with the plain language of INA 101(a)(15)(R). Consequently, the regulation has not been amended in this regard.

A commenter objected to language in the supplementary information preceding the interim rule that an affiliated organization to the religious organization, defined in § 41.58(d), be ''subordinate or dependent.'' It should be noted that the language of the final rule is consistent with INS' final rule and does not include this requirement. The supplementary information inaccurately characterized the definition of an affiliated organization.

One commenter objected to the requirement that a professional religious worker (§ 41.58(f)) possess at least a U.S. baccalaureate degree or its foreign equivalent. The commenter claimed that because there is no degree requirement in the Act, there can be no statutory basis for instituting such a requirement. The commenter also contended that the ''R'' classification encompasses credentials and experience that are less quantifiable than their counterparts in other nonimmigrant visa categories. The thrust of the argument is that degree equivalence in the form of experience, etc. should be permitted for religious workers. On the other hand, a commenter opined that the proposed definition of professional capacity was not restrictive enough.

The INS addressed these same issues in the supplementary information to their final rule. We are in accord with that agency's reasoning and conclusion and retain the language in the final rule. This language is consistent with INS' regulations for the ''R'' visa as well as the immigrant religious worker visa category. In addition to ministers of religion the statute provides for two classes of religious workers; those working in a religious vocation or occupation and those working in a religious vocation or occupation in a professional capacity. The distinguishing feature between these two classes of religious workers lies obviously in the element of ''professional capacity''. By making this distinction, it is assumed that Congress intended that there be a difference in meaning. The only reasonable meaning lies in defining professional capacity in the manner that is reflected in the regulation. The statute has defined ''profession'' in INA 101(a)(32) and has defined ''professional'' at INA 203(b)(3)(A). In the latter provision the statute requires the professional to have a baccalaureate degree, thus shedding light on congressional intent in the religious worker context. To accept the proposal about equivalency would remove any meaningful distinction between these two classes of religious workers. Religious workers who have experience in lieu of a baccalaureate degree would qualify under the general class of religious workers involved in a religious vocation or occupation. It should be noted that foreign degrees equivalent to the U.S. baccalaureate are recognized and accepted.

One commenter suggests that the ''traditional'' religious function should be liberally construed. The commenter is apparently referring to § 41.58(g) and is not requesting any regulatory change but is merely expressing the view that in implementing this subsection the Department interpret this concept ''liberally.'' Consular officers will be instructed to interpret this term contextually. The occupational activity must be reviewed in the context of the particular religion to determine if it is a ''traditional'' activity for that religion. No change in the regulation is, therefore, necessary.

The Department received a comment stating that the definition of ''religious occupation'' (at § 41.58(g)) was overly broad, specifically citing the list of the activities in subsection (g). It is crucial to note that the list of activities set forth in the regulation exactly mirrors the list

of activities that the House Committee on the Judiciary deemed were activities falling within the ambit of religious occupation. in their legislative history at H.R. 101–723, p. 75. The legislative history emphasizes that these activities must ''relate to traditional religious functions.'' This qualifying element has, therefore, been incorporated into the regulation.

A commenter asked that the rule expressly recognize any combination of religious workers' duties to satisfy the employment requirement. The commenter argued that since religious worker positions often involve a wide array of duties and responsibilities and such positions will not fall cleanly within the parameters of any of the three religious worker subcategories, recognition for ''hybrid'' vocations and occupations should be accorded generally under this classification. The Department's responsibility is to administer this section of the INA as written. Visa applicants must demonstrate that they qualify under one of the three subcategories. The language of the statute and regulations defining religious occupation and religious vocation appear to be sufficiently broad to encompass the type of occupations which appear to be contemplated by the commenter. Nothing in the regulations limits a ''religious occupation'' to a single activity. The activities comprising the occupation must, however, ''relate to a traditional religious function.''

A commenter objected to language in the supplementary information to the interim rule describing religious vocation. The supplementary information states that ''an alien who has taken vows or the equivalent and has made a lifetime commitment to a religion is presumed to be engaging in activities relating to a traditional religious function . . .''. As pointed out by the commenter, in its final rule INS stated that the calling to religious life is ''evidenced by the demonstration of commitment practiced in the religious denomination.'' The Department's interim rule and the final regulation use the same language and endorse this concept. The language in the supplementary information in the interim rule is much more restrictive and inconsistent with this regulatory language.

Lastly, a commenter asserted that a petition is required to accord ''R'' visa status. Because a petition is required to be filed with and approved by the INS as a condition precedent to visa application and issuance for certain nonimmigrant worker visa classifications, the commenter believed the petition requirement applied to this classification as well. The INA in section 214 specifically requires the filing of a petition with INS regarding H, L, O, P, and Q visa classifications. However, Congress did not impose such a requirement with respect to the ''R'' visa classification. Consequently, no petition requirement will be imposed for this visa classification under the current state of the law.

Final Rule

This final rule provides the general requirements of this nonimmigrant classification in paragraph § 41.58(a); defines terms for this classification in paragraphs (b) through (g); and, prohibits, in paragraph (h), the issuance of an ''R'' visa to an alien who has spent five years in the United States in the ''R'' classification unless the alien has been resident and physically present outside the United States for the immediate preceding year.

This rule is not considered to be a major rule for purposes of E.O. 12291 nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This rule imposes no reporting or record-keeping action from the public requiring the approval of the Office of Management and Budget under the Paperwork Reduction Act requirements. This rule has been reviewed as required by E.O. 12778 and certified to be in compliance therewith, and reviewed in light of E.O. 12866 and found to be consistent therewith.

List of Subjects in 22 CFR Part 41

Aliens in religious occupations, Nonimmigrants, Passports and visas, Religious organizations.

In view of the legislative mandate of Public Law 101–649, Part 41 to Title 22 is amended by adding new section 41.58.

PART 41—[AMENDED]

1. The authority citation for Part 41 continues to read:

Authority: 8 U.S.C. 1104.

2. Part 41, Subpart F—Business and News Media, is amended by adding § 41.58 to read as follows:

§ 41.58 Aliens in religious occupations.

(a) Requirements for ''R'' classification. An alien shall be classifiable under the provisions of INA 101(a)(15)(R) if:

(1) The consular officer is satisfied that the alien qualifies under the provisions of that section; and

(2) The alien, for the 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States; and

(3) The alien seeks to enter the United States solely for the purpose of

(i) Carrying on the vocation of a minister of that religious denomination, or

(ii) At the request of the organization, working in a professional capacity in a religious vocation or occupation for that organization, or

(iii) At the request of the organization, working in a religious vocation or occupation for the organization, or for a bona fide organization which is affiliated with the religious denomination described in section 501(c)(3) of the Internal Revenue Code of 1986; and

(4) The alien is seeking to enter the United States for a period not to exceed 5 years to perform the activities described in paragraph (3) of this section; or

(5) The alien is the spouse or child of an alien so classified and is accompanying or following to join the principal alien.

(b) Religious denomination. A religious denomination is a religious group or community of believers. Among the factors that may be considered in determining whether a group constitutes a bona fide religious denomination are the presence of some form of ecclesiastical government, a recognized creed and form of worship, a formal code of doctrine and discipline, religious services and ceremonies, established places of religious worship, and religious congregations. For purposes of this definition, an interdenominational religious organization which is exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 will be treated as a religious denomination.

(c) Bona fide nonprofit religious organization in the United States. For purposes of this section, a bona fide nonprofit religious organization is an organization exempt from taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986, as it relates to religious organizations, or one that has never sought such exemption but establishes to the satisfaction of the consular officer that it would be eligible therefore if it had applied for tax exempt status.

(d) Bona fide organization which is affiliated with the religious denomination. A bona fide organization affiliated with the religious denomination is an organization which is both closely associated with the religious denomination and exempt

from taxation as described in section 501(c)(3) of the Internal Revenue Code of 1986, as it relates to religious organizations.

(e) Minister of religion. A minister is an individual who is duly authorized by a recognized religious denomination to conduct religious worship and to perform other duties usually performed by authorized members of the clergy of that religion. A minister does not include a lay preacher who is not authorized to perform such duties. In all cases, there must be a reasonable connection between the activities performed and the religious calling of a minister.

(f) Professional capacity. Working in a professional capacity means engaging in an activity in a religious vocation or occupation which is defined by INA 101(a)(32) or for which the minimum of a United States baccalaureate degree or a foreign equivalent degree is required for entry into that field of endeavor.

(g) Religious occupation. A religious occupation is the habitual employment or engagement in an activity which relates to a traditional religious function. Examples of individuals in religious occupations include, but are not limited to liturgical workers, religious instructors, religious counselors, cantors, catechists, workers in religious hospitals or religious health care facilities, missionaries, religious translators, or religious broadcasters. This group does not include janitors, maintenance workers, clerks, fund raisers, or persons solely involved in the solicitation of donations.

(h) Religious vocation. A religious vocation is a calling to religious life evidenced by the demonstration of commitment practiced in the religious denomination, such as the taking of vows. Examples of individuals with a religious vocation include, but are not limited to nuns, monks, and religious brothers and sisters.

(i) Alien not entitled to classification under INA 101(a)(15)(R). An alien who has spent 5 years in the United States under INA 101(a)(15)(R) is not entitled to classification and visa issuance under that section unless the alien has resided and been physically present outside the United States, except for brief visits to the United States for business or pleasure, for the immediate prior year.

Dated: August 9, 1995.

Diane Dillard,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 95–20139 Filed 8–14–95; 8:45 am]

BILLING CODE 4710–06–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2619 and 2676

Valuation of Plan Benefits in Single-Employer Plans; Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Amendments Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits in Single-Employer Plans and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal. The former regulation contains the interest assumptions that the PBGC uses to value benefits under terminating single-employer plans. The latter regulation contains the interest assumptions for valuations of multiemployer plans that have undergone mass withdrawal. The amendments set out in this final rule adopt the interest assumptions applicable to single-employer plans with termination dates in September 1995, and to multiemployer plans with valuation dates in September 1995. The effect of these amendments is to advise the public of the adoption of these assumptions.

EFFECTIVE DATE: September 1, 1995.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION: This rule adopts the September 1995 interest assumptions to be used under the Pension Benefit Guaranty Corporation's regulations on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619, the ''single-employer regulation'') and Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676, the ''multiemployer regulation'').

Part 2619 sets forth the methods for valuing plan benefits of terminating single-employer plans covered under title IV of the Employee Retirement Income Security Act of 1974, as amended. Under ERISA section 4041(c), all single-employer plans wishing to terminate in a distress termination must value guaranteed benefits and ''benefit liabilities,'' *i.e.,* all benefits provided under the plan as of the plan termination date, using the formulas set forth in part 2619, subpart C. (Plans terminating in a standard termination may, for purposes of the Standard Termination Notice filed with PBGC, use these formulas to value benefit liabilities, although this is not required.) In addition, when the PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart C formulas to determine the amount of the plan's underfunding. Part 2676 prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of ERISA.

Appendix B to part 2619 sets forth the interest rates and factors under the single-employer regulation. Appendix B to part 2676 sets forth the interest rates and factors under the multiemployer regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The PBGC issues two sets of interest rates and factors, one set to be used for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. The same assumptions apply to terminating single-employer plans and to multiemployer plans that have undergone a mass withdrawal. This amendment adds to appendix B to parts 2619 and 2676 sets of interest rates and factors for valuing benefits in single-employer plans that have termination dates during September 1995 and multiemployer plans that have undergone mass withdrawal and have valuation dates during September 1995.

For annuity benefits, the interest rates will be 6.40% for the first 20 years following the valuation date and 5.75% thereafter. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 5.00% for the period during which benefits are in pay status, 4.25% during the seven-year period directly preceding the benefit's placement in pay status, and 4.0% during any other years preceding the benefit's placement in pay status. The above annuity interest assumptions represent an increase (from those in effect for August 1995) of .20 percent for the first 20 years following the valuation date and are otherwise unchanged. The lump sum interest assumptions represent an increase (from those in effect for August 1995) of .25 percent of the period during which benefits are in pay status and the seven years directly preceding that period. They are otherwise unchanged.

Generally, the interest rates and factors under these regulations are in effect for at least one month. However,

the PBGC publishes its interest assumptions each month regardless of whether they represent a change from the previous month's assumptions. The assumptions normally will be published in the **Federal Register** by the 15th of the preceding month or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on these amendments are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates and factors can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in single-employer plans whose termination dates fall during September 1995, and in multiemployer plans that have undergone mass withdrawal and have valuation dates during September 1995, the PBGC finds that good cause exists for making the rates and factors set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866, because it will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a spector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 2619

Employee benefit plans, Pension insurance, and Pensions.

29 CFR Part 2676

Employee benefit plans and Pensions.

In consideration of the foregoing, parts 2619 and 2676 of chapter XXVI, title 29, Code of Federal Regulations, are hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for part 2619 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. In appendix B, Rate Set 23 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both tables is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2619—Interest Rates Used To Value Lump Sums and Annuities

Lump Sum Valuations

In determining the value of interest factors of the form $v^{0:n}$ (as defined in § 2619.49(b)(1)) for purposes of applying the formulas set forth in § 2619.49 (b) through (i) and in determining the value of any interest factor used in valuing benefits under this subpart to be paid as lump sums (including the return of accumulated employee contributions upon death), the PBGC shall employ the value of i_t set out in Table I hereof as follows:

(1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply.

(2) For benefits for which the deferral period is y years (y is an integer and $0<y\leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years; thereafter the immediate annuity rate shall apply.

(3) For benefits for which the deferral period is y years (y is an integer and n_1 $y<n_1+n_2$), interest rate i_2 shall apply from the valuation date for a period of $y-n_1$ years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

(4) For benefits for which the deferral period is y years (y is an integer and $<y\leq n_1+n_2$), interest rate i_3 shall apply from the valuation date for a period of $y-n_1-n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

TABLE I

[Lump sum valuations]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
* * * * * * *								
23	9–1–95	10–1–95	5.00	4.25	4.00	4.00	7	8

Annuity Valuations

In determining the value of interest factors of the form $V^{0:n}$ (as defined in § 2619.49(b)(1)) for purposes of applying the formulas set forth in § 2619.49 (b) through (i) and in determining the value of any interest factor used in valuing annuity benefits under this subpart, the plan administrator shall use the values of i_t prescribed in Table II hereof.

The following table tabulates, for each calendar month of valuation ending after the effective date of this part, the interest rates (denoted by i_1, i_2, * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.

TABLE I

[Lump sum valuations]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	
* * *	*	*	*	*		
September 1995	.0640	1–20	.0575	>20	N/A	N/A

PART 2676—[AMENDED]

3. The authority citation for part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), 1441(b)(1).

4. In appendix B, Rate Set 23 is added to Table I, and a new entry is added to Table II, as set forth below. The introductory text of both table is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 2676—Interest Rates Used To Value Lump Sums and Annuities

Lump Sum Valuations

In determining the value of interest factors of the form $v_0^{:n}$ (as defined in § 2676.13(b)(1)) for purposes of applying the formula set forth in § 2676.13 (b) through (i) and in determining the value of any interest factor used in valuing benefits under this subpart to be paid as lump sums, the PBGC shall use the values of i_t prescribed in Table I hereof. The interest rates set forth in Table I shall be used by the PBGC to calculate benefits payable as lump sum benefits as follows:

(1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply.

(2) For benefits for which the deferral period is y years (y is an integer and $0<y\leq n_1$), interest rate i_l shall apply from the valuation date for a period of y years; thereafter the immediate annuity rate shall apply.

(3) For benefits for which the deferral period is y years (y is an integer and $n_1<y\leq n_1+n_2$), interest rate i_2 shall apply from the valuation date for a period of $y-n_1$ years, interest rate i_1 shall apply for the following n_1 years; thereafter the immediate annuity rate shall apply.

(4) For benefits for which the deferral period is y years (y is an integer and $y>n_1+n_2$), interest rate i_3 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_l shall apply for the following n_l years; thereafter the immediate annuity rate shall apply.

TABLE I

[Lump sum valuations]

Rate set	For plans with a valuation date		Before	Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after				i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*	*	*	
23	9–1–95		10–1–95	5.00	4.25	4.00	4.00	7	8

Annuity Valuations

In determining the value of interest factors of the form $V^{0:n}$ (as defined in § 2676.13(b)(1)) for purposes of applying the formulas set forth in § 2676.13(b) through (i) and in determining the value of any interest factor used in valuing annuity benefits under this subpart, the plan administrator shall use the values of i_t prescribed in the table below.

The following table tabulates, for each calendar month of valuation ending after the effective date of this part, the interest rates (denoted by i_1, i_2, * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.

Table II

[Annuity valuations]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* * *	*	*	*	*		
September 1995	.0640	1–20	.0575	>20	N/A	N/A

Issued in Washington, DC, on this 8th day of August 1995.

Martin Slate,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 95–20141 Filed 8–14–95; 8:45 am]

BILLING CODE 7708–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

Alabama Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Alabama abandoned mine land reclamation plan (hereinafter referred to as the ''Alabama plan'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Alabama proposed revisions and additions to its plan pertaining to contractor bidder eligibility screening, exclusion of certain noncoal sites from reclamation, requirement of form submission upon project completion, and removal of fourth priority for noncoal reclamation sites. The amendment is intended to revise the Alabama plan to be consistent with the corresponding Federal regulations and SMCRA.

EFFECTIVE DATE: August 15, 1995.

FOR FURTHER INFORMATION CONTACT: Jesse Jackson, Jr., Director, Birmingham Field Office, OSM, 135 Gemini Circle, Suite 215, Birmingham, Alabama 35209, Telephone: (205) 290–7287.

SUPPLEMENTARY INFORMATION:

I. Background on the Alabama Plan.
II. Submission of the Proposed Amendment.
III. Director's Findings.
IV. Summary and Disposition of Comments.
V. Director's Decision.
VI. Procedural Determinations.

I. Background on the Alabama Plan

On May 20, 1982, the Secretary of the Interior approved the Alabama plan. Background information on the Alabama plan, including the Secretary's findings, the disposition of comments, and the approval of the plan can be found in the May 20, 1982, **Federal Register** (47 FR 22062). Subsequent actions concerning the conditions of approval and amendments to the plan can be found at 30 CFR 901.25.

II. Submission of the Proposed Amendment

By letter dated December 5, 1994 (Administrative Record No. AL–512), Alabama submitted a proposed amendment to its plan pursuant to SMCRA in response to a September 2, 1994, letter that OSM sent to Alabama in accordance with 30 CFR 884.15(d). Alabama proposed to amend two sections of its plan. At ''Administrative and Management Structure of the Alabama Abandoned Mine Land Reclamation Program Pursuant to 30 CFR Part 884.13(d),'' Alabama proposed to incorporate a contractor responsibility requirement under OSM's Applicant Violator System (AVS) for the reclamation of coal and noncoal sites. At ''Ranking and Selection Procedures Pursuant to 30 CFR Part 884.13(c)(2),'' Alabama proposed to exclude certain noncoal sites from reclamation and require submission of form OSM–76 upon project completion.

OSM announced receipt of the proposed amendment in the December 19, 1994, **Federal Register** (59 FR 65287), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on January 18, 1995.

During its review of the amendment, OSM identified concerns relating to Alabama's organizational chart, personnel positions, identification of agencies, purchasing and procurement functions, resolution of audits, research and development, ranking and selection parameters, site evaluation, and final project selection.

OSM notified Alabama of these concerns by letter dated March 1, 1995 (Administrative Record No. AL–0534). By letters dated March 27, 1995 (Administrative Record No. AL–0535) and April 18, 1995 (Administrative Record No. AL–0539), Alabama responded to OSM's concerns by submitting additional explanatory information and revisions to its proposed plan amendment.

Alabama proposed additional revisions to its administrative and management structure and ranking and selection procedures which are intended to clarify its personnel positions and organizational structure and its procedure for the prioritization and selection of projects.

Because the additional explanatory information and revisions submitted by Alabama merely clarified the provisions of the proposed plan amendment, OSM did not reopen the public comment period.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15, are the Director's findings concerning the proposed amendment.

Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

1. Procedures for Ranking and Selecting Abandoned Mine Land Reclamation Projects

A. *Preliminary Site Evaluation.* Alabama is proposing to revise its ranking and selection procedures for abandoned mine land (AML) reclamation projects. Specifically, at section II(B)2d, Alabama is proposing to delete the requirement that a project be evaluated according to whether or not it will be designated a ''Research and Demonstration Project'' to develop new technology. At section II(B)3d, Alabama is proposing to delete priority 4—Research and Development, and at section II(B)3j, it is proposing to delete priority 10—Public Facilities (Non-Coal).

Section 403(a) of SMCRA defines the priorities for the expenditures of moneys on eligible lands and waters which were mined for coal or affected by such mining. As amended by the Energy Policy Act of 1992, this section no longer authorizes funding of a research and development priority. Sections 411(c) and (e) of SMCRA define the priorities for non-coal sites. The Director finds that the proposed deletions at sections II(B)2d, II(B)3d, and II(B)3j do not render the Alabama program less effective than sections 403(a) and 411(c) and (e) of SMCRA.

B. *Intensive Site Evaluation.* At section II(D), Alabama is proposing to modify its site parameters to correspond with the current list of resource values reviewed under the National Environmental Policy Act, adding the noise and topography parameters.

The Federal regulations at 30 CFR 884.13(c) require that the State provide a description of the policies and procedures it will follow in conducting the reclamation program. The Director finds the proposed revisions at section II(D) to be consistent with the Federal regulations at 30 CFR 884.13(c) and not inconsistent with section 403(a) of SMCRA.

C. *Exclusion of Certain Noncoal Reclamation Sites.* At section II(F), Alabama is proposing to add a new section—Exclusion of Certain Noncoal

Reclamation Sites—which provides that money from the AML reclamation fund not be used for the reclamation of sites and areas designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

The Director finds that the proposed addition at section II(F) is substantively identical to and therefore no less effective than section 411(d) of SMCRA.

D. *Consultation.* At section II(G)6, Alabama is proposing to add to its consultation list regional planning and development districts affected by individual projects and deleting the Alabama Department of Economic and Community Affairs.

The Federal regulations at 30 CFR 884.13(c)(3) and (c)(7) require that the State provide procedures for public participation and involvement in the State reclamation program. The Director finds the proposed revisions at section II(G)6 to be not inconsistent with the Federal regulations at 30 CFR 884.13(c)(3) and (c)(7).

E. *Completion Report.* At section II(I), Alabama is adding the requirement that Form OSM–76, ''Abandoned Mine Land Problem Area Description,'' be submitted upon project completion.

The Federal regulations at 30 CFR 884.13(c) require that the State describe the policies and procedures to be followed in conducting the reclamation program. The Director finds the proposed addition at section II(I) to be consistent with the Federal regulations at 30 CFR 884.13(c) and 30 CFR 886.23(c).

2. Administrative and Management Structure

A. *Personnel.* At section I(C), Alabama is proposing to revise its listing of job titles to include ''Abandoned Mine Land Chief Planner'' and delete ''Right-of-Way Specialist III.'' Other minor changes to its job classification system have also been made.

B. *Personnel Policies.* At section III, Alabama is proposing to revise its personnel policies to make non-substantive wording changes.

C. *Purchasing and Procurement Policies.* At section V, Alabama is proposing to require that to receive AML funds for coal or noncoal reclamation, every successful bidder for an AML contract must be eligible under 30 CFR 773.15(b)(1) (Review of Violations) at the time of contract award to receive a permit or conditional permit to conduct surface coal mining operations. Bidder eligibility must be confirmed by OSM's AVS.

The Federal regulations at 874.16 and 875.20 require that successful bidders for an AML contract must be eligible under 30 CFR 773.15(b) at the time of contract award to receive a permit to conduct surface coal mining operations. Bidder eligibility must be confirmed by OSM's AVS for each contract to be awarded. The Director finds the changes at sections I and III are consistent with requirements found at 30 CFR 884.13(d)(2) and (3). The Director finds the proposed revisions at section V to be consistent with the Federal regulations at 30 CFR 874.16 and 875.20.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No public comments were received, and because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

Pursuant to 884.14(a)(2) and 884.15(a), the Director solicited comments on the proposed amendment from various other Federal agencies with an actual or potential interest in the Alabama plan. The Department of the Interior, Bureau of Mines; the Department of the Army, Corps of Engineers; and the Department of Agriculture, Natural Resources Conservation Service concurred without comment.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), the Director solicited the written concurrence of the Administrator of the EPA with respect to those provisions of the proposed plan amendment which relate to air or water quality standards promulgated under the authority of the Clean Air Act (42 U.S.C. 7401 *et seq.*) or the Clean Water Act (33 U.S.C. 1252 *et seq.*). None of the revisions that Alabama proposed to make in its amendment pertain to air or water quality standards. Therefore, no response was received from EPA, neither was one necessary.

V. Director's Decision

Based on the above findings, the Director approves the proposed plan amendment as submitted by Alabama on December 5, 1994, and as revised on March 27, 1995, and April 18, 1995.

VI. Procedural Determinations.

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State and Tribal abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and adopted by a specific State or Tribe, not by OSM. Decisions on proposed State and Tribal abandoned mine land reclamation plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and the Federal regulations at 30 CFR Parts 884 and 888.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State and Tribal abandoned mine land reclamation plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior [516 DM 6, appendix 8, paragraph 8.4B(29)].

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 *et seq.*

Regulatory Flexibility Act

The Department of the Interior has determined 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.*). The submittal which is the subject to this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented. In making the

determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analysis for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 901

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 3, 1995.

Brent Wahlquist,

Regional Director Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 901—ALABAMA

1. The authority citation for Part 901 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 901.25 is amended to add paragraph (e) to read as follows:

§ 901.25 Amendment to approved Alabama abandoned mine land reclamation plan.

* * * * *

(e) The Alabama amendment pertaining to the Alabama abandoned mine land reclamation plan, as submitted to OSM on December 5, 1994, and revised on March 27, 1995, and April 18, 1995, is approved effective August 15, 1995.

[FR Doc. 95–19981 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE TREASURY

31 CFR Part 0

Department of the Treasury Employee Rules of Conduct

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: On Thursday, June 1, 1995, the Department of the Treasury published the Employee Rules of Conduct as an interim rule. The rule became effective upon publication and comments were invited from the public until July 3, 1995. The Department did not receive any comments on the interim rule. Accordingly, the Department adopts the interim rule as a final rule without amendment.

EFFECTIVE DATE: This rule is effective as a final rule on August 15, 1995.

FOR FURTHER INFORMATION CONTACT: Stephen J. McHale, Henry H. Booth, or R. Peter Rittling, Office of the Assistant General Counsel (General Law and Ethics), Department of the Treasury, telephone (202) 622–0450, FAX (202) 622–1176, e-mail Peter.Rittling@treas.sprint.com.

SUPPLEMENTARY INFORMATION:

I. Matters of Regulatory Procedure

Executive Order 12866, Regulatory Planning and Review

This rule is limited to agency organization, management and personnel matters; therefore, it is not subject to Executive Order 12866.

Regulatory Flexibility Act

It is hereby certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. This rule affects only Federal employees.

List of Subjects in 31 CFR Part 0

Government employees.

Dated: August 8, 1995.

Edward S. Knight,

General Counsel, Department of the Treasury.

PART 0—DEPARTMENT OF THE TREASURY EMPLOYEE RULES OF CONDUCT

The interim rule revising 31 CFR Part 0 which was published at 60 F.R. 28535, on June 1, 1995, is adopted as a final rule without change.

Authority: 5 U.S.C. 301.

[FR Doc. 95–19990 Filed 8–14–95; 8:45 am]

BILLING CODE 4810–25–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH40–1–5784a; AD–FRL–5276–7]

Approval and Promulgation of Small Business Assistance Program; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is approving the State Implementation Plan (SIP) revision submitted by the State of Ohio for the purpose of establishing a Small Business Assistance Program (SBAP). The implementation plan was submitted by the State to satisfy the Federal mandate, found in section 507 of the Clean Air Act (CAA), to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the CAA.

DATES: This action will be effective October 16, 1995 unless notice is received by September 14, 1995, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal and USEPA's technical support document are available for inspection during normal business hours at the following location: Regulation Development Section, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Regulation Development Branch, Regulation Development Section (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone (312) 886–6067.

SUPPLEMENTARY INFORMATION:

I. Background

Implementation of the provisions of the Clean Air Act (CAA), as amended in 1990, will require regulation of many small businesses, both to provide for attainment of the national ambient air quality standards (NAAQS) in the areas in which they are located and to reduce the emission of air toxics. Small businesses frequently lack the technical expertise and financial resources necessary to evaluate such regulations and to determine the appropriate mechanisms for compliance. In anticipation of the impact of these requirements on small businesses, the CAA requires that States adopt a Small Business Assistance Program (SBAP) and submit this SBAP as a revision to the Federally approved SIP. In addition, the CAA directs the USEPA to oversee these small business assistance programs and report to Congress on their implementation.

The requirements for establishing a SBAP are set out in section 507 of the CAA. In January 1992, USEPA issued Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments, in order to delineate the Federal and State roles in meeting the new statutory provisions and to provide further guidance to the States on submitting acceptable SIP revisions. This guidance specifies that the State submittal must provide for each of the

following SBAP elements: (1) the establishment of a SBAP to provide technical and compliance assistance to small businesses; (2) the establishment of a State Small Business Ombudsman to represent the interests of small businesses in the regulatory process; and (3) the creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP.

Ohio's initial submittal addressing SBAP requirements was a commitment and schedule submitted to USEPA on January 8, 1993. More complete descriptions of the planned program were submitted on November 10, 1993, and May 17, 1994. USEPA expressed concern that Ohio was including unacceptable provisions for confidentiality of emissions data. After considerable discussion of this issue, USEPA issued revised guidance on August 12, 1994, providing two new alternatives by which sources would not be ''penalized'' (via added enforcement action or adverse publicity) for seeking SBAP assistance and yet by which appropriate enforcement under Sections 113 and 114 may properly proceed. Ohio submitted a further refinement of its SBAP in accordance with this policy on May 4, 1995. The following section evaluates whether these submittals satisfy the requirements for SBAP programs.

II. Evaluation of State Submittals

A. Assistance to be Provided to Small Businesses

Six of the seven requirements set forth in section 507(a) specify types of assistance that the State must provide to have an approvable SBAP. (The seventh requirement of section 507(a), establishment of an Ombudsman office, is discussed in the next section.) (1) The State must establish adequate mechanisms for developing, collecting and coordinating information concerning compliance methods and technologies for small business stationary sources and programs to encourage lawful cooperation among such sources and other persons to further compliance with the Act; (2) The State must establish adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products and methods of operation that help reduce air pollution; (3) The State must develop a compliance and technical assistance program for small business stationary sources which assists small businesses in determining applicable requirements and in receiving permits under the Act in a timely and efficient manner; (4) The State must develop adequate mechanisms to assure that small business stationary sources receive notice of their rights under the Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standards issued under the Act; (5) The State must develop adequate mechanisms for informing small business stationary sources of their obligations under the Act, including mechanisms for referring such sources to qualified auditors or, at the option of the State, for providing audits of the operations of such sources to determine compliance with the Act; and (6) The State must develop procedures for consideration of requests from a small business stationary source for modification of (a) any work practice or technological method of compliance, or (b) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source.

Ohio's submittals specify suitable mechanisms its SBAP will use to be able to satisfy these requirements. Ohio is operating its SBAP as part of the Division of Air Pollution Control of the Ohio Environmental Protection Agency (OEPA). As a result, SBAP staff will have direct access to the expertise of OEPA staff in order to provide small businesses the information on compliance techniques, applicable requirements, technical information on efficient and effective means of achieving compliance, pollution prevention opportunities, and other information small businesses need to achieve and maintain compliance. The SBAP will also provide audits where appropriate.

B. Ombudsman.

Section 507(a)(3) requires the designation of a State office to serve as the Ombudsman for small business stationary sources. Ohio has established an Ombudsman's office at the Ohio Air Quality Development Authority (OAQDA). The OAQDA is a financing agency for industries that are trying to meet pollution control requirements. It was established by the Ohio General Assembly in 1970 as an independent organization. OAQDA's current work has given it expertise in complicated technical issues. The OAQDA has hired personnel to develop and execute the program and will implement the functions set forth in USEPA's guidance.

C. Compliance Advisory Panel.

Section 507(e) requires the State to establish a Compliance Advisory Panel (CAP) that must include two members selected by the Governor who are not owners or representatives of owners of small businesses; four members selected by the State legislature who are owners, or represent owners, of small businesses; and one member selected by the head of the agency in charge of the Air Pollution Permit Program. The State has committed to establish a CAP according to the methods set forth in section 507(e) of the CAA.

In addition to establishing the minimum membership of the CAP the CAA delineates four responsibilities of the Panel: (1) To render advisory opinions concerning the effectiveness of the SBAP, difficulties encountered and the degree and severity of enforcement actions; (2) to periodically report to USEPA concerning the SBAP's adherence to the principles of the Paperwork Reduction Act, the Equal Access to Justice Act, and the Regulatory Flexibility Act [1]; (3) to review and assure that information for small business stationary sources is easily understandable; and (4) to develop and disseminate the reports and advisory opinions made through the SBAP. The State has committed to meet these requirements by establishing the Panel and assigning the Panel functions as set forth in section 507(e) of the CAA.

D. Eligibility

Section 507(c)(1) of the CAA defines the term ''small business stationary source'' as a stationary source that:

1. Is owned or operated by a person who employs 100 or fewer individuals;
2. Is a small business concern as defined in the Small Business Act;
3. Is not a major stationary source;
4. Does not emit 50 tons per year (tpy) or more of any regulated pollutant; and
5. Emits less than 75 tpy of all regulated pollutants.

Ohio defines the number of employees on a full-time equivalent basis, which results in availability of small business assistance to slightly more companies than would be the case with a definition on a number of people employed basis.

[1] Section 507(e)(1)(B) requires the CAP to report on the compliance of the SBAP with these three Federal statutes. However, since State agencies are not required to comply with them, EPA believes that the State SBAP must merely require the CAP to report on whether the SBAP is adhering to the general principles of these Federal statutes.

USEPA permits States to grant SBAP eligibility to sources that do not meet the criteria of sections 507(c)(1) (C), (D), and (E) of the CAA but do not emit more than 100 tpy of all regulated pollutants. Ohio has chosen to grant such eligibility if its resources are underutilized.

USEPA also permits States to exclude from the small business stationary source definition, after consultation with the USEPA and the Small Business Administration Administrator and after providing notice and opportunity for public comment, any category or subcategory of sources that the State determines to have sufficient technical and financial capabilities to meet the requirements of the CAA. Ohio's plan contains provisions to exclude such sources.

E. Schedule

The State submitted a detailed schedule for implementation of its SBAP, including milestones for adoption of legislation, adoption of SIP elements, hiring of staff, and other actions necessary to initiate SBAP operations. These dates have now passed, and Ohio has completed its commitments sufficiently to begin providing assistance to small businesses.

F. Confidentiality

An important issue for SBAPs in general, and Ohio's SBAP in particular, is the extent to which the State may promise sources seeking SBAP assistance that the information the State obtains will be kept confidential. On the one hand, sources may choose not to seek the benefits of SBAP assistance without being assured that they will not be penalized for seeking that assistance, whether by becoming subject to enforcement action that they would not otherwise have encountered or by receiving adverse publicity for noncompliance. On the other hand, Section 114 of the CAA specifically provides that emissions data shall not be kept confidential, and a source must not be shielded from enforcement action simply by having requested SBAP assistance.

A review by USEPA of earlier Ohio's SBAP submittals, documented in a technical support document dated April 21, 1994, concluded that Ohio's legislation and program description granted excessive confidentiality, including confidentiality of emissions data, and thereby contravened Section 114 of the CAA and USEPA's guidance on the proper balance between confidentiality and enforcement. After further consideration of the confidentiality issue, USEPA established a revised policy on this issue by a memorandum dated August 12, 1994. The revised policy provides two new options designed to balance the needs of sources (which need to believe they will not be penalized for seeking SBAP assistance) with the needs of USEPA's enforcement and compliance assurance program. The first option under the revised policy, labeled the ''correction period option,'' allows States in specified circumstances to give small businesses up to 90 days to correct violations discovered during SBAP assistance. The second option, labeled the ''confidentiality option,'' allows States with separation between their SBAP and their enforcement program to have the SBAP keep the identity of noncomplying sources confidential, though the SBAP is to provide statistical and other summary information to the enforcement program, and the State is to retain the option of taking enforcement action considering whether SBAP participation reflects good faith effort to achieve compliance.

Ohio has adopted the ''confidentiality option.'' In its description of its SBAP, by memorandum dated April 27, 1995, Ohio uses language very similar to that given in USEPA's policy to describe how it will handle information obtained as a result of SBAP assistance. Ohio's SBAP ''will keep confidential information regarding violations detected in the program, including names and locations of businesses, [but] will provide emissions data and general statistical information such as the types of noncompliance being encountered.'' In addition, the State reserves the right to conduct follow-up audits to assess program effectiveness. At the same time, Ohio's SBAP description states that ''[Ohio's] enforcement program is not prohibited from taking action against small businesses who are receiving SBAP assistance. However, considering that [enforcement staff] are granted enforcement discretion, the enforcement program may consider a company's good faith efforts to achieve compliance by participating in the SBAP as a mitigating factor in determining the appropriate enforcement response or civil penalty.'' The description concludes that ''The SBAP will act independently of [Ohio's] enforcement program'' but will work with the enforcement program to seek consistency in the compliance advice given. Thus, Ohio's provisions on confidentiality are fully consistent with USEPA's revised policy.

III. Final Action

USEPA concludes that Ohio's SBAP submittals fully satisfy the requirements of Section 507 of the CAA. Because USEPA considers the action noncontroversial and routine, USEPA is taking final action to approve these submittals without prior proposal. This action will become effective on October 16, 1995, unless notice is received by September 14, 1995 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register**.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget exempted this regulatory action from Executive Order 12866 review.

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

USEPA is approving a State program created for the purpose of assisting small businesses in complying with existing statutory and regulatory requirements. The program being approved does not impose any new regulatory burden on small businesses; it is a program under which small businesses may elect to take advantage of assistance provided by the State. Therefore, because USEPA's approval of this program does not impose any new regulatory requirements on small businesses, I certify that it does not have a significant economic impact on any small entities affected. In addition, the statutory and regulatory requirements at issue in this action were in effect prior to January 1, 1996, and are thus not

subject to the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 16, 1995. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Small business assistance program.

Dated: July 28, 1995.

William E. Muno,

Acting Regional Administrator.

Title 40 of the Code of Federal Regulations, chapter I, part 52, is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Authority: 42 U.S.C. 7401–7671q.

Subpart KK—[Amended]

2. Section 52.1889 is added to read as follows:

§ 52.1889 Small business stationary source technical and environmental compliance assistance program.

The Ohio program, submitted as a requested revision to the Ohio State Implementation Plan on May 17, 1994, and May 4, 1995, satisfies the requirements of section 507 of the Clean Air Act.

[FR Doc. 95–20019 Filed 8–14–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 70

[OH001; FRL–5276–9]

Clean Air Act Final Full Approval of Operating Permits Program; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final full approval.

SUMMARY: The EPA is fully approving the operating permits program submitted by the State of Ohio for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: October 1, 1995.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the final full approval are available for inspection during normal business hours at the following location: EPA Region 5, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Steven Pak, EPA Region 5, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1497.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Title V of the Clean Air Act (''the Act'') and implementing regulations at 40 Code of Federal Regulations (CFR) Part 70 require that States develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to two years. If EPA has not fully approved a program by two years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

On April 13, 1995, EPA proposed full approval of the operating permits program for the State of Ohio. See 60 FR 18790. EPA received comments from two organizations on the proposal and is responding to the comments below. EPA has also compiled a Technical Support Document responding to the comments. In this notice, EPA is taking final action to promulgate full approval of the operating permits program for the State of Ohio.

II. Final Action and Implications

A. Analysis of State Submission

On April 13, 1995, EPA proposed full approval of the operating permits program for the State of Ohio. The program elements and issues discussed in the proposal are unchanged since the original analysis in the proposal and the program continues to fully meet the requirements of part 70.

B. Response to Public Comments

EPA received comments from two organizations: Porter, Wright, Morris & Arthur, submitted on behalf of the Ohio Chamber of Commerce, the Ohio Chemical Council, and the Printing Industry of Ohio; and Wright-Patterson Air Force Base in Ohio. Porter, Wright, Morris & Arthur supports EPA's proposed full approval. Wright-Patterson Air Force Base included a list of nine comments on the Ohio operating permits program. Responses to these nine comments follow.

One of the comments questions the approvability of the Ohio operating permits program because the electronic application form currently being developed by the State is ''nothing like'' the application form that the State submitted with its program. The part 70 requirements with respect to application forms deal with application content and not format. These requirements are found at section 70.5(c) and are fully satisfied by the State's regulations. This comment does not alter EPA's approval of the Ohio program because the commentor did not provide any information to indicate that the electronic version of the application form is inconsistent with section 70.5(c), and because the electronic application form to which the commentor refers has not been submitted to EPA for approval and is not an element of this approval.

Five of the comments can be categorized as inquiries and concerns with program implementation. These comments do not deal with program approval requirements under part 70 and do not affect EPA's approval of the Ohio operating permits program. The commentor should approach the State directly with these program implementation questions and concerns.

The remaining three comments express dissatisfaction with the scope of specific provisions in the State's program and could be considered requests for EPA to broaden the scope of the State's program; however, the provisions that the commentor references currently comply with the requirements of part 70. In addition, EPA's role in the approval process is to review and approve or disapprove operating permits programs submitted by States and not to make revisions to those programs. In any case, the commentor should contact the State with requests for program revisions.

C. Final Action

EPA is promulgating full approval of the operating permits program submitted to EPA by the State of Ohio on July 22, 1994, and amended on September 12, 1994; November 21, 1994; December 9, 1994; and January 5, 1995. Among other things, the State of Ohio has demonstrated that the program meets the minimum elements of a State operating permits program as specified in 40 CFR Part 70.

The scope of the State's operating permits program approved in this notice applies to all part 70 sources (as defined in the approved program) within the State of Ohio.

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a State program for delegation of section 112 standards as promulgated by EPA, as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also promulgating full approval under section 112(l)(5) and 40 CFR 63.91 of the State's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the part 70 program.

III. Administrative Requirements

A. Docket

Copies of the State's submittal and other information relied upon for the final full approval, including the two public comments received and reviewed by EPA on the proposal, are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final full approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR Part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates Act

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

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

Dated: July 28, 1995.

William E. Muno,

Acting Regional Administrator.

40 CFR Part 70 is amended as follows:

PART 70—[AMENDED]

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

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

2. Appendix A to part 70 is amended by adding the entry for Ohio in alphabetical order to read as follows:

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

* * * * *

Ohio.

(a) The Ohio Environmental Protection Agency submitted on July 22, 1994; September 12, 1994; November 21, 1994; December 9, 1994; and January 5, 1995; full approval effective on October 1, 1995.

(b) Reserved

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[FR Doc. 95–20169 Filed 8–14–95; 8:45 am]

BILLING CODE 6565–50–P

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40 CFR Part 271

[FRL–5276–6]

South Carolina; Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: South Carolina has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). South Carolina's revisions consist of certain provisions promulgated between July 1, 1984–June 30, 1991, found in Non-HSWA Cluster I through RCRA Cluster I. These requirements are listed in Section B of this notice. The Environmental Protection Agency (EPA) has reviewed South Carolina's applications and has made a decision, subject to public review and comment, that South Carolina's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve South Carolina's hazardous waste program revisions. South Carolina's applications for program revisions are available for public review and comment.

DATES: Final authorization for South Carolina's program revisions shall be effective October 16, 1995 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on South Carolina's program revision applications must be received by the close of business, September 14, 1995.

ADDRESSES: Copies of South Carolina's program revision applications are available during normal business hours at the following addresses for inspection and copying: South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201; U.S. EPA Region 4, Library, 345 Courtland Street, Atlanta, Georgia 30365; (404) 347–4216. Written comments should be sent to Al Hanke at the address listed below.

FOR FURTHER INFORMATION CONTACT: Al Hanke, Chief, State Programs Section, Waste Management Division, U.S. EPA Region 4, 345 Courtland Street, Atlanta, Georgia 30365; (404) 347–2234.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of the Resource Conservation and Recovery Act (''RCRA'' or ''the Act''), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Public Law 98–616, November 8, 1984, hereinafter ''HSWA'') allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive ''interim authorization'' for the HSWA requirements under Section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR Parts 260–268 and 124 and 270.

B. South Carolina

South Carolina initially received final authorization for its base RCRA program effective on November 22, 1985. South Carolina has received authorization for revisions to its program on September 13, 1987, and April 12, 1993. South Carolina most recently received authorization effective January 30, 1995, (59 FR 60910, November 29, 1994). On August 5, 1994, South Carolina submitted a program revision application for additional program approval which addressed concerns with a previous submission. Today, South Carolina is seeking approval of its program revisions in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed South Carolina's application and has made an immediate final decision that South Carolina's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to South Carolina. The public may submit written comments on EPA's immediate final decision up until September 14, 1995.

Copies of South Carolina's application for these program revisions are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

Approval of South Carolina's program revisions shall become effective October 16, 1995, unless an adverse comment pertaining to the State's revisions discussed in this notice is received by the end of the comment period.

If an adverse comment is received EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

EPA shall administer any RCRA hazardous waste permits, or portions of permits, that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization.

South Carolina is today seeking authority to administer the following Federal requirements promulgated between July 1, 1984, and June 30, 1991.

Federal requirement	HSWA or FR notice	Promulgation	State authority
CHECKLIST 11—Corrections to Test Methods Manual	49 FR 47390	12/4/84	SCHWMA § 44–56–30. SCHWMA § 44–56–50. R.61–79.260. 260.11(a). 260.21. 260.6(a).
CHECKLIST 14—Dioxin Waste Listing and Management Standards.	50 FR 1978	1/14/85	SCHWMA § 44–56–20(6). § 44–56–30. § 44–56–60. R.61–79.261. 261.5(e)(1)–(e)(2). 261.7(b)(1). 261.7(b)(3). 261.30(d). 261.31. 261.33(f). Table 1. Appendix VII. Appendix VIII. Appendix X. R.61–79.264. 264.175(c). 264.175(d). 264.231(a). 264.231(b). 264.259(a). 264.259(b). 264.283(a). 264.283(b). 264.317(a). 264.317(b). 264.343(a).

Federal requirement	HSWA or FR notice	Promulgation	State authority
			R.61–79.265. 265.1(d)(1). 265.352(a)–(b). 265.383(a)–(b). R.61–79.270. 270.14(b)(7). 270.16(a). 270.17(i). 270.18(i). 270.20(i). 270.21(i).
CHECKLIST 16—Paint Filter Test	50 FR 18370	04/30/85	SCHWMA § 44–56–30. § 44–56–70. R.61–79.264. 264.13(b)(6). 264.73(b)(3). 264.314(c). R.61–79.265. 265.13(b)(6). 265.73(b)(3). 265.314(d).
CHECKLIST 17C—Household Waste	50 FR 28702	7/15/85	SCHWMA § 44–56–30. R.61–79.261. 261.4(b)(1).
CHECKLIST 17D—Waste Minimization	50 FR 28702	7/15/85	SCHWMA § 44–56–30. § 44–56–70. § 44–56–170. R.61–79.262. 262.41(a)(8)–(a)(10). R.61–79.264. 264.70. 264.73(b)(9). R.61–79.270. 270.30(i)(2). 270.70(a). 270.70(c).
CHECKLIST 17E—Location Standards for Salt Domes, Salt Beds, Underground Mines and Caves.	50 FR 28702	7/15/85	SCHWMA § 44–56–30. § 44–56–60(a–c). § 44–56–120. R.61–79.264. 264.18(c). R.61–79.265. 265.18.
CHECKLIST 17F—Liquids in Landfills	50 FR 28702	7/15/85	SCHWMA § 44–56–30. R.61–79.264. 264.314. 264.314(a)–(b),(e). 264.314(e)(1)–(e)(2). R.61–79.265. 265.314. 265.314(a)–(b). 265.314(f). 265.314(f)(1)–(f)(2). 270.21(h).
CHECKLIST 17G—Dust Suppression	50 FR 28702	7/15/85	SCHWMA § 44–56–30. R.61–79.266. 266.23. 266.23(b).
CHECKLIST 17H—Double Liners	50 FR 28702	7/15/85	SCHWMA § 44–56–30. R.61–79.264. 264.221(a). 264.221(b). 264.221(c)–(e). 264.301(a). 264.301(c)–(e). R.61–79.265. 265.221(a)–(h). 265.254. 265.301(a)–(e).
CHECKLIST 17I—Groundwater Monitoring	50 FR 28702	7/15/85	SCHWMA § 44–56–30. § 44–56–80(A). § 44–56–90(3). R.61–79.264.

Federal requirement	HSWA or FR notice	Promulgation	State authority
			264.90(b).
			264.222.
			264.226(b)(3).
			264.228(b)(2).
			264.228(d).
			264.252.
			264.253.
			264.254(b)(2).
			264.302.
			264.303(b)(2).
			264.310(b)(2)(ii).
			264.310(c).
CHECKLIST 17J—Cement Kilns	50 FR 28702	7/15/85	SCHWMA § 44–56–30.
			R.61–79.261.
			261.6(a)(2).
			261.33.
			R.61–79.266.
			266.31(b)(1).
CHECKLIST 17K—Fuel Labeling	50 FR 28702	7/15/85	SCHWMA § 44–56–30.
			R.61–79.266.
			266.34.
CHECKLIST 17M—Pre-construction Ban	50 FR 28702	7/15/85	SCHWMA § 44–56–30.
			R.61–79.270.
			270.10(f)(1)–(f)(2).
CHECKLIST 17N—Permit Life	50 FR 28702	7/15/85	SCHWMA § 44–56–30.
			R.61–79.270.
			270.41(a)(6).
			270.50(a).
CHECKLIST 17O—Omnibus Provision	50 FR 28702	7/15/85	SCHWMA § 44–56–30.
			R.61–79.270.
			270.32(b).
CHECKLIST 17P—Interim Status	50 FR 28702	7/15/85	SCHWMA § 44–56–30.
			R.61–79.270.
			270.10(a).
			270.10(c).
			270.10(e)(1).
			270.10(e)(4).
			270.30(j)(2).
			270.70(a).
			270.70(c).
			270.73(c)(1)–(c)(2).
			270.73(d)–(f).
CHECKLIST 17Q—Research and Development Permits	50 FR 28702	7/15/85	SCHWMA § 44–56–30
			R.61–79.270.
			270.10(a).
			270.65.
CHECKLIST 17S—Exposure Information	50 FR 28702	7/15/85	SCHWMA § 44–56–20(9).
			§ 44–56–30.
			§ 44–56–60(a&b).
			R.61–79.270.
			270.10(c).
			270.10(j).
CHECKLIST 18—Listing of TDI, DNT, and TDA	50 FR 42936	10/23/85	SCHWMA § 44–56–30(c)(2).
			R.61–79.261.
			261.32.
			261.33(f).
			Appendix III.
			Appendix VII.
			Appendix VIII.
CHECKLIST 19—Burning of Waste Fuel and Used Oil Fuel in Boilers and Industrial Furnaces.	50 FR 49164	11/29/85	SCHWMA § 44–56–30.
			R.61–79.261.
			261.3(c)(2)(ii)(B).
			261.5(b).
			261.6(a)(2)(iii).
			261.6(a)(3)(vii).
			261.6(a)(3)(viii).
			261.6(a)(3)(ix).
			R.61–79.264.
			264.340(a)(2).
			R.61–79.265.
			265.340(a)(2).
			R.61–79.266.
			266.30(a).

Federal requirement	HSWA or FR notice	Promulgation	State authority
			266.30(b)(1)–(b)(2).
			266.31(a)–(c).
			266.32(a)–(c).
			266.33.
			266.34(a)–(f).
			266.35(a)–(e).
			266.40(a)–(e).
			266.41(a)–(b).
			266.42.
			266.43(a).
			266.43(b)(1)–(b)(6).
			266.44(a)–(e).
CHECKLIST 20—Listing of Spent Solvents	50 FR 53315	12/31/85	SCHWMA § 44–56–30.
			R.61–79.261.
			261.31.
CHECKLIST 21—Listing of EDB Waste	51 FR 5327	2/13/86	SCHWMA § 44–56–30.
			R.61–79.261.
			261.31.
			261.32.
			Appendix III.
			Appendix VII.
CHECKLIST 22—Listing of Four Spent Solvents	51 FR 6537	2/25/86	SCHWMA § 44–56–30.
			R.61–79.261.
			261.31.
			261.33(f).
			Appendix III.
			Appendix VII.
			Appendix VIII.
CHECKLIST 23—Generators of 100 to 1000kg Hazardous Waste.	51 FR 10146	3/24/86	SCHWMA § 44–56–20 (5, 6, & 8).
			§ 44–56–310.
			§ 44–56–30.
			§ 44–56–60(a).
			§ 44–56–70.
			§ 44–56–170.
			R.61–79.261.10.
			261.1(a)(1).
			261.5(a)–(k).
			261.33(f).
			R.61–79.262.10.
			262.20(e).
			262.34(a).
			262.34(d)–(f).
			262.44.
			263.20(h).
			270.1(c)(2)(i).
			270.10(e)(1)(iii)
CHECKLIST 24—Financial Responsibility; Settlement Agreement.	51 FR 16422	5/2/86	SCHWMA § 44–56–30.
			§ 44–56–60(c)(2).
			R.61–79–260.
			260.10.
			R.61–79–264.
			264.110(a)–(b).
			264.111(a)–(b).
			264.112(a)–(b).
			264.112(b)(1)–(b)(7).
			264.112(c).
			264.112(e).
			264.113(a)–(c).
			264.114.
			264.115.
			264.116.
			264.117(a)(1)–(a)(2).
			264.117(b)–(d).
			264.118(a)–(d).
			264.119(a)–(c).
			264.120.
			264.141(f).
			264.142(a)–(c).
			264.143(a)(10).
			264.143(b)(4)(ii).
			264.143(c)(5).
			264.143(d)(8).
			264.143(e)(5).

Federal requirement	HSWA or FR notice	Promulgation	State authority
			264.143(f)(1)(i)(B).
			264.143(f)(1)(i)(D).
			264.143(f)(1)(ii)(B).
			264.143(f)(1)(ii)(D).
			264.143(f)(2).
			264.143(i).
			264.144(a)–(c).
			264.145.
			264.145(a)(11).
			264.145(b)(4)(ii).
			264.145(c)(5).
			264.145(d)(9).
			264.145(f)(1)(i)(B).
			264.145(f)(1)(i)(D).
			264.145(f)(1)(ii)(B).
			264.145(f)(1)(ii)(D).
			264.145(f)(2).
			264.145(i).
			264.147(e).
			264.151(b)–(c).
			264.151(g)–(h).
			R.61–79–265.
			265.110(a)–(b).
			265.111(a)–(c).
			265.112(a)–(b).
			265.112(b)(1)–(b)(7).
			265.112(c).
			265.112(d)(1).
			265.112(d)(2)(i).
			265.112(d)(1).
			265.112(d)(2)(i).
			265.112(d)(3)–(d)(4).
			265.112(e).
			265.113(a)–(c).
			265.114.
			265.115.
			265.116.
			265.117(a)(1)–(a)(2).
			265.117(b)–(d).
			265.118(a)–(g).
			265.119(a)–(c).
			265.120.
			265.140(a).
			265.141(f).
			265.142(a)–(c).
			265.143(a)(10).
			265.143(b)(4)(ii).
			265.143(c)(8).
			265.143(d)(5).
			265.143(e)(1)(i)(B).
			265.143(e)(1)(i)(D).
			265.143(e)(1)(ii)(B).
			265.143(e)(1)(ii)(D).
			265.143(e)(2).
			265.143(h).
			265.144(a)–(c).
			265.145.
			265.145(a)(11).
			265.145(b)(4)(ii).
			265.145(c)(9).
			265.145(d)(5).
			265.145(e)(1)(i)(B).
			265.145(e)(1)(i)(D).
			265.145(e)(1)(ii)(B).
			265.145(e)(1)(ii)(D).
			265.145(e)(2).
			265.145(h).
			265.147(e).
			R.61–79.270.
			270.14(b)(14)–(b)(16).
			270.42(d).

Federal requirement	HSWA or FR notice	Promulgation	State authority
			270.72(d).
CHECKLIST 27—Liability Coverage—Corporate Guarantee	51 FR 25350	7/11/86	SCHWMA § 44–56–30. R.61–79.264. 264.147(a)(2). 264.147(a)(6). 264.147(b)(2). 264.147(b)(6). 264.147(g). 264.147(g)(1). 264.147(g)(1)(i). 264.147(g)(1)(ii). 264.147(g)(2). 264.151(g)(2)–(h)(2). R.61–79.265. 265.147(a)(2). 265.147(a)(6). 265.147(b)(2). 265.147(b)(6). 265.147(g). 265.147(g).(1). 265.147(g)(1)(i). 265.147(g)(1)(ii). 265.147(g)(2).
CHECKLIST 29—Corrections to Listing of Commercial Chemical Products and Appendix VIII Constituents.	51 FR 28296	8/6/86	SCHWMA § 44–56–20(6). R.61–79.261. 261.33(e)-(f). Appendix VIII.
CHECKLIST 30—Biennial Report, Correction	51 FR 28556	8/8/86	SCHWMA § 44–56–30. § 44–56–70. § 44–56–80. R.61–79.264. 264.75(a)(11). 264.77(d). 264.77(e). R.61–79.265. 265.77(e). 265.77(f). 265.77(a)(12).
CHECKLIST 31—Exports of Hazardous Waste	51 FR 28664	8/8/86	SCHWMA § 44–56–20(8 & 11). § 44–56–30. § 44–56–70. R.61–79.261. 261.5(f)(3). 261.5(g)(3). 261.6(a)(3)(i). R.61–79.262. 262.41(a). 262.41(a)(3)–(5). 262.41(b). 262.50. 262.51. 262.52(a)–(d). 262.53(a)–(f). 262.54(a)–(i). 262.55(a)–(c). 262.56(a)–(b). 262.57(a)(1). 262.57(b). 262.58. 262.60(a)–(c). 262.70. Appendix. R.61–79.263. 263.20(a). 263.20(c). 263.20(e)(2). 263.20(f)(2). 263.20(g)(3)–(g)(4).
CHECKLIST 32—Standards for Generators Waste Minimization Certifications.	51 FR 35190	10/1/86	SCHWMA § 44–56–30. § 44–56–70. § 44–56–170. Appendix.

Federal requirement	HSWA or FR notice	Promulgation	State authority
CHECKLIST 33—Listing of EBDC	51 FR 37725	10/24/86	SCHWMA § 44–56–20(6). R.61–79.261. 261.32. Appendix III. Appendix VII.
CHECKLIST 35—Revised Manual SW–846 Amended Incorporation by Reference.	52 FR 8072	3/16/87	SCHWMA § 44–56–30. SCHWMA § 44–56–50. R.61–79.260. 260.11(a). R.61–79.270. 270.6(a).
CHECKLIST 36—Closure/Post-Closure Care for Interim Status Surface Impoundments.	52 FR 8704	3/19/87	SCHWMA § 44–56–30. SCHWMA § 44–56–60(c)(2). R.61–79.265. 265.228(a). 265.228(a)(1)–(a)(2). 265.228(a)(2)(i). 265.228(a)(2)(ii). 265.228(a)(2)(iii)(A–E). 265.228(b). 265.228(b)(1)–(b)(3).
CHECKLIST 37—Definition of Solid Waste; Technical Corrections.	52 FR 21306	6/5/87	SCHWMA § 44–56–20(6). SCHWMA § 44–56–30. SCHWMA § 44–56–40. R.61–79.261. 261.33. R.61–79.266. 266.20(a)(2)–(a)(3).
CHECKLIST 38—Amendments to Part B Information Requirements for Disposal Facilities.	52 FR 23447	6/22/87	SCHWMA § 44–56–30. SCHWMA § 44–56–80. SCHWMA § 44–56–90. R.61–79.270. 270.14(c)(7). 270.14(c)(8)(V).
CHECKLIST 39—California List Waste Restrictions	52 FR 25760	7/8/87	SCHWMA § 44–56–30. R.61–79.260. 260.11(a). R.61–79.262. 262.70. R.61–79.264. 264.13(b)(7)(iii). R.61–79.268. 268.1(e)(1). 268.2(a). 268.2(d). 268.2(f). 268.3(a). 268.4(a)(2). 268.4(b). 268.7(a). 268.7(a)(1). 268.7(a)(1)(ii). 268.7(a)(2). 268.7(a)(2)(i)(B). 268.7(b)(2). 268.7(b)(4)(ii). 268.7(b)(5). 268.7(b)(5)(i). 268.7(c). 268.30(a)(4). 268.32(a). 268.32(a)(1)–(a)(3). 268.32(d)(2). 268.32(e). 268.32(e)(1)–(e)(2). 268.32(f). 268.32(g). 268.32(g)(1)–(g)(3). 268.32(h)–(j). 268.32(j)(1)–(j)(2). 268.40(a)–(b). 268.42(a)(1)–(a)(2). 268.50(a).

Federal requirement	HSWA or FR notice	Promulgation	State authority
			268.50(e)–(f). Appendix III. R.61–79.270. 270.42. 270.72(b).
CHECKLIST 40—List (Phase 1) of Hazardous Constituents for Ground-water Monitoring.	52 FR 25942	7/9/87	SCHWMA § 44–56–30. SCHWMA § 44–56–50. R.61–79.264. 264.99(f). Appendix IX. R.61–79.270. 270.14(c)(4)(ii).
CHECKLIST 41—Identification and Listing of Hazardous Waste.	52 FR 26012	7/10/87	SCHWMA § 44–56–20(6). R.61–79.261. 261.33(c).
CHECKLIST 42—Exception Reporting for Small Quantity Generators of Hazardous Waste.	52 FR 35894	9/23/87	SCHWMA § 44–56–30. § 44–56–40. § 44–56–50. R.61–79.262. 262.42(a)(1)–(a)(2). 262.42(b). 262.44. 262.44(a)–(d).
CHECKLIST 43—Liability Requirements for Hazardous Waste Facilities; Corporate Guarantee.	52 FR 44314	11/18/87	SCHWMA § 44–56–30. § 44–56–50. R.61–79.264. 264.147(g)(2)(i). 264.147(g)(2)(ii). 264.151(h)(2). R.61–79.265. 265.147(g)(2)(i). 265.147(g)(2)(ii).
CHECKLIST 44A—HSWA Codification Rule 2 Permit Application Requirements Regarding Corrective Action.	52 FR 45788	12/1/87	SCHWMA § 44–56–30. § 44–56–60. § 44–56–80. R.61–79.270. 270.14(c)–(d). 270.14(d)(1)(i–v). 270.14(d)(2)–(d)(3).
CHECKLIST 44B—HSWA Codification Rule 2 Corrective Action Beyond the Facility Boundary.	52 FR 45788	12/1/87	SCHWMA § 44–56–30. § 44–56–60. R.61–79.264. 264.100(e). 264.100(e)(1)–(e)(2). 264.100(c).
CHECKLIST 44E—HSWA Codification Rule 2 Permit as a Shield Provision.	52 FR 45788	12/1/87	SCHWMA § 44–56–30. R.61–79.270. 270.4(a).
CHECKLIST 44F—HSWA Codification Rule 2 Permit Conditions to Protect Human Health and the Environment.	52 FR 45788	12/1/87	SCHWMA § 44–56–30. R.61–79.270. 270.10(k).
CHECKLIST 44G—HSWA Codification Rule 2 Post Closure Permits.	52 FR 45788	12/1/87	SCHWMA § 44–56–30. R.61–79.270. 270.1(c). 270.1(c)(5). 270.1(c)(5)(i). 270.1(c)(5)(ii). 270.1(c)(5)(ii)(A). 270.1(c)(5)(ii)(B). 270.1(c)(6)(i). 270.1(c)(6)(ii). 270.1(c)(6)(iii).
CHECKLIST 45—Hazardous Waste Miscellaneous Units	52 FR 46946	12/10/87	SCHWMA § 44–56–30. R.61–79.144. R.61–79.144.31(a). R.61–87.11.D.2. R.61–79.260.10. 260.10. R.61–79.264.10. 264.10(b). 264.15(b)(4). 264.18(b)(1)(ii). 264.73(b)(6).

Federal requirement	HSWA or FR notice	Promulgation	State authority
			264.90(d).
			264.111(c).
			264.112(a)(2).
			264.114.
			264.117(a)(1)(i).
			264.117(a)(1)(ii).
			264.118(b)(1).
			264.118(b)(2)(i).
			264.118(b)(2)(ii).
			264.142(a).
			264.144(a).
			264.147(b).
			264.600.
			264.601.
			264.601(a).
			264.601(a)(1)–(a)(9).
			264.601(b).
			264.601(b)(1)–(b)(11).
			264.601(c).
			264.601(c)(1)–(c)(7).
			264.602.
			264.603.
			R.61–79.270.
			270.14(b)(5).
			270.14(b)(13).
			270.23.
			270.23(a).
			270.23(a)(1)–(a)(3).
			270.23(b)–(e).
CHECKLIST 46—Technical Corrections; Identification and Listing of Hazardous Waste.	53 FR 13382	4/22/88	SCHWMA § 44–56–20(6).
			R.61–79.261.
			261.33(e)–(f).
			Appendix VIII
CHECKLIST 49—Identification and Listing of Hazardous Waste; Treatability Studies Sample Exemption.	53 FR 27290	7/19/88	SCHWMA § 44–56–30.
			R.61–79.260.10.
			R.61–79.261.
			261.4(e)(1).
			261.4(e)(1)(i).
			261.4(e)(1)(ii).
			261.4(e)(1)(iii).
			261.4(e)(2).
			261.4(e)(2)(i).
			261.4(e)(2)(ii).
			261.4(e)(2)(iii).
			261.4(e)(2)(iii)(A).
			261.4(e)(2)(iii)(B)(1–5).
			261.4(e)(2)(iv).
			261.4(e)(2)(i).
			261.4(e)(2)(v).
			261.4(e)(2)(v)(A)–(C).
			261.4(e)(2)(vi).
			261.4(e)(3).
			261.4(e)(3)(i).
			261.4(e)(3)(ii).
			261.4(e)(3)(iii).
			261.4(e)(3)(iv).
			261.4(e)(3)(v).
			261.4(f).
			261.4(f)(1)–(f)(4).
			261.4(f)(4)(i).
			261.4(f)(4)(ii).
			261.4(f)(5)–(f)(7).
			261.4(f)(7)(i)(vii).
			261.4(f)(8).
			261.4(f)(9).
			261.4(f)(9)(i)–(vii).
			261.4(f)(10).
			261.4(f)(11).
CHECKLIST 52—Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems.	53 FR 34079	9/2/88	SCHWMA § 44–56–30.
			SCHWMA § 44–56–50.
			R.61–79.260.10.
			R.61–79.264.
			264.114.

Federal requirement	HSWA or FR notice	Promulgation	State authority
			264.190(a)–(b). 264.193(f)(3). 264.196. R.61–79.265. 265.110(b)(2). 265.114. 265.190(a)–(b). 265.193(f)(3). 265.193(g)(3)(iii). 265.196. 265.201(c)(3). R.61–79.270.2.
CHECKLIST 53—Identification and Listing of Hazardous Waste; and Designation, Reportable Quantities, and Notification.	53 FR 35412	9/13/88	SCHWMA § 44–56–30. R.61–79.261.32. Appendix VII.
CHECKLIST 55—Statistical Methods for Evaluating Groundwater Monitoring Data from Hazardous Waste Facilities.	53 FR 39720	10/11/88	SCHWMA § 44–56–30. SCHWMA § 44–56–50. R.61–79.264. 264.91(a)(1)–(a)(2). 264.92. 264.97(a)(1). 264.97(a)(1)(i). 264.97(a)(1)(i)(A). 264.97(a)(1)(i)(B). 264.97(a)(3). 264.97(g). 264.97(g)(1)–(g)(3). 264.97(h). 264.97(h)(1)–(h)(5). 264.97(i). 264.97(i)(1)–(i)(6). 264.97(j). 264.98(c)–(d). 264.98(f). 264.98(f)(1)–(f)(2). 264.98(g). 264.98(g)(1)–(g)(4). 264.98(g)(4)(i). 264.98(g)(4)(ii). 264.98(g)(4)(iii). 264.98(g)(4)(iv). 264.98(g)(5). 264.98(g)(5)(i). 264.98(g)(5)(ii). 264.98(g)(5)(ii)(A). 264.98(g)(5)(ii)(B). 264.98(g)(6). 264.98(g)(6)(i). 264.98(g)(6)(ii). 264.98(g)(6)(iii). 264.98(g)(6)(iv). 264.98(h)–(k). 264.99(c). 264.99(c)(1)–(c)(2). 264.99(d). 264.99(d)(1)–(d)(2). 264.99(f)–(l).
CHECKLIST 56—Identification and Listing of Hazardous Waste; Removal of Iron Dextran from the List of Hazardous Wastes.	53 FR 43878	10/31/88	SCHWMA § 44–56–30. R.61–71.261. 261.33(f). Appendix VIII.
CHECKLIST 57—Identification and Listing of Hazardous Waste; Removal of Strontium Sulfide from the List of Hazardous Wastes.	53 FR 43881	10/31/88	SCHWMA § 44–56–20. SCHWMA § 44–56–30. SCHWMA § 44–56–50. R.61–79.261. 261.33(f). Appendix VIII.
CHECKLIST 58—Standards for Generators of Hazardous Waste.	53 FR 45089	11/8/88	SCHWMA § 44–56–30. SCHWMA § 44–56–50. R.61–79.262. 262.20(a).

Federal requirement	HSWA or FR notice	Promulgation	State authority
CHECKLIST 59—Hazardous Waste Miscellaneous Units; Standards Applicable to Owners and Operators.	54 FR 615–617 ..	1/9/89	SCHWMA § 44–56–30. R.61–79.270 270.14(b)(5). 270.14(b)(13).
CHECKLIST 60—Amendment to Requirements for Hazardous Waste Incinerator Permits.	54 FR 4286	1/30/89	SCHWMA § 44–56–30. 270.62(d).
CHECKLIST 61—Changes to Interim Status Facilities for Hazardous Waste Management Permits; Procedures for Post-Closure Permitting.	54 FR 9596	3/7/89	SCHWMA § 44–56–30. R.61–79.124. 124.1(a). 124.15(a)–(b). 124.19(a). R.61–79.270. 270.1(c). 270.10(c). 270.29. 270.42. Appendix I. 270.72(a). 270.72(a)(2). 270.72(a)(2)(i). 270.72(a)(2)(ii). 270.72(a)(3). 270.72(a)(3)(i). 270.72(a)(3)(ii). 270.72(a)(4)–(a)(5). 270.72(b). 270.72(b)(1)–(b)(6). 270.72(c)–(e). 270.73(e)–(g)
CHECKLIST 64—Delay of Closure Period for Hazardous Waste Management Facilities.	54 FR 33376	8/14/89	SCHWMA § 44–56–30. R.61–79.264. 264.13(a)(1). 264.13(a)(3)(i). 264.13(b)(1). 264.112(d)(2). 264.112(d)(2)(i). 264.112(d)(2)(ii). 264.113(a). 264.113(a)(1)(ii)(A). 264.113(b). 264.113(b)(1)(ii)(A). 264.113(c). 264.113(c)(1)–(c)(2). 264.113(d). 264.113(d)(1). 264.113(d)(1)(i). 264.113(d)(1)(ii). 264.113(d)(1)(iii). 264.113(d)(1)(iv). 264.113(d)(1)(v). 264.113(d)(2)–(d)(4). 264.113(e).

Federal requirement	HSWA or FR notice	Promulgation	State authority
			264.113(e)(1).
			264.113(e)(1)(i).
			264.113(e)(1)(ii).
			264.113(e)(2)–(e)(4).
			264.113(e)(4)(i).
			264.113(e)(4)(ii).
			264.113(e)(4)(iii).
			264.113(e)(5)–(e)(7).
			264.113(e)(7)(i).
			264.113(e)(7)(ii).
			264.113(e)(7)(iii).
			264.113(e)(7)(iv).
			264.113(e)(7)(v).
			264.142(a)(3).
			264.142(a)(4).
			R.61–79.265.
			265.13(a)(1).
			265.13(a)(3)(i).
			265.13(b)(1).
			265.112(d)(2).
			265.112(d)(2)(i).
			265.112(d)(2)(ii).
			265.113(a).
			265.113(a)(1)(ii)(A).
			265.113(b).
			265.113(b)(1)(ii)(A).
			265.113(c).
			265.113(c)(1)–(c)(2).
			265.113(d).
			265.113(d)(1).
			265.113(d)(1)(i).
			265.113(d)(1)(ii).
			265.113(d)(1)(iii).
			265.113(d)(1)(iv).
			265.113(d)(1)(v).
			265.113(d)(2).
			265.113(d)(3).
			265.113(d)(4).
			265.113(e).
			265.113(e)(1).
			265.113(e)(1)(i).
			265.113(e)(1)(ii).
			265.113(e)(2)–(e)(4).
			265.113(e)(4)(i).
			265.113(e)(4)(ii).
			265.113(e)(4)(iii).
			265.113(e)(5)–(e)(7).
			265.113(e)(7)(i).
			265.113(e)(7)(ii).
			265.113(e)(7)(iii).
			265.113(e)(7)(iv).
			265.113(e)(7)(v).
			265.142(a)(3)–(a)(4).
			270.42, Appendix I.
CHECKLIST 65—Mining Waste Exclusion I	54 FR 36592	9/1/89	SCHWMA § 44–56–20.
			SCHWMA § 44–56–30.
			SCHWMA § 44–56–50.
			R.61–79.261.
			261.3(a)(2)(i).
			261.3(a)(2)(iii).
			261.4(b)(7).
			261.4(b)(7)(i)–(xx).
CHECKLIST 67—Testing and Monitoring Activities	54 FR 40260	9/29/89	SCHWMA § 44–56–20.
			SCHWMA § 44–56–30.
			SCHWMA § 44–56–50.
			R.61–79.260.
			260.11(a).
			Appendix III.

Federal requirement	HSWA or FR notice	Promulgation	State authority
CHECKLIST 68—Reportable Quantity Adjustment Methyl Bromide Production Wastes.	54 FR 41402	10/6/89	SCHWMA § 44–56–20. SCHWMA § 44–56–30. SCHWMA § 44–56–50. R.61–79.261.32. Appendix III. Appendix VII.
CHECKLIST 69—Reportable Quantity Adjustment	54 FR 50968	12/11/89	SCHWMA § 44–56–20. SCHWMA § 44–56–30. SCHWMA § 44–56–50. R.61–79.261.31. Appendix VII. Appendix VIII.
CHECKLIST 70—Changes to Part 124 Not Accounted For By Present Checklists.	48 FR 14146.	4/1/83	SCHWMA § 44–56–30.
	53 FR 28118	7/26/88	SCHWMA § 44–56–40.
	53 FR 37396	9/26/88	SCHWMA § 44–56–50.
	53 FR 246–258 ..	1/4/88	R.61–79.124. 124.3(a). 124.3(a)(1)–(a)(3). 124.5(a). 124.5(c)(1)&(3). 124.5(d). 124.6(c)(2)–(5). 124.10(c)(1)(iii). 124.10(c)(1)(iv). 124.10(c)(1)(v). 124.12(a)(2).
CHECKLIST 71—Mining Waste Exclusion II	55 FR 2322	1/23/90	SCHWMA § 44–56–30. SCHWMA § 44–56–40. SCHWMA § 44–56–50. R.61–79.261. 261.10. 261.4(b)(7). 261.4(b)(7)(i). 261.4(b)(7)(ii). 261.4(b)(7)(iii). 261.4(b)(7)(iv). 261.4(b)(7)(v). 261.4(b)(7)(vi). 261.4(b)(7)(vii). 261.4(b)(7)(viii). 261.4(b)(7)(ix). 261.4(b)(7)(x). 261.4(b)(7)(xi). 261.4(b)(7)(xii). 261.4(b)(7)(xiii). 261.4(b)(7)(xiv). 261.4(b)(7)(xv). 261.4(b)(7)(xvi). 261.4(b)(7)(xvii). 261.4(b)(7)(xviii). 261.4(b)(7)(xix). 261.4(b)(7)(xx). R.61–79.262. 262.23(e).
CHECKLIST 72—Modification of F019 Listing	55 FR 5340	2/14/90	SCHWMA § 44–56–30. SCHWMA § 44–56–40. SCHWMA § 44–56–50. R.61–79.261. 261.31.
CHECKLIST 73—Testing and Monitoring Activities; Technical Corrections.	55 FR 8948	3/9/90	SCHWMA § 44–56–30. R.61–79.260. 260.11(a). Appendix III.
CHECKLIST 75—Listing of 1,1-Dimethylhydrazine Production Wastes.	55 FR 18496	5/2/90	SCHWMA § 44–56–20. SCHWMA § 44–56–30. SCHWMA § 44–56–50. R.61–79.261. 261.32. Appendix III. Appendix VII.

Federal requirement	HSWA or FR notice	Promulgation	State authority
CHECKLIST 76—Criteria for Listing Toxic Wastes; Technical Amendment.	55 FR 18726	5/4/90	SCHWMA § 44–56–20(6). SCHWMA § 44–56–30. SCHWMA § 44–56–50. R.61–79.261. 261.11(a)(3).
CHECKLIST 77—HSWA Codification Rule, Double Liners; Correction.	55 FR 19262	5/9/90	SCHWMA § 44–56–30. SCHWMA § 44–56–40. SCHWMA § 44–56–50. SCHWMA § 44–56–60. SCHWMA § 44–56–90. SCHWMA § 44–56–120. R.61–79.264. 264.221(c). 264.301(c).
CHECKLIST 79—Organic Air Emission Standards for Process Vents and Equipment Leaks.	55 FR 25454	6/21/90	SCHWMA § 44–56–20(6). SCHWMA § 44–56–30. SCHWMA § 44–56–50. R.61–79.260. 260.11(a). R.61–79.261. 261.6(c)(1). 261.6(c)(2)(iii). 261.6(d). R.61–79.264. 264.13(b)(6). 264.15(b)(4). 264.73(b)(3). 264.73(b)(6). 264.77(c). 264.1030(a)–(b). 264.1030(b)(1)–(b)(2). 264.1030(c). 264.1031. 264.1032. 264.1032(a). 264.1032(a)(1)–(a)(2). 264.1032(b)–(d). 264.1033(a)(1)–(a)(2). 264.1033(b)–(c). 264.1033(d)(1)–(d)(3). 264.1033(d)(4)(i). 264.1033(d)(4)(ii). 264.1033(d)(4)(iii). 264.1033(d)(5)–(d)(6). 264.1033(e)(1)–(e)(5). 264.1033(f). 264.1033(f)(1)–(f)(2). 264.1033(f)(2)(i)–(vi). 264.1033(f)(2)(vi)(A). 264.1033(f)(2)(vi)(B). 264.1033(f)(2)(vii). 264.1033(f)(2)(vii)(A). 264.1033(f)(2)(vii)(B). 264.1033(f)(3). 264.1033(g)–(h). 264.1033(h)(1)–(h)(2). 264.1033(i)–(j). 264.1033(k)(1)–(k)(4). 264.1033(l). 264.1034(a). 264.1034(a)(1)–(a)(2). 264.1034(b). 264.1034(b)(1)–(b)(7). 264.1034(c). 264.1034(c)(1)–(c)(4). 264.1034(d). 264.1034(d)(1)–(d)(2). 264.1034(e). 264.1034(e)(1)–(e)(3). 264.1034(f). 264.1035(b)(1)–(b)(2). 264.1035(b)(2)(i)–(ii). 264.1035(b)(3).

Federal requirement	HSWA or FR notice	Promulgation	State authority
			264.1035(b)(3)(i).
			264.1035(b)(3)(ii).
			264.1035(b)(3)(ii)(A)–(E).
			264.1035(b)(3)(iii).
			264.1035(b)(4).
			264.1035(b)(4)(i)–(iii).
			264.1035(b)(4)(iii)(A)–(G).
			264.1035(b)(4)(iv)–(vi).
			264.1035(c).
			264.1035(c)(1)–(c)(4).
			264.1035(c)(4)(i)–(iii).
			264.1035(c)(4)(iii)(A)–(B).
			264.1035(c)(4)(iv).
			264.1035(c)(4)(iv)(A–B).
			264.1035(c)(4)(vi).
			264.1035(c)(4)(vii).
			264.1035(c)(4)(vii)(A)–(B).
			264.1035(c)(4)(viii).
			264.1035(c)(4)(ix).
			264.1035(c)(5)–(c)(8).
			264.1035(d)–(f).
			264.1036(a).
			264.1036(a)(1)–(a)(2).
			264.1036(b).
			264.1050(a)–(b).
			264.1050(b)(1)–(b)(2).
			264.1050(c)–(e).
			264.1051.
			264.1052(a)(1)–(a)(2).
			264.1052(b)(1)–(b)(2).
			264.1052(c)(1)–(c)(2).
			264.1052(d).
			264.1052(d)(1)–(d)(1)(iii).
			264.1052(d)(2)–(d)(4).
			264.1052(d)(5)(i)–(ii).
			264.1052(d)(6)(i)–(iii).
			264.1052(e).
			264.1052(e)(1)–(e)(3).
			264.1052(f)–(g).
			264.1053(a)–(b).
			264.1053(b)(1)–(b)(3).
			264.1053(c)–(d).
			264.1053(e)(1)–(e)(2).
			264.1053(f).
			264.1053(g)(1)–(g)(2).
			264.1053(h)–(i).
			264.1053(i)(1)–(i)(2).
			264.1054(a).
			264.1054(b)(1)–(b)(2).
			264.1054(c).
			264.1055(a)–(b).
			264.1055(b)(1)–(b)(3).
			264.1055(c).
			264.1056(a)(1)–(a)(2).
			264.1056(b)–(c).
			264.1057(a)–(b).
			264.1057(c)(1)–(c)(2).
			264.1057(d)(1)–(d)(2).
			264.1057(e).
			264.1057(e)(1)–(e)(4).
			264.1057(f).
			264.1057(f)(1)–(f)(3).
			264.1057(g).
			264.1057(g)(1)–(g)(2).
			264.1057(h).
			264.1057(h)(1)–(h)(3).
			264.1058(a)–(b).
			264.1058(c)(1)–(c)(2).
			264.1058(d).
			264.1059(a)–(c).
			264.1059(c)(1)–(c)(2).
			264.1059(d).
			264.1059(d)(1)–(d)(2).

Federal requirement	HSWA or FR notice	Promulgation	State authority
			264.1059(e).
			264.1060.
			264.1061(a)–(b).
			264.1061(b)(1)–(b)(3).
			264.1061(c).
			264.1061(c)(1)–(c)(3).
			264.1061(d).
			264.1062(a)(1)–(a)(2).
			264.1062(b)(1)–(b)(4).
			264.1063(a)–(b).
			264.1063(b)(1)–(b)(4).
			264.1063(b)(4)(i)–(ii).
			264.1063(b)(5).
			264.1063(c).
			264.1063(c)(1)–(c)(4).
			264.1063(d).
			264.1063(d)(1)–(d)(3).
			264.1063(e)–(i).
			264.1064(a)(1)–(a)(2).
			264.1064(b).
			264.1064(b)(1).
			264.1064(b)(1)(i)–(1)(vi).
			264.1064(b)(2)–(b)(4).
			264.1064(c).
			264.1064(c)(1)–(c)(3).
			264.1064(d).
			264.1064(d)(1)–(d)(10).
			264.1064(e)–(g).
			264.1064(g)(1).
			264.1064(g)(2)(i)–(ii).
			264.1064(g)(3).
			264.1064(g)(4)(i)–(iii).
			264.1064(g)(5).
			264.1064(h).
			264.1064(h)(1)–(h)(2).
			264.1064(i).
			264.1064(i)(1)–(i)(2).
			264.1064(j).
			264.1064(j)(1)–(j)(2).
			264.1064(k).
			264.1064(k)(1)–(k)(3).
			264.1064(l)–(m).
			264.1065(a).
			264.1065(a)(1)–(a)(2).
			264.1065(a)(2)(i)–(iii).
			264.1065(a)(3)–(a)(4).
			264.1065(b).
			R.61–79.265.
			265.13(b)(6).
			265.15(b)(4).
			265.73(b)(3).
			265.73(b)(6).
			265.77(d).
			265.1030(a)–(b).
			265.1030(b)(1)–(b)(2).
			265.1031(a).
			265.1032(a).
			265.1032(a)(1)–(a)(2).
			265.1032(b)–(d).
			265.1033(a)(1)–(a)(2).
			265.1033(b)–(c).
			265.1033(d)(1)–(d)(3).
			265.1033(d)(4)(i)–(iii).
			265.1033(d)(5)–(d)(6).
			265.1033(e)(1)–(e)(2).
			265.1033(e)(3)–(e)(5).
			265.1033(f).
			265.1033(f)(1)–(f)(2).
			265.1033(f)(2)(i)–(vi).
			265.1033(f)(2)(vi)(A)–(B).
			265.1033(f)(2)(vii).
			265.1033(f)(2)(vii)(A)–(B).
			265.1033(f)(3).

Federal requirement	HSWA or FR notice	Promulgation	State authority
			265.1033(g)–(h).
			265.1033(h)(1)–(h)(2).
			265.1033(i).
			265.1033(j)(1)–(j)(4).
			265.1033(k).
			265.1034(a)–(b).
			265.1034(b)(1)–(b)(7).
			265.1034(c).
			265.1034(c)(1).
			265.1034(c)(1)(i)–(vi).
			265.1034(c)(2)–(c)(3).
			265.1034(c)(3)(i)–(iv).
			265.1034(c)(4).
			265.1034(d).
			265.1034(d)(1).
			265.1034(d)(1)(i)–(iv).
			265.1034(d)(2).
			265.1034(e).
			265.1034(e)(1)–(e)(3).
			265.1034(f).
			265.1035(a)(1)–(a)(2).
			265.1035(b).
			265.1035(b)(1)–(b)(2).
			265.1035(b)(2)(i).
			265.1035(b)(2)(ii).
			265.1035(b)(3).
			265.1035(b)(3)(i).
			265.1035(b)(3)(ii).
			265.1035(b)(3)(ii)(A)–(D).
			265.1035(b)(3)(ii)(E).
			265.1035(b)(3)(iii).
			265.1035(b)(4).
			265.1035(b)(4)(i)–(iii).
			265.1035(b)(4)(iii)(A)–(G).
			265.1035(b)(4)(iv).
			265.1035(b)(4)(iv)(A)–(B).
			265.1035(b)(4)(v).
			265.1035(b)(4)(vi).
			265.1035(b)(4)(vii)(A).
			265.1035(b)(4)(vii)(B).
			265.1035(b)(4)(viii).
			265.1035(b)(4)(ix).
			265.1035(c).
			265.1035(c)(1)–(c)(4).
			265.1035(c)(4)(i)–(iii).
			265.1035(c)(4)(iii)(A)–(B).
			265.1035(c)(4)(iv).
			265.1035(c)(5)–(c)(7).
			265.1035(c)(7)(i).
			265.1035(c)(7)(ii).
			265.1035(c)(8).
			265.1035(d)–(f).
			265.1050(a)–(b).
			265.1050(b)(1)–(b)(2).
			265.1050(c)–(d).
			265.1051.
			265.1052(a)(1)–(a)(2).
			265.1052(b)(1)–(b)(2).
			265.1052(c)(1)–(c)(2).
			265.1052(d).
			265.1052(d)(1)(i)–(iii).
			265.1052(d)(2)–(d)(4).
			265.1052(d)(5)(i)–(ii).
			265.1052(d)(6)(i)–(iii).
			265.1052(e).
			265.1052(e)(1)–(e)(3).
			265.1052(f).
			265.1053(a).
			265.1053(b).
			265.1053(b)(1)–(b)(3).
			265.1053(c).
			265.1053(d).
			265.1053(e)(1)–(e)(2).

Federal requirement	HSWA or FR notice	Promulgation	State authority
			265.1053(f).
			265.1053(g)(1)–(g)(2).
			265.1053(h)–(i).
			265.1053(i)(1)–(i)(2).
			265.1054(a).
			265.1054(b)(1)–(b)(2).
			265.1054(c).
			265.1055(a).
			265.1055(a)(1)–(a)(2).
			265.1055(b).
			265.1055(b)(1)–(b)(3).
			265.1055(c).
			265.1056(a)(1)–(a)(2).
			265.1056(b)–(c).
			265.1057(a)–(b).
			265.1057(c)(1)–(c)(2).
			265.1057(d)(1)–(d)(2).
			265.1057(e).
			265.1057(e)(1)–(e)(4).
			265.1057(f).
			265.1057(f)(1)–(f)(3).
			265.1057(g).
			265.1057(g)(1)–(g)(2).
			265.1057(h).
			265.1057(h)(1)–(h)(3).
			265.1057(h)(1)–(h)(3).
			265.1058(a)–(b).
			265.1058(c)(1)–(c)(2).
			265.1058(d) .
			265.1059(a)–(c).
			265.1059(c)(1)–(c)(2).
			265.1059(d) .
			265.1059(d)(1)–(d)(2) .
			265.1059(e).
			265.1060.
			265.1061(a)–(b).
			265.1061(b)(1)–(b)(3).
			265.1061(c).
			265.1061(c)(1)–(c)(3).
			265.1061(d).
			265.1062(a)(1)–(a)(2).
			265.1062(b)(1)–(b)(4).
			265.1063(a).
			265.1063(b).
			265.1063(b)(1)–(b)(5).
			265.1063(c).
			265.1063(c)(1)–(c)(4).
			265.1063(d).
			265.1063(d)(1)–(d)(3).
			265.1063(e)–(i).
			265.1064(a)(1)–(a)(2).
			265.1064(b)(1)–(b)(4).
			265.1064(c).
			265.1064(c)(1)–(c)(3).
			265.1064(d).
			265.1064(d)(1)–(d)(10).
			265.1064(e)–(g).
			265.1064(g)(1)–(g)(5).
			265.1064(h)–(i).
			265.1064(i)(1)–(i)(2).
			265.1064(j).
			265.1064(j)(1)–(j)(2).
			265.1064(k).
			265.1064(k)(1)–(k)(3).
			265.1064(l)–(m).
			R.61–79.270.
			270.14(b)(5).
			270.14(b)(8)(iv).
			270.14(b)(8)(v).
			270.14(b)(8)(vi).
			270.24(a)–(b).
			270.24(b)(1)–(b)(3).
			270.24(c)–(d).

Federal requirement	HSWA or FR notice	Promulgation	State authority
			270.24(d)(1)–(d)(5).
			270.25.
			270.25(a).
			270.25(a)(1)–(a)(6).
			270.25(b)–(e).
			270.25(e)(1)–(e)(5).
CHECKLIST 80—Toxicity Characteristic; Hydrocarbon Recovery Operations.	55 FR 40834	10/5/90	SCHWMA § 44–56–30.
	56 FR 3978	2/1/91	§ 44–56–40.
	56 FR 13406	4/2/91	§ 44–56–50.
			R.61–79.261.
			261.4(b)(11).
			261.4(b)(11)(ii).
CHECKLIST 81—Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings.	55 FR 46354	11/2/90	SCHWMA § 44–56–30.
			§ 44–56–40.
			§ 44–56–50.
			R.61–79.261.
			261.31(a)–(b).
			261.31(b)(1).
			261.31(b)(2)(i).
			261.31(b)(2)(i)(A).
			261.31(b)(2)(i)(A)–(C).
			261.31(b)(2)(ii).
			261.31(b)(2)(ii)(A).
			261.31(b)(2)(ii)(B).
			261.31(b)(3)(i).
			261.31(b)(3)(ii).
			261.31(b)(3)(ii)(A).
			261.31(b)(3)(ii)(B).
			Appendix VII.
CHECKLIST 82—Wood Preserving Listings	55 FR 50450	12/6/90	SCHWMA § 44–56–30.
			§ 44–56–40.
			§ 44–56–50.
			R.61–79.260.10.
			R.61–79.261.
			261.4(a)(9).
			261.31(a).
			261.35(a)–(b).
			261.35(b)(1)(i)–(iii).
			261.35(b)(2)(i)–(iv).
			261.35(b)(4)(i) .
			261.35(c).
			261.35(c)(1)–(c)(12).
			Appendix III.
			Appendix VII.
			Appendix VIII.
			R.61–79.262.
			262.34(a)(1)(iii).
			262.34(a)(1)(iii)(A).
			262.34(a)(1)(iii)(B).
			262.34(a)(2)–(a)(4).
			R.61–79.264.
			264.190.
			264.199(c).
			264.570(a)–(b).
			264.571(a)–(b).
			264.571(b)(1)–(b)(3).
			264.571(c)–(d).
			264.573(a).
			264.573(a)(1)–(a)(5).
			264.573(b).
			264.573(b)(1).
			264.573(b)(1)(i)–(iii).
			264.573(b)(2).
			264.573(b)(2)(i).
			264.573(b)(2)(i)(A).
			264.573(b)(2)(i)(B).
			264.573(b)(2)(ii).
			264.573(b)(2)(iii).
			264.573(c)–(m).
			264.573(m)(1).
			264.573(m)(1)(i)–(iv).
			264.573(m)(2).
			264.573(m)(3).

Federal requirement	HSWA or FR notice	Promulgation	State authority
			264.573(n)–(o). 264.574(a)–(b). 264.574(b)(1)–(b)(3). 264.575(a)–(b). 264.575(c)(1). 264.575(c)(1)(i). 264.575(c)(1)(ii). 264.575(c)(2). 264.572. R.61–79.265. 265.190. 265.190(c). 265.440(a)–(b). 265.441(a)–(b). 265.441(b)(1)–(b)(3). 265.441(c)–(d). 265.442. 265.443(a). 265.443(a)(1)–(a)(5). 265.443(b). 265.443(b)(1). 265.443(b)(1)(i)–(iii). 265.443(b)(2). 265.443(b)(2)(i). 265.443(b)(2)(i)(A). 265.443(b)(2)(i)(B). 265.443(b)(2)(iii). 265.443(c)–(m). 265.443(m)(1). 265.443(m)(1)(i)–(iv). 265.443(m)(2). 265.443(m)(3). 265.443(n). 265.444(a)–(b). 265.444(b)(1)–(b)(3). 265.445(a)–(c). 265.445(c)(1). 265.445(c)(1)(i)–(ii). 265.445(c)(2). R.61–79.270. 270.26. 270.26(a)–(c). 270.26(c)(1)–(c)(16).
CHECKLIST 84—Toxicity Characteristic; Chlorofluorocarbon Refrigerants.	56 FR 5910	2/13/91	SCHWMA § 44–56–30. § 44–56–40. § 44–56–50. R.61–79.261. 261.4(b)(12).
CHECKLIST 86—Removal of Strontium Sulfide from the List of Hazardous Wastes; Technical Amendment.	56 FR 7567	2/25/91	SCHWMA § 44–56–30. § 44–56–40. § 44–56–50. R.61–79.261. 261.33(e). Appendix VIII.
CHECKLIST 87—Organic Air Emission Standards for Process Vents and Equipment Leaks; Technical Amendment.	56 FR 19290	4/26/91	SCHWMA § 44–56–30. § 44–56–40. § 44–56–50. § 44–56–60. § 44–56–90. § 44–56–120. § 1–23–10. R.61–72.264. 264.1030(a)–(b). 264.1033(f)(3). 264.1035(b)(4)(ii). 264.1052(b)(1). R.61–72.265. 265.13(b)(6). 265.1030(b). 265.1034(c)(1)(vi). 265.1035(b)(4)(ii). 265.1035(c)(5). 265.1052(e)(3).

Federal requirement	HSWA or FR notice	Promulgation	State authority
			265.1064(c).
			R.61–72.270.
			270.24(d)(2).
			270.25(e)(2).
CHECKLIST 88—Administrative Stay for K069 Listings	56 FR 19951	5/1/91	SCHWMA § 44–56–30.
			§ 44–56–40.
			§ 44–56–50.
			R.61–79.261.
			261.32.
CHECKLIST 89—Revision to Petroleum Refining Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038).	56 FR 21955	5/13/91	SCHWMA § 44–56–20.
			§ 44–56–30.
			§ 44–56–50.
			R.61–79.261.
			261.31(a).
CHECKLIST 90—Mining Waste Exclusion III	56 FR 27300	6/13/91	SCHWMA § 44–56–20.
			§ 44–56–30.
			§ 44–56–50.
			R.61–79.261.
			261.34(b)(7).
CHECKLIST 91—Wood Preserving Listings—Administrative Stay.	56 FR 27332	6/13/91	SCHWMA § 44–56–20.
			§ 44–56–30.
			§ 44–56–50.
			R.61–79.261.
			261.31(a).
			R.61–79.264.
			264.573(a)(4).
			R.61–79.265.
			265.443(a)(4).

C. Decision

I conclude that South Carolina's application for these program revisions meet all of the statutory and regulatory requirements established by RCRA. Accordingly, South Carolina is granted final authorization to operate its hazardous waste program as revised. South Carolina now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program, subject to the limitations of its program revision application and previously approved authorities. South Carolina also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under Section 3007 of RCRA and to take enforcement actions under Section 3008, 3013, and 7003 of RCRA.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of South Carolina's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended (42 U.S.C. 6912(a), 6926, 6974(b)).

Dated: August 4, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 95–19996 Filed 8–14–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7153

[MT–930–1430–01; MTM 40641]

Partial Revocation of Executive Order Dated July 9, 1910; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive order insofar as it affects 3,562.91 acres of public lands withdrawn for the Bureau of Land Management's Coal Reserve Montana No. 1. The lands are no longer needed for the purpose for which they were withdrawn. The revocation is needed to permit disposal of the lands through exchange. This action will open the lands to surface entry and non-metalliferous mining unless closed by overlapping withdrawals or temporary segregations of record. The lands have been and remain open to metalliferous mining and mineral leasing.

EFFECTIVE DATE: September 14, 1995.

FOR FURTHER INFORMATION CONTACT: Sandra Ward, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2949.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and

Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Executive Order dated July 9, 1910, which withdrew public lands for the Bureau of Land Management's Coal Reserve Montana No. 1, is hereby revoked insofar as it affects the following described lands:

Principal Meridian, Montana

(Exchange MTM 82115—Rypkema Unit):

T. 6 S., R. 49 E.,
Sec. 25, SW¼NE¼, NW¼, and S½;
Sec. 26, W½NE¼ and NW¼;
Sec. 35, S½NE¼, NW¼, and S½.
T. 7 S., R. 49 E.,
Sec. 1, lot 1;
Sec. 4, lots 1 to 4, inclusive, SW¼NW¼ and NW¼SW¼;
Sec. 5, lots 1 and 2, S½NE¼, and N½SE¼;
Sec. 12, lots 1, 2, and 3.
T. 6 S., R. 50 E.,
Sec. 28, that portion of the S½SW¼ lying north and west of the river;
Sec. 29, NE¼SW¼;
Sec. 30, lots 3 and 4, E½SW¼, and W½SE¼;
Sec. 31, lots 1 to 4, inclusive, NW¼NE¼, and E½NW¼;
Sec. 32, that portion of the E½NE¼ lying north and west of the river.
T. 7 S., R. 50 E.,
Sec. 6, lots 5 and 11.

(Exchange MTM 81618—Home Unit):

T. 6 S., R. 49 E.,
Sec. 34, NW¼SW¼.
T. 7 S., R. 49 E.,
Sec. 3, S½SW¼;
Sec. 4, N½SE¼;
Sec. 5, lots 3 and 4, S½NW¼, and S½SE¼;
Sec. 20, NW¼ and N½SW¼;
Sec. 21, lot 3;
Sec. 29, lot 13;
Sec. 30, lots 2, 3, and 4, SE¼NW¼, and NE¼SW¼;
Sec. 31, lots 1, 2, and 3;
Sec. 32, lot 2.
T. 8 S., R. 49 E.,
Sec. 6, lot 6;
Sec. 7, lots 2 and 4.

The areas described aggregate 3,562.91 acres in Powder River County.

2. At 9 a.m. on September 14, 1995, the lands described above will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on September 14, 1995, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9 a.m. on September 14, 1995, the lands will be opened to location and entry for non-metalliferous mining under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempting adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: August 4, 1995.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 95–20147 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–DN–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 64 and 68

[CC Docket No. 92–90; FCC 95–310]

Telephone Consumer Protection Act of 1991

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: On July 26, 1995, the Commission adopted a Memorandum Opinion and Order (MO&O) finalizing its rules implementing the Telephone Consumer Protection Act of 1991 (TCPA). In the MO&O, the Commission resolves a number of issues raised regarding the Report and Order. The Commission's actions clarify certain critical aspects of the regulations implementing TCPA and ensures that the costs of privacy protection are not borne by the residential subscriber. The MO&O balances the need to protect consumers' privacy with the imperative that telemarketing practices not be unreasonably hindered.

EFFECTIVE DATE: September 14, 1995.

FOR FURTHER INFORMATION CONTACT: Scott A. Shefferman, Attorney, Domestic Facilities Division, Common Carrier Bureau, (202) 418–2332.

SUPPLEMENTARY INFORMATION: This summarizes the Commission's Memorandum Opinion and Order in the matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, (CC Docket 92–90, adopted July 26, 1995, and released August 7, 1995). This file is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the Commission's Reference Center, room 239, 1919 M St., NW., Washington, DC, or copies may be purchased from the Commission's duplicating contractor, ITS, Inc. 2100 M St., N.W., Suite 140, Washington, DC 20037, phone (202) 857–3800.

Analysis of Proceeding

On September 17, 1992, the Commission adopted a Report and Order (57 FR 48333, October 23, 1992) that established procedures governing unwanted telephone solicitations, and set forth regulations governing the use of automatic telephone dialing systems, prerecorded or artificial voice messages, and telephone facsimile machines. This MO&O considers requests for reconsideration and/or clarification of rules implemented in the Report and Order in this proceeding.

A ''telephone solicitation,'' as defined in the Telephone Consumer Protection Act of 1991 (TCPA) and FCC rules, is a telephone call initiated for the purpose of encouraging the purchase of or investment in property, goods or services. The definition specifically excludes calls made *by* a tax-exempt nonprofit organization. The MO&O clarifies that telephone solicitations made either by *or* on behalf of tax-exempt nonprofit organizations are excepted from the telephone solicitation rules, and revises the rules accordingly. Commission rules also require each telemarketer to maintain, and retain on a permanent basis, a company-specific (*i.e.*, in house) list of telephone service subscribers that do not wish to receive further solicitation calls from that telemarketer (''do-not-call list''). The MO&O reconsiders and modifies the recordkeeping requirement for telemarketers by requiring the record of such ''do-not-call'' requests to be kept for a ten-year period, rather than permanently. Commission rules also prohibit prerecorded calls to residences. The MO&O clarifies that debt collection calls fall within the exceptions to the general ban against prerecorded calls to residences.

Further, the MO&O clarifies, among other things, the Commission's rules regarding telephone facsimile machines and unsolicited facsimile advertisements by stating that: (a) Telephone facsimile machines need not contain a disabling device to prevent facsimile transmission without the required identification; (b) machines

manufactured after the effective date of the rules must provide the *capability* to clearly mark identifying information (including the date and time of transmission) upon initial programming by the user; (c) facsimile modem computer boards are subject to our rules on telephone facsimile machines; and (d) the entity on whose behalf a facsimile message is transmitted is ultimately responsible for compliance with the rules banning unsolicited facsimile advertisements.

Finally, Commission rules require entities or individuals making telephone solicitations to provide identifying information to called parties, including a telephone number at which the solicitor can be reached. The TCPA prohibits charging consumers to protect their privacy, and FCC rules prohibit imposing costs on called parties. The MO&O therefore modifies the Commission's rules to ensure that telephone numbers provided in solicitations for identification purposes do not require the called party to incur more than nominal costs for making a do-not-call request.

Ordering Clauses

Accordingly, it is ordered, that the petitions for reconsideration and/or clarification of the rules and regulations implementing the Telephone Consumer Protection Act of 1991 are denied in part and granted in part.

It is further ordered, That effective December 13, 1995, telephone facsimile modem boards, which enable personal computers to transmit messages to or receive messages from conventional telephone facsimile machines or other computer fax boards, must be manufactured in compliance with the Commission's amended rules as set forth below.

It is further ordered, That, pursuant to authority contained in sections 1, 4(i), 4(j), 201–205, 218, and 227 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201–205, 218 and 227, parts 64 and 68 of the Commission's Rules and Regulations Are Amended as set forth below, effective September 14, 1995.

List of Subjects

47 CFR Part 64

Consumer protection, Reporting and recordkeeping requirements, Telephone.

47 CFR Part 68

Communications equipment, Facsimile, Telephone.

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

Rule Changes

Chapter I of Title 47 of the Code of Federal Regulations, parts 64 and 68, are amended as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for part 64 continues to read as follows:

Authority: Section 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 225, 226, 227, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201–4, 218, 225, 226, 227, unless otherwise noted.

2. Section 64.1200 is amended by revising paragraphs (e)(2)(iv), (e)(2)(vi) and (f)(3)(iii) to read as follows:

§ 64.1200 Delivery restrictions.

* * * * *

(e) * * *

(2) * * *

(iv) *Identification of telephone solicitor.* A person or entity making a telephone solicitation must provide the called party with the name of the individual caller, the name of the person or entity on whose behalf the call is being made, and a telephone number or address at which the person or entity may be contacted. If a person or entity makes a solicitation using an artificial or prerecorded voice message transmitted by an autodialer, the person or entity must provide a telephone number other than that of the autodialer or prerecorded message player which placed the call. The telephone number provided may not be a 900 number or any other number for which charges exceed local or long distance transmission charges.

* * * * *

(vi) *Maintenance of do-not-call lists.* A person or entity making telephone solicitations must maintain a record of a caller's request not to receive future telephone solicitations. A do not call request must be honored for 10 years from the time the request is made.

(f) * * *

(3) * * *

(iii) By or on behalf of a tax-exempt nonprofit organization.

* * * * *

PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

1. The authority citation for part 68 continues to read as follows:

Authority: Secs. 1, 4, 5, 201–5, 208, 215, 218, 226, 227, 303, 313, 314, 403, 404, 410, 602 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 155, 201–5, 208, 215, 218, 226, 227, 303, 313, 314, 403, 404, 410, 602.

2. Section 68.318 is amended by revising paragraph (c)(3) to read as follows:

§ 68.318 Additional limitations.

* * * * *

(c) * * *

(3) Telephone facsimile machines; identification of the sender of the message. It shall be unlawful for any person within the United States to use a computer or other electronic device to send any message via a telephone facsimile unless such message clearly contains, in a margin at the top or bottom of each transmitted page or on the first page of the transmission, the date and time it is sent and an identification of the business, other entity, or individual sending the message and the telephone number of the sending machine or of such business, other entity, or individual. The telephone number provided may not be a 900 number or any other number for which charges exceed local or long distance transmission charges. Telephone facsimile machines manufactured on and after December 20, 1992 must clearly mark such identifying information on each transmitted message. Facsimile modem boards manufactured on and after December 13, 1995 must comply with the requirements of this section.

* * * * *

[FR Doc. 95–20116 Filed 8–14–95; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 94–8; RM–8412; RM–8461]

Radio Broadcasting Services; Ola and Russellville, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 267A to Ola, Arkansas, as that community's first local aural transmission service, at the request of Yell County Broadcasting. A mutually-exclusive proposal to substitute Channel 267A for Channel 265A at Russellville, Arkansas, and concomitant modification of the license of Johnson Communications, Inc. for Station KCJC(FM) is denied. *See* 59 FR 7669, February 16, 1994. Coordinates used for Channel 267A at Ola, Arkansas, are 35–01–02 and 93–13–34. With this action, the proceeding is terminated.

DATES: Effective September 25, 1995. The window period for filing applications will open on September 25, 1995, and close on October 26, 1995.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180. Questions related to the window application filing process for Channel 267A at Ola, Arkansas, should be addressed to the Audio Services Division, FM Branch, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 94–8, adopted August 2, 1995, and released August 10, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, located at 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by adding Ola, Channel 267A.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95–20115 Filed 8–14–95; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 673

[Docket No. 950428123–5193–02; I.D. 042595A]

RIN 0648–AIOO

Scallop Fishery off Alaska; Closure of Federal Waters to Protect Scallop Stocks

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement a Fishery Management Plan for the Scallop Fishery off Alaska (FMP). The FMP specifies the optimum yield (OY) for the scallop fishery in Federal waters off Alaska as a numerical range of 0–1.1 million lbs (0–499 mt) of shucked scallop meats. The only management measure authorized under the FMP is an interim closure of Federal waters off Alaska to fishing for scallops. Federal waters will remain closed for up to 1 year. This action is necessary to prevent overfishing of scallop stocks while an amendment to the FMP is prepared that would allow the controlled harvest of scallops in Federal waters. This action is intended to prevent overfishing of scallops that could otherwise result from unregulated fishing for scallops in Federal waters.

EFFECTIVE DATE: 12:01 a.m., Alaska local time (A.l.t.), August 29, 1995.

ADDRESSES: Copies of the FMP and the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for the FMP may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510.

FOR FURTHER INFORMATION CONTACT: Susan Salveson, 907–586–7228.

SUPPLEMENTARY INFORMATION: Federal waters off Alaska have been closed to fishing for scallops under an emergency interim rule that expires August 28, 1995 (60 FR 11054, March 1, 1995, corrected at 60 FR 12825, March 8, 1995, and 60 FR 28359, May 31, 1995). The emergency interim closure was intended to prevent unregulated and uncontrolled fishing for scallops in Federal waters while the North Pacific Fishery Management Council (Council) prepared the FMP.

At its April 1995 meeting, the Council approved the FMP for review under section 304(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.* (Magnuson Act)). A notice of availability of the proposed FMP was published in the **Federal Register** on April 28, 1995 (60 FR 20959), and invited comment on the FMP through June 26, 1995. A proposed rule to implement the FMP was published in the **Federal Register** on May 10, 1995 (60 FR 24822), and comments on the proposed rule were invited through June 19, 1995. Three letters providing written comment were received within the comment period. Written comments on the FMP and the proposed rule to implement it are summarized in the Response to Comments section, below.

The FMP was approved on July 26, 1995, under section 304(b) of the Magnuson Act. Upon reviewing the reasons for the FMP and the comments on the proposed rule to implement it, NMFS has determined that this final rule is consistent with the Magnuson Act and the FMP as adopted by the Council.

The final rule implements a maximum 1-year closure of Federal waters to fishing for scallops. The intent of this action is to prevent an unregulated and uncontrolled fishery for scallops in Federal waters that could result in overfishing of scallop stocks while an amendment to the FMP is prepared, which would authorize fishing for scallops under a Federal management regime. NMFS has pursued this approach, because it has determined that the suite of alternative management measures necessary to support a controlled fishery for scallops in Federal waters could not be prepared, reviewed, and implemented before the emergency rule expires on August 28, 1995. Instead, NMFS has approved this rule to protect the long-term productivity of scallop stocks off Alaska necessary to achieve the future harvest of OY on a continuing basis without the ''boom and bust'' cycle historically experienced in other scallop fisheries.

The FMP and its implementing rule are explained further in the preamble to the proposed rule. The measures set out in the final rule do not differ from the proposed rule.

Response to Comments

Three letters of comments were received within the comment period. A summary of the written comments and NMFS' response follows:

Comment 1. No information exists to support closure of Federal waters to fishing for scallops under the proposed FMP.

Response. NMFS disagrees. Fishing for scallops in Federal waters by a vessel not subject to State regulations governing the scallop fishery precipitated an emergency rule to close Federal waters to unregulated fishing for scallops (60 FR 11054, March 1, 1995, and 60 FR 28359, May 31, 1995). Based on the events that warranted the emergency interim rule, the Council has recommended that a Federal FMP is needed to authorize an interim closure of Federal waters to fishing for scallops that will continue for 1 year or until a superseding Federal management regime is implemented, whichever is earlier. In the absence of a management regime, NMFS anticipates that continued unregulated scallop fishing could result in local depletion of scallops, increasing the risk of overfishing of scallops stocks.

NMFS recognizes that an interim closure of Federal waters to fishing for scallops will result in a substantial impact on scallop fishermen. The potential foregone revenue to scallop fishermen could approach $6 million if Federal waters remain closed for the entire year. However, this short-term impact is justified by the need to prevent overfishing of scallop stocks and ensure the long-term productivity of the scallop resource so that the OY may be achieved on a continuing basis under a future management regime that authorizes a regulated fishery in Federal waters.

Comment 2. The proposed FMP is not consistent with National Standard 1, because the FMP does not establish a quantified maximum sustainable yield (MSY); the proposed OY range does not reflect the estimated range of harvests in Federal waters relative to distribution of weathervane scallops, which is from California to Alaska; and the specified OY is not based on the best information available (see Comment 3). Furthermore, the 1-year closure authorized under the proposed FMP would interfere with the achievement of OY on a long-term, continuing basis.

Response. NMFS disagrees. See also response to Comment 3. NMFS noted in the preamble to the proposed rule that biomass estimates for scallops are limited, and the continuing expansion of this fishery into new areas make numerical estimation of MSY for weathervane and other scallop species not possible at this time. Nonetheless, an OY range (0 to 1,100,000 lb (0–499 mt)) may be established based on historical catches from Federal waters. These catches are the best information available on the long-term productivity of the scallop resource off Alaska. During the period that Federal waters are closed to fishing for scallops, the OY is set at zero. This interim OY level is consistent with National Standard 1 and will achieve OY on a continuing basis because: (1) Prevention of overfishing during the short-term will help guarantee a healthy long-term OY from the fishery when it is reopened, (2) the scallop harvest foregone during the interim closure will be available for later harvest and will contribute to increased OY because this species is a long-lived resource, (3) uncontrolled scallop fishing (the alternative to implementing the FMP) in the EEZ may repeat the overfishing and stock depression that historically has occurred in the weathervane scallop fishery, and (4) uncontrolled scallop dredging increases the potential for increasing bycatch of crab beyond levels presently established by the State of Alaska and may interfere with achieving OY in certain crab fisheries.

If implementation of the FMP and its associated OY are delayed until more scientific information is collected and analyzed, unregulated fishing for scallops in Federal waters would continue until NMFS acquired all data necessary to refine the determination of MSY/OY. At that point, the resource might be too diminished to allow achievement of OY on a continuing basis.

Comment 3. The proposed FMP is not consistent with National Standard 2, because the FMP does not use the best information available, that includes data on landings, meat counts, resource distribution, spatial catch, and fishing effort. Furthermore, the available scientific database for the Alaska scallop fishery is thin and does not justify an interim closure of Federal waters.

Response. NMFS disagrees. The FMP and preamble to the proposed rule summarized the recent trends in scallop landings, meat counts per pound, and fishing effort that precipitated the preparation of a scallop management plan by the Alaska Department of Fish and Game (ADF&G). NMFS and ADF&G have acknowledged the limited information on scallop population structure and abundance. ADF&G is continuing to pursue analyses of biological, fishery, and resource assessment data to better understand the population structure of the Alaska scallop resource and its sustainable exploitation level. Available scientific data on the life history traits of weathervane scallops and other scallops species indicate that weathervane scallops are susceptible to localized depletion and require a cautious resource management approach. Therefore, NMFS has determined that an interim closure of the scallop fishery in the EEZ is necessary until such time as a management regime can be implemented to manage the fishery.

Comment 4. The weathervane scallop is distributed from California to Alaska and commercial fisheries occur off the States of Oregon and Washington. National Standards 3 and 6 require that an individual stock of fish shall be managed as a unit throughout its range and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches. The proposed FMP does not indicate that any effort was made to consult with the States of Oregon and Washington or with the Pacific Fishery Management Council (Pacific Council). Given that the proposed FMP only addresses fishing activity off Alaska, the FMP does not consider a properly defined management unit and violates National Standards 3 and 6.

Response. NMFS disagrees. Comment 4 confuses geographic distribution of a species with stock management. Concentrations of adult scallops do not mingle and typically are managed as separate stocks. The geographic range of the weathervane scallops consists of a collection of stocks. Available information on resource distribution supports the management of the Alaska scallop resource as separate stock units. NMFS anticipates that future amendments to the FMP that authorize controlled fishing for scallops off Alaska will further define management units of the Alaska scallop resource in a manner very similar to the scallop management areas developed by the State of Alaska.

The FMP for the Alaska scallop fishery was precipitated by uncontrolled fishing for scallops off Alaska. A similar situation could occur off the Pacific Coast States. This situation has prompted the Pacific States Marine Fisheries Commission (PSMFC) to pursue an amendment to the Magnuson Act that would authorize the West Coast States to protect legitimate state interests in the conservation and management of fish caught in Federal waters off the coast of Washington, Oregon, or California in the absence of an approved Federal fishery management plan.

The PSMFC predicated its action on the belief that scallops are very sensitive to fishing pressure and that sudden increases in fishing effort may have long-term negative consequences to the recuperative capability of scallop stocks. The PSMFC has further acknowledged action by the Council to initiate rulemaking to control the scallop fishery off Alaska and the resulting potential for

increased effort for scallops off Washington and Oregon.

No information is available to NMFS that indicates that the interim closure of Federal waters off Alaska to fishing for scallops under either the February 24, 1995, emergency rule or the FMP will have an impact on the Washington and Oregon scallop fishery in a manner not already occurring due to increased fishing effort by vessels displaced from the East Coast of the United States. In recent years, the amount of scallops harvested off Oregon and Washington annually was not substantial relative to the Alaska fishery and averaged less than 1 percent of the Alaska harvest during 1989–1992. In 1993, the scallop landings off Oregon and Washington increased to 270,000 lb (122.47 mt) and 246,000 lb (111.58 mt), respectively, due to increased fishing effort by east coast vessels.

The Council has no authority beyond the Federal waters off Alaska. Nonetheless, the Council consists of three members from the State of Washington and two members from the State of Oregon. At least one of these members serves on both the North Pacific and Pacific Councils, as well as the PSMFC. NMFS believes this joint membership served to inform adequately the Pacific Council about scallop management actions the Council was considering. The fact that the PSMFC chose to pursue a Magnuson Act amendment to resolve Pacific coast management concerns rather than an interjurisdictional management plan and that the Alaska scallop FMP only addresses fishing off Alaska does not constitute a violation of National Standards 3 or 6.

Comment 5. The proposed FMP is not consistent with National Standard 4. An interim closure of Federal waters to fishing for scallops discriminates against residents of different States, and only Alaska State registered vessels are allowed to harvest weathervane scallops in Alaska State waters. This provides a competitive advantage to Alaskan vessels.

Response. NMFS disagrees. The interim closure to fishing for scallops authorized under the FMP does not discriminate against non-Alaska State residents. All vessels are prohibited from fishing for scallops in Federal waters off Alaska, including vessels owned and operated by Alaska State residents and vessels registered under the laws of the State of Alaska. The State of Alaska has notified the public that it will open specified State waters to limited fishing for scallops. Any vessel owner, regardless of state of residency, may choose to register his/her vessel with the State of Alaska and abide by State regulations governing the scallop fishery in State waters. Neither inconsistency with National Standard 4 nor discrimination against non-Alaska state residents results from implementation of the FMP.

Comment 6. The proposed FMP is not consistent with National Standard 5, because the FMP seriously limits efficiency and no analysis is provided on how a 1-year closure of Federal waters will enhance long-term efficiency. Similarly, the previous acceptance by NMFS of an Alaska State scallop management program also imposed technical and economic inefficiencies.

Response. NMFS disagrees. Efficiency in terms of resource management is enhanced by providing for the long-term sustainable harvest of the scallop resource (see response to Comment 2). NMFS concurs that short-term economic gain is subordinated to the long-term health of the scallop resource. This balance is considered and allowed under National Standards 1 and 5. Furthermore, fishery resources regulations typically control efficiency to prevent stock depletion. Without such controls, fishermen might fish until it were unprofitable to do so, resulting in localized depletion of scallops, which would increase the risk of overfishing scallop stocks.

Comment 7. The proposed FMP is not consistent with National Standard 7, because the FMP does not address how NMFS would monitor the closure of Federal waters to fishing for scallops. Effective enforcement could be costly. Furthermore, the proposed FMP differs from the regulations of Washington and Oregon and would not minimize costs and avoid unnecessary duplication.

Response. NMFS disagrees. NMFS would monitor and enforce closure of Federal waters to fishing for scallops in the same manner that groundfish area closures are enforced (i.e., observer data, surveillance flights by the U.S. Coast Guard (USCG), recordkeeping and reporting documentation, other available sources of information that indicate the location of fishing operations). NMFS recognizes that some scallop stocks straddle Federal and State waters in a manner that may make the enforcement of the closure of Federal waters off Alaska difficult. NMFS also recognizes that, in recent years, most of the scallop harvest has come from Federal waters and that the State of Alaska intends to follow a conservative approach to opening State waters to fishing for scallops so that the potential for redistribution of fishing effort from Federal to State waters does not jeopardize the resource in State waters. NMFS intends to coordinate management with the State of Alaska so that the State will consider any enforcement concerns resulting from the closure of the Federal fishery when determining whether or not to open State waters to fishing for scallops.

Comment 8. The proposed FMP is not consistent with the New England Fishery Management Council's (New England Council's) scallop fishery management plan, which provides for an industry advisory panel. The proposed FMP should allow for an industry advisory panel to provide a forum for management agencies and industry members to discuss management and data collection strategy.

Response. The management measures contained in the scallop fishery management plan prepared by the New England Council may or may not be pertinent to the management of the Alaska scallop fishery under the authority of the Council. The proposed FMP contains a single management measure, an interim closure of Federal waters, to provide the time necessary to prepare a management regime that would authorize a controlled fishery for scallops in Federal waters. This future management regime could provide for an industry advisory panel that provides input to management agencies if the Council so desires. An industry advisory panel beyond that which already exists in the normal Council process is not mandated, because the New England Council has made such a provision in its scallop management plan.

Comment 9. Concerns about localized overfishing of scallop stocks do not justify closure of Federal waters because fishermen will leave a fishing area before the stock is overharvested to the point where profit margin falls to the break even point. As a result, sufficient amounts of scallops will remain to repopulate an area.

Response. NMFS disagrees. Also see response to Comment 2. The weathervane scallop is a long-lived, slow growing species. As a result, this species is vulnerable to overfishing. Fishing a localized stock of scallops until catch-per-unit-of-effort (CPUE) drops to the point of becoming unprofitable poses conservation concerns, especially if the stock is reduced to the point where it is not able to recover or can recover only after a long period of time.

Prior to the 1990's, management of the Alaska weathervane scallop fishery was premised on the assumption that the fishery would self-regulate by

economics. The fishery was fairly small and passively managed using gear restrictions, fishing seasons, and closed areas. Experience with this management approach for weathervane scallops and other scallop species has indicated that a collapse of a scallop fishery is not uncommon following a relatively brief period of intense fishing effort. Recent expansion of fishing capacity of the Alaska scallop fleet has aggravated overfishing concerns.

The scallop resource off Alaska may have avoided overall depletion during the early years of the fishery (late 1960's and early 1970's) because scallops were widely distributed and the small fleet was economically motivated to move to new areas to maintain catch rates or to other fisheries. However, available fishery data suggest that the Kodiak and Yakutat area stocks may have been overfished.

During the early years of the Alaska scallop fishery, the scallop harvests from the Kodiak and Yakutat areas were predominated by scallops age 7 and older. By the early 1970's, 2–6 year old scallops dominated the catch. The magnitude of the age shift during the early years of the fishery, as well as subsequent poor fishery performance, indicates that high harvests during the early years of the fishery off Kodiak and Yakutat were not sustainable over the long term (Shirley and Kruse 1995). Published scientific literature provides numerous other examples where overharvesting of scallop stocks has led to long-term or permanent inability to support a commercial fishery (Young and Martin 1989, Orensanz 1986, Aschan 1991).

Comment 10. Closure of Federal waters to fishing for scallops will prevent the collection of fishery data that are needed for sound management of the fishery.

Response. NMFS recognizes the importance of fishery data in monitoring the status of the scallop resource. The FMP authorizes a 1-year closure of Federal waters, so the potential loss of commercial fishery data from Federal waters is limited. Fishery data still would be collected from State scallop fisheries authorized by ADF&G. Furthermore, ADF&G has scheduled a 1995 resource assessment for the scallop resource near Kayak Island in the Prince William Sound management area. In addition, ADF&G plans to analyze biological and fishery data already collected to assess sustainability of exploited weathervane scallop stocks off Alaska. Given the opportunity to collect data from State fisheries during the period of time Federal waters are closed, as well as ADF&G's analysis of data already collected to estimate recruitment, growth, and mortality parameters, NMFS does not believe that a 1-year hiatus in the collection of Federal fishery data will significantly affect the future management of the fishery.

Comment 11. NMFS accepts public comment and outside data perfunctorily and for no other reason than that it is required by statute to do so. No evidence exists, especially for the scallop fishery, that the comments submitted from commercial fishing interests have had any effect whatsoever on ultimate decisions.

Response. NMFS disagrees. NMFS routinely revises final regulations in response to public comment. In the case of the proposed FMP, this public comment challenging the merits of a fishery closure or the efficacy of constraining fishing activity implies that short-term financial gain on the part of one or more vessels has priority over the long-term health of the scallop resource and sustainable yield by all participants in the fishery in future years. This perspective is counter to what NMFS believes to be wise use of the Alaska scallop resource. Nonetheless, NMFS has acknowledged and responded to such comments.

Comment 12. The implementation of the proposed FMP is being done on a fast track to prevent unregulated fishing in Federal waters by one vessel. A major concern posed by NMFS and the Council is that allowing unregulated fishing by one vessel in Federal waters could cause serious biological overfishing. Without any information on resource conditions and vessel performance measures, it is not possible to state whether or not a single vessel could endanger the resource locally or otherwise. This would be highly unlikely.

Response. NMFS disagrees. The schedule for review and implementation of the proposed FMP is established under section 304 of the Magnuson Act. NMFS has not deviated from this process to pursue an alternative ''fast-track'' implementation schedule. NMFS acknowledges that the preparation and review of the FMP have been given high priority. NMFS believes that the Alaska scallop fishery must be protected from uncontrolled fishing activity to better assure the long-term health of the scallop resource and sustain harvests of this resource at an optimum level. As experienced earlier in 1995, unregulated fishing by a single vessel in Federal waters exceeded an Alaska State guideline harvest level by over 100 percent. This degree of overharvesting has the potential for unrestricted crab bycatch and the possibility that one or more vessels would continue to overharvest the scallop stocks, necessitates closure of Federal waters until a Federal management regime is prepared that authorizes a controlled fishery for scallops. Moreover, continued unregulated fishing by one or more vessels could result in conflicts with other vessels that do not choose to pursue an unregulated fishery, or those Alaska-licensed vessels that are prohibited from fishing for scallops. NMFS has determined that such conflicts represent serious management issues that should be addressed whenever possible.

Comment 13. NMFS was content to permit regulation of the scallop resource by the State of Alaska, which authorized the harvest of 1.6 million lbs (726 mt) of scallops for 1995. Furthermore, NMFS did not require the Alaska State regulations covering harvesting in Federal waters by Alaska State registered vessels to meet the national standards and purposes of the Magnuson Act. The 1995 quota under State management, which NMFS found acceptable, still has 1.5 million lbs (680 mt) available. Yet NMFS maintains that the fishery must be closed to protect the resource. The full 1995 Alaska quota should be harvested before the fishery is closed.

Response. NMFS disagrees. Comment 13 suggests that no conservation problem exists that justifies a closure of Federal waters under the proposed FMP, because the full 1.6 million lbs (726 mt) annual quota established by the State of Alaska has not been harvested. This premise is misleading and irrelevant to the basis for the interim closure authorized under the FMP. The interim closure under the FMP is necessary to address NMFS' concern for localized depletion as a result of uncontrolled dredging for scallops by one or more vessels. Experience in 1995 has shown that closure of an area to fishing for scallops under Alaska State regulations when an annual quota has been reached does not cause unregulated vessels to cease fishing operations. As a result of such action, the State's quota for its Prince William Sound registration area was exceeded by over 100 percent. This poses more than adequate evidence of a serious conservation problem. Therefore, the commenter's suggestion that scallops remain to be harvested in other Federal waters off Alaska is irrelevant to the problem faced by management agencies.

Comment 14. The determination in the preamble to the proposed rule that the rule is not significant for purposes

of E.O. 12866 is unexplained and is not legally correct.

Response. The EA/RIR/Initial Regulatory Flexibility Analysis prepared for the FMP addressed the significance of the interim closure authorized under the FMP relative to E.O. 12866. This information was not required to be repeated in the preamble to the proposed rule.

NMFS requires the preparation of a RIR for all regulatory actions that either implement a new fishery management plan or significantly amend an existing plan. The RIR is part of the process of preparing and reviewing fishery management plans and provides a comprehensive review of the changes in net economic benefits to society associated with proposed regulatory actions. The analysis also provides a review of the problems and policy objectives promoting the regulatory action and an evaluation of the major alternatives that could be used to solve the problems. The RIR addresses many of the items in the regulatory philosophy and principles of E.O. 12866.

E.O. 12866 requires that the Office of Management and Budget review proposed regulatory programs that are considered to be ''significant.'' A ''significant regulatory action'' is one that is likely to:

(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 entitlement, 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 E.O. 12866.

A regulatory program is ''economically significant'' if it is likely to result in the effects described in item (1) above. The RIR is designed to provide information to determine whether the proposed regulation is likely to be ''economically significant.''

NMFS believes the RIR prepared for the proposed FMP adequately assessed the costs and benefits that could result from the implementation of the proposed FMP and that the determination that the rule implementing the FMP is not significant under E.O. 12866 is justified.

Comment 15. The legal brief supporting Trawler Diane Marie, Inc.'s motion for summary judgment in its case seeking to set aside the February 24, 1995, emergency rule, as well as the associated affidavit of James E. Kirkley and William D. DuPaul commenting on both the emergency rule and the proposed FMP closure of the scallop fishery in Federal waters off Alaska are submitted as comment on the proposed FMP.

Response. The issues and complaints contained in the legal brief filed by the plaintiffs in *Trawler Diane Marie, Inc.* v. *Ronald H. Brown*, No. 2–95–CV–15–D(2) (E.D.N.C.), have been responded to in several subsequent memoranda of reply and are not repeated here. General comments that directly pertain to the proposed FMP and that were contained also in the Kirkley and DuPaul review of the proposed FMP are addressed above. Comments specific to the Kirkley and DuPaul review are addressed below.

Comment 16. The proposed FMP presents insufficient information to assess whether or not the FMP will improve resource conditions and benefit the nation. There has been no stock assessment of the resource in recent years. Furthermore, the structure of the stock is not defined and information is lacking on whether the resource is characterized as an open population or defined in terms of discrete, localized, and self-contained populations.

Response. NMFS acknowledges that the data on the weathervane scallop resource are not complete. ADF&G conducted an assessment of the Cook Inlet stock in 1984 and intends to conduct an assessment of the Prince William Sound stock this summer. Although stock structure of the weathervane scallop resource is not well defined, scientists generally recognize the resource to comprise megapopulations, which are discrete collections of adult animals that do not intermix but that may be connected by larval drift. Such populations are susceptible to localized depletion. Furthermore, the proposed FMP refers to scientific evidence that a number of other scallop species have megapopulations comprising multiple discrete self-sustaining populations. NMFS concludes from these studies that weathervane scallops structure may be organized similarly and be susceptible to localized overfishing. Weathervane scallops and other scallop species have a history of overexploitation that resulted in serious depletion of localized stocks, which may have led to overfishing (Shirley and Kruse 1995). Concerns about overexploitation as well as uncertainty about scallop stock structure and abundance support a conservative interpretation of available data and development of a management regime in favor of resource protection. This approach is superior to that alluded to in Comment 16, which indicates that, in the absence of definitive information about the scallop resource, NMFS should err on the side of resource exploitation.

Comment 17. No apparent information exists on catch and effort or meat counts, although the proposed FMP refers to voluntary data submitted by members of the scallop fishery and to other anecdotal information. NMFS indicates that this information suggests a resource problem, because the number of meats per pound has increased and CPUE has declined in recent years. Contrary to NMFS' premise, increased meat counts could be the result of many factors, one of which is the fact that scallop vessels have increasingly exploited Federal waters off Alaska. The water depth is typically deeper in offshore waters and scallops from deep waters typically have lower yields or higher counts than scallops of the same size for shallow water areas because of reduced food abundance. Also, since the fishery has intensified, there has been more exploitation throughout the year. As a consequence, more scallops may now be harvested during the spawning period when meat yields typically decline or the counts increase.

Response. ADF&G has collected landings data from fish tickets from the Alaska scallop fishery since the 1960's. This information includes catch amounts and limited data on fishing effort (e.g., number of vessels, vessel size, number of tows). ADF&G also collected data from on board catch sampling and logbook interview programs from the scallop fishery during 1968–1972 and provided additional effort information (actual number of days fished) as well as data on shucked meat weights. In addition, ADF&G has conducted an on board observer program since 1993 that collects detailed data on catch and effort (e.g., duration of tows).

Published literature indicates that scallop growth can vary between inshore and offshore areas (MacDonald and Bourne 1987, Can. J. Fish. Aquat. Sci. 44: 152–160) and between geographic areas. A movement of vessels from inshore to offshore fishing grounds would indicate that catch rate is declining in the area the vessels are leaving. This suggests inshore scallop stocks have been fished down to the point where vessels no longer can profitably harvest them. Furthermore, age composition data from the

commercial fishery during the late 1960's and early 1970's showed a downward shift in age structure in the Kodiak and Yakutat stocks (see response to Comment 9).

Although a year-round fishery and exploitation during the spawning season could account for higher meat counts, this is not a likely explanation for increased meat counts in the Alaska scallop fishery, because most of the Alaska scallop harvest occurs in the summer months, after the spawning season.

Comment 18. The proposed FMP presents no information on pre-recruits, which would not be observed in the State's mandatory observer program and which could be extremely high. Alaska State regulations and the commercial gear configuration allow escapement of small scallops. Available data indicate the timing and frequency of spawning by weathervane scallops is highly synchronous. Consequently, scallop shell height frequency distributions could be a good indicator of year-class survival or strength for ages 1 to 4. This important information apparently is not obtained by at-sea observers.

Response. Vessels that fish under the authority of Alaska State regulations carry observers. These observers collect data on shell height frequency that is analyzed by ADF&G to assess stock condition and exploitation. Further, commercial fishery data on the abundance of age 3 or 4 scallops may provide an index of future productivity.

Although weathervane scallops can produce gametes by age 3 or 4, these ages may not contribute significantly to reproduction. Data on some related species show that adults do not produce fully viable gametes until several years after age at first maturity. Scientists in British Columbia currently are researching this phenomenon for weathervane scallops. Thus, published information on age-at-maturity may be changing. If mean age of maturity is older than previously thought, current regulations afford less protection for spawning stocks than currently believed and recruitment overfishing is more likely to occur.

Comment 19. Management agencies have not collected information on fishing effort in the Alaska scallop fishery regularly. However, the consensus of scallop researchers is that CPUE is not a valid indicator of the resource abundance of scallops.

Response. Information on CPUE in the Alaska scallop fishery has been regularly collected on ADF&G fish tickets since the 1960's. NMFS generally agrees that average CPUE may not be a valid indicator of resource abundance for aggregative species like scallops, because concentrations are fished heavily until CPUE drops, and the fleet or a vessel then moves on to a different stock to repeat this pattern. Rather than analyze region-wide CPUE data, the State of Alaska is analyzing detailed area-specific fishery data with geographic information systems to better understand stock distribution and abundance. Further, ADF&G is analyzing biological data collected from the State's observer program to estimate recruitment, growth, and mortality parameters and to increase management agency knowledge of the sustainability of the exploited Alaska weathervane scallop stocks.

Comment 20. The management of the Alaska scallop fishery by ADF&G has contributed to a decline in CPUE. Quotas established by ADF&G are notoriously inefficient and cause vessels to engage in derby-style fishing practices. This type of fishing strategy has been shown throughout the fishery literature to cause a decline in CPUE and to create economic and technical inefficiency. This approach to fishery management violates National Standard 5, because it fails to promote efficiency in the utilization of fishery resources.

Response. NMFS finds that this comment is not relevant to the action being proposed (i.e., a 1-year closure of the scallop fishery in the EEZ). Nonetheless, NMFS notes that establishment by the State of Alaska of management area quotas is an accepted management measure used by fishery management agencies.

Comment 21. The proposed FMP reports an unreasonably high harvest capacity (65,000 lbs, or 29 mt, of shucked scallop meats per week) for the single vessel that had fished Federal waters outside the regulatory authority of the State of Alaska and which precipitated the February 24 emergency closure of Federal waters as well as the proposed FMP.

Response. NMFS disagrees. The draft FMP does not state that the vessel that precipitated the closure of Federal waters had a 65,000 lb (29 mt) harvest capacity. Rather, the FMP reported that when the U.S.Coast Guard personnel boarded the vessel, they were informed by the vessel's crew that the vessel had about 54,000 lbs (24 mt) of shucked scallop meats on board. The point stressed in the proposed FMP and the preamble to the proposed rule to implement the FMP was that this level of catch on board the vessel exceeded the quota for the management area the vessel was operating in by over 100 percent.

Comment 22. The proposed FMP states that it is necessary to close the scallop fishery in Federal waters, because insufficient information is available to regulate the fishery. Yet, scientific literature (Hillborn and Walters, 1992) has shown that little information necessary for resource management can be obtained when the fishery is managed or regulated by extremely conservative strategies (e.g., an area closure). With this in mind, it may not be possible for NMFS to ever reopen Federal waters, if the opening depends upon a plan based on sound scientific information. The interim closure proposed under the FMP limits the collection of information necessary for sound resource management.

Response. NMFS disagrees. Also see response to Comment 10. The FMP does not authorize closure of Federal waters to fishing for scallops because insufficient information is available to regulate the fishery. Rather, the FMP implements an interim closure of Federal waters to prevent overfishing while a Federal management regime is prepared to authorize a controlled fishery for scallops. Until unregulated fishing activity of a single vessel precipitated closure of Federal waters, the scallop fishery was managed with the best information available and it will continue to be managed with the best information available once Federal waters reopen to fishing under a future amendment to the FMP.

The cited reference (Hillborn and Walters, 1992) reports that key resource assessment calculations heavily depend on data that can be gathered early in a fishery's development and that a data gathering program should be developed to collect information from subsequent phases of the fishery. If a fishery is left unregulated, species that form large aggregations are easy targets for exploitation and are susceptible to depletion and collapse. This pattern of exploitation and collapse has occurred repeatedly for a number of scallop stocks.

NMFS notes that although the importance of fishery data is clear, the single vessel fishing in the unregulated fishery for scallops in early 1995 carried no observer and did not report its catch to management agencies. As a result, catch information and other fishery data from this vessel are not included in the information base being developed to manage the Alaska scallop fishery. Although the interim closure of Federal waters temporarily limits the collection of fishery data, not implementing the FMP and allowing unregulated vessels to fish for scallops in Federal waters would not guarantee that fishery data

would be provided to management agencies.

Comment 23. Given the inadequacy of biological, social, and economic information to ascertain the status of the scallop stocks or the condition of the fishery, the available data do not support closure of Federal waters to fishing for scallops. If the FMP is implemented, NMFS will have to underwrite a large and expensive research program. If the research program has not yet begun, it will be a long time before a good FMP can be developed for the fishery.

Response. For the reasons described above, NMFS acknowledges that limited information on the Alaska scallop resource justifies a conservative approach to the management of this resource. This approach is based on the premise that uncertainty should lead to greater caution, not recklessness in the hope of short-term economic gain.

ADF&G has conducted resource assessments in Cook Inlet and intends to pursue a survey of part of the Prince William Sound stock this summer. An assessment of stock condition does not necessarily require expensive and long-term research. For example, observer data on catch, effort, and age composition could be analyzed to assess a stock's sustainability to exploitation. ADF&G plans to use these observer data in a geographic information systems analysis to provide a fishery-based assessment of stock status and productivity. NMFS is considering possible cooperative arrangements with the State of Alaska to make use of the information made available from ADF&G's assessment program.

Comment 24. The proposed FMP specifies an OY of 1.1 million lbs (499 mt), which equals the highest estimated harvest from Federal waters off Alaska. NMFS inappropriately based the proposed OY on historical landings because the landings have been sporadic, not indicative of a fully exploited resource, and regulated by quotas. In fact, historical landings reflect opportunities in other fisheries as well as those in the weathervane scallop fishery. Bourne (1991) argues that the resource tends to be exploited when opportunities in other fisheries are diminished. As a result, the landings series do not coincide with periods of full exploitation and the resulting guideline harvest ranges implemented by the State of Alaska and the proposed OY is likely to be artificially low.

Response. NMFS agrees that historical landings could have been affected as opportunities in other fisheries flourished or diminished. However, available data also support the premise of management agencies that fluctuating landings in the Alaska scallop fishery are reflective of the reduced availability of scallops resulting from the pulse nature of the fishery and the ''boom and bust'' cycles of resource abundance. Furthermore, the State of Alaska only recently (1993) implemented quotas for the Alaska scallop fishery. Prior to this time, scallop harvests were regulated only with gear restrictions, area closures, and fishing seasons. Last, analyses upon which ADF&G's guideline harvest ranges are based do not include very high or very low annual harvests to dampen the effect of annual variation on the calculation of sustainable yield estimates.

Comment 25. Using information contained in the draft FMP and a simple analysis of landings and number of trips using a surplus production model of the form of Schaefer (1957) indicates that the MSY for weathervane scallops off Alaska is approximately 6.3 million lbs (2,857 mt) of meats. The model is statistically significant, although the coefficient for the effort squared, measured by number of landings, is not statistically significant. This estimate is based on the best scientific information available—landings and number of trips over time. If the number of vessels is used instead of number of landings, the MSY is estimated to equal 1.3 million lbs (590 mt) of meats.

Response. The Schaefer model for estimating surplus production and MSY has been considered invalid since the 1960's (Larkin 1977). Furthermore, neither the number of landings nor the number of vessels are adequate variables to use because scallop vessel size and capacity has changed greatly over the past 20 years. Similarly, vessels have gone from a part-time engagement in the Alaska scallop fishery to full-time participation. Thus the vessels used to participate in the scallop fishery in the late 1960's and 1970's cannot be compared to the 15–17 vessels currently participating in the fishery because their levels of participation are not comparable. Even if the Schaefer model were appropriate, NMFS would seriously question the commenter's preferred alternative of using the highest MSY estimate of 6.3 million lbs (2,857 mt), instead of a more conservative amount, given the wide range (1.3 million–6.3 million lbs (590 mt–2,857 mt) calculated from the commenter's efforts, and the uncertainty of the data used by the commenter.

Comment 26. The proposed FMP states that a major reason for the interim closure and a Federal FMP is to prevent the ''boom and bust'' syndrome historically exhibited by other scallop fisheries. There is absolutely no evidence that a ''boom and bust'' fishery is bad. In fact, many U.S. fisheries, particularly shellfish fisheries, exhibit cyclic patterns in resource abundance and fishing activity. A good example of this is the Calico scallop (*Argopecten gibbus*) fishery in the State of Florida. Moreover, pulse-fishing is a strategy often adopted by fishermen to maximize net returns over time. In general, management strategies have not been able to prevent ''boom and bust'' episodes in fisheries that are naturally cyclic.

Response. The Calico scallop fishery is a poor example for justifying a ''boom and bust'' fishery for weathervane scallops off Alaska. Contrary to the long-lived weathervane scallop, the Calico scallop has a short life span (less than 2 years). Species of short life span typically are less vulnerable to overfishing, unlike weathervane scallops, which have a long life span and are more susceptible to recruitment overfishing. Published literature cites many examples where a relatively brief intense period of fishery exploitation has resulted in stock collapse (see response to Comment 9).

Under the proposed FMP, as well as the State of Alaska management program, harvest constraints will have some effect in dampening the natural fluctuations in resource abundance. A constant supply of scallops would also dampen economic impacts on the weathervane scallop industry relative to the cyclic abundance pattern that can wreak havoc on established markets.

Comment 27. Under the proposed FMP, there will be unprecedented scallop fishing effort by vessels in State waters because Federal waters will be closed. Evidence exists that the State will allow increased harvest levels in State waters in response to the closure. Therefore, the likelihood exists that fishing activity in State waters will be unprecedented unless controlled by strict harvest quotas. Thus, the same argument used to close Federal waters will have to be used to close State waters to the harvesting of weathervane scallop fishing. The only way to guarantee that the risk of recruitment failure or growth overfishing will be minimal is to close the entire weathervane scallop fishery.

Response. Under the proposed FMP, as well as the State of Alaska management program, harvest constraints will help dampen the natural fluctuations in resource abundance, will better prevent recruitment overfishing, and will promote sustainable and predictable fishery-related employment on a

continuing basis. A constant supply of scallops would also dampen the adverse economic impacts on markets that could be caused by erratic or cyclic patterns of scallop abundance.

The State of Alaska opened only limited areas in State waters to fishing for scallops under quotas that will protect scallop stocks within State waters from any increase in fishing effort that may occur because of the closure of Federal waters. For the 1995 fishing season, only the State waters of the Dutch Harbor and Adak areas opened to scallop fishing as scheduled on July 1. Available fishing grounds are extremely limited and harvest amounts are not expected to be significant. The harvests in these areas from the 1993 and 1994 seasons were only 40,000 lbs (18 mt) and 2,000 lbs (0.9 mt), respectively. Furthermore, scallop harvests and crab bycatch rates will be assessed in-season to guide management decisions and inseason closures.

Comment 28. The proposed FMP states that weathervane scallops possess biological traits (e.g., longevity, low natural mortality rates, and variable recruitment) that render them vulnerable to overfishing. It is not clear why these traits would render scallops vulnerable to overfishing. In fact, the trait of variable recruitment is a trait that can result in resource restoration.

Response. Resource restoration is a factor of numerous variables, including recruitment and natural mortality (M). A number of biological reference points is widely accepted for the management of fishery resources. One of these points is fishing mortality (F) at a level that equals natural mortality (M). If a stock exhibits low M, then chances increase that an unknown F is actually greater than M. Lacking more definitive information, another basic premise of traditional fishery management is that species of large size, longevity, and low natural mortality tend to be vulnerable to overharvest (Adams 1980; Leaman 1991). Moreover, published literature (Murphy 1967) shows that species that reproduce at multiple ages with variable reproductive success are very vulnerable to overharvest when fishing alters the age structure such that the population approaches a single reproduction. In the case of scallops, fishing-induced shifts in age structure to ages 2–6, as occurred in the early 1970s, reduce the stock's ability to maintain itself under periods of poor recruitment.

Comment 29. Management alternatives exist to a closure of Federal waters to fishing for scallops. For example, NMFS could impose a quota of 1.1 million lbs (499 mt) in Federal waters and require an observer aboard every vessel. When the quota will be reached, NMFS could close the fishery. Concerns about a derby-style fishery could be addressed through daily or weekly quotas or vessel specific quotas or allocations.

Response. NMFS disagrees with the commenter's approach. NMFS does not at this time have information to justify how the harvest of a particular quota (e.g., 1.1 million lbs) should be spread among potential management areas to prevent localized depletion of scallops. If a single harvest amount were specified and allowed to be fished without this information, scallop stocks could be adversely impacted. Requiring an observer on board every vessel would not ameliorate this situation. The Council is in the process of preparing an amendment to the FMP that would establish a Federal management regime authorizing a controlled fishery for scallops in Federal waters as soon as possible. In addition to quotas and levels of observer coverage, the Council will likely consider measures such as area closures and prohibited species bycatch allowances to protect other fish species (e.g. crabs). Also, the Council will likely consider measures necessary for inseason management of the scallop fishery (e.g., gear configurations, crew sizes, recordkeeping and reporting requirements). The Council will consider carefully each of these measures as to whether it is necessary for conservation and management of the scallop fishery. Public comments will be invited, responded to, and if necessary, adjustments to particular management measures might be developed. Once the Council recommends its preferred alternative for each particular measure, NMFS will determine whether it comports with the national standards and other applicable laws, and decide whether to approve it. This process, although lengthy, is essential to provide a rational regime that responds to NMFS's responsibilities under the Magnuson Act to conserve and manage the scallop fishery off Alaska.

Comment 30. In recent years, the catch capacity and capitalization in the Alaska scallop fishery has become excessive due to speculative entry. The result has been severe financial pressure on fishery participants. The only way to reduce this pressure is to reduce excessive capacity to a rational level. The management of this fishery must proceed as soon as possible towards a comprehensive system that will optimize the fleet at a more rational level.

Response. NMFS agrees. See response to Comment 29.

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Classification

The Director, Alaska Region, NMFS, determined that the FMP is necessary for the conservation and management of the Gulf of Alaska and the Bering Sea and Aleutian Islands management area fisheries and that it is consistent with the Magnuson Act and other applicable laws.

NMFS prepared an FRFA as part of the RIR. A copy of this analysis is available from the Council (see **ADDRESSES**).

To avoid a regulatory hiatus when the February 23, 1995, emergency rule expires and to address conservation concerns resulting from uncontrolled fishing for scallops, this rule must be effective on 12:01 a.m., A.l.t., August 29, 1995. In addition, because this rule will continue the emergency rule's prohibition on fishing for scallops, the fishing industry will not need any additional time to adjust to the requirements imposed by this rule. These reasons constitute good cause under authority contained in 5 U.S.C. 553(d)(3) for waiving all or part of the 30-day delay in effective date.

This rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 673

Fisheries.

Dated: August 8, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 673 is added as follows:

1. Part 673 is added to Chapter VI of 50 CFR to read as follows:

PART 673—SCALLOP FISHERY OFF ALASKA

Sec.

673.1 Purpose and scope.
673.2 Definitions.
673.3 Prohibitions.

Authority: 16 U.S.C. 1801 *et seq.*

§ 673.1 Purpose and scope.

(a) These regulations implement Federal authority under the Magnuson Act to manage the scallop fishery in the exclusive economic zone off Alaska.

(b) Regulations in this part govern commercial fishing for scallops in the exclusive economic zone off Alaska.

§ 673.2 Definitions.

In addition to the definitions in the Magnuson Act and in 50 CFR part 620, the terms in 50 CFR part 673 have the following meanings:

Exclusive Economic Zone (EEZ) (see § 620.2 of this chapter)

Scallop(s) means any species of the family Pectinidae, including without limitation weathervane scallops (*Patinopecten caurinus*).

§ 673.3 Prohibitions.

In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person to retain any scallops in the EEZ seaward of Alaska during the period that extends through the earlier of August 28, 1996, or until superseded by other management measures.

[FR Doc. 95–19971 Filed 8–10–95; 1:12 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 157
Tuesday, August 15, 1995

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 60, 72, 73, and 75

RIN: 3150–AF32

Safeguards for Spent Nuclear Fuel or High-Level Radioactive Waste

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to clarify safeguards requirements for spent nuclear fuel or high-level radioactive waste stored at independent spent fuel storage installations, power reactors that have permanently ceased reactor operations, monitored retrievable storage installations, and geologic repository operations areas. This rule would allow general licensees the option of implementing the proposed safeguards requirements for spent nuclear fuel stored in approved casks at operating power reactor sites. This action is necessary to reduce the regulatory uncertainty regarding the safeguards requirements for the storage of spent nuclear fuel and high-level radioactive waste without reducing the level of protection for public health and safety.

DATES: Comment period expires November 13, 1995. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Comments may be submitted to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attn: Docketing and Service Branch. Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm on Federal workdays.

Comments may be submitted electronically, in either ASCII text or Wordperfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board (BBS) on FEDWORLD. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages. Background documents on the rulemaking are also available for downloading and viewing on the bulletin board.

The NRC rulemaking subsystem on FEDWORLD can be accessed directly by dialing the toll free number: 1–800–303–9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT–100 terminal emulation, the NRC rulemaking subsystem can then be accessed by selecting the ''Rules Menu'' option from the ''NRC Main Menu.'' For further information about options available for NRC at FEDWORLD consult the ''Help-Information Center'' from the ''NRC Main Menu.'' Users will find the ''FEDWORLD Online User's Guides'' particularly helpful. Many NRC subsystems and databases also have a ''Help-Information Center'' option that is tailored to the particular subsystem.

The NRC subsystem on FEDWORLD also can be accessed by a direct dial phone number for the main FEDWORLD BBS: 703–321–3339. If you access NRC this way, then you may return to FEDWORLD by selecting the ''Return to FEDWORLD'' option from the NRC Online Main Menu. However, if you access NRC at FEDWORLD by using NRC's toll-free number, then you will have full access to all NRC systems, but you will not have access to the main FEDWORLD system. For more information on NRC bulletin boards contact Mr. Arthur Davis, Systems Integration and Development Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–5780; e-mail AXD3@nrc.gov.

Documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. These same documents may also be viewed and downloaded electronically via the Electronic Bulletin Board established by NRC for rulemaking as indicated above under the **ADDRESSES** heading.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Telford (301) 415–6229 or e-mail JLT@nrc.gov, or Dr. Sandra D. Frattali (301) 415–6261 or e-mail SDF@nrc.gov, Office of Nuclear Regulatory Research, or Ms. Priscilla A. Dwyer (301) 415–8110 or e-mail PAD@nrc.gov, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Background

The Commission's regulations addressing the storage of spent nuclear fuel and high-level radioactive waste (HLW), 10 CFR part 72, ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste,'' refer the applicant or licensee to ''* * * applicable requirements of part 73 * * *'' for requirements for physical protection. However, part 73 does not identify any safeguards requirements that are specific to the storage of spent nuclear fuel or HLW. In practice, the NRC has imposed specific safeguards requirements on affected facilities through license conditions using selected portions of 10 CFR 73.50 and 73.55 and interim licensing criteria as guidance.

The Commission's regulations for disposal of spent nuclear fuel or HLW by DOE at a geologic repository operations area (GROA) take a different approach. Instead of specifying applicable requirements to protect the common defense and security, they call for DOE to certify that it will provide ''* * * such safeguards as it requires at comparable surface facilities * * *'' of DOE. They also require DOE to describe a physical security plan for protection against radiological sabotage, but the contents of that plan are not specified.

The only physical protection requirements in NRC regulations that are specific to the storage of spent nuclear fuel are those that apply to spent nuclear fuel stored in certified casks under a general license at operating nuclear power reactors. These requirements are found in § 72.212(b)(5).

The Commission is proposing regulations to codify existing practice for the safeguarding of stored spent nuclear fuel or HLW. The proposed amendments would provide a set of physical protection and material control and accounting requirements directed at the storage of spent nuclear fuel or HLW, whether at an independent spent

fuel storage installation (ISFSI), a monitored retrievable storage installation (MRS), a power reactor that has permanently ceased reactor operations, or a geological repository. In addition, these proposed amendments are consistent with safeguards requirements for spent nuclear fuel storage under a general license at operating power reactors. Because the proposed amendments codify the existing regulatory practice there would not be any additional burden placed upon current licensees.

These amendments would make minor changes to existing regulatory language to clarify the meaning of the requirements. These amendments would also make the requirements of 10 CFR part 75 (pertaining to international safeguards) applicable to the GROA. This change is needed because the Terms of Reference, dated August 1, 1994, for the Subgroup on IAEA Safeguards in the U.S., part of the Subcommittee on International Safeguards and Monitoring of the IAEA Steering Committee, states that NRC shall be the U.S. agency responsible for maintaining necessary regulations for implementing the US-IAEA Safeguards Agreement at NRC licensed or certified facilities, including the promulgation of regulations, incorporation of appropriate amendments in NRC licenses, and the issuance of such orders as may be necessary to assure compliance. These Terms of Reference regarding the agreement between the U.S. and the IAEA are available for inspection in the NRC's public document room.

These proposed amendments do not require specific protection against the malevolent use of a vehicle. As stated in the final rule ''Protection Against Malevolent Use of Vehicles at Nuclear Power Plants'' (59 FR 38889, August 1, 1994), the NRC staff, with contractor assistance, is studying this issue and attempting to quantify the consequences of a vehicle bomb detonated in the vicinity of an ISFSI. The results of this study will assist the staff in making a determination as to whether vehicle bomb protection is needed for ISFSIs. Also, if any significant safety issues are identified in this study, those issues would be resolved by an appropriate regulatory action, which could include rulemaking. In the interim, the staff believes that the inherent nature of the spent nuclear fuel or HLW, along with the degree of protection provided by the approved storage means, provides adequate protection against the malevolent use of a vehicle.

Regulatory Approach

The proposed requirements would amend 10 CFR parts 60, 72, 73, and 75. For part 60, the Commission is proposing that the regulatory approach for safeguarding a GROA be the same as that which applies to spent nuclear fuel storage facilities licensed under part 72. The basic reason for this proposal is that the GROA operations, at least insofar as they are expected to be conducted in surface facilities, appear to present the same kinds of potential risks that are characteristic of the storage of spent nuclear fuel. And the safeguards that would thus be required are deemed to be sufficient as well to protect against acts affecting the underground facility that might be inimical to the common defense and security. This regulatory approach is predicated on maintaining the physical integrity of the spent nuclear fuel rods. If their physical integrity is not maintained, additional license conditions might be found to be necessary and would then be incorporated in the license.

The current proposal represents a departure from the Commission's prior position, as explained in the statement of considerations accompanying its promulgation of 10 CFR part 60 (46 FR 13971, 13975, February 25, 1981). The prior view was that ''DOE, as a Federal agency operating under the Atomic Energy Act, has its own obligation to promote the common defense and security. Indeed, DOE is responsible under the Atomic Energy Act for protection of materials and facilities far more sensitive from a safeguards standpoint than nuclear waste materials in a geologic repository. Therefore, the rule provides that a DOE certification that its repository operations area safeguards are equal to those at comparable DOE surface facilities shall constitute a rebuttable presumption on the question of inimicality to the common defense and security.''

Implementation of the current rule has proved to be difficult for two reasons. The first has been the identification of DOE surface facilities that are ''comparable,'' so that the protective measures are neither too burdensome nor too lax. The second reason concerns the indefiniteness of the ''rebuttable presumption'' language. Neither DOE nor the NRC staff nor any other potential party can be certain about the level of detail that might be necessary to support the certification or to rebut the presumption of noninimicality. It appears likely to the Commission that the specification of reasonable safeguards requirements, as it is here proposing, will enable DOE to discharge its common defense and security obligations more efficiently than would be the case under the existing language. And there would be the added benefit of ensuring that similar operations (i.e., at a GROA as well as at spent nuclear fuel storage facilities) are addressed in a consistent manner. Moreover, by defining the requirements more clearly in advance of the submission of a license application, opportunities for timely public review and comment may be enhanced.

The proposed amendments would replace existing § 60.21(b)(3) with a requirement for DOE to submit a detailed plan to provide physical protection for the storage of HLW at a GROA in accordance with a new § 73.51. Also, the proposed amendment would replace existing § 60.21(b)(4) with a requirement for DOE to comply with a new § 60.78, which requires DOE to provide a description of a program to meet the requirements of existing §§ 72.72, 72.74, 72.76, and 72.78. The rationale for these changes is, as discussed above, to ensure that the safeguards for similar facilities are addressed in a consistent manner. In addition, because these specific requirements are being provided, the general requirement for DOE to provide ''* * * such safeguards as it requires at comparable surface facilities * * *'' would also be removed from §§ 60.31, 60.41, and 72.24(o), because it would not be needed. Also, all of the requirements of § 73.51 would be applicable to surface operations including the entry points to the underground facility, and the earth cover together with the remoteness of the facility would provide additional protection of the public against a significant offsite release from the underground facility. Therefore, only the more general performance objectives set out in paragraph 73.51(b) would be applicable to the underground facility. Surveillance and detection measures would be required for surface operations and access would be controlled at entry points to the underground facility; within the underground facility itself, however, no further measures would need to be implemented for purposes of this regulation.

An additional revision to Part 60 relates to the nuclear material control and accounting program that is referred to in § 60.21(c)(10). To the extent that this program relates to safeguards issues, it is more properly addressed as ''general information'' under § 60.21(b) rather than as part of the Safety Analysis Report under § 60.21(c). The proposed rule will accomplish this. However, existing § 60.21(c)(10) has a broader

purpose that does implicate safety issues. There is a need for DOE to describe the materials inventory and recordkeeping program that is designed to assure protection of public health and safety during operations of the GROA and after permanent closure. Such information is important, for example, for purposes of performance confirmation, potential retrieval, and archival documentation. Section 60.21(c) would accordingly be revised to reflect this focus.

The proposed amendment to § 72.180 would provide requirements for the storage of spent nuclear fuel or HLW under a specific license by referring applicants to the same new section, § 73.51. The proposed amendment to § 72.212 would allow the licensee or applicant the option of either using § 73.51 for the storage of spent nuclear fuel under a general license or continuing to use § 73.55 with the additional conditions and exceptions provided in § 72.212(b)(5).

In licensing the storage of spent nuclear fuel or HLW at an ISFSI or a power reactor that has permanently ceased reactor operations, the NRC staff has had to sort through the many safeguards requirements of Part 73 to choose appropriate safeguards requirements, and impose those requirements through license conditions. As a result of this experience, however, a set of principles has evolved that reflects both the nature of potential threats and the hazardous radioactive characteristics of the materials. Accordingly, the proposed amendments in § 73.51 would codify safeguards requirements currently imposed on spent nuclear fuel storage licensees and would provide a consistent set of requirements for future licensing. Specifically, this new section would have the objective of ensuring that the following basic physical protection performance capabilities are met:

(1) Spent nuclear fuel or HLW is stored only within a protected area;

(2) Only authorized individuals are granted access to the protected area;

(3) Unauthorized penetrations of or activities within the protected area are detected and assessed;

(4) Communication with a designated response force, whenever necessary, is conducted in a timely fashion; and

(5) The physical security organization is managed properly.

These amendments would not apply to spent nuclear fuel storage pools at operating nuclear power plants. In addition, because these proposed safeguards requirements would codify the existing regulatory practice, there would not be any additional burden placed on current licensees. Further, the industry would benefit from a reduction of current regulatory uncertainties. The public would benefit from a greater level of assurance that appropriate safeguards requirements are being imposed on spent nuclear fuel and HLW storage licensees through public review and comment on the proposed rule. The DOE would benefit from the proposed amendments by having a clear statement of the safeguards measures the Commission plans to require at the GROA. Also, NRC would benefit as a result of a more efficient licensing process.

In addition, the current reporting requirements in § 73.71 would be amended to specifically include facilities that are subject to this rulemaking. However, because the amended reporting requirements are equivalent to current practice, no additional burden will be placed on current licensees as a result of these amended reporting requirements.

Specific Considerations

Comments with supporting rationale are particularly requested on the following questions:

1. Would the proposed amendments impose any significant additional costs for safeguards of currently stored spent nuclear fuel beyond what is now incurred for that purpose?

2. Is there reason to expect the costs to future licensees to differ substantially from those of current licensees?

3. Are the cost estimates in Table III of the Draft Regulatory Analysis representative of current industry experience? Are there significant costs that have not been included in the table?

4. Are the costs justified by the benefits that would be afforded by the proposed amendments? Are there alternatives that would afford essentially the same benefits, but be more cost effective?

5. Are the proposed amendments in 10 CFR 73.51 appropriate for an MRS or geologic repository operated by the U.S. Department of Energy?

Criminal Penalties

The Commission notes that these proposed amendments are issued under Sections 161b and i of the Atomic Energy Act of 1954, as amended. Therefore, violation of these regulations may subject a person to criminal sanctions under Section 223 of the Atomic Energy Act.

Environmental Impact: Categorical Exclusion

The Commission has determined that this regulation is the type of action described as a categorical exclusion in 10 CFR 51.22 (c)(3)(i) and (iii). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection requirement that is subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval numbers 3150–0002, –0127, and –0132.

Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing the burden, to the Information and Records Management Branch (T6F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; and to the Desk Officer, Office of Information and Regulatory Affairs, (3150–0132), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis for this proposed rule. The draft analysis examines the benefits and impacts of the alternatives considered by the Commission. The draft regulatory analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the analysis may be obtained from Dr. Sandra D. Frattali, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The draft regulatory analysis also is available for viewing and downloading from the NRC's rulemaking bulletin board as discussed above under **ADDRESSES.**

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. This proposed rule would affect operators of ISFSIs, power reactors that have permanently ceased operation, and DOE as the operator of the MRS and GROA. The affected licensees do not fall within the scope of the definition of ''small entities'' set forth in Section 601(3) of

the Regulatory Flexibility Act, or the Small Business Size Standards set out in regulations issued by the Small Business Administration Act, 13 CFR part 121.

Backfit Analysis

The Commission has determined that the backfit rule in 10 CFR 50.109 does not apply to this proposed rule because these proposed amendments do not impose new requirements on existing 10 CFR Part 50 licensees. Also, the backfitting requirements in 10 CFR 72.62 do not apply because these proposed amendments neither impose new requirements nor modify procedures or organizations of currently licensed ISFSIs. Therefore, a backfit analysis was not prepared for this proposed rule.

List of Subjects

10 CFR Part 60

Criminal penalties, High-level waste, Nuclear power plants and reactors, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

10 CFR Part 73

Criminal penalties, Hazardous materials transportation, Export, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 75

Criminal penalties, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the Commission is proposing to adopt the following amendments to 10 CFR Parts 60, 72, 73, and 75.

PART 60—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES

1. The authority citation for part 60 continues to read as follows:

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 114, 121, Pub. L. 97–425, 96 Stat. 2213g, 2228, as amended (42 U.S.C. 10134, 10141) and Pub. L. 102–486, sec. 2902, 106 Stat. 3123 (42 U.S.C. 5851).

2. In § 60.21, paragraphs (b)(3), (b)(4), and (c)(10) are revised to read as follows:

§ 60.21 Content of application.

* * * * *

(b) * * *

(3) A detailed plan to provide physical protection of high-level radioactive waste in accordance with § 73.51 of this chapter. This plan must include the design for physical protection, the licensee's safeguards contingency plan, and security organization personnel training and qualification plan. The plan must list tests, inspections, audits, and other means to be used to demonstrate compliance with such requirements.

(4) A description of the program to meet the requirements of § 60.78.

* * * * *

(c) * * *

(10) A description of the program to be used to maintain the records described in §§ 60.71 and 60.72.

* * * * *

3. In § 60.31, paragraph (b) is revised to read as follows:

§ 60.31 Construction authorization.

* * * * *

(b) *Common defense and security.* That there is reasonable assurance that the activities proposed in the application will not be inimical to the common defense and security.

* * * * *

4. In § 60.41, paragraph (c) is revised to read as follows:

§ 60.41 Standards for issuance of a license.

* * * * *

(c) The issuance of the license will not be inimical to the common defense and security and will not constitute an unreasonable risk to the health and safety of the public.

* * * * *

5. A new § 60.78 is added to read as follows:

§ 60.78 Material control and accounting records and reports.

DOE shall implement a program of material control and accounting (and accidental criticality reporting) that is the same as that specified in §§ 72.72, 72.74, 72.76, 72.78 of this chapter.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

6. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148 (c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168 (c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

7. In § 72.24, paragraph (o) is revised to read as follows:

§ 72.24 Contents of application: Technical information.

* * * * *

(o) A description of the detailed security measures for physical protection, including design features and the plans required by Subpart H. For an application from DOE for an ISFSI or MRS, DOE will provide a description of the physical security plan for protection against radiological sabotage as required by subpart H of this part.

* * * * *

8. Section 72.180 is revised to read as follows:

§ 72.180 Physical security plan.

The licensee shall establish, maintain, and follow a detailed plan for physical protection as described in § 73.51 of this chapter. The licensee shall retain a copy of the current plan as a record until the Commission terminates the license for which the procedures were developed and, if any portion of the plan is superseded, retain the superseded

material for 3 years after each change or until termination of the license. This plan must describe how the applicant will meet the requirements of § 73.51 of this chapter and provide physical protection during on-site transportation to and from the proposed ISFSI or MRS including the design for physical protection, the licensee's safeguards contingency plan, and the security organization personnel training and qualification plan. The plan must list tests, inspections, audits, and other means to be used to demonstrate compliance with such requirements.

9. In § 72.212, paragraph (b)(1)(iv) is added and (b)(5) is revised to read as follows:

§ 72.212 Conditions of general license issued under § 72.210.

* * * * *

(b) * * *

(1) * * *

(iv) Notify the NRC as to whether they will implement § 73.51 or of this chapter their approved physical security plan pursuant to § 73.55 of this chapter. If a licensee implements § 73.51 of this chapter, its approved physical security plan must be modified to clearly indicate that § 73.51 of this chapter will be followed for safeguarding spent nuclear fuel. For those persons who have not begun use of the general license, this notice must be included in the 90-day letter required by paragraph (b)(1)(i) of this section. For those persons who have begun use of the general license, this notice must be provided no later than 30 days after implementation of § 73.51 of this chapter to the appropriate Nuclear Regulatory Commission regional office listed in Appendix D to part 20 of this chapter.

* * * * *

(5) Protect the spent nuclear fuel against the design basis threat of radiological sabotage in accordance with either § 73.51 of this chapter or the same provisions and requirements as are set forth in the licensee's physical security plan pursuant to § 73.55 of this chapter with the following additional conditions and exceptions.

* * * * *

PART 73— PHYSICAL PROTECTION OF PLANTS AND MATERIALS

10. The authority citation for part 73 continues to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245 sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 5841, 5844, 2297f).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99–399, 100 Stat. 876 (42 U.S.C. 2169).

11. In § 73.1, paragraph (b)(6) is revised to read as follows:

§ 73.1 Purpose and scope.

* * * * *

(b) * * *

(6) This part prescribes requirements for the physical protection of spent nuclear fuel or high-level radioactive waste stored in either an independent spent fuel storage installation (ISFSI) or a monitored retrievable storage installation (MRS) licensed under part 72 of this chapter, or stored at the geologic repository operations area licensed under part 60 of this chapter.

* * * * *

12. The introductory text of § 73.50 is revised to read as follows:

§ 73.50 Requirements for physical protection of licensed activities.

Each licensee who is not subject to § 73.51, but who possesses, uses, or stores formula quantities of strategic special nuclear material which is not readily separable from other radioactive material and which has a total external radiation dose rate in excess of 100 rems per hour at a distance of 3 feet from any accessible surface without intervening shielding other than at a nuclear reactor facility licensed pursuant to Part 50 of this chapter shall comply with the following:

* * * * *

13. A new § 73.51 is added to read as follows:

§ 73.51 Requirements for the physical protection of stored spent nuclear fuel or high-level radioactive waste.

(a) *Applicability.* Notwithstanding the provisions of §§ 73.20, 73.50, or 73.67, the physical protection requirements of this section apply to each licensee who stores:

(1) Spent nuclear fuel or high-level radioactive waste (HLW) under a specific license issued pursuant to Part 72 of this chapter:

(i) At an independent spent fuel storage installation (ISFSI);

(ii) At a monitored retrievable storage (MRS) installation; or

(iii) At a nuclear power reactor that has permanently ceased reactor operations licensed pursuant to Part 50 of this chapter;

(2) Spent nuclear fuel or HLW at a geologic repository operations area (GROA) licensed pursuant to Part 60 of this chapter; or

(3) Spent nuclear fuel under a general license issued pursuant to Part 72 of this chapter and has exercised the option provided by § 72.212(b)(5) of this chapter to use the provisions of § 73.51 for the physical protection of spent nuclear fuel.

(b) *General performance objectives.*

(1) Each licensee subject to this section shall establish and maintain a physical protection system with the objective of providing high assurance that activities involving special nuclear material do not constitute an unreasonable risk to the public health and safety.

(2) To meet the general objective of paragraph (b)(1) of this section, each licensee subject to this section shall meet the following performance capabilities:

(i) Store spent nuclear fuel or HLW only within a protected area;

(ii) Grant access to the protected area only to individuals who are authorized to enter the protected area;

(iii) Detect and assess unauthorized penetration of or activities within the protected area;

(iv) Provide timely communication to a designated response force whenever the response force is called upon to act; and

(v) Manage the physical security organization in a manner that maintains its effectiveness.

(3) The physical protection system must be designed to protect against radiological sabotage.

(c) *Plan retention.* Each licensee subject to this section shall retain a copy of the effective physical protection plan as a record for 3 years or until termination of the license for which the procedures were developed. Copies of superseded material must be retained for 3 years after each change or until termination of the license.

(d) *Physical protection systems, subsystems, components, and procedures.* To meet the performance capabilities of paragraph (b)(2) of this section, a physical protection system must include, but is not necessarily limited to, the measures specified in paragraphs (d)(1) through (d)(14) of this section. The Commission may require alternate or additional measures necessary to meet the performance objectives of paragraph (b)(1) of this section. The Commission may also authorize other necessary protection measures.

(1) Spent nuclear fuel or HLW must be stored only within a protected area so that access to this material requires passage through or penetration of two physical barriers, one barrier at the perimeter of the protected area and one

barrier offering substantial penetration resistance. The physical barrier at the perimeter of the protected area must be as defined in § 73.2. Isolation zones, typically 20 feet wide each, on both sides of this barrier must be provided to facilitate assessment. The barrier offering substantial resistance to penetration may be provided by an approved storage cask or building walls such as those of a reactor or fuel storage building. Other suitable measures to provide the barrier may be acceptable, if approved by the NRC on a case by case basis.

(2) A means of illumination must be provided sufficient to permit assessment of unauthorized penetration of or activities within the protected area and associated isolation zones.

(3) The perimeter of the protected area must be subject to continual surveillance and be protected by an intrusion detection system with provisions for redundant monitoring of the system. The detection and surveillance systems must be monitored in a continuously staffed alarm station, not necessarily located within the protected area, and in one redundant location.

(4) The protected area must be monitored by random patrols of a frequency not less than once every 8 hours.

(5) A security organization, with written procedures, must be established. The security organization must include a minimum of two watchmen per shift to provide for monitoring of detection and surveillance systems and for communications with a designated response force or local law enforcement agencies (LLEA) in the event of detection of unauthorized penetration or activities. Members of the security organization shall be trained, equipped, and qualified in accordance with the applicable provisions of appendix B to this part.

(6) Documented liaison with a designated response force or LLEA must be established to permit response to unauthorized penetration or activities.

(7) Screening must be conducted before granting an individual unescorted access to the protected area to obtain information on which to base a decision to permit such access. Screening should typically include a criminal history check, a previous employment check, and two personal reference checks.

(8) A controlled personnel identification and lock system must be established and maintained to limit access to the protected area to individuals authorized unescorted access or escorted individuals who have been approved for such access.

(9) All escorted individuals to the protected area must be under the constant escort of an individual who has been authorized unescorted access to the protected area.

(10) Redundant communications capability must be provided between the security organization and designated response force or LLEA.

(11) All individuals, vehicles, and hand-carried packages entering the protected area must be checked for proper authorization and searched for explosives before entry.

(12) Written response procedures must be established and maintained for addressing unauthorized penetration of or activities within the protected area including Category 5, Procedures, of appendix C to part 73. The licensee shall retain a copy of the response procedures as a record for 3 years or until termination of the license for which the procedures were developed. Copies of superseded material must be retained for 3 years after each change or until termination of the license.

(13) All detection and surveillance systems and supporting subsystems must be tamper-indicating with line supervision and be maintained in operable condition. Compensatory measures must be taken during periods of inoperability.

(14) The security program must be reviewed once every 24 months by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The security program review must include an evaluation of the effectiveness of the physical security system and a verification of the liaison established with the designated response force or LLEA.

(15) The following documentation must be retained as a record for 3 years after the record is made or until termination of the license. Duplicate records to those required under § 73.71 need not be retained under the requirements of this section:

(i) A log of individuals granted access to the protected area;

(ii) Screening records of individuals granted unescorted access to the protected area;

(iii) A log of routine patrols;

(iv) A record of each alarm received identifying the type of alarm, location, date and time when received, and disposition of the alarm; and

(v) The security program review reports.

(e) *Exception*. The physical protection system for the underground facility of a geologic repository operations area must meet the performance capabilities of paragraph (b) of this section, but need not include the specific measures set out in paragraph (d) of this section provided that access is controlled at the underground facility entry points.

14. In § 73.71, paragraphs (b)(1) and (c)(1) are revised to read as follows:

§ 73.71 Reporting of safeguards events.

* * * * *

(b)(1) Each licensee subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, 73.60, or 73.67 shall notify the NRC Operations Center within 1 hour of discovery of the safeguards events described in paragraph I(a)(1) of appendix G to this part. Licensees subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, 73.60, or each licensee possessing strategic special nuclear material (SSNM) and subject to § 73.67(d) shall notify the NRC Operations Center within 1 hour after the discovery of the safeguards events described in paragraphs I(a)(2), (a)(3), (b), and (c) of appendix G to this part. Licensees subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, or 73.60 shall notify the NRC Operations Center within 1 hour after discovery of the safeguards events described in paragraph I(d) of appendix G to this part.

* * * * *

(c)(1) Each licensee subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, 73.60, or each licensee possessing SSNM and subject to the provisions of § 73.67(d) shall maintain a current log and record the safeguards events described in paragraphs II (a) and (b) of appendix G to this part within 24 hours of discovery by a licensee employee or member of the licensee's contract security organization. The licensee shall retain the log of events recorded under this section as a record for 3 years after the last entry is made in each log or until termination of the license.

* * * * *

PART 75—SAFEGUARDS ON NUCLEAR MATERIAL–IMPLEMENTATION OF US/IAEA AGREEMENT

15. The authority citation for part 75 continues to read as follows:

Authority: Secs. 53, 63, 103, 104, 122, 161, 68 Stat. 930, 932, 936, 937, 939, 948, as amended (42 U.S.C. 2073, 2093, 2133, 2134, 2152, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 75.4 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

16. In § 75.4, paragraph (k)(5) is revised to read as follows:

§ 75.4 Definitions.

* * * * *

(k) * * *

(5) Any location where the possession of more than one effective kilogram of nuclear material is licensed pursuant to parts 40, 60, or 70 of this chapter, or pursuant to an Agreement State license.

* * * * *

Dated at Rockville, Maryland, this 8th day of August, 1995.

For the Nuclear Regulatory Commission.

Andrew L. Bates,

Acting Secretary of the Commission.

[FR Doc. 95–20035 Filed 8–14–95; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

RIN 1018–AD42

Subsistence Management Regulations for Public Lands in Alaska, Subpart C and Subpart D—1996–1997 Subsistence Taking of Fish and Wildlife Regulations

AGENCY: Forest Service, Agriculture; and Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the customary and traditional use determinations and establish regulations for seasons, harvest limits, methods, and means related to taking of wildlife for subsistence uses during the 1996–1997 regulatory year. This rule making is necessary because Subpart D regulations require annual public review, and the customary and traditional use determinations are being opened to the same annual regulatory revision process. When final, this rule making will replace hunting and trapping regulations in ''Subsistence Management Regulations for Public Lands in Alaska, Subpart D—1995–1996 Subsistence Taking of Fish and Wildlife Regulations,'' which expire on June 30, 1996.

DATES: Written public comments and proposals to change this proposed rule must be received no later than October 27, 1995. Federal Subsistence Regional Advisory Councils (Regional Councils) will hold public meetings on this proposed rule making from September 11—October 18, 1995, at various locations in Alaska. Notice of specific dates and meeting locations will be published in local and statewide newspapers prior to the meetings. Written proposals to change Subpart D regulations will be compiled and distributed for additional public review during early November 1995. A second 30-day public comment period will follow distribution of the compiled proposal packet. Written public comments on distributed proposals will be accepted during the second public comment period. Comments on proposals to change Subpart D regulations may be presented to the Regional Councils at their meetings. The Federal Subsistence Board (Board) will deliberate and take final action on proposals received that request changes to this proposed rule at a public meeting to be held in Anchorage during April 1995.

ADDRESSES: Comments and proposals should be sent to Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Richard S. Pospahala, Office of Subsistence Management, 1011 E. Tudor Road, Anchorage, Alaska 99503.

FOR FURTHER INFORMATION CONTACT: Richard S. Pospahala, Office of Subsistence Management; telephone (907) 786–3447. For questions specific to National Forest System lands, contact Ken Thompson, Regional Subsistence Program Manager, USDA, Forest Service, Alaska Region, P.O. Box 21628, Juneau, Alaska 99802–1628, telephone (907) 586–7921.

SUPPLEMENTARY INFORMATION:

Proposed Changes From 1995–1996 Seasons and Bag Limit Regulations

Subpart D regulations are subject to an annual cycle and require development of an entire new rule each year. Consequently, this proposed rule reflects regulation changes for the 1995–1996 regulatory year that are approved by the Board. The Board has also decided that customary and traditional use determinations will also be subject to the annual review process. Regulations contained in this proposed rule will take effect on July 1, 1996, unless elements are changed by subsequent Board action following the public review process outlined herein.

The text of the 1995–1996 Subpart D final rule served as the foundation for the 1996–1997 Subpart D proposed rule. Only minor administrative changes to the 1995–1996 final rule have been made to correct Federal subsistence management program regulations for the 1995–1996 regulatory year.

Background

Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126) requires that the Secretary of the Interior and the Secretary of Agriculture (Secretaries) implement a joint program to grant a preference for subsistence uses of fish and wildlife resources on public lands, unless the State of Alaska enacts and implements laws of general applicability which are consistent with ANILCA, and which provide for the subsistence definition, preference, and participation specified in Sections 803, 804, and 805 of ANILCA. The State implemented a program that the Department of the Interior previously found to be consistent with ANILCA. However, in December 1989, the Alaska Supreme Court ruled in *McDowell* v. *State of Alaska* that the rural preference in the State subsistence statute violated the Alaska Constitution. The Court's ruling in *McDowell* required the State to delete the rural preference from the subsistence statute, and therefore, negated State compliance with ANILCA. The Court stayed the effect of the decision until July 1, 1990.

As a result of the *McDowell* decision, the Department of the Interior and the Department of Agriculture (Departments) assumed, on July 1, 1990, responsibility for implementation of Title VIII of ANILCA on public lands. On June 29, 1990, the Temporary Subsistence Management Regulations for Public Lands in Alaska were published in the **Federal Register** (55 FR 27114–27170). Consistent with Subparts A, B, and C of these regulations, a Federal Subsistence Board was established to administer the Federal subsistence management program. The Board's composition includes a Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, U.S. National Park Service; the Alaska State Director, U.S. Bureau of Land Management; the Alaska Area Director, U.S. Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. Through the Board, these agencies have participated in development of regulations for Subparts A, B, and C, and the annual Subpart D regulations. All Board members have reviewed this proposed rule and agree with its substance. Because this proposed rule relates to public lands managed by an agency or agencies in

both the Departments of Agriculture and the Interior, identical text would be incorporated into 36 CFR Part 242 and 50 CFR Part 100.

Applicability of Subparts A, B, and C

Subparts A, B, and C of the Subsistence Management Regulations for Public Lands in Alaska, 50 CFR §§ 100.1 to 100.23 and 36 CFR §§ 242.1 to 242.23, remain effective and apply to this rule for §§ ____.23–____.25. Therefore, all definitions located at 50 CFR § 100.4 and 36 CFR § 242.4 apply to regulations found in this subpart. The identified sections include definitions for the following terms:

''*Federal lands* means lands and waters and interests therein title to which is in the United States''; and

''*public land* or *public lands* means lands situated in Alaska which are Federal lands, except—

(1) land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal Law;

(2) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(3) lands referred to in Section 19(b) of the Alaska Native Claims Settlement Act.''

Navigable Waters

At this time, Federal subsistence management program regulations apply to all non-navigable waters located on public lands and to navigable waters located on the public lands identified at 50 CFR § 100.3(b) and 36 CFR § 242.3(b) of the Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C (57 FR 22940–22964) published May 29, 1992. Nothing in these regulations is intended to enlarge or diminish authorities of the Departments to manage submerged lands, title to which is held by the United States government.

The Board recognizes Judge Holland's order granting preliminary relief to the plaintiffs in the case of the *Native Village of Quinhagak et al. v. United States of America et al.* Therefore, to the extent that the proposed regulations would continue any existing restrictions on the taking of rainbow trout by the residents of Quinhagak and Goodnews Bay in the Kanektok, Arolik, and Goodnews Rivers, those regulations will not be enforced pending completion of proceedings in that case. However, in light of the continuation of the proceedings in the consolidated ''Katie John case'' and a petition to the Secretaries of the Interior and Agriculture addressing jurisdiction in navigable waters, no attempt is being made to alter the fish and shellfish portions of the regulations (Sections _____.26 and _____.27) until final guidance has been received regarding the jurisdictional authority of the Federal government over navigable waters in general, and specifically with respect to the waters at issue in *Native Village of Quinhagak et al. v. United States of America et al.*

Public Review Process—Regulation Comments, Proposals, and Public Meetings

Written comments or proposed regulation changes may be submitted in writing to the address identified at the beginning of this rulemaking by October 27, 1995. Comments or proposals may also be presented at Regional Council meetings to be held from September 11–October 18, 1995 in Anchorage and other Alaskan communities.

Proposals should be specific to customary and traditional use determinations or to subsistence seasons, harvest limits, and/or methods and means. Proposals submitted to the Board should include, at minimum, the following information:

a. The name, address, and telephone number of the individual or organization submitting the proposal;

b. The section and/or paragraph of the proposed rule for which the change is being suggested;

c. A statement explaining why the change is necessary;

d. A proposed solution;

e. Suggested wording for the regulation addition or change; and

f. Any supporting information.

Proposals which fail to include the above information, or proposals which are beyond the scope of authorities in subpart D, may be rejected. Proposals for changes relating to fish or shellfish regulations, and changes to the overall program will *not* be considered by the board at this time. The public is encouraged to use standardized proposal forms to submit recommendations to the board. Proposal forms may be obtained from the U.S. Fish and Wildlife Service at the address listed above.

Following public distribution of proposals for changes to the 1996–1997 proposed subpart D regulations, a second 30-day comment period will be provided to allow public review of those proposals that will be considered by the Board. A second series of Regional Council meetings will be held in February 1996, to assist in developing recommendations to the Board. Written comments on proposals may be submitted to the U.S. Fish and Wildlife Service before conclusion of the second comment period which is presently scheduled to end on January 5, 1996. The Board will discuss and evaluate proposed changes to this rule during a public meeting scheduled to be held in Anchorage, April 1996. The public may provide additional oral testimony on specific proposals before the Board at that time.

Federal Subsistence Regional Advisory Councils

Pursuant to the Record of Decision, Subsistence Management Regulations for Federal Public Lands in Alaska, April 6, 1992, and the Subsistence Management Regulations for Federal Public Lands in Alaska, 36 CFR § 242.11 (1992) and 50 CFR 100 § 242.11 (1992), and for the purposes identified therein, Alaska has been divided into ten subsistence resource regions, each of which is represented by a Federal Subsistence Regional Advisory Council (Regional Council). The Regional Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Alaska public lands. The Regional Council members represent varied geographical, cultural, and user diversity within each region.

The Regional Councils have a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, the Council Chairs, or their designated representatives, will present their Council's recommendations at the Board meeting in April 1996.

Summary of Changes

This proposed rule contains no changes from the Final 1995–1996 Subsistence Management Regulations for Alaska, as corrected, other than some minor wording clarifications and corrections.

Conformance With Statutory and Regulatory Authorities

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement (DEIS) that described four alternatives for developing a Federal Subsistence Management Program was

distributed for public comment on October 7, 1991. That document described the major issues associated with Federal subsistence management as identified through public meetings, written comments and staff analysis and examined the environmental consequences of the four alternatives. Proposed regulations (Subparts A, B, and C) that would implement the preferred alternative were included in the DEIS as an appendix. The DEIS and the proposed administrative regulations presented a framework for an annual regulatory cycle regarding subsistence hunting and fishing regulations (Subpart D). The Final Environmental Impact Statement (FEIS) was published on February 28, 1992.

Based on the public comment received, the analysis contained in the FEIS, and the recommendations of the Federal Subsistence Board and the Department of the Interior's Subsistence Policy Group, it was the decision of the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, through the U.S. Department of Agriculture-Forest Service, to implement Alternative IV as identified in the DEIS and FEIS (Record of Decision on Subsistence Management for Federal Public Lands in Alaska (ROD), signed April 6, 1992).

The DEIS and the selected alternative in the FEIS defined the administrative framework of an annual regulatory cycle for subsistence hunting and fishing regulations. The final rule for Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C (57 FR 22940–22964, published May 29, 1992) implements the Federal Subsistence Management Program and includes a framework for an annual cycle for subsistence hunting and fishing regulations.

Compliance With Section 810 of ANILCA

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. A Section 810 analysis was competed as part of the FEIS process. The final Section 810 analysis determination appears in the April 6, 1992, ROD which concluded that the Federal Subsistence Management Program, under Alternative IV with an annual process for setting hunting and fishing regulations, may have some local impacts on subsistence uses, but it does not appear that the program may significantly restrict subsistence uses.

Paperwork Reduction Act

These rules contain information collection requirements subject to Office of Management and Budget (OMB) approval under 44 U.S.C. 3501–3520. They apply to the use of public lands in Alaska. The information collection requirements described above are approved by the OMB under 44 U.S.C. 3501 and have been assigned clearance number 1018–0075.

Public reporting burden for the permit(s) required by this document is estimated to average .1382 hours per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments on the burden estimate or any other aspect of this form to: Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018–0075), Washington, DC 20503. Additional information collection requirements may be imposed if Local Advisory Committees subject to the Federal Advisory Committee Act are established under Subpart B. Such requirements will be submitted to OMB for approval prior to their implementation.

This rule is not subject to OMB review under Executive Order 12866.

Economic Effects

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions. The Departments have determined that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

This rulemaking will impose no significant costs on small entities; the exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant positive economic effect on a number of small entities. The number of small entities affected is unknown; but, the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue preexisting uses of public lands indicates that they will not be significant.

These regulations do not meet the threshold criteria of ''Federalism Effects'' as set forth in Executive Order 12612. Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to certain public lands. Likewise, these regulations have no significant takings implication relating to any property rights as outlined by Executive Order 12630.

Drafting Information

These regulations were drafted by William Knauer under the guidance of Richard S. Pospahala, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional guidance was provided by Thomas H. Boyd, Alaska State Office, Bureau of Land Management; Sandy Rabinowitch, Alaska Regional Office, National Park Service; John Borbridge, Alaska Area Office, Bureau of Indian Affairs; and Ken Thompson, USDA-Forest Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National Forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, Public lands, Reporting and recordkeeping requirements, Wildlife.

For the reasons set out in the preamble, Title 36, Part 242, and Title 50, Part 100, of the Code of Federal Regulations, are proposed to be amended as set forth below.

PART_____—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

1. The authority citation for both 36 CFR Part 242 and 50 CFR Part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

2. In Subpart C of 36 CFR part 242 and 50 CFR part 100, § _____.24 is proposed to be revised to read as follows:

§ _____.24 Customary and traditional use determinations.

(a) Rural Alaska residents of the listed communities and areas have been determined to have customary and traditional subsistence use of the specified species on Federal public lands in the specified areas:

(1) Wildlife determinations.

Area	Species	Determination
Unit 1(C)	Black Bear	Rural residents of Unit 1(C) and Haines, Gustavus, Klukwan, and Hoonah.
1	Brown Bear	No determination, except no subsistence for residents of Wrangell, Klukwan, Haines and Skagway.
1(A)	Deer	Rural residents of 1(A) and 2.
1(B)	Deer	Rural residents of Unit 1(A), resident's of 1(B), 2 and 3.
1(C)	Deer	Rural residents of 1(C) and (D), and residents of Hoonah and Gustavus.
1(D)	Deer	No subsistence.
1(B)	Goat	No determination, except no subsistence for residents of Petersburg, Kupreanof and outlying areas.
1(C)	Goat	Residents of Haines, Klukwan, and Hoonah.
1(B) The Stikine River drainages only	Moose	No determination.
1(B) North of the LeConte Glacier and 1(C) Berner's Bay.	Moose	No subsistence.
1(D)	Moose	Residents of Unit 1(D).
Unit 2	Brown Bear	No subsistence.
2	Deer	Rural residents of Unit 1(A) and residents of Units 2 and 3.
Unit 3	Deer	Residents of Unit 1(B) and 3, and residents of Port Alexander, Port Protection, Pt. Baker, and Meyer's Chuck.
Unit 4	Brown Bear	Residents of Unit 4 and Kake.
4	Deer	Residents of Unit 4 and residents of Kake, Gustavus, Haines, Petersburg, Pt. Baker, Klukwan, Port Protection, and Wrangell.
Unit 5	Brown Bear	Residents of Yakutat.
5	Deer	Residents of Yakutat.
5	Moose	Residents of Unit 5(A).
Unit 6(A)	Black Bear	Residents of Yakutat.
6 (B) and (C)	Black Bear	Residents of Unit 6(B) and (C), except Cordova.
6(D)	Black Bear	Residents of Chenega Bay and Tatilek.
6	Brown Bear	No subsistence.
6 (C) and (D)	Goat	Rural residents of Unit 6(C) and (D).
6	Moose	No subsistence.
6	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 7	Brown Bear	No subsistence.
7	Caribou	No subsistence.
7, Brown Mountain hunt area	Goat	Residents of Port Graham and English Bay.
7	Moose	No subsistence.
7	Sheep	No subsistence.
Unit 8	Brown Bear	No subsistence.
8	Deer	Residents of Unit 8.
8	Elk	No subsistence.
8	Goat	No subsistence.
Unit 9(D)	Bison	No subsistence.
9 (A), (C) and (D)	Brown Bear	No subsistence.
9(B)	Brown Bear	Residents of Unit 9(B).
9(E)	Brown Bear	Residents of Chignik Lake, Ivanof Bay and Perryville.
9 (A) and (B)	Caribou	Residents of Units 9(B), 9(C) and 17.
9(C)	Caribou	Residents of Units 9(B), 9(C), 17 and residents of Eqegik.
9(D)	Caribou	Residents of Unit 9(D), and residents of False Pass.
9(E)	Caribou	Residents of Units 9(B), (C), (E), 17, and residents of Nelson Lagoon and Sand Point.
9 (A), (B), (C) and (E)	Moose	Residents of Unit 9(A), (B), (C) and (E).
9(D)	Moose	No subsistence.
9	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 10 Unimak Island	Caribou	Residents of False Pass.
10 Remainder	Caribou	No determination.
10	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 11	Bison	No subsistence.

Area	Species	Determination
11	Brown Bear	No subsistence.
11	Caribou	Mentasta Herd—residents of Units 11, 12 (along Nabesna Road) and 13 (A)–(D) and the residents of Chickaloon.
11	Goat	No subsistence.
11	Moose	Residents of Unit 11, residents of Unit 12 (along Nabesna Road) and Unit 13 (A)–(D) and the residents of Chickaloon.
11	Sheep	Residents of Chisana, Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, McCarthy Road, Mentasta Lake, Mentasta Pass (milepost 79–110) Nabesna Road, Slana, McCarthy/South Wrangell/South Park, Tazlina, and Tonsina. However no subsistence for Cantwell, east Glenn Highway (milepost 110–180) and to milepost 14 on the Lake Louise Road, North Slana Homestead, South Slana Homestead, Lake Louise, Paxson, Sourdough, Tanacross, Tok, and west Glenn Highway (milepost 78–110).
11	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
11	Grouse (Spruce, Blue, Ruffed and Sharp-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
11	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
Unit 12	Brown Bear	No subsistence.
12	Caribou-Nelchina Herd	Residents of Northway and Tetlin.
12	Caribou-40 Mile Herd	Residents of Unit 12, north of Wrangell Park Preserve and rural residents of Unit 20 (D) and (E).
12 South of a line from Noyes Mountain, southeast of the confluence of Tatschunda Creek to Nabesna River.	Moose	Residents of Unit 11 north of 62nd parallel (excluding North Slana Homestead and South Slana Homestead); and residents of Unit 12, 13 (A)–(D) and the residents of Chickaloon and residents of Dot Lake.
12 East of the Nabesna River, south of the Winter Trail from Pickerel Lake to the Canadian Border.	Moose	Residents of Unit 12.
12 Remainder of Unit 12	Moose	Residents of Unit 12 and residents of Dot Lake and Mentasta Lake.
12		
12, Tok Management area	Sheep	No subsistence.
12 Remainder of Unit 12	Sheep	No determination.
12	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 13	Brown Bear	No Subsistence.
13	Caribou Nelchina Herd	Residents of Units 11, 13 and the residents of Chickaloon, and 12 (along Nebesna Road).
13(D)	Goat	No subsistence.
13	Moose	Residents of Unit 13 and the residents of Chickaloon.
13(E)	Moose	No subsistence for residents of McKinley Village and the area along the Parks Highway between milepost 216 and 239 and households of the Denali National Partk Headquarters.
13 Tok and Delta Management Areas	Sheep	No Subsistence.
13(D)	Sheep	No subsistence.
13	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
13	Grouse (Spruce, Blue, Ruffed and Sharp-tailed).	Residents of Units, 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
13	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units, 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
Unit 14 (B) and (C)	Brown Bear	No subsistence.
14	Goat	No subsistence.
14	Moose	No subsistence.
14 (A) and (C)	sheep	No subsistence.
Unit 15	Brown Bear	No subsistence.
15(C), Port Graham and English Bay hunt areas	Goat	Residents of Port Graham and English Bay.
15(C), Seldovia hunt area	Goat	Residents Seldovia area.
15(A)	Moose	No subsistence.
15 (B) and (C)	Moose	Residents of Ninilchik, Nanwalek, Port Graham, and Seldovia.
15	Sheep	No subsistence.
15	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
15	Grouse (Spruce, Blue, Ruffed and Sharp-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.

Area	Species	Determination
Unit 16	Brown Bear	No subsistence.
16(A)	Moose	No subsistence.
16(B)	Moose	Residents of Unit 16(B).
16	Sheep	No subsistence.
16	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
16	Grouse (Spruce, Blue, Ruffed and Sharp-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
16	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
Unit 17(A)	Brown Bear	Residents of Unit 17, and residents of Goodnews Bay and Platinum.
17 (A) and (B) Those portions north and west of a line beginning from the Unit 18 boundary at the northwest end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Brown Bear	Residents of Kwethluk.
17 (B) and (C)	Brown Bear	Residents of Unit 17.
17	Caribou	Residents of Units 9(B), 17 and residents of Lime Village and Stony River.
17 (A) and (B) Those portions north and west of a line beginning from the Unit 18 boundary at the northwest end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary intersects the Shotgun Hills.	Caribou	Residents of Kwethluk.
17 (A) and (B) Those portions south and west of a line beginning from the Unit 18 boundary at the northwest end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the Unit 17 boundary.	Moose	Residents of Kwethluk.
17(A)	Moose	Residents of Unit 17 and residents of Goodnews Bay and Platinum.
17 (B) and (C)	Moose	Residents of Unit 17, and residents of Nondalton, Levelock, Goodnews Bay and Platinum.
17	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
Unit 18	Brown Bear	Residents of Akiachak, Akiak, Eek, Goodnews Bay, Kwethluk, Mt. Village, Napaskiak, Platinum, Quinhagak, St. Mary's, and Tuluksak.
18	Caribou (Kilbuck caribou herd only).	INTERIM DETERMINATION BY FEDERAL SUBSISTENCE BOARD (12/18/91): residents of Tuluksak, Akiak, Akiachak, Kwethluk, Bethel, Oscarville, Napaskiak, Napakiak, Kasigluk, Atmanthluak, Nunapitchuk, Tuntutliak, Eek, Quinhagak, Goodnews Bay, Platinum, Togiak, and Twin Hills.
18 North of the Yukon River	Caribou (except Kilbuck caribou herd).	Residents of Alakanuk, Andreafsky, Chevak, Emmonak, Hooper Bay, Kotlik, Kwethluk, Marshall, Mountain Village, Pilot Station, Pitka's Point, Russian Mission, St. Mary's, St. Michael, Scammon Bay, Sheldon Point, and Stebbins.
18 Remainder	Caribou (except Kilbuck caribou herd).	Residents of Kwethluk.
18	Moose	Residents of Unit 18 and residents of Upper Kalskag.
18	Muskox	No subsistence.
18	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 19 (C), (D)	Bison	No subsistence.
19(A)	Brown Bear	Residents of Unit 19 (A), (D), and Residents of Tuluksak, Lower Kalskag and Kwethluk.
19(B)	Brown Bear	Residents of Kwethluk.
19(C)	Brown Bear	No subsistence.
19(D)	Brown Bear	Residents of Unit 19 (A) and (D), and residents of Tulusak and Lower Kalskag.
19 (A) and (B)	Caribou	Residents of Unit 19 (A) and (B) and Kwethluk; and residents of Unit 18 in Kuskokwim Drainage and Kuskokwim Bay during the winter season.
19(C)	Caribou	Residents of Unit 19(C), and residents of Lime Village, McGrath, Nikolai, and Telida.
19(D)	Caribou	Residents of Unit 19(D), and residents of Lime Village, Sleetmute and Stony River.

Area	Species	Determination
19 (A) and (B)	Moose	Residents of Unit 18 within Kuskokwim River drainage upstream from and including the Johnson River, and Unit 19.
19(C)	Moose	Residents of Unit 19.
19(D)	Moose	Residents of Unit 19 and residents of Lake Minchumina.
19	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 20(D)	Bison	No subsistence.
20(E)	Brown Bear	No subsistence.
20 (A), (C) (Delta, Yanert, and 20(C) herds) and (D)	Caribou	No determination, except no subsistence for residents of McKinley Village, the area along the Parks Highway between mileposts 216 and 239 and households of the Denali National Park Headquarters.
20(D) and 20(E)	Caribou 40-Mile Herd	Residents of Unit 12 north of Wrangell Park-Preserve, rural residents of 20(D) and residents of 20(E).
20(A)	Moose	Residents of Cantwell, Minto, and Nenana. No subsistence for residents of McKinley Village, the area along the Parks Highway between mileposts 216 and 239 and households of the Denali National Park Headquarters.
20(B)	Moose	Minto Flats Management Area—residents of Minto and Nenana.
20(B)	Moose	Remainder—rural residents of Unit 20(B), and residents of Nenana and Tanana.
20(C)	Moose	Rural residents of Unit 20(C) (except that portion within Denali National Park and Preserve and that portion east of the Teklanika River), and residents of Cantwell, Manley, Mino, Nenana, the Parks Highway from milepost 300–309, Nikolai, Tanana and Telida. No subsistence for residents of McKinley Village, the area along the Parks Highway between mileposts 216 and 239 and households of the Denali National Park Headquarters.
20(D)	Moose	Rural residents of Unit 20(D) and residents of Tanacross.
20(F)	Moose	Residents of Unit 20(F), Manley, Minto and Stevens Village.
20 Tok and Delta Management Areas	Sheep	No subsistence.
20	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
20(D)	Grouse, (Spruce, Blue, Ruffed and Sharp-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
20(D)	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
Unit 21	Brown Bear	Rural residents of Unit 21 and 23.
21	Caribou, Western Arctic Caribou Herd only.	Residents of Unit 21(D) west of the Koyukuk and Yukon Rivers, and residents of 22(A), (B), 23, 24, and 26(A).
21 (A) and (E)	Caribou	Residents of Unit 21(A) and Aniak, Chuathbaluk, Crooked Creek, Grayling, Holy Cross, McGrath, Shageluk and Takotna.
21(A)	Moose	Residents of Unit 21(A), (E), Takotna, McGrath, Aniak and Crooked Creek.
21 (B) and (C)	Moose	Residents of Unit 21(B) and (C), residents of Tanana and Galena.
21(D)	Moose	Residents of Unit 21(D), and residents of Huslia and Ruby.
21(E)	Moose	Residents of Unit 21(D) and residents of Russian Mission.
21	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
Unit 22	Brown Bear	Residents of Unit 22.
22	Caribou, Western Arctic Caribou Herd only.	Residents of Unit 21(D) west of the Koyukuk and Yukon Rivers, and residents of Units 22(A), (B), 23, 24, and 26(A).
22	Moose	Residents of Unit 22.
22(B)	Muskox	Residents of Unit 22(B).
22(C)	Muskox	Residents of Unit 22(C).
22(D)	Muskox	Residents of Unit 22(D) excluding St. Lawrence Island.
22(E)	Muskox	Residents of Unit 22(E) excluding Little Diomede Island.
22	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.

Area	Species	Determination
22	Grouse (Spruce, Blue, Ruffed and Sharp-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
22	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
Unit 23	Brown Bear	Rural residents of Units 21 and 23.
23	Caribou Western Arctic Caribou Herd only.	Residents of Unit 21(D) west of the Koyukuk and Yukon Rivers, and residents of Unit 22(A), (B), 23, 24, and 26(A).
23	Moose	Residents of Unit 23.
23 South of Kotzebue Sound and west of and including the Buckland River drainage.	Muskox	Residents of Unit 23 South of Kotzebue Sound ad west of and including the Buckland River drainage.
23 Remainder	Muskox	No subsistence.
23	Sheep	Residents of Unit 23 north of the Arctic Circle.
23	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon, and 16–26.
23	Grouse (Spruce, Blue, Ruffed and Sharp-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
23	Ptarmigan (Rock, Willow and White-tailed).	Residents of Units 11, 13 and the residents of Chickaloon, 15, 16, 20(D), 22 and 23.
Unit 24	Brown Bear	Residents of Unit 24 and Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area.
24	Moose	Residents of Unit 24, and residents of Anaktuvuk Pass, Koyukuk and Galena.
24	Sheep	Residents of Unit 24 residing north of the Arctic Circle and residents of Allakaket, Alatna and Anaktuvuk Pass.
24	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 25	Brown Bear	No subsistence.
25(A)	Moose	Residents of Unit 25(A) and residents of Venetie only.
25(D) West	Moose	Residents of Beaver, Birch Creek and Stevens Village.
25(D) Remainder	Moose	Residents of Remainder of Unit 25.
25(A)	Sheep	Residents of Arctic Village, Chalkytsik, Fort Yukon, Kaktovik and Venetie.
25 (B) and (C)	Sheep	No subsistence.
25	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.
Unit 26	Brown Bear	Residents of Unit 26 (except the Prudhoe Bay-Deadhorse Industrial Complex) and residents of Anaktuvuk Pass and Point Hope.
26	Caribou Western Arctic Caribou Herd only.	Residents of Unit 21(D) west of the Koyukuk and Yukon Rivers, and residents of Units 22(A), (B), 23, 24, and 26(A).
26(B)	Caribou Central Arctic Herd	Residents of Anaktuvuk Pass, Kaktovik, Nuiqsut and Wiseman.
26	Moose	Residents of Unit 26, (except the Prudhoe Bay-Deadhorse Industrial Complex), and residents of Point Hope and Anaktuvuk Pass.
26(A)	Muskox	Residents of Anaktuvuk Pass, Atqasuk, Barrow, Nuiqsut, Point Hope, Point Lay, and Wainwright.
26(B)	Musk Oxen	Residents of Anaktuvuk Pass, Nuiqsut, and Kaktovik.
26(C)	Musk Oxen	Residents of Kaktovik.
26 (A) and (B)	Sheep	Residents of Anaktuvuk Pass, Kaktovik, Nuiqsut and Wiseman.
26(C)	Sheep	Residents of Arctic Village, Chalkytsik, Fort Yukon, Kaktovik, Nuiqsut and Venetie.
26	Wolf	Residents of Units 6, 9, 10 (Unimak Island only), 11–13 and the residents of Chickaloon and 16–26.

(2) Fish and shellfish determinations.

Area	Species	Determination
KOTZEBUE-NORTHERN AREA—Northern District	All finfish	Residents of the Northern District, except for those domiciled in State of Alaska Unit 26–B.
Kotzebue District	Salmon, sheefish, char	Residents of the Kotzebue District.
NORTON SOUND—PORT CLARENCE AREA	Salmon	Residents of the Norton Sound-Port Clarence Area.
YUKON AREA	Salmon	Residents of the Yukon Area, including the community of Stebbins.

Area	Species	Determination
	Yukon River Fall chum salmon.	Residents of the Yukon River drainage, including the communities of Stebbins, Scammon Bay, Hooper Bay, and Chevak.
	Freshwater fish, species, including sheefish, whitefish, lamprey, burbot, sucker, grayling, pike, char, and blackfish.	Residents of the Yukon Area.
KUSKOKWIM AREA	Salmon	Residents of the Kuskokwim Area, except those persons residing on the United States military installation located on Cape Newenham, Sparevohn USAFB, and Tatalina USAFB.
	Rainbow trout	Residents of the communities of Quinhagak, Goodnews Bay, Kwethluk, Eek, Akiak, and Platinum.
	Pacific cod	Residents of the communities of Chevak, Newtok, Tununak, Toksook Bay, Nightmute, Chefornak, Kipnuk, Mekoryuk, Kwigillingok, Kongiganak, Eek, and Tuntutuliak.
Waters adjacent to the western-most tip of the Naskonant Peninsula and the terminus of the Ishowik River and around Nunivak Island.	Herring and herring roe	Residents within 20 miles of the coast between the westernmost tip of the Naskonant Peninsula and the terminus of the Ishowik River and on Nunivak Island.
BRISTOL BAY AREA—Nushagak District, including drainages flowing into the district.	Salmon	Residents of the Nushagak District and freshwater drainages flowing into the district.
Naknek-Kvichek District—Naknek River drainage	Salmon	Residents of the Naknek and Kvichak River drainages.
Naknek-Kvichek District—Iliamna-Lake Clark drainage	Salmon	Residents of the Iliamna-Lake Clark drainage.
Togiak District, including drainages flowing into the district.	Salmon and other freshwater finfish.	Residents of the Togiak District, freshwater drainages flowing into the district, and the community of Manokotak.
KODIAK AREA—except the Mainland District, all waters along the southside of the Alaska Peninsula bounded by the latitude of Cape Douglas (58° 52′ North latitude) midstream Shelikof Strait, and west of the longitude of the southern entrance of Kmuya Bay near Kilokak Rocks (57°11′22″ North latitude, 156°20′30″ W longitude).	Salmon	Residents of the Kodiak Island Borough, except those residing on the Kodiak Coast Guard Base.
KODIAK AREA—Except the Semidi Island, the North Mainland, and the South Mainland Sections.	King crab	Residents of the Kodiak Island Borough except those residents on the Kodiak Coast Guard base.
COOK INLET AREA—Port Graham Subdistrict	Dolly Varden	Residents of Port Graham and English Bay
Port Graham Subdistrct and Koyuktolik Subdistrict	Salmon	Residents of Port Graham and English Bay.
Tyonek Subdistrict	Salmon	Residents of the village of Tyonek.
PRINCE WILLIAM SOUND AREA—South-Western District and Green Island.	Salmon	Residents of the Southwestern District which is mainland waters from the outer point on the north shore of Granite Bay to Cape Fairfield, and Knight Island, Chenega Island, Bainbridge Island, Evans Island, Elrington Island, Latouche Island and adjacent islands.
PRINCE WILLIAM SOUND AREA—North of a line from Porcupine Point to Granite Point, and south of a line from Point Lowe to Tongue Point.	Salmon	Residents of the villages of Tatitlek and Ellamar.
YAKUTAT AREA—Freshwater upstream from the terminus of streams and rivers of the Yakutat Area from the Doame River to the Tsiu River.	Salmon	Residents of the area east of Yakutat Bay, including the islands within Yakutat Bay, west of the Situk River drainage, and south of and including Knight Island.
Freshwater upstream from the terminus of streams and rivers of the Yakutat Area from the Doame River to Point Manby.	Dolly Varden char, steelhead trout, and smelt.	Residents of the area east of Yakutat Bay, including the islands within Yakutat Bay, west of the Situk River drainage, and south of and including Knight Island.
SOUTH-EASTERN ALASKA AREA— District 1—Section 1–E in waters of the Naha River and Roosevelt Lagoon.	Salmon and Dolly Varden char.	Residents of the City of Saxman.
District 1—Section 1–F in Boca de Quadra in waters of Sockeye Creek and Hugh Smith Lake within 500 yards of the terminus of Sockeye Creek.	Salmon and Dolly Varden char.	Residents of the City of Saxman.
District 2—North of the latitude of the northern-most tip of Chasina Point and west of a line from the northern-most tip of Chasina Point to the eastern-most tip of Grindall Island to the eastern-most tip of the Kasaan Peninsula.	Salmon and Dolly Varden char.	Residents of the City of Kasaan and in the drainage of the southeastern shore of the Kasaan Peninsula west of 132° 20′ W. long. and east of 132° 25′ W. long.
District 3—Section 3–A	Salmon and Dolly Varden char.	Residents of the townsite of Hydaburg.

Area	Species	Determination
District 3—Section 3–B in waters east of a line from Point Ildefonso to Tranquil Point.	Salmon, Dolly Varden char, and steelhead trout.	Residents of the City of Klawock and on Prince of Wales Island within the boundaries of the Klawock Heenya Corporation land holdings as they exist in January 1989, and those residents of the City of Craig and on Prince of Wales Island within the boundaries of the Shan Seet Corporation land holdings as they exist in January 1989.
District 3—Section 3–C in waters of Sarkar Lakes	Salmon, Dolly Varden char, and steelhead trout.	Residents of the City of Klawock and on Prince of Wales Island within the boundaries of the Klawock Heenya Corporation land holdings as they exist in January 1989, and those residents of the City of Craig and on Prince of Wales Island within the boundaries of the Shan Seet Corporation land holdings as they exist in January 1989.
District 5—North of a line from Point Barrie to Boulder Point.	Salmon and Dolly Varden char.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 9—Section 9–A	Salmon and Dolly Varden char.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 9—Section 9–B north of the latitude of Swain Point.	Salmon and Dolly Varden char.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 10—West of a line from Pinta Point to False Point Pybus.	Salmon and Dolly Varden char.	Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor.
District 12—South of a line from Fishery Point to south Passage Point and north of the latitude of Point Caution.	Salmon and Dolly Varden char.	Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134°30′ W. long., including Killisnoo Island.
District 13—Section 13–A south of the latitude of Cape Edward.	Sockeye salmon	Residents of the City and Borough of Sitka in drainages which empty into Section 13–B north of the latitude of Dorothy Narrows.
District 13—Section 13–B north of the latitude of Redfish Cape.	Sockeye salmon	Residents of the City and Borough of Sitka in drainages which empty into Section 13–B north of the latitude of Dorothy Narrows.
District 13—Section 13–C	Sockeye salmon	Residents of the City and Borough of Sitka in drainages which empty of Sitka in drainages which empty into Section 13–B north of the latitude of Dorothy Narrows.
District 13—Section 13–C east of the longitude of Point Elizabeth.	Salmon and Dolly Varden char.	Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 135°30′ W. long., including Killisnoo Island.
District 14—Section 14–B and 14–C	Salmon, smelt and Dolly Varden char.	Residents of the City of Hoonah and in Chichagof Island drainages on the eastern shore of Port Frederick from Gartina Creek to Point Sophia.
District 15—Chilkat and Chilkoot Rivers	Salmon and smelt	Residents west of the Haines highway between Mile 20 and Mile 24 and east of the Chilkat River, but not elsewhere in Klukwan; and, those residents of other areas of the city and borough of Haines, excluding residents in the drainage of excursion inlet.

(b) [Reserved]

3. In subpart D of 36 CFR 36 part 242 and 50 CFR part 100, § _____.25 is proposed to read as follows:

Subpart D—Subsistence Taking of Fish and Wildlife

§ _____.25 Subsistence taking of wildlife.

(a) Definitions. The following definitions shall apply to all regulations contained in this section.

ADF&G means the Alaska Department of Fish and Game.

Aircraft means any kind of airplane, glider, or other device used to transport people or equipment through the air, excluding helicopters.

Airport means an airport listed in the Federal Aviation Administration, Alaska Airman's Guide and chart supplement.

Animal means those species with a vertebral column (backbone).

Antler means one or more solid, horn-like appendages protruding from the head of a caribou, deer, or moose.

Antlered means any caribou, deer, or moose having at least one visible antler.

Antlerless means any caribou, deer, or moose having visible antlers attached to the skull.

Bear means black bear, or brown or grizzly bear.

Bow means a longbow, recurve bow, or compound bow, excluding a crossbow, or any bow equipped with a mechanical device that hold arrows at fill draw.

Broadhead means an arrowhead that is not barbed and has two or more steel cutting edges having a minimum cutting diameter of not less than seven-eighths inch.

Brow tine means a tine on the front portion of a moose antler, typically projecting forward from the base of the antler toward the nose.

Buck means any male deer.

Bull means any male moose, caribou, or musk oxen.

Closed season means the time when wildlife may not be taken.

Cub bear means a brown and grizzly bear in its first or second year of life, or a black bear (including cinnamon and blue phases) in its first year of life.

Designated hunter means a Federally qualified, licensed hunter who may take all or a portion of another Federally qualified, licensed hunter's harvest limit(s) only under situations approved by the Board.

Edible meat means the breast meat of ptarmingan and grouse, and, those parts of black bear, brown or grizzly bear, caribou, deer, mountain goat, moose, musk oxen, and Dall sheep that are typically used for human consumption which are: the meat of the ribs, neck, brisket, front quarters as far as the juncture of the humorous and radius-ulna (elbow), hindquarters as far as the distal joint (bottom) of the tibia-fibula (hock) and that portion of the animal between the front and hindquarters; however, *edible meat* of species listed above does not include: meat of the head, meat that has been damaged and made inedible by the method of taking, bones, sinew, and incidental meat reasonably lost as a result of boning or close trimming of the bones, or viscera.

Federally-qualified subsistence user means a rural Alaska resident qualified to harvest fish or wildlife on Federal public lands in accordance with the Federal Subsistence Management Regulations in this part.

Fifty-inch (50-inch) moose means a bull moose with an antler spread of 50 inches or more.

Full curl horn means the horn of a Dall sheep ram; the tip of which has grown through 360 degrees of a circle described by the outer surface of the horn, as viewed from the side, or that both horns are broken, or that the sheep is at least 8 years of age as determined by horn growth annuli.

Furbearer means a beaver, coyote, arctic fox, red fox, lynx, marten, mink, weasel, muskrat, river (land) otter, red squirrel, flying squirrel, ground squirrel, marmot, wolf or wolverine.

Grouse collectively refers to all species found in Alaska, including spruce grouse, ruffed grouse, blue grouse and sharp-tailed grouse.

Hare or hares collectively refers to all species of hares (commonly called rabbits) in Alaska and includes snowshoe hare and tundra hare.

Harvest limit means the number of any one species permitted to be taken by any one person in a Unit or portion of a Unit in which the taking occurs.

Higway means the driveable surface of any constructed road.

Household means that group of people residing in the same residence.

Hunting means the taking of wildlife within established hunting seasons with archery equipment or firearms, and as authorized by a required hunting license.

Marmot collectively refers to all species of marmot that occur in Alaska including the hoary marmot, Alaska marmot, and the woodchuck.

Motorized vehicle means a motor-driven land, air or water conveyance.

Open season means the time when wildlife may be taken by hunting or trapping; an open season includes the first and last days of the prescribed season period.

Otter means river or land otter only, excluding sea otter.

Permit hunt means a hunt for which State or Federal permits are issued by registration or other means.

Poison means any substance which is toxic, or poisonous upon contact or ingestion.

Possession means having direct physical control of wildlife at a given time or having both the power and intention to exercise dominion or control of wildlife either directly or through another person or persons.

Ptarmigan collectively refers to all species found in Alaska, including white-tailed ptarmigan, rock ptarmigan, and willow ptarmigan.

Ram means a male Dall sheep.

Registration permit means a permit which authorizes hunting and is issued to a person who agrees to the specified hunting conditions. Hunting permitted by a registration permit begins on an announced date and continues throughout the open season, or until the season is closed by Board action. Registration permits are issued in the order applications are received and/or are based on priorities as determined by 50 CFR 100.17 and 36 CFR 242.17.

Sealing means placing a mark or tag on a portion of a harvested animal by an authorized representative of the ADF&G; *sealing* includes collecting and recording information about the conditions under which the animal was harvested, and measurements of the specimen submitted for sealing, or surrendering a specific portion of the animal for biological information.

Seven-eights curl horn means the horn of a male Dall sheep, the tip of which has grown through seven-eights (315 degrees) of a circle, described by the outer surface of the horn, as viewed from the side, or with both horns broken.

Skin, hide, pelt or fur mean any tanned or untanned external covering of an animal's body; excluding bear. The skin, hide, fur or pelt of a bear shall mean the entire external covering with claws attached.

Spike-fork moose means a bull moose with only one or two tines on either antler; male calves are not spike-fork bulls.

Take or *Taking* means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

Tine or *antler point* refers to any point on an antler, the length of which is greater than its width and is at least one inch.

Transportation means to ship, convey, carry or transport by any means whatever, and deliver or receive for such shipment, conveyance, carriage, or transportation.

Trapping means the taking of furbearers within the established trapping seasons and with a required trapping license.

Unclassified wildlife or unclassified species means all species of animals not otherwise classified by the definitions herein, or regulated under other Federal law as listed in §_____.25(i).

Ungulate means any species of hoofed mammal, including deer, caribou, moose, mountain goat, Dall sheep, and musk oxen.

Unit means one of the 26 geographical areas in the State of Alaska known as Game Management Units, or GMU, and collectively listed in §_____.25 as Units.

Wildlife means any hare (rabbit), ptarmigan, grouse, ungulate, bear, furbearer, or unclassified species and includes any part, product, egg, or offspring thereof, or carcass or part thereof.

(b) Wildlife may be taken for subsistence uses by any method, except as prohibited in this section or by other Federal statute. Taking wildlife for subsistence uses by a prohibited method is a violation of this part. Seasons are closed unless opened by Federal regulation. Hunting or trapping during a closed season or in an area closed by this part is prohibited.

(1) Except for special provisions found at §_____.25(k) (1) through (26), the following methods and means of taking wildlife for subsistence uses are prohibited:

(i) Shooting from, on, or across a highway;

(ii) Using any poison;

(iii) Using a helicopter in any manner, including transportation of individuals, equipment or wildlife; however, this prohibition does not apply to

transportation of an individual, gear, or wildlife during an emergency rescue operation in a life threatening situation;

(iv) Taking wildlife from a motorized vehicle, except from a motor-driven boat if the motor has been completely shut off, and the boat's progress from the motor's power has ceased;

(v) Using a motorized vehicle to drive, herd, or molest wildlife;

(vi) Using or being aided by use of a machine gun, set gun, or a shotgun larger than 10 gauge;

(vii) Using a firearm other than a shotgun, muzzle-loaded rifle, rifle or pistol using center-firing cartridges, for the taking of ungulates, bear, wolves or wolverine, except that—

(A) An individual in possession of a valid trapping license may use a firearm that shoots rimfire cartridges to take wolves and wolverine;

(B) A muzzle-loading rifle of .54-caliber or larger, or a .45-caliber muzzle-loading rifle with a 250-grain, or larger, elongated slug may be used to take brown bear, black bear, moose, musk oxen and mountain goat;

(viii) Using or being aided by use of a pit, fire, artificial light, radio communication, artificial salt lick, explosive, barbed arrow, bomb, smoke, chemical, conventional steel trap with a jaw spread over nine inches, or conibear style trap with a jaw spread over 11 inches;

(ix) Using a snare, except that an individual in possession of a valid hunting license may use nets and snares to take unclassified wildlife, ptarmigan, grouse, or hares; and, individuals in possession of a valid trapping license may use snares to take furbearers;

(x) Using a trap to take ungulates or bear;

(xi) Using hooks to physically snag, impale or otherwise take wildlife; however, hooks may be used as a trap drag;

(xii) Using a crossbow in any area restricted to hunting by bow and arrow only to take ungulates, bear, wolf or wolverine;

(xiii) Taking of ungulates, bear, wolf, or wolverine with a bow, unless the bow is capable of casting a ⅞ inch wide broadhead-tipped arrow at least 175 years horizontally, and the arrow and broadhead together weigh at least one ounce (437.5 grains);

(xiv) Using bait for taking ungulates, bear, wolf, or wolverine; except, bait may be used to take wolves and wolverine with a trapping license, and, bait may be used to take black bears with a hunting license as authorized in Unit-specific regulations at §_____.25(k) (1) through (26). Baiting of black bears is subject to the following restrictions:

(A) No person may establish a black bear bait station unless he or she first registers the site with ADF&G;

(B) A person using bait shall clearly mark the site with a sign reading ''black bear bait station'' that also displays the persons' hunting license number and ADF&G assigned number;

(C) Only biodegradable materials may be used for bait; only the head, bones, viscera, or skin of legally harvested fish and wildlife may be used for bait;

(D) No person may use bait within one-quarter mile of a publicly maintained road or trail;

(E) No person may use bait within one mile of a house or other permanent dwelling, or within one mile of a developed campground, or developed recreational facility;

(F) A person using bait shall remove litter and equipment from the bait station site when hunting is completed;

(G) No person may give or receive remuneration for the use of a bait station, including barter or exchange of goods;

(H) No person may have more than two bait stations with bait present at any one time;

(xv) Taking swimming ungulates, bear, wolves or wolverine;

(xvi) Taking or assisting in the taking of ungulates, bear, wolves, wolverine, or other furbearers before 3:00 a.m. following the day in which airborne travel occurred (except for flights in regularly scheduled commercial aircraft); however this restriction does not apply to subsistence taking of deer;

(xvii) Taking a bear cub or a sow accompanied by cub(s).

(2) Wildlife taken in defense of life or property is not a subsistence use; wildlife so taken is subject to State regulations.

(3) The following methods and means of trapping furbearers, for subsistence uses pursuant to the requirements of a trapping license are prohibited, in addition to the prohibitions listed at § _____ .25(b)(1):

(i) Disturbing or destroying a den, except that any muskrat pushup or feeding house may be disturbed in the course of trapping;

(ii) Disturbing or destroying any beaver house;

(iii) Taking beaver by any means other than a steel trap or snare, except that firearms may be used in certain Units with established seasons as identified in Unit-specific regulations found in this subpart;

(iv) Taking otter with a steel trap having a jaw spread of less than five and seven-eighths inches during any closed mink and marten season in the same Unit;

(v) Using a net, or fish trap (except a blackfish or fyke trap);

(vi) Taking beaver in the Minto Flats Management Area with the use of an aircraft for ground transportation, or by landing within one mile of a beaver trap or set used by the transported person;

(vii) Taking or assisting in the taking of furbearers by firearm before 3:00 a.m. on the day following the day on which airborne travel occurred; however, this does not apply to a trapper using a firearm to dispatch furbearers caught in a trap or snare.

(c) Possession and Transportation of Wildlife.

(1) Except as specified in § _____ .25(c)(3)(ii) or (c)(4), or as otherwise provided, no person may take a species of wildlife in any Unit, or portion of a Unit, if that person's total statewide take of that species has already been obtained under Federal and State regulations in other Units, or portions of other Units.

(2) An animal taken under Federal or State regulations by any member of a community with an established community harvest limit for that species counts toward the community harvest limit for that species. Except for wildlife taken pursuant to § _____ .6(f)(3), an animal taken by an individual as part of a community harvest limit counts toward that individual's harvest limit for that species taken under Federal or State regulations for areas outside of the community harvest area.

(3) Individual harvest limits.

(i) Harvest limits authorized by § _____ .25 and bag limits established in State regulations may not be accumulated.

(ii) Wildlife taken by a designated hunter for another person pursuant to § _____ .6(f)(2), counts toward the individual harvest limit of the person for whom the wildlife is taken.

(4) The harvest limit specified for a trapping season for a species and the harvest limit set for a hunting season for the same species are separate and distinct. This means that a person who has taken a harvest limit for a particular species under a trapping season may take additional animals under the harvest limit specified for a hunting season or vice versa.

(5) A brown/grizzly bear taken in a Unit or portion of a Unit having a harvest limit of one brown/grizzly bear per year counts against a one brown/grizzly bear every four regulatory years harvest limit in other Units; an individual may not take more than one brown/grizzly bear in a regulatory year.

(6) A harvest limit applies to the number of animals that can be taken during a regulatory year; however, harvest limits for grouse, ptarmigan, and caribou (in some Units) are regulated by the number that may be taken per day. Harvest limits of grouse and ptarmigan are also regulated by the number that can be held in possession.

(7) Unless otherwise provided, any person who gives or receives wildlife shall furnish, upon a request made by a Federal or State agent, a signed statement describing the following: names and addresses of persons who gave and received wildlife, the time and place that the wildlife was taken, and identification of species transferred. Where a qualified subsistence user has designated another qualified subsistence user to take wildlife on his or her behalf in accordance with § _____ .6, the permit shall be furnished in place of a signed statement.

(8) A rural Alaska resident who has been designated to take wildlife on behalf of another rural Alaska resident in accordance with § _____ .6, shall promptly deliver the wildlife to that rural Alaska resident.

(9) No person may possess, transport, give, receive or barter wildlife that was taken in violation of Federal or State statutes or a regulation promulgated thereunder.

(10) Evidence of sex and identity.

(i) If subsistence take of Dall sheep is restricted to a ram, no person may possess or transport a harvested sheep unless both horns accompany the animal.

(ii) If the subsistence taking of an ungulate, except sheep, is restricted to one sex in the local area, no person may possess or transport the carcass of an animal taken in that area unless sufficient portions of the external sex organs remain attached to indicate conclusively the sex of the animal; however, § _____ .25(c)(10)(ii) does not apply to the carcass of an ungulate that has been butchered and placed in storage or otherwise prepared for consumption upon arrival at the location where it is to be consumed.

(iii) If a moose harvest limit includes an antler size or configuration restriction, no person may possess or transport the moose carcass or its parts unless both antlers accompany the carcass or its parts. A person possessing a set of antlers with less than the required number of brow times on one antler shall leave the antlers naturally attached to the unbroken, uncut skull plate; however, § _____ .25(c)(10)(iii) does not apply to moose carcass or its parts that have been butchered and placed in storage or otherwise prepared for consumption after arrival at the place where it is to be stored or consumed.

(d) A person who takes an animal that has been marked or tagged for scientific studies must, within a reasonable time, notify the ADF&G or the agency identified on the collar or marker, when and where the animal was taken. Any ear tag, collar, radio, tattoo, or other identification must be retained with the hide until it is sealed, if sealing is required; in all cases, any identification equipment must be returned to the ADF&G or to an agency identified on such equipment.

(e) Sealing of bear skins and skulls.

(1) Sealing requirements for bear shall apply to brown bears taken in all Units, except as specified below, and black bears of all color phases taken in Units 1-7, 11-16, and 20.

(2) No person may possess or transport from Alaska, the untanned skin or skull of a bear unless the skin and skull have been sealed by an authorized representative of ADF&G in accordance with State or Federal regulations, except that the skin and skull of a brown bear taken under a registration permit in the Western Alaska Brown Bear Management Area, the Northwest Alaska Brown Bear Management Area, Unit 5, or Unit 9(B) need not be sealed unless removed from the area.

(3) A person who possesses a bear shall keep the skin and skull together until a representative of the ADF&G has removed a rudimentary premolar tooth from the skull and sealed both the skull and the skin; however, this provision shall not apply to brown bears taken within the Western Alaska Brown Bear Management Area, the Northwest Alaska Brown Bear Management Area, Unit 5, or Unit 9(B) which are not removed from the Management Area or Unit.

(i) In areas where sealing is required by Federal regulations, no person may possess or transport the hide of a bear which does not have the penis sheath or vaginal orifice naturally attached to indicate conclusively the sex of the bear.

(ii) If the skin or skull of a bear taken in the Western Alaska Brown Bear Management is removed from the area, it must first be sealed by an ADF&G representative in Bethel, Dillingham, or McGrath; at the time of sealing, the ADF&G representative shall remove and retain the skin of the skull and front claws of the bear.

(iii) If the skin or skull of a bear taken in the Northwestern Alaska Brown Bear Management Area is removed from the area, it must be first be sealed by an ADF&G representative in Barrow, Fairbanks, Galena, or Kotzebue; at the time of sealing, the ADF&G representative shall remove and retain the skin of the skull and front claws of the bear.

(iv) If the skin or skull of a bear taken in Unit 5 is removed from the area, it must first be sealed by an ADF&G representative in Yakutat; at the time of sealing, the ADF&G representative shall remove and retain the skin of the skull and front claws of the bear.

(v) If the skin or skull of a bear taken in Unit 9(B) is removed from the area, it must first be sealed by an ADF&G representative in Port Alsworth or King Salmon; at the time of sealing, the ADF&G representative shall remove and retain the skin of the skull and front claws of the bear.

(4) No person may falsify any information required on the sealing certificate or temporary sealing form provided by the ADF&G in accordance with State regulations.

(f) Sealing of beaver, lynx, marten, otter, wolf, and wolverine. No person may possess or transport from Alaska the untanned skin of a marten taken in Units 1-5, 7, 13(E), and 14-16 or the untanned skin of a beaver, lynx, otter, wolf, or wolverine, whether taken inside or outside the state, unless the skin has been sealed by an authorized representative of ADF&G in accordance with State regulations.

(g) A person who takes a species listed in § _____ .25(f) but who is unable to present the skin in person, must complete and sign a temporary sealing form and ensure that the completed temporary sealing form and skin are presented to an authorized representative of ADF&G for sealing consistent with requirements listed in § _____ .25(f).

(h) Utilization of Wildlife.

(1) No person may use wildlife as food for a dog or furbearer, or as bait, except for the following:

(i) The hide, skin, viscera, head, or bones of wildlife;

(ii) The skinned carcass of a furbearer;

(iii) Squirrels, hares (rabbits), grouse and ptarmigan; however, the breast meat of grouse and ptarmigan may not be used as animal food or bait;

(iv) Unclassified wildlife.

(2) A person taking wildlife for subsistence shall salvage the following parts for human use:

(i) The hide of a wolf, wolverine, coyote, fox, lynx, marten, mink, weasel or otter;

(ii) The hide and edible meat of a brown bear, except that the hide of brown bears taken in the Western and Northwestern Alaska Brown Bear

Management Areas and Units 5 and 9(B) need not be salvaged;

(iii) The hide and edible meat of a black bear;

(iv) The hide or meat of squirrels, hares (rabbits), marmots, beaver, muskrats, or unclassified wildlife.

(3) Failure to salvage edible meat of ungulates, bear, or grouse and ptarmigan is prohibited.

(4) Failure to salvage the edible meat may not be a violation if such failure is caused by circumstances beyond the control of a person, including theft of the harvested wildlife, unanticipated weather conditions, or unavoidable loss to another animal.

(i) The regulations found in § _____.25 do not apply to the subsistence taking and use of wildlife regulated pursuant to the Fur Seal Act of 1966 (80 Stat. 927, 16 U.S.C. 1187), the Endangered Species Act of 1973 (87 Stat. 884, 16 U.S.C. 1531–1543), the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. 1361–1407), and the Migratory Bird Treaty Act (40 Stat. 755; 16 U.S.C. 703–711), or any amendments to these Acts. The taking and use of wildlife, covered by these Acts, will conform to the specific provisions contained in these Acts, as amended, and any implementing regulations.

(j) Rural residents, non-rural residents, and nonresidents not specifically prohibited by Federal regulations from hunting or trapping on public lands in an area, may hunt or trap on public lands in accordance with the appropriate State regulations.

(k) *Unit Regulations.* Subsistence taking of unclassified wildlife, all squirrel species, and marmots is allowed in all Units, without harvest limits, for the period of July 1–June 30. Subsistence taking of wildlife outside established Unit seasons, or in excess of the established Unit harvest limits, is prohibited unless otherwise modified by subsequent regulation. Taking of wildlife under State regulations on public lands is permitted, except as otherwise restricted at § _____.25(k) (1) through (26). Additional Unit-specific restrictions or allowance for subsistence taking of wildlife are identified at § _____.25(k) (1) through (26).

(1) *Unit 1.* Unit 1 consists of all mainland drainages from Dixon Entrance to Cape Fairweather, and those islands east of the center line of Clarence Strait from Dixon Entrance to Caamano Point, and all islands in Stephens Passage and Lynn Canal north of Taku Inlet:

(i) Unit 1(A) consists of all drainages south of the latitude of Lemesurier Point including all drainages into Behm Canal, excluding all drainages of Ernest Sound;

(ii) Unit 1(B) consists of all drainages between the latitude of Lemesurier Point and the latitude of Cape Fanshaw including all drainages of Earnest Sound and Farragut Bay, and including the islands east of the center lines of Frederick Sound, Dry Strait (between Sergief and Kadin Islands), Eastern Passage, Blake Channel (excluding Blake Island), Ernest Sound and Seward Passage;

(iii) Unit 1(C) consists of that portion of Unit 1 draining into Stephens Passage and Lynn Canal north of Cape Fanshaw and south of the latitude of Eldred Rock including Berners Bay, Sullivan Island, and all mainland portions north of Chicagof Island and south of the latitude of Eldred Rock, excluding drainages into Farragut Bay;

(iv) Unit 1(D) consists of that portion of Unit 1 north of the latitude of Eldred Rock, excluding Sullivan Island and the drainages of Berners Bay;

(v) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Public lands within Glacier Bay National Park are closed to all taking of wildlife for subsistence uses;

(B) Unit 1(A)—in the Hyder area, the Salmon River drainage downstream from the Riverside Mine, excluding the Thumb Creek drainage, is closed to the taking of bear;

(C) Unit 1(B)—The Anan Creek drainage is closed to the taking of black bear;

(D) Unit 1(C):

(*1*) The area within one-fourth mile of Mendenhall Lake, the U.S. Forest Service Mendenhall Glacier Visitor's Center, and the Center's parking area, is closed to hunting;

(*2*) The area of Mt. Bullard bounded by the Mendenhall Glacier, Nugget Creek from its mouth to its confluence with Goat Creek, and a line from the mouth of Goat Creek north to the Mendenhall Glacier, is closed to the taking of mountain goat;

(vi) In Unit 1(C), Juneau area the trapping of furbearers for subsistence uses is prohibited on the following public lands:

(A) A strip within one-quarter mile of the mainland coast between the end of Thane Road and the end of Glacier Highway at Echo Cove;

(B) That area of the Mendenhall Valley bounded on the south by the Glacier Highway, on the west by the Mendenhall Loop road and Montana Creek Road and Spur Road to Mendenhall Lake, on the north by Mendenhall Lake, and on the east by the Mendenhall Loop Road and Forest Service Glacier Spur Road to the Forest Service Visitor Center;

(C) That area within the U.S. Forest Service Mendenhall Glacier Recreation Area;

(D) A strip within one-quarter mile of the following trails as designated on U.S. Geological Survey maps: Herbert Glacier Trail, Windfall Lake Trail, Peterson Lake Trail, Spaulding Meadows Trail (including the loop trail), Nugget Creek Trail, Outer Point Trail, Dan Moller Trail, Perseverance Trail, Granite Creek Trail, Mt. Roberts Trail and Nelson Water Supply Trail, Sheep Creek Trail, and Point Bishop Trail;

(vii) Unit-specific regulations:

(A) Bait may be used to hunt black bear in Units 1(A), 1(B), and 1(D) between April 15 and June 15;

(B) Boats may not be used to take ungulates, bear, wolves, or wolverine, except for persons certified as disabled;

(C) A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take deer on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time.

Harvest limits	Open season
Hunting:	
Black Bear:	
2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Brown Bear:	
1 bear every four regulatory years by State registration permit only	Sept. 15–Dec. 31. Mar. 15–May 31.
Deer:	
Unit 1(A)—4 antlered deer	Aug. 1–Dec. 31.
Unit 1(B)—2 antlered dear	Aug. 1–Dec. 31.
Unit 1(C)—4 deer; however, antlerless deer may be taken only from Sept. 15–Dec. 31	Aug. 1–Dec. 31.
Goat:	
Unit 1(A)—Revillagido Island only	No open season.
Unit 1(B)—that portion north of the Bradfield Canal and the North Fork of the Bradfield River. 1 goat by State registration permit only; that portion between LeConte Bay and the North Fork of Bradfield River/Canal will require a Federal registration permit for the taking of a second goat; the taking of kids or nannies accompanied by kids is prohibited.	Aug. 1–Dec. 31.
Unit 1(A) and Unit 1(B)—Remainder—2 goats by State registration permit only	Aug. 1–Dec. 31.
Unit 1(C)—that portion draining into Lynn Canal and Stephens Passage between Antler River and Eagle Glacier and River—1 goat by State registration permit only.	Oct. 1–Nov. 30.
Unit 1(C)—that portion draining into Stephens Passage and Taku Inlet between Eagle Glacier and River and Taku Glacier, and all drainages of the Chilkat Range south of the Endicott River	No open season.
Remainder of Unit 1(C)—1 goat by State registration permit only	Aug. 1 - Nov. 30.
Unit 1(D)—that portion lying north of the Katzehin River and northeast of the Haines highway—1 goat by State registration permit only.	Sept. 15–Nov. 30.
Unit 1(D)—that portion lying between Taiya Inlet and River and the White Pass and Yukon Railroad	No open season.
Remainder of Unit 1(D)—1 goat by State registration permit only	Aug. 1–Dec. 31.
Moose:	
Unit 1(A)—1 antlered bull	Sept. 15–Oct. 15.
Unit 1(B)—south and east of LeConte Bay and Glacier—1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler. Public lands within the Stikine River drainage are closed to the taking of moose, except in accordance with these regulations during seasons identified above by qualified rural residents only, by Federal registration permit.	Sept. 15–Oct. 15.
Remainder of Unit 1(B)	No open season.
Unit 1(C)—excluding drainages of Berners Bay—1 antlered bull by State registration permit only	Sept. 15–Oct. 15.
Unit 1(D)	No open season.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
5 hares per day	Sept. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	
5 wolves	Aug. 1–Apr. 30.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping:	
Beaver:	
Unit 1 (A), (B), and (C)—No limit	Dec. 1–May 15.
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases);	
No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
No limit	Dec. 1–Feb. 15.
Mink and Weasel:	
No limit	Dec. 1–Feb. 15.
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Dec. 1–Feb. 15.
Wolf:	
No limit	Nov. 10–Apr. 30.
Wolverine:	
No limit	Nov. 10–Apr. 30.

(2) *Unit 2.* Unit 2 consists of Prince of Wales Island and all islands west of the center lines of Clarence Strait and Kashevarof Passage, south and east of the center lines of Sumner Strait, and east of the longitude of the western most point on Warren Island.

(i) Unit-specific regulations:

(A) Bait may be used to hunt black bear between April 15 and June 15;

(B) Boats may not be used to take ungulates, bear, wolves, or wolverines, except for persons certified as disabled;

(C) A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take deer on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time.

(ii) [Reserved].

Harvest limits	Open season
Hunting:	
Black Bear:	
2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Deer:	
4 deer; however, no more than one may be an antlerless deer. Antlerless deer may be taken only during the period Oct. 15–Dec. 31.	Aug. 1–Dec. 31.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
5 hares per day	Sept. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	
5 wolves	Aug. 1–Apr. 30.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping:	
Beaver:	
No limit	Dec. 1–May 15.
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases:	
No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
No limit	Dec. 1–Feb. 15.
Mink and Weasel:	
No limit	Dec. 1–Feb. 15.
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Dec. 1–Feb. 15.
Wolf:	
No limit	Nov. 10–Apr. 30.
Wolverine:	
No limit	Nov. 10–Apr. 30.

(3) *Unit 3.* (i) Unit 3 consists of all islands west of Unit 1(B), north of Unit 2, south of the center line of Frederick Sound, and east of the center line of Chatham Strait including Coronation, Kuiu, Kupreanof, Mitkof, Zarembo, Kashevarof, Woronkofski, Etolin, Wrangell, and Deer Islands.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) In the Petersburg vicinity, a strip one-fourth mile wide on each side of the Mitkof Highway from Milepost 0 to Crystal Lake campground is closed to the taking of ungulates, bear, wolves and wolverine;

(B) The Petersburg Creek drainage on Kupreanof Island is closed to the taking of black bears;

(C) Blind Slough draining into Wrangell Narrows and a strip one-fourth mile wide on each side of Blind Slough, from the hunting closure markers at the southernmost portion of Blind Island to the hunting closure markers one mile south of the Blind Slough bridge, are closed to all hunting.

(iii) Unit-specific regulations:

(A) Bait may be used to hunt black bear between April 15 and June 15;

(B) Boats may not be used to take ungulates, bear, wolves, or wolverine, except for persons certified as disabled;

(C) A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take deer on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and

must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time.

Harvest limits	Open season
Hunting:	
Black Bear:	
2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Deer:	
Unit 3—Mitkof Island, Woewodski Island, Butterworth Islands, and that portion of Kupreanof Island which includes Lindenburg Peninsula east of the Portage Bay/Duncan Canal Portage—1 antlered deer by State registration permit only; however, the city limits of Petersburg and Kupreanof are closed to hunting.	Oct. 15–Oct. 31.
Remainder of Unit 3—2 antlered deer	Aug. 1–Nov. 30.
Moose:	
Unit 3—Mitkof and Wrangell Islands—1 antlered bull with spike-fork or 50-inch antlers or 3 or more brow tines on either antler by State registration permit only.	Oct. 1–Oct. 15.
Remainder of Unit 3	No open season.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
5 hares per day	Sept. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	
5 wolves	Aug. 1–Apr. 30.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping:	
Beaver:	
Unit 3—Mitkof Island—No limit	Dec. 1–Apr. 15.
Unit 3—except Mitkof Island—No limit	Dec. 1–May 15.
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases):	
No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
No limit	Dec. 1–Feb. 15.
Mink and Weasel:	
No limit	Dec. 1–Feb. 15.
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Dec. 1–Feb. 15.
Wolf:	
No limit	Nov. 10–Apr. 30.
Wolverine:	
No limit	Nov. 10–Apr. 30.

(4) *Unit 4.* (1) Unit 4 consists of all islands south and west of Unit 1(C) and north of Unit 3 including Admiralty, Baranof, Chichagof, Yakobi, Inian, Lemesuirier, and Pleasant Islands.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) The Seymour Canal Closed Area (Admiralty Island) including all drainages into northwestern Seymour Canal between staunch Point and the southernmost tip of the unnamed peninsula separating Swan Cove and King Salmon Bay including Swan and Windfall Islands, is closed to the taking of bears;

(B) The Salt Lake Bay Closed Area (Admiralty Island) including all lands within one-fourth mile of Salt Lake above Klutchman Rock at the head of Mitchell Bay, is closed to the taking of bears;

(C) Port Althorp (Chichagof Island), that area within the Port Althorp watershed south of a line from Point Lucan to Salt Chuck Point (Trap Rock), is closed to the taking of brown bears;

(D) Northeast Chichagof Controlled Use Area (NECCUA) consisting of all portions of Unit 4 on Chichagof Island north of Tenakee Inlet and east of the drainage divide from the northwest point of Gull Cove to Port Frederick Portage, including all drainages into Port Frederick and Mud Bay, is closed to the use of any motorized land vehicle for brown bear hunting, or for the taking of marten, mink, or weasel.

(iii) Unit-specific regulations:

(A) Boats may not be used to take bear, wolves, or wolverine, except for persons certified as disabled;

(B) A Federally-qualified subsistence user (recipient) may designate another

Federally-qualified subsistence user to take deer on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time;

(C) Chichagof Island is closed to the use of any motorized land vehicle for the taking of marten, mink, and weasel.

Harvest limits	Open season
Hunting:	
Brown Bear:	
Unit 4—Chichagof Island south and west of a line that follows the crest of the island from Rock Point (58° N. lat., 136° 21′ W. long.), to Rodgers point (57° 35′ N. lat., 135° 33′ W. long.) including Yakobi and other adjacent islands; Baranof Island south and west of a line which follows the crest of the island from Nismeni Point (57° 34′ N. lat., 135° 25′ W. long.), to the entrance of Gut Bay (56° 44′ N. lat. 134° 38′ W. long.) including the drainages into Gut Bay and including Kruzof and other adjacent islands—1 bear every four regulatory years by State registration permit only.	Sept. 15–Dec. 31.
	Mar. 15–May 31.
Unit 4—that portion in the Northeast Chichagof Controlled Use Area—1 bear every four regulatory years by State registration permit only.	Mar. 15–May 20.
Remainder of Unit 4—1 bear every four regulatory years by State registration permit only	Sept. 15–Dec. 31. Mar. 15–May 20.
:	
Deer:	
6 deer; however, antlerless deer may be taken only from Sept. 15–Jan. 31	Aug. 1–Jan. 31.
Goat:	
1 goat by State registration permit only	Aug. 1–Dec. 31.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black, and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
5 hares per day	Sept. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	
5 wolves	Aug. 1–Apr. 30.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping:	
Beaver:	
Unit 4—that portion east of Chatham Strait—No limit	Dec. 1–May 15.
Remainder of Unit 4	No open season.
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black, and Silver Phases):	
No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
Unit 4—Chichagof Island—No limit	Dec. 1–Dec. 31.
Remainder of Unit 4—No limit	Dec. 1–Feb. 15.
Mink and Weasel:	
Unit 4—Chichagof Island—No limit	Dec. 1–Dec. 31.
Remainder of Unit 4—No limit	Dec. 1–Feb. 15.
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Dec. 1–Feb. 15.
Wolf:	
No limit	Nov. 10–Apr. 30.
Wolverine:	
No limit	Nov. 10–Apr. 30.

(5) *Unit 5.* (i) Unit 5 consists of all Gulf of Alaska drainages and islands between Cape Fairweather and the center line of Icy Bay, including the Guyot Hills:

(A) Unit 5(A) consists of all drainages east of Yakutat Bay, Disenchantment Bay, and the Eastern edge of Hubbard Glacier, and includes the islands of Yakutat and Disenchantment Bays;

(B) Unit 5(B) consists of the remainder of Unit 5.

(ii) Public lands within Glacier Bay National Park are closed to all taking of wildlife for subsistence uses.

(iii) Unit-specific regulations:

(A) Bait may be used to hunt black bear between April 15 and June 15;

(B) boats may not be used to take ungulates, bear, wolves, or wolverine, except for persons certified as disabled;

(C) unit 5 is open to brown bear hunting by Federal registration permit in lieu of a State metal locking tag; no State metal locking tag is required for taking a brown bear in Unit 5, provided that the hunter has obtained a Federal registration permit prior to hunting;

(D) The taking by residents of Unit 5(A) of up to 10 moose per regulatory year in Unit 5(A), except Nunatak Bench, is allowed for ceremonial potlatches and other ceremonial uses, under the terms of a Federal registration permit. Moose may be taken from August 1 through December 31. Permits will be issued to individuals only at the request of a local organization. This 10 moose limit is not cumulative with any potlatch moose permitted by the State;

(E) A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take deer or moose on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time.

Harvest limits	Open season
Hunting:	
Black Bear:	
2 bears, no more than one may be a blue or glacier bear	Sept. 1–June 30.
Brown Bear:	
1 bear by Federal registration permit only	Sept. 1–May 31.
Deer:	
Unit 5(A)—1 buck	Nov. 1–Nov. 30.
Unit 5(B)	No open season.
Goat:	
1 goat by State registration permit only	Aug. 1–Dec. 31.
Moose:	
Unit 5(A), except Nunatak Bench—1 antlered bull by State registration permit only. The season will be closed when 60 antlered bulls have been taken from the Unit. The season will be closed in that portion west of the Dangerous River when 30 antlered bulls have been taken in that area. From Oct. 15–Oct. 21, public lands will be closed to taking of moose, except by rural Alaska residents of Unit 5(A).	Oct. 15–Nov. 15.
Unit 5(B)—1 antlered bull by State registration permit only. The season will be closed when 25 antlered bulls have been taken from the entirety of Unit 5(B).	Sept. 1–Dec. 15.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
5 hares per day	Sept. 1–Apr. 30.
Lynx:	
2 lynx	Dec. 1–Feb. 15.
Wolf:	
5 wolves	Aug. 1–Apr. 30.
Wolverine:	
1 wolverine	Nov. 10–Feb. 15.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping:	
Beaver:	
No limit	Nov. 10–May 15.
Coyote:	
No limit	Dec. 1–Feb. 15.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Dec. 1–Feb. 15.
Lynx:	
No limit	Dec. 1–Feb. 15.
Marten:	
No limit	Nov. 10–Feb. 15.
Mink and Weasel:	
No limit	Nov. 10–Feb. 15.
Muskrat:	
No limit	Dec. 1–Feb. 15.
Otter:	
No limit	Nov. 10–Feb. 15.
Wolf:	
No limit	Nov. 10–Apr. 30.
Wolverine:	
No limit	Nov. 10–Apr. 30.

(6) *Unit 6.* (i) Unit 6 consists of all Gulf of Alaska and Prince William Sound drainages from the center line of Icy Bay (excluding the Guyot Hills) to Cape Fairfield including Kayak, Hinchinbrook, Montague, and adjacent islands, and Middleton Island, but excluding the Copper River drainage upstream from Miles Glacier, and excluding the Nellie Juan and Kings River drainages:

(A) Unit 6(A) consists of Gulf of Alaska drainages east of Palm Point near Katalla including Kanak, Wingham, and Kayak Islands;

(B) Unit 6(B) consists of Gulf of Alaska and Copper River Basin drainages west of Palm Point near Katalla, east of the west bank of the Copper River, and east of a line from Flag Point to Cottonwood point;

(C) Unit 6(C) consists of drainages west of the bank of the Copper River, and west of a line from Flag Point to Cottonwood Point, and drainages east of the east bank of Rude River and drainages into the eastern shore of Nelson Bay and Orca Inlet;

(D) Unit 6 (D) consists of the remainder of Unit 6.

(ii) For the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) The Goat Mountain goat observation area, which consists of that portion of Unit 6(B) bounded on the north by Miles Lake and Miles Glacier, on the south and east by Pleasant Valley River and Pleasant Glacier, and on the West by the Copper River, is closed to the taking of mountain goat;

(B) The Heney Range goat observation area, which consists of that portion of Unit 6(C) south of the Copper River Highway and west of the Eyak River, is closed to the taking of mountain goat.

(iii) Unit-specific regulations:

(A) Bait may be used to hunt black bear between April 15 and June 15;

(B) Coyotes may be taken in Units 6(B) and 6(C) with the aid of artificial lights.

Harvest limits	Open season
Hunting:	
Black Bear:	
1 bear	Sept. 1–June 30.
Deer:	
4 deer; however, antlerless deer may be taken only from Nov. 1—Dec. 31	Aug. 1–Dec. 31.
Goats:	
Unit 6 (A), (B)—1 goat by State registration permit only	Aug. 20–Jan. 31.
Unit 6(C)	No open season.
Unit 6(D) (subareas RG242, RG244, RG249, RG266 and RG252 only)—1 goat by Federal registration permit only	Aug. 20–Jan. 31.
In each of the Unit 6(D) subareas, goat seasons will be closed when harvest limits for that subarea are reached. Harvest quotas are as follows: RG242—2 goats, RG244—2 goats, RG249—2 goats, RG266—4 goats, RG252—1 goat.	
Unit 6(D) (subareas RG243 and RG245)—The taking of goats is prohibited on all public lands	No open season.
Coyote:	
Unit 6 (A) and (D)—2 coyotes	Sept. 1–Apr. 30.
Unit 6(B)—No limit	July 1–June 30.
Unit 6(C)—South of the Copper River Highway and east of the Heney Range—No limit	July 1–June 30.
Remainder of Unit 6(C)—No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases)	No open season.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx	No open season.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 Wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
5 per day, 10 in possession	Aug. 1–May 15.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 1–May 15.
Trapping:	
Beaver:	
Trapping—20 beaver per season	Dec. 1–Mar. 31.
Coyote:	
Unit 6 (A), (B) and (D)—No limit	Nov. 10–Mar. 31.
Unit 6(C)—South of the Copper River Highway and east of the Heney Range—No limit	Nov. 10–Apr. 30.
Remainder of Unit 6(c)—No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(7) *Unit 7.* (i) Unit 7 consists of Gulf of Alaska drainages between Gore Point and Cape Fairfield including the Nellie Juan and Kings River drainages, and including the Kenai River drainage upstream from the Russian River, the drainages into the south side of Turnagain Arm west of and including the Portage Creek drainage, and east of 150° W. long., and all Kenai Peninsula Drainages east of 150° W. long., from Turnagain Arm to the Kenai River.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Kenai Fjords National Park is closed to all subsistence uses;

(B) The Portage Glacier Closed Area in Unit 7, which consists of Portage Creek drainages between the Anchorage-Seward Railroad and Placer Creek in Bear Valley, Portage Lake, the mouth of Byron Creek, Glacier Creek and Byron Glacier, is closed to hunting; however, grouse, ptarmigan, hares, and squirrels may be hunted with shotguns after September 1.

(iii) Unit-specific regulations:

(A) Bait may be used to hunt black bear between April 15 and June 15; except Resurrection Creek and its tributaries.

(B) [Reserved]

Harvest limits	Open season
Hunting:	
Black Bear:	
Unit 7—3 bears	July 1–June 30.
Coyote:	
No limit	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Nov. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Wolf:	
Unit 7—that portion within the Kenai National Wildlife Refuge—2 wolves	Aug. 10–Apr. 30.
Unit 7—Remainder—5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping:	
Beaver:	
20 Beaver per season	Dec. 1–Mar. 31.
Coyote:	
No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan 31.
Muskrat:	
No limit	Nov. 10–May 15.
Otter:	
No limit	Nov. 10–Feb. 28.
Wolf:	
No limit	Nov. 10–Feb. 28.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(8) *Unit 8.* Unit 8 consists of all islands southeast of the centerline of Shelikof Strait including Kodiak, Afognak, Whale, Raspberry, Shuyak, Spruce, Marmot, Sitkalidak, Amook, Uganik, and Chirikof Islands, the Trinity Islands, the Semidi Islands, and other adjacent islands.

(i) A firearm may be used to take beaver with a trapping license in Unit 8 from Nov. 10–Apr. 30.

(ii) A Federally-qualified subsistence user (recipient) may designate another Federally-qualified subsistence user to take deer on his or her behalf unless the recipient is a member of a community operating under a community harvest system. The designated hunter must obtain a designated hunter permit and must return a completed harvest report. The designated hunter may hunt for any number of recipients but may have no more than two harvest limits in his/her possession at any one time.

Harvest limits	Open season
Hunting:	
Deer:	
Unit 8—that portion of Kodiak Island north of a line from the head of Settlers Cove to Crescent Lake (57° 52′ N. lat., 152° 58′ W. long.), and east of a line from the outlet of Crescent Lake to Mount Ellison Peak and from Mount Ellison Peak to Pokati Point at Whale Passage, and that portion of Kodiak Island east of a line from the mouth of Saltery Creek to the mouth at Elbow Creek, and adjacent small islands in Chiniak Bay—1 deer; however, antlerless deer may be taken only from Oct. 25–Oct. 31.	Aug. 1–Oct. 31.

Harvest limits	Open season
Unit 8—that portion of Kodiak Island and adjacent islands south and west of a line from the head of Terror Bay to the head of the southwestern most arm of Ugak Bay—5 deer; however, antlerless deer may be taken only from Oct. 1–Dec. 31.	Aug. 1–Dec. 31.
Remainder of Unit 8—5 deer; however, antlerless deer may be taken only from Oct. 1–Dec. 31; no more than 1 antlerless deer may be taken from Oct. 1–Nov. 30.	Aug. 1–Dec. 31.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Beaver:	
30 beaver per season	Nov. 10–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Mar. 31.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Jan. 31.

(9) *Unit 9.* (i) Unit 9 consists of the Alaska Peninsula and adjacent islands including drainages east of False Pass, Pacific Ocean drainages west of and excluding the Redoubt Creek drainage; drainages into the south side of Bristol Bay, drainages into the north side of Bristol Bay east of Etolin Point, and including the Sanak and Shumagin Islands:

(A) Unit 9(A) consists of that portion of Unit 9 draining into Shelikof Strait and Cook Inlet between the southern boundary of Unit 16 (Redoubt Creek) and the northern boundary of Katmai National Park and Preserve;

(B) Unit 9(B) consists of the Kvichak River drainage;

(C) Unit 9(C) consists of the Alagnak (Branch) River drainage, the Naknek River drainage, and all land and water within Katmai National Park and Preserve;

(D) Unit 9(D) consists of all Alaska Peninsula drainages west of a line from the southernmost head of Port Moller to the head of American Bay including the Shumagin Islands and other islands of Unit 9 west of the Shumagin Islands;

(E) Unit 9(E) consists of the remainder of Unit 9.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Katmai National Park is closed to all subsistence uses;

(B) The use of motorized vehicles, excluding aircraft, boats, or snowmobiles used for hunting and transporting a hunter or harvested animal parts, is prohibited from Aug. 1–Nov. 30 in the Naknek Controlled Use Area, which includes all of Unit 9(C) within the Naknek River drainage upstream from and including the King Salmon Creek drainage; however, this restriction does not apply to a motorized vehicle on the Naknek-King Salmon, Lake Camp, and Rapids Camp roads and on the King Salmon Creek trail, and on frozen surfaces of the Naknek River and Big Creek;

(C) A firearm may be used under a trapping license to take beaver in Unit 9(B) from April 1—May 31 and in the remainder of Unit 9 from April 1—April 30;

(D) Unit 9(B) (Nondalton residents only) is open to brown bear hunting by Federal registration permit in lieu of a resident tag; no resident tag is required for taking a brown bear in Unit 9(B), provided that the hunter has obtained a Federal registration permit prior to hunting;

(E) The taking in Unit 9(B) by residents of Newhalen, Nondalton, Iliamna, Pedro Bay, and Port Alsworth of up to a total per regulatory year of 10 bull moose among the communities is allowed for ceremonial purposes, under the terms of a Federal registration permit. Bull moose may be taken from July 1 through June 30. Permits, available to all 5 communities, will be issued until all 10 permits are used to individuals only at the request of a local organization. This 10 moose limit is not cumulative with that permitted for potlatches by the State.

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 9(B)—Rural residents of Nondalton only—1 bear by Federal registration permit only	Oct. 1–Oct. 21. May 10–May 25.
Unit 9(B)—1 bear every four regulatory years	Oct. 1–Oct. 21. (odd years only; May 10–May 25. (even years only).
Unit 9(E)—1 bear by Federal registration permit or State harvest tag	Oct. 1–Dec. 31. May 10–May 25.
Caribou:	

Harvest limits	Open season
Unit 9(A)—4 caribou; however, no more than 2 caribou may be taken Aug. 10–Sept. 30 and no more than 1 caribou may be taken Oct. 1–Nov. 30.	Aug. 10–Mar. 31.
Unit 9(C)—4 caribou; however, no more than 1 may be a cow, no more than 2 caribou may be taken Aug. 10–Nov. 30, and no more than 1 caribou may be taken per calendar month between Dec. 1–Mar. 31.	Aug. 10–Mar. 31.
Unit 9(B)—5 caribou; however no more than 2 may be bulls	Aug. 1–Apr. 15.
Unit 9(D)—closed to all hunting of caribou	No open season.
Unit 9(E)—that portion southwest of the headwaters of Fireweed and blueberry Creeks (north of Mt. Veniaminof) to and including the Sandy River drainage on the Bristol Bay side of the Alaska Peninsula; and that portion south of Seal Cape to Ramsey Bay on the Pacific side of the Alaska Peninsula divide is closed to all hunting of caribou.	No open season.
Remainder of Unit 9(E)—4 caribou	Aug. 10–Apr. 30.
Sheep:	
Unit 9(B)—Residents of Iliamna, Newhalen, Nondalton, Pedro Bay, and Port Alsworth only—1 ram with 7/8 curl horn by Federal registration permit only.	Aug. 10–Oct. 10.
Remainder of Unit 9—1 ram with 7/8 curl horn	Aug. 10–Sept. 20.
Moose:	
Unit 9(A)—1 antlered bull	Sept. 1–Sept. 15.
Unit 9(B)—1 antlered bull	Aug. 20–Sept. 15. Dec. 1–Dec. 31.
Unit 9(C)—that portion draining into the Naknek River from the north—1 antlered bull	Sept. 1–Sept. 15. Dec. 1–Dec. 31.
Unit 9(C)—that portion draining into the Naknek River from the south—1 antlered bull. However, during the period Aug. 20–Aug. 31, bull moose may be taken by Federal registration permit only. During the December hunt, antlerless moose may be taken by Federal registration permit only. The antlerless season will be closed when 5 antlerless moose have been taken. Public lands are closed during December for the hunting of moose, except by eligible rural Alaska residents during seasons identified above.	Aug. 20–Sept. 15. Dec. 1–Dec. 31.
Remainder of Unit 9(C)—1 moose; however, antlerless moose may be taken only from Dec. 1–Dec. 31	Sept. 1–Sept. 15. Dec. 1–Dec. 31.
Unit 9(E)—1 antlered bull	Sept. 1–Sept. 20. Dec. 1–Dec. 31.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White):	
No limit	Dec. 1–Mar. 15.
Fox, Red (including Cross, Black and Silver phases):	
2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 10–Feb. 28.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Beaver:	
Unit 9(B)—40 beaver per season; however, no more than 20 may be taken between Apr. 1–May 31	Jan. 1–May 31.
Remainder of Unit 9—40 beaver per season; however, no more than 20 may be taken between Apr. 1–Apr. 30	Jan. 1–Apr. 30.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Arctic (blue and White):	
No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Lynx:	
No limit	Nov. 10–Feb. 28.
Marten:	
No limit	Nov. 10–Feb. 28.
Mink and Weasel:	
No limit	Nov. 10–Feb. 28.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(10) *Unit 10.* (i) Unit 10 consists of the Aleutian Islands, Unimak Island and the Pribilof Islands.

(ii) On Otter Island in the Pribilof Islands the taking of any wildlife species for subsistence uses is prohibited.

Harvest limits	Open season
Hunting:	
Caribou:	
Unit 10—Unimak Island only	No open season.
Remainder of Unit 10—No limit	July 1–June 30.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
No limit	July 1–Feb. 15.
Hare (Snowshoe and tundra):	
No Limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–June 30.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
No limit	July 1–June 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15.
Mink and Weasel:	
No limit	Nov. 10–Feb. 28.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(11) *Unit 11.* Unit 11 consists of that area draining into the headwaters of the Copper River south of Suslota Creek and the area drained by all tributaries into the east bank of the Copper River between the confluence of Suslota Creek with the Slana River and Miles Glacier.

(i) Unit-specific regulations:

(A) Bait may be used to hunt black bear between April 15 and June 15.

(B) [Reserved]

(ii) [Reserved]

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Caribou:	
Closed to all hunting of caribou	No open season.
Sheep:	
1 sheep	Aug. 10–Sept. 20.
Moose:	
1 antlered bull	Aug. 25–Sept. 20.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Dec. 15–Jan. 15.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine. Public lands are closed to the taking of wolverine except by eligible rural Alaska residents during seasons identified above.	Sept. 1–Jan. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.

Harvest limits	Open season
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping:	
Beaver:	
30 beaver per season	Nov. 10–Apr. 30.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Lynx:	
No limit	Dec. 1–Jan. 15.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
2 wolverine. Public lands are closed to the taking of wolverine except by eligible rural Alaska residents during seasons identified above.	Nov. 10–Jan. 31.

(12) *Unit 12.* Unit 12 consists of the Tanana River drainage upstream from the Robertson River, including all drainages into the east bank of the Robertson River, and the White River drainage in Alaska, but excluding the Ladue River drainage.

(i) Unit-specific regulations:

(A) Bait may be used to hunt black bear between April 15 and June 30;

(B) Trapping of wolves in Unit 12 during April and October with a steel trap, or with a snare using cable smaller than 3/32 inch diameter, is prohibited.

(ii) [Reserved]

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Caribou:	
Unit 12—that portion west of the Nabesna River within the drainages of Jack Creek, Platinum Creek, and Totschunda Creek—The taking of caribou is prohibited on public lands.	No open season.
Unit 12—that portion lying east of the Nabesna River and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border—The taking of caribou is prohibited on public lands.	No open season.
Remainder of Unit 12—1 bull	Sept. 1–Sept. 20.
1 bull caribou may be taken by a Federal registration permit during a winter season to be announced for the rural Alaska residents of Tetlin and Northway only.	Winter season to be announced by the Board.
Sheep:	
1 ram with full curl horn or larger	Aug. 10–Sept. 20.
Moose:	
Unit 12—that portion drained by the Tanana, Nabesna, and Chisana Rivers withon the Tetlin National Wildlife Refuge and those lands within the Wrangell-St. Elias National Preserve north and east of a line formed by the Pickerel Lake Winter Trail from the Canadian border to the southern boundary of the Tetlin National Wildlife Refuge—1 antlered bull. The November season is open by Federal registration permit only.	Sept. 1–Sept. 15. Nov. 20–Nov. 30.
Unit 12—that portion lying east of the Nabesna River and south of the Winter Trail running southeast from Pickerel Lake to the Canadian border—1 antlered bull.	Sept. 1–Sept. 30.
Unit 12—Remainder —1 antlered bull	Sept. 1–Sept. 12.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases:	
10 foxes; however, no more that 2 foxes may be taken prior to Oct 1	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Jan. 31.
Wolf:	
5 volves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	

Harvest limits	Open season
30 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Beaver:	
15 beaver per season	Nov. 1–Apr. 15.
Coyote:	
No limit	Nov. 1–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Feb. 28.
Lynx:	
No limit	Dec. 1–Jan. 15.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
No limit	Sept. 20–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Oct. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Feb. 28.

(13) *Unit 13.* (i) Unit 13 consists of that area westerly of the east bank of the Copper River and drained by all tributaries into the west bank of the Copper River from Miles Glacier and including the Slana River drainages north of Suslota Creek; the drainages into the Delta River upstream from Falls Creek and Black Rapids Glacier; the drainages into the Nenana River upstream from the southeast corner of Denali National Park at Windy; the drainage into the Susitna River upstream from its junction with the Chulitna River; the drainage into the east bank of the Chulitna River upstream to its confluence with Tokositna River; the drainages of the Chulitna River (south of Denali National Park) upstream from its confluence with the Tokositna River; the drainages into the north bank of the Tokositna River upstream to the base of the Tokositna Glacier; the drainages into the Tokositna Glacier; the drainages into the east bank of the Susitna River between its confluences with the Talkeetna and Chulitna Rivers; the drainages into the north bank of the Talkeetna River; the drainages into the east bank of the Chickaloon River; the drainages of the Matanuska River above its confluence with the Chickaloon River;

(A) Unit 13(A) consists of that portion of Unit 13 bounded by a line beginning at the Chickaloon River bridge at Mile 77.7 on the Glenn Highway, then along the Glenn Highway to its junction with the Richardson Highway, then south along the Richardson Highway to the foot of Simpson Hill at Mile 111.5, then east to the east bank of the Copper River, then northerly along the east bank of the Copper River to its junction with the Gulkana River, then northerly along the west bank of the Gulkana River to its junction with the West Fork of the Gulkana River, then westerly along the west bank of the West Fork of the Gulkana River to its source, an unnamed lake, then across the divide into the Tyone River drainage, down an unnamed stream into the Tyone River, then down the Tyone River to the Susitna River, then down the southern bank of the Susitna River to the mouth of Kosina Creek, then up Kosina Creek to its headwaters, then across the divide and down Aspen Creek to the Talkeetna River, then southerly along the boundary of Unit 13 to the Chickaloon River bridge, the point of beginning;

(B) Unit 13(B) consists of that portion of Unit 13 bounded by a line beginning at the confluence of the Copper River and the Gulkana River, then up the east bank of the Copper River to the Gakona River, then up the Gakona River and Gakona Glacier to the boundary of Unit 13, then westerly along the boundary of Unit 13 to the Susitna Glacier, then southerly along the west bank of the Susitna Glacier and the Susitna River to the Tyone River, then up the Tyone River and across the divide to the headwaters of the West Fork of the Gulkana River, then down the West Fork of the Gulkana River to the confluence of the Gulkana River and the Copper River, the point of beginning;

(C) Unit 13(C) consists of that portion of Unit 13 east of the Gakona River and Gakona Glacier;

(D) Unit 13(D) consists of that portion of Unit 13 south of Unit 13(A);

(E) Unit 13(E) consists of the remainder of Unit 13.

(ii) Within the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) lands within Mount McKinley National Park as it existed prior to December 2, 1980 are closed to subsistence. Subsistence uses as authorized by § _____.25(k)(13) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980;

(B) use of motorized vehicles or pack animals for hunting is prohibited from Aug. 5–Aug. 25 in the Delta Controlled Use Area, the boundary of which is defined as: a line beginning at the confluence of Miller Creek and the Delta River, then west to vertical angle bench mark Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 Richardson Highway, then north along the Richardson Highway to its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head of the Cantwell Glacier, then west along the north bank of the Canwell Glacier and Miller Creek to the Delta River;

(C) except for access and transportation of harvested wildlife on Sourdough and Haggard Creeks, Meiers Lake trails, or other trails designated by the Board, the use of motorized vehicles for subsistence hunting, is prohibited in the Sourdough Controlled Use Area. The Sourdough Controlled Use Area consists of that portion of Unit 13(B)

bounded by a line beginning at the confluence of Sourdough Creek and the Gulkana River, then northerly along Sourdough Creek to the Richardson Highway at approximately Mile 148, then northerly along the Richardson Highway to the Meiers Creek Trail at approximately Mile 170, then westerly along the trail to the Gulkana River, then southerly along the east bank of the Gulkana River to its confluence with Sourdough Creek, the point of beginning.

(iii) Unit-specific regulations:

(A) Bait may be used to hunt black bear between April 15 and June 15.

(B) [Reserved]

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Caribou:	
2 caribou by Federal registration permit only. Hunting within the Trans-Alaska Oil Pipeline right-of-way is prohibited. The right-of-way is identified as the area occupied by the pipeline (buried or above ground) and the cleared area 25 feet on either side of the pipeline.	Aug. 10–Sept. 30.
	Jan. 5–Mar. 31
Sheep:	
Unit 13—excluding Unit 13(D) and the Tok and Delta Management Areas—1 ram with 7/8 curl horn	Aug. 10–Sept. 20.
Moose:	
1 antlered bull moose by Federal registration permit only; only 1 permit will be issued per household	Aug. 1–Sept. 20.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Dec. 15–Jan. 15.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Jan. 31.
Public lands are closed to the taking of wolverine, except by eligible rural Alaska residents during seasons identified above	
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping:	
Beaver:	
30 beaver per season	Oct. 10–Apr. 30.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Lynx:	
No limit	Dec. 1–Jan. 15.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
2 wolverine	Nov. 10–Jan. 31.
Public lands are closed to the taking of wolverine, except by eligible rural Alaska residents during seasons identified above.	

(14) *Unit 14.* (i) Unit 14 consists of drainages into the north side of Turnagain Arm west of and excluding the Portage Creek drainage, drainages into Knik Arm excluding drainages of the Chickaloon and Matanuska Rivers in Unit 13, drainages into the north side of Cook Inlet east of the Susitna River, drainages into the east bank of the Susitna River downstream from the Talkeetna River, and drainages into the south bank of the Talkeetna River:

(A) Unit 14(A) consists of drainages in Unit 14 bounded on the west by the Susitna River, on the north by Willow Creek, Peters Creek, and by a line from the head of Peters Creek to the head of the Chickaloon River, on the east by the eastern boundary of Unit 14, and on the south by Cook Inlet, Knik Arm, the south bank of the Knik River from its mouth to its junction with Knik Glacier, across the face of Knik Glacier and along the north side of Knik Glacier to the Unit 6 boundary;

(B) Unit 14(B) consists of that portion of Unit 14 north of Unit 14(A); and

(C) Unit 14(C) consists of that portion of Unit 14 south of Unit 14(A).

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) the Fort Richardson Management Area, consisting of the Fort Richardson Military Reservation, is restricted to the subsistence taking of ungulates, bear, wolves, or wolverine by permit only;

(B) the Anchorage Management Area, consisting of all drainages south of Elmendorf and Fort Richardson military reservations and north of and including Rainbow Creek is closed to subsistence taking of wildlife for subsistence uses.

(iii) Unit-specific regulations:

(A) In Unit 14(A), bait may be used to hunt black bear between April 15 and May 25;

(B) [Reserved]

Harvest limits	Open season
Hunting:	
Black Bear:	
Unit 14 (A) and (C)—1 bear	July 1–June 30.
Brown Bear:	
Unit 14(A)—1 bear every four regulatory years	Sept. 15–Oct. 10. May 1–May 25.
Coyote:	
Unit 14 (A) and (C)—2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
Unit 14—2 foxes	Nov. 1–Feb. 15
Hare (Snowshoe and Tundra):	
Unit 14(A)—5 hares per day	July 1–June 30.
Unit 14(C)—5 hares per day	Sept. 8–Apr. 30.
Lynx:	
2 lynx	Dec. 15–Jan. 15.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
Unit 14(A)—15 per day, 30 in possession	Aug. 10–Mar. 31.
Unit 14(C)—5 per day, 10 in possession	Sept. 8–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
Unit 14(A)—10 per day, 20 in possession	Aug. 10–Mar. 31.
Unit 14(C)—10 per day, 20 in possession	Sept. 8–Mar. 31.
Remainder of Unit 14—20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping:	
Beaver:	
Unit 14(A)—30 beaver per season	Nov. 10–Apr. 30.
Unit 14(C)—that portion within the drainages of Glacier Creek, Kern Creek, Peterson Creek, the Twentymile River and the drainages of Knik River outside Chugach State Park—20 beaver per season.	Dec. 1–Apr. 15.
Coyote:	
Unit 14(A)—No limit	Nov. 10–Mar. 31.
Unit 14(C)—No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases):	
Unit 14(A)—No limit	Nov. 10–Feb. 28.
Unit 14(C)—1 fox	Nov. 10–Feb. 28.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–May 15.
Otter	
Unit 14(A)—No limit	Nov. 10–Mar. 31.
Unit 14(C)—No limit	Nov. 10–Feb. 28.
Wolf:	
Unit 14(A)—No limit	Nov. 10–Mar. 31.
Unit 14(C)—No limit	Nov. 10–Feb. 28.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(15) *Unit 15.* (i) Unit 15 consists of that portion of the Kenai Peninsula and adjacent islands draining into the Gulf of Alaska, Cook Inlet and Turnagain Arm from Gore Point to the point where longitude line 150°00′ W. crosses the coastline of Chickaloon Bay in Turnagain Arm, including that area lying west of longitude line 150°00′ W. to the mouth of the Russian River, then southerly along the Chugach National Forest boundary to the upper end of Upper Russian Lake; and including the drainages into Upper Russian Lake west of the Chugach National Forest boundary:

(A) Unit 15(A) consists of that portion of Unit 15 north of the Kenai River and Skilak Lake;

(B) Unit 15(B) consists of that portion of Unit 15 south of the Kenai River and Skilak Lake, and north of the Kasilof River, Tustumena Lake, Glacier Creek, and Tustumena Glacier;

(C) Unit 15(C) consists of the remainder of Unit 15.

(ii) The Skilak Loop Management Area, which consists of that portion of Unit 15(A) bounded by a line beginning

at the eastern most junction of the Sterling Highway and the Skilak Loop (milepost 76.3), then due south to the south bank of the Kenai River, then southerly along the south bank of the Kenai River to its confluence with Skilak Lake, when westerly along the north shore of Skilak Lake to Lower Skilak Lake Campground, then northerly along the Lower Skilak Lake Campground Road and the Skilak Loop Road to its western most junction with the Sterling Highway, then easterly along the Sterling Highway to the point of beginning, is closed to the taking of wildlife, except that grouse and ptarmigan may be taken only from October 1–March 1 by bow and arrow only.

(iii) Unit-specific regulations:

(A) Bait may be used to hunt black bear between April 15 and June 15;

(B) The Skilak Loop Wildlife Management Area is closed to subsistence trapping of furbearers;

(C) That portion of Unit 15(B) east of the Kenai River, Skilak Lake, Skilak River, and Skilak Glacier is closed to the trapping of marten;

(D) Taking a red fox in Unit 15 by any means other than a steel trap or snare is prohibited.

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Moose:	
Unit 15 (B) and (C)—1 antlered bull with spike-fork or 50-inch antlers or with 3 or more brow tines on either antler, by Federal registration permit only.	Aug. 10–Sept. 20.
Unit 15(A)	No open season.
Coyote:	
No limit	Sept. 1–Apr. 30.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Wolf:	
Unit 15—that portion within the Kenai National Wildlife Refuge—2 Wolves	Aug. 10–Apr. 30.
Unit 15—Remainder—5 Wolves	Aug.10–Apr. 30.
Wolverine:	
1 Wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
Unit 15 (A) and (B)—20 per day, 40 in possession	Aug. 10–Mar. 31.
Unit 15(C)—20 per day, 40 in possession	Aug. 10–Dec. 31
Unit 15(C)—5 per day, 10 in possession	Jan. 1–Mar. 31.
Trapping:	
Beaver:	
20 Beaver per season	Dec. 1–Mar. 31.
Coyote:	
No limit	Nov. 10–Feb. 28.
Fox, Red (including Cross, Black and Silver Phases):	
1 Fox	Nov. 10–Feb. 28.
Marten:	
Unit 15(B)—that portion east of the Kenai River, Skilak Lake, Skilak River and Skilak Glacier	No open season.
Remainder of Unit 15—No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–May 15.
Other:	
Unit 15 (A), (B)—No limit	Nov. 10–Jan.31.
Unit 15(C)—No limit	Nov. 10–Feb. 28.
Wolf:	
No limit	Nov. 10–Feb. 28.
Wolf:	
No limit	Nov. 10–Feb. 28.
Wolverine:	
Unit 15 (B) and (C)—No limit	Nov. 10–Feb. 28.

(16) *Unit 16.* (i) Unit 16 consists of the drainages into Cook Inlet between Redoubt Creek and the Susitna River, including Redoubt Creek drainage, Kalgin Island, and the drainages on the west side of the Susitna River (including the Susitna River) upstream to its confluence with the Chulitna River; the drainages into the west side of the Chulitna River (including the Chulitna River) upstream to the Tokositna River, and drainages into the south side of the Tokositna River upstream to the base of the Tokositna Glacier, including the drainage of the Kahiltna Glacier:

(A) Unit 16(A) consists of that portion of Unit 16 east of the east bank of the Yentna River from its mouth upstream to the Kahiltna River, east of the east bank of the Kahiltna River, and east of the Kahiltna Glacier;

(B) Unit 16(B) consists of the remainder of Unit 16.

(ii) The Mount McKinley National Park, as it existed prior to December 2, 1980, is closed to subsistence uses. Subsistence uses as authorized by § _____.25(k)(16) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980.

(iii) Unit-specific regulations:

(A) Bait may be used to hunt black bear between April 15 and June 15.

(B) [Reserved]

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Caribou:	
1 caribou	Aug. 10–Oct. 31.
Moose:	
Unit 16(B)—Redoubt Bay Drainages south and west of, and including the Kustatan River drainage—1 antlered bull	Sept. 1–Sept. 15.
Remainder of Unit 16(B)—1 moose; however, anterless moose may be taken only from Sept. 25–Sept. 30 and from Dec. 1–Feb. 28 by Federal registration permit only.	Sept. 1–Sept. 30. Dec. 1–Feb. 28.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, RED (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Dec. 15–Jan. 15.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 Wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Mar. 31.
Trapping:	
Beaver:	
30 beaver per season	Nov. 10–Apr.30.
Coyote:	
No limit	Nov. 10–Mar.31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Feb. 28.
Marten:	
No limit	Nov. 10–Jan. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Feb. 28.

(17) *Unit 17*. (i) Unit 17 consists of drainages into Bristol Bay and the Bering Sea between Etolin Point and Cape Newenham, and all islands between these points including Hagemeister Island and the Walrus Islands:

(A) Unit 17(A) consists of the drainages between Cape Newenham and Cape Constantine, and Hagemeister Island and the Walrus Islands;

(B) Unit 17(B) consists of the Nushagak River drainage upstream from, and including the Mulchatna River drainage, and the Wood River drainage upstream from the outlet of Lake Beverley;

(C) Unit 17(C) consists of the remainder of Unit 17.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) Except for aircraft and boats and in legally permitted hunting camps, the Upper Mulchatna Controlled Use Area consisting of Unit 17(B), is closed from Aug. 1–Nov. 1 to the use of any motorized vehicle for hunting ungulates, bear, wolves and wolverine, including transportation of hunters and parts of ungulates, bear, wolves or wolverine;

(B) The Western Alaska Brown Bear Management Area which consists of Unit 17(A), that portion of 17(B) draining into Nuyakuk Lake and Tikchik Lake, Unit 18, and that portion of Unit 19 (A) and (B) downstream of and including the Aniak River drainage, is open to brown bear hunting by State registration permit in lieu of a resident tag; no resident is required for taking brown bears in the Western Alaska Brown Bear Management Area, provided that the hunter has obtained a State registration permit prior to hunting.

(iii) Unit-specific regulations:

(A) Bait may be used to hunt black bear between April 15 and June 15.

(B) [Reserved]

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 17(A) and that portion of Unit 17(B) draining into the Nuyakuk Lake and Tikchik Lake—1 bear	Sept. 1–May 31.
Reminder of Unit 17(B)—1 bear every four regulatory years.	Sept. 20–Oct. 10 May 10–May 25.
Unit 17(C)—1 bear every four regulatory years	Sept. 10–Oct. 10. Apr. 10–May 25.
Caribou:	
Unit 17(A) and (C)—that portion of 17(A) and (C) consisting of the Nushagak Peninsula south of the Igushik River, Tuklung River and Tuklung Hills, west to Tvativak Bay—1 couribou by Federal registration permit. Public lands are closed to the taking of caribou except by the residents of Togiak, Twin Hills, Manokotak, Aleknagik, Dillingham, Clark's Point, and Ekuk during seasons identified above.	Jan. 1–Mar. 31.
Unit 17(B) and (C)—portion of 17(C) east of the Nushagak River—5 caribou; however, no more than 2 caribou may be bulls.	Aug. 1–Apr. 15.
Sheep:	
1ram with full curl horn or larger	Aug. 10–Sept. 20.
Moose:	
Unit 17(B)—that portion that includes all the Mulchatna River Drainage upstream from and including the Chilchitna River drainage—1 bull by State registration permit only; however, during the period Sept. 1–Sept. 15 a spike/fork bull or a bull with 50-inch antlers or with 3 or more brow tines on one side may be taken with a State harvest ticket.	Aug. 20–Sept. 15.
Remainder of Unit 17(B)—1 bull by State registration permit only; however, during the period Sept. 1–Sept. 15 a spike/fork bull or a bull with 50-inch antlers or with 3 or more brow tines on one side may be taken with a State harvest ticket.	Aug. 20–Sept. 15. Dec. 1–Dec. 31.
Unit 17(C)—that portion that includes the Iowithia drainage and Sunshine Valley and all lands west of Wood River and south of Aleknaqik Lake—1 bull by State registration permit only; however, during the period Sept. 1–Sept. 15 a spike/fork bull or a bull with 50-inch antlers or with 3 or more brown tines on one side may be taken with a State harvest ticket.	Aug. 20–Sept. 15.
Remainder of Unit 17(C)—1 bull by State registration permit only; however, during the period Sept. 1–Sept. 15 a spike/fork bull or a bull with 50-inch antlers or with 3 or more brow tines on one side may be taken with a State harvest.	Aug. 20–Sept. 15. Dec. 1–Dec. 31.
Coyote	
2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Base):	
No limit	Dec. 1–Mar. 15.
Fox, Red (including Cross, Black and Silver Phases):	
2 foxes	Sept. 1–Feb. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 10–Feb. 28.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Beaver:	
Unit 17(A)—20 beaver per season	Jan. 1–Feb. 28.
Unit 17 (B) and (C)—20 beaver per season	Jan. 1–Feb. 28.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Arctic (Blue and White Phase):	
No limit	Nov. 10–Feb. 28.
Fox, Red (Including Cross, Black and Silver phases):	
No limit	Nov. 10–Feb. 28.
Lynx:	
No limit	Nov. 10–Feb. 28.
Marten:	
No limit	Nov. 10–Feb. 28.
Mink and Weasel:	
No limit	Nov. 10–Feb. 28.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.

Harvest limits	Open season
Wolverine:	
No limit	Nov. 10–Feb. 28.

(18) *Unit 18.*

(i) Unit 18 consists of that area draining into the Yukon and Kuskokwim Rivers downstream from a straight line drawn between Lower Kalskag and Paimiut and the drainage flowing into the Bering Sea from Cape Newenham on the south to and including the Pastolik River drainage on the north; Nunivak, St. Matthew, and adjacent islands between Cape Newenham and the Pastolik River.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public lands:

(A) The Kalskag Controlled Use Area which consists of that portion of Unit 18 bounded by a line from Lower Kalskag on the Kuskokwim River, northwesterly to Russian Mission on the Yukon River, then east along the north bank of the Yukon River to the old site of Paimiut, then back to Lower Kalskag is closed to the use of aircraft for hunting any ungulate, bear, wolf, or wolverine, including the transportation of any hunter and ungulate, bear, wolf, or wolverine part; however, this does not apply to transportation of a hunter or ungulate, bear, wolf, or wolverine part by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the Area and points outside the Area;

(B) The Western Alaska Brown Bear Management Area which consists of Unit 17(A), that portion of 17(B) draining into Nuyakuk Lake and Tikchik Lake, Unit 18, and that portion of Unit 19 (A) and (B) downstream of and including the Aniak River drainage, is open to brown bear hunting by State registration permit in lieu of a resident tag; no resident tag is required for taking brown bears in the Western Brown Bear Management Area, provided that the hunter has obtained a State registration permit prior to hunting.

(iii) Unit-specific regulations:

(A) A firearm may be used to take beaver under a trapping license in Unit 18 from Apr. 1–Jun. 10.

(B) [Reserved]

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
1 bear	Sept. 1–May 31.
Caribou:	
Unit 18—that portion south of the Yukon River—Kilbuck caribou herd; rural Alaska residents domiciled in Tuluksak, Akiak, Akiachak, Kwethluk, Bethel, Oscarville, Napaskiak, Napakiak, Kasigluk, Atmauthluak, Nunapitchuk, Tuntutuliak, Eek, Quinhagak, Goodnews Bay, Platinum, Togiak, and Twin Hills, only. A Federal registration permit is required. The number of permits available for these hunts will be determined at a later date. The season will be closed when the total harvest reaches guidelines as described in the approved ''Oavilnguut (Kilbuck) Caribou Herd Cooperative Management Plan.''.	Dec. 15–Jan. 9.
	Feb. 23–Mar. 15
Unit 18—that portion north of the Yukon River—5 caribou per day	Aug. 1–Mar. 31.
Remainder of Unit 18	No open season.
Moose:	
Unit 18—that portion north and west of a line from Cape Romanzof to Kuzilvak Mountain, and then to Mountain Village, and west of, but not including, the Andreafsky River drainage—1 antlered bull.	Sept. 5–Sept. 25.
Unit 18—Goodnews River and Kanektok River drainages	No open season.
Unit 18—Kuskokwim River drainage—1 antlered bull. A 10-day hunt (1 bull, evidence of sex required) will be opened by announcement sometime between Dec. 1 and Feb. 28.	Aug. 25–Sept. 25. Winter season to be announced.
Remainder of Unit 18—1 antlered bull. A 10-day hunt (1 bull, evidence of sex required) will be opened by announcement sometime between Dec. 1 and Feb. 28.	Sept. 1–Sept. 30. Winter season to be announced.
Public lands in Unit 18 are closed to the hunting of moose, except by rural Alaska residents of Unit 18 and Upper Kalskag during seasons identified above.	
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
2 foxes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 10–Mar. 31.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–May 30.

Harvest limits	Open season
Trapping:	
Beaver:	
No limit	Nov. 1–June 10.
Coyote:	
No limit	Nov. 10–Mar. 31.
Fox, Arctic (blue and White Phase):	
No limit	Nov. 10–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 10–Mar. 31.
Lynx:	
No limit	Nov. 10–Mar. 31.
Marten:	
No limit	Nov. 10–Mar. 31.
Mink and Weasel:	
No limit	Nov. 10–Jan. 31.
Muskrat:	
No limit	Nov. 10–June 10.
Otter:	
No limit	Nov. 10–Mar. 31.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 10–Mar. 31.

(19) *Unit 19.*

(i) Unit 19 consists of the Kuskokwim River drainage upstream from Lower Kalskag:

(A) Unit 19(A) consists of the Kuskokwim River drainage downstream from and including the Moose Creek drainage on the north bank and downstream from and including the Stony River drainage on the south bank, excluding Unit 19(B);

(B) Unit 19(B) consist of the Aniak River drainage upstream from and including the Salmon River drainage, the Holitna River drainage upstream from and including the Bakbuk Creek drainage, that area south of a line from the mouth of Bakbuk Creek to the radar dome at Sparrevohn Air Force Base, including the Hoholitna River drainage upstream from that line, and the Stony River drainage upstream from and including the Can Creek drainage;

(C) Unit 19(C) consists of that portion of Unit 19 south and east of a line from Benchmark M#1.26 (approximately 1.26 miles south of the northwest corner of the original Mt. McKinley National Park boundary) to the peak of Lone Mountain, then due west to Big River, including the Big River drainage upstream from that line, and including the Swift River drainage upstream from and including the North Fork drainage;

(D) Unit 19(D) consists of the remainder of Unit 19.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) Lands within Mount McKinley National park as it existed prior to December 2, 1980, are closed to subsistence uses. Subsistence uses as authorized by § _____.25(k)(19) are permitted on Denali National Preserve and lands added to Denali National Park on December 2, 1980;

(B) The Upper Kuskokwim Controlled Use Area, which consists of that portion of Unit 19(D) upstream from the mouth of Big River including the drainages of the Big River, Middle Fork, South Fork, East Fork, and Tonzona River, and bounded by a line following the west bank of the Swift Fork (McKinley Fork) of the Kuskokwim River to 152°50′ W., long., then north to the boundary of Denali National Preserve, then following the western boundary of Denali National Preserve north to its intersection with the Minchumina-Telida winter trail, then west to the crest of Telida Mountain, then north along the crest of Munsatli Ridge to elevation 1,610, then northwest to Dyckman Mountain and following the crest of the divide between the Kuskokwim River and the Nowitna drainage, and the divide between the Kuskokwim River and the Nixon Fork River to Loaf bench mark on Halfway Mountain, then south to the west side of Big River drainage, the point of beginning, is closed during moose hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the Controlled Use Area, or between a publicly owned airport within the area and points outside the area;

(C) The Western Alaska Brown Bear Management Area, which consists of Unit 17(A), that portion of 17(B) draining into Nuyakuk Lake and Tikchik Lake, Unit 18, and that portion of Unit 19 (A) and (B) downstream of and including the Aniak River drainage, is open to brown bear hunting by State registration permit in lieu of a resident tag; no resident tag is required for taking brown bears in the Western Alaska Brown Bear Management Area, provided that the hunter has obtained a State registration permit prior to hunting.

(iii) Unit-specific regulation:

(A) Bait may be used to hunt black bear between April 15 and June 30.

(B) [Reserved]

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 19(A) and (B) that portion which is downstream of and including the Aniak River drainage—1 bear	Sept. 1–May 31.
Remainder of Unit 19(A), (B), and (D)—1 bear ever four regulatory years	Sept. 10–May 25.

Harvest limits	Open season
Caribou:	
Unit 19(A) north of Kuskokwim River—1 caribou	Aug. 10–Sept. 30. Nov. 1–Feb. 28.
Unit 19(A) south of the Kuskokwim River, and Unit 19(B) (excluding rural Alaska residents of Lime Village)—5 caribou..	Aug. 1–Apr. 15.
Unit 19(C)—1 caribou	Aug. 10–Oct. 10.
Unit 19(D) south and east of the Kuskokwim River and North Fork of the Kuskokwim River—1 caribou	Aug. 10–Sept. 30. Nov. 1–Jan. 31.
Remainder of Unit 19(D)—1 caribou	Aug. 10–Sept. 30.
Unit 19—Rural Alaska residents domiciled in Lime Village only; no individual harvest limit but a village harvest quota of 200 caribou; cows and calves may not be taken from Apr. 1–Aug. 9. Reporting will be by a community reporting system.	July 1–June 30.
Sheep:	
1 ram with 7/8 curl	Aug. 10–Sept. 20.
Moose:	
Unit 19—Rural Alaska residents of Lime Village only—No individual harvest limit, but a village harvest quota of 40 moose (including those taken under the State Tier II system); either sex. Reporting will be by a community reporting system.	July 1–June 30.
Unit 19(A)—that portion north of the Kuskokwim River upstream from, but not including the Kolmakof River drainage and south of the Kuskokwim River upstream from, but not including the Holokuk River drainage—1 moose; however, anterless moose may be taken only during the Feb. 1–Feb. 10 season.	Sept. 1–Sept. 20. Nov. 20–Nov. 30. Jan. 1–Jan. 10 Feb. 1–Feb. 10.
Remainder of Unit 19(A)—1 bull	Sept. 1–Sept. 20. Nov. 20–Nov. 30. Jan. 1–Jan. 10. Feb. 1–Feb. 10.
Unit 19(B)—1 antlered bull	Sept. 1–Sept. 30.
Unit 19(C)—1 antlered bull	Sept. 1–Oct. 10.
Unit 19(D)—that portion of the Upper Kuskokwim Controlled Use Area within the North Fork drainage upstream from the confluence of the South Fork to the mouth of the Swift Fork—1 antlered bull.	Sept. 1–Sept. 30.
Unit 19(D)—remainder of the Upper Kuskokwim Controlled Use Area —1 bull	Sept. 1–Sept. 30. Dec. 1–Feb. 28.
Remainder of Unit 19(D)—1 antlered bull	Sept. 1–Sept. 30. Dec. 1–Dec. 15.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Feb. 28.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Beaver:	
No limit	Nov. 1–Apr. 15.
Coyote:	
No limit	Nov. 1–Mar. 31.
Fox, Red (Including Cross, Black and Silver Phases):	
No limit	Nov. 1–Mar. 31.
Lynx:	
No limit	Nov. 1–Feb. 28.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Mar. 31.
Wolverine:	
No limit	Nov. 1–Mar. 31.

(20) *Unit 20.* (i) Unit 20 consists of the Yukon River drainage upstream from and including the Tozitna River drainage to and including the Hamlin Creek drainage, drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, the Ladue River and Fortymile River drainages and the Tanana River drainage north of Unit 13 and downstream from the east bank of the Robertson River:

(A) Unit 20(A) consists of that portion of Unit 20 bounded on the south by the Unit 13 boundary, bounded on the east by the west bank of the Delta River, bounded on the north by the north bank of the Tanana River from its confluence with the Delta River downstream to its confluence with the Nenana River, and bounded on the west by the east bank of the Nenana River;

(B) Unit 20(B) consists of drainages into the north bank of the Tanana River from and including Hot Springs Slough upstream to and including the Banner Creek drainage;

(C) Unit 20(C) consists of that portion of Unit 20 bounded on the east bank of the Nenana River and on the north by the north bank of the Tanana River downstream from the Nenana River;

(D) Unit 20(D) consists of that portion of Unit 20 bounded on the east by the east bank of the Robertson River and on the west by the west bank of the Delta River, and drainages into the north bank of the Tanana River from its confluence with the Robertson River downstream to, but excluding the Banner Creek drainage;

(E) Unit 20(E) consists of drainages into the south bank of the Yukon River upstream from and including the Charley River drainage, and the Ladue River drainage;

(F) Unit 20(F) consists of the remainder of Unit 20.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) Lands within Mount McKinley National Park as it existed prior to December 2, 1980, are closed to subsistence uses. Subsistence uses as authorized by § _____.25(k)(20) are permitted in Denali National Preserve and lands added to Denali National Park on December 2, 1980;

(B) Use of motorized vehicles or pack animals for hunting is prohibited from Aug. 5–Aug. 25 in the Delta Controlled Use Area, the boundary of which is defined as: a line beginning at the confluence of Miller Creek and the Delta River, then west to vertical angle bench mark Miller, then west to include all drainages of Augustana Creek and Black Rapids Glacier, then north and east to include all drainages of McGinnis Creek to its confluence with the Delta River, then east in a straight line across the Delta River to Mile 236.7 Richardson Highway, then north along the Richardson Highway to its junction with the Alaska Highway, then east along the Alaska Highway to the west bank of the Johnson River, then south along the west bank of the Johnson River and Johnson Glacier to the head of the Canwell Glacier, then west along the north bank of the Canwell Glacier and Miller Creek to the Delta River;

(C) The Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending five miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, is closed to the use of motorized vehicles, except aircraft and boats, and to licensed highway vehicles, snowmobiles, and firearms except as provided below. The use of snowmobiles is authorized only for the subsistence taking of wildlife by residents living within the Dalton Highway Corridor Management Area. The use of licensed highway vehicles is limited only to designated roads within the Dalton Highway Corridor Management Area. The use of firearms within the Corridor is authorized only for the residents of Atlanta, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor;

(D) The Glacier Mountain Controlled Use Area, which consists of that portion of Unit 20(E) bounded by a line beginning at Mile 140 of the Taylor Highway, then north along the highway to Eagle, then west along the cat trail from Eagle to Crooked Creek, then from Crooked Creek southwest along the west bank of Mogul Creek to its headwaters on North Peak, then west across North Peak to the headwaters of Independence Creek, then southwest along the west bank of Independence Creek to its confluence with the North Fork of the Fortymile River, then easterly along the south bank of the North Fork of the Fortymile River to its confluence with Champion Creek, then across the North Fork of the Fortymile River to the south bank of Champion Creek and easterly along the south bank of Champion Creek to its confluence with Little Champion Creek, then northeast along the east bank of Little Champion Creek to its headwaters, then northeasterly in a direct line to Mile 140 on the Taylor Highway, is closed to the use of any motorized vehicle for hunting from August 5–September 20; however, this does not prohibit motorized access via, or transportation of harvested wildlife on, the Taylor Highway or any airport;

(E) The Minto Flats Management Area, which consists of that portion of Unit 20 bounded by the Elliot Highway beginning at Mile 118, then northeasterly to Mile 96, then east to the Tolovana Hotsprings Dome, then east to the Winter Cat Trail, then along the Cat Trail south to the Old Telegraph Trail at Dunbar, then westerly along the trail to a point where it joins the Tanana River three miles above Old Minto, then along the north bank of the Tanana River (including all channels and sloughs except Swan Neck Slough), to the confluence of the Tanana and Tolovana Rivers and then northerly to the point of beginning, is open to moose hunting by permit only;

(F) The Fairbanks Management Area, which consists of the Goldstream subdivision OSE ¼ SE ¼, Section 28 and Section 33, Township 2 North, Range 1 West, Fairbanks Meridian and that portion of Unit 20(B) bounded by a line from the confluence of Rosie Creek and the Tanana River, northerly along Rosie Creek to the divide between Rosie Creek and Cripple Creek, then down Cripple Creek to its confluence with Ester Creek, then up Ester Creek to its confluence with Ready Bullion Creek, then up Ready Bullion Creek to the summit of Ester Dome, then down Sheep Creek to its confluence with Goldstream Creek, then easterly along Goldstream Creek to its confluence with First Chance Creek, then up First Chance Creek to Tungsten Hill, then southerly along Steele Creek to its intersection with the Trans-Alaska Pipeline, then southerly along the pipeline right-of-way to the Chena River, then along the north bank of the Chena River to the Moose Creek dike, then southerly along Moose Creek dike to its intersection with the Tanana River, and then westerly along the north bank of the Tanana River to the point of beginning, is open to moose hunting by bow and arrow only;

(G) The Ferry Trail Management Area, which consists of that portion of Unit 20(A) bounded on the north by the Rex Trail; on the west by the east bank of the Nenana River from its intersection with the Rex Trail south to the divide forming the north boundary of the Lignite Creek drainage; on the south by that divide easterly and southerly to the headwaters of Sanderson Creek at Usibelli Peak, then along a southwesterly line to the confluence of Healy Creek and Coal Creek, then upstream easterly along the south bank of Healy Creek to the north fork of Healy Creek, then along the north fork of Healy Creek to its headwaters; on the

east by a straight line from the headwaters of Healy Creek to the headwaters of Dexter Creek, then along Dexter Creek to the Totallankia River, then down the east bank of the Totatlanika River to the Rex Trail is open to caribou hunting by permit only.

(iii) Unit-specific regulations:

(A) Bait may be used to hunt black bear between April 15 and June 30;

(B) Trapping of wolves in Unit 20(E) during April and October with a steel trap, or with a snare using cable smaller than 3/32 inch diameter, is prohibited;

(C) The taking of up to three moose per regulatory year by the residents of Unit 20 and 21 is allowed for the celebration known as the Nuchalawoyya Potlatch, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Tanana. This three moose limit is not cumulative with that permitted by the State.

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Brown: Bear:	
Unit 20—except Unit 20(E)—1 bear every four regulatory years	Sept. 1–May 31.
Caribou:	
Unit 20(E)—1 bull by Federal registration permit only; the season will close when a harvest quota of 150 for the Fortymile herd has been reached.	Aug. 10–Sept. 30 Nov. 15–Feb. 28.
Unit 20(F)—Tozitna River drainage—1 caribou; however, only bull caribou may be taken Aug. 10—Sept. 30	Aug. 10–Sept. 30. Nov. 26–Dec. 20. Mar. 1–Mar. 15.
Unit 20(F)—south of the Yukon River	No open season.
Remainder of Unit 20(F)—1 bull	Aug. 10–Sept. 30.
Moose:	
Unit 20(A)—the Ferry Trail Management Area—1 bull with spike-fork or 50-inch antlers or antlers with 4 or more brow tines on one side.	Sept. 1–Sept. 20.
Reminder of Unit 20(A)—1 antlered bull	Sept. 1–Sept. 20.
Unit 20(B)—that portion within the Minto Flats Management Area—1 bull by Federal registration permit only	Sept. 1–Sept. 20. Jan. 10–Feb. 28.
Unit 20(B)—the drainage of the Middle Fork of the Chena River and that portion of the Salcha River Drainage upstream from and including Goose Creek—1 antlered bull.	Sept. 1–Sept. 20.
Remainder of Unit 20(B)—1 antlered bull	Sept. 1–Sept. 20.
Unit 20(C)—that portion within Denali National Park and Preserve west of the Toklat River, excluding lands within Mount McKinley National Park as it existed prior to December 2, 1980—1 antlered bull; however, white-phased or partial albino (more that 50 percent white) moose may not be taken.	Sept. 1–Sept. 30. Nov. 15–Dec. 15.
Remainder of Unit 20(C)—antlered bull; however, white-phased or partial albino (more than 50 percent white) moose may not be taken.	Sept. 1–Sept. 30.
Unit 20(E)—that portion drained by the Ladue, Sixty-mile, and Forty-mile Rivers (all forks) from Mile 9½ to Mile 145 Taylor Highway, including the Boundary Cutoff Road—1 antlered bull.	Sept. 1–Sept. 15.
Remainder of Unit 20(E)—that portion draining into the Yukon River upstream from and including the Charley River drainage to and including the Boundary Creek drainages and the Taylor Highway from mile 145 to Eagle—1 antlered bull.	Sept. 5–Sept. 30.
Unit 20(F)— that portion within the Dalton Highway Corridor Management Area—1 antlered bull by Federal registration permit only.	Sept. 1–Sept. 25.
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Remainder of Unit 20(F)—1 antlered bull	Sept. 1–Sept. 25.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
Unit 20(E)—2 lynx	Nov. 1–Jan. 31.
Remainder of Unit 20—2 lynx	Dec. 1–Jan. 31.
Wolf:	
10 wolves	Aug. 10–Apr. 20.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
Unit 20(D)—that portion south of the Tanana River and west of the Johnson River—15 per day, 30 in possession, provided that not more than 5 per day and 10 in possession are sharp-tailed grouse.	Aug. 25–Mar. 31.
Unit 20—Remainder—15 per day, 30 in possession	Aug. 10–Mar. 31.
Ptarmigan (Rock, Willow, and White-tailed):	
Unit 20—those portions within five miles of Alaska Route 5 (Taylor Highway, both to Eagle and the Alaska-Canada boundary) and that portion of Alaska Route 4 (Richardson Highway) south of Delta Junction)—20 per day, 40 in possession.	Aug. 10–Mar. 31.
Unit 20—Remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Beaver:	
Unit 20(A), 20(B), Unit 20(C), Unit 20(E), and 20(D)—that portion draining into the north bank of the Tanana River, including the islands in the Tanana River—25 beaver.	Nov. 1–Apr. 15.
Remainder of Unit 20(D)–15 beaver	Feb. 1–Apr. 15.

Harvest limits	Open season
Unit 20(F)—50 beaver	Nov. 1–Apr. 15.
Coyote:	
Unit 20(E)—No limit	Nov. 1–Feb. 28.
Remainder Unit 20—No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Feb. 28.
Lynx:	
No limit	Dec. 1–Jan. 15.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
Unit 20(E)—No limit	Sept. 20–June 10.
Remainder of Unit 20—No limit	Nov. 1–June 10.
Ottter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
Unit 20(E)—No limit	Oct. 1–Apr. 30.
Remainder of Unit 20—No limit	Nov. 1–Mar. 31.
Wolverine:	
No limit	Nov. 1–Feb. 28.

(21) *Unit 21*. (i) Unit 21 consists of drainages into the Yukon River upstream from Paimiut, but not including the Tozitna River drainage on the north bank, and to, but not including the Tanana River drainage on the south bank; and excluding the Koyukuk River upstream and including from the Dulbi River drainage;

(A) Unit 21(A) consists of the Innoko River drainage upstream from and including the Iditarod River drainage, and the Nowitna River drainage upstream from the Little Mud River;

(B) Unit 21(B) consists of the Yukon River drainage upstream from Ruby and east of the Ruby-Poorman Road, downstream from and excluding the Tozitna River and Tanana River drainages, and excluding the Nowitna River drainage upstream from the Little Mud River, and excluding the Melozitna River drainage upstream from Grayling Creek;

(C) Unit 21(C) consists of the Melozitna River drainage upstream from Grayling Creek, and the Dulbi River drainage upstream from and including the Cottonwood Creek drainage;

(D) Unit 21(D) consists of the Yukon River drainage from and including the Blackburn Creek drainage upstream to Ruby, including the area west of the Ruby-Poorman Road, excluding the Koyukuk River drainage upstream from the Dulbi River drainage, and excluding the Dulbi River drainage upstream from Cottonwood Creek;

(E) Unit 21(E) consists of the Yukon River drainage from Paimiut upstream to, but not including the Blackburn Creek drainage, and the Innoko River drainage downstream from the Iditarod River drainage.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) The Koyukuk Controlled Use Area, which consists of those portions of Units 21 and 24 bounded by a line from the north bank of the Yukon River at Koyukuk, then northerly to the confluences of the Honhosa and Kateel Rivers, then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65° 57′ N. lat., 156° 41′ W. long.), then easterly to the south end of Solsmunket Lake, then east to Hughes, then south to Little Indian River, then southwesterly to the crest of Hochandochtla Mountain, then southwest to the mouth of Cottonwood Creek then southwest to Bishop Rock, then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning, is closed during moose-hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area; all hunters on the Koyukuk River passing the ADF&G operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to ADF&G personnel at the check station;

(B) The Paradise Controlled Use Area, which consists of that portion of Unit 21 bounded by a line beginning at the old village of Paimiut, then north along the west bank of the Yukon River to Paradise, then northwest to the mouth of Stanstrom Creek on the Bonasila River, then northeast to the mouth of the Anvik River, then along the west bank of the Yukon River to the lower end of the Eagle Island (approximately 45 miles north of Grayling), then to the mouth of the Iditarod River, then down the east bank of the Innoko River to its confluence with Paimiut Slough, then south along the east bank of Paimiut Slough to its mouth, and then to the old village of Paimiut, is closed during moose hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or part of moose; however, this does not apply to transportation of a moose hunter or part of moose by aircraft between publicly owned airports in the Controlled Use Area or between a publicly owned airport within the area and points outside the area.

(iii) Unit-specific regulations:

(A) Bait may be used to hunt black bear between April 15 and June 30;

(B) A firearm may be used to take beaver with a trapping license in Unit 21(E) from Apr. 1–June 1;

(C) The taking of up to three moose per regulatory year by the residents of Unit 20 and 21 is allowed for the celebration known as the Nuchalawoyya Potlatch, under the terms of a Federal registration permit. Permits will be issued to individuals only at the request of the Native Village of Tanana. This three moose limit is not cumulative with that permitted by the State;

(D) The taking of up to three moose per regulatory year by the residents of Unit 21 is allowed for the celebration known as the Kaltag/Nulato Stickdance, under the terms of a Federal registration permit. Permits will be issued to

individuals only at the request of the Native Village of Kaltag or Nulato. This three moose limit is not cumulative with that permitted by the State.

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
1 bear ever four regulatory years	Sept. 1–May 31.
Caribou:	
Unit 21 (A), (B), (C), and (E)—1 caribou	Aug. 10–Sept. 30.
Unit 21(D)–North of the Yukon River and east of the Koyukuk River 1 caribou; however, 2 additional caribou may be taken during a winter season to be annouced.	Aug. 10–Sept. 30. Winter season to be announced.
Unit 21(D)—Remainder (Western Arctic Caribou herd)—5 caribou per day; however, cow caribou may not be taken May 16–June 30.	July 1–June 30.
Moose:	
Unit 21(A)—1 bull	Aug. 20–Sept. 25. Nov. 1–Nov. 30.
Unit 21 (B) and (C)—1 antlered bull	Sept. 5–Sept. 25.
Unit 21(D)—1 moose; however, antlerless moose may be taken only from Sept. 21–Sept. 25 and Feb. 1–Feb. 5; moose may not be taken within one-half mile of the Yukon River during the February season.	Sept. 5–Sept. 25. Feb. 1–Feb. 5.
Unit 21(E)—1 moose; however, only bulls may be taken from Aug. 20–Sept. 25; moose may not be taken within one-half mile of the Innoko or Yukon River during the February season.	Aug. 20–Sept. 25. Feb. 1–Feb. 10.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Feb. 28.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Beaver:	
Unit 21(E)—No limit	Nov. 1–June 1.
Remainder of Unit 21—No Limit	Nov. 1–Apr. 15.
Coyote:	
No limit	Nov. 1—Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Feb. 28.
Lynx:	
No Limit	Nov. 1–Feb. 28.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Mar. 31.
Wolverine:	
No limit	Nov. 1–Mar. 31.

(22) *Unit 22*. (i) Unit 22 consists of Bering Sea, Norton Sound, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from, but excluding, the Pastolik River drainage in southern Norton Sound to, but not including, the Goodhope River drainage in Southern Kotzebue Sound, and all adjacent islands in the Bering Sea between the mouths of the Goodhope and Pastolik Rivers:

(A) Unit 22(A) consists of Norton Sound drainages from, but excluding, the Pastolik River drainage to, and including, the Ungalik River drainage, and Stuart and Besboro Islands;

(B) Unit 22(B) consists of Norton Sound drainages from, but excluding, the Ungalik River drainage to, and including, the Topkok Creek drainage;

(C) Unit 22(C) consists of Norton Sound and Bering Sea drainages from, but excluding, the Topkok Creek drainage to, and including, the Tisuk River drainage, and King and Sledge Islands;

(D) Unit 22(D) consists of that portion of Unit 22 draining into the Bering Sea north of, but not including, the Tisuk River to and including Cape York, and St. Lawrence Island;

(E) Unit 22(E) consists of Bering Sea, Bering Strait, Chukchi Sea, and Kotzebue Sound drainages from Cape York to, but excluding, the Goodhope River drainage, and including Little Diomede Island and Fairway Rock.

(ii) Unit-specific regulations:

(A) A firearm may be used to take beaver with a trapping license in Unit 22 during the established seasons;

(B) Snowmachines may be used to take caribou and moose in Unit 22 during established seasons; however, shooting from a snowmachine in motion is prohibited;

(C) Coyote, incidentally taken with a trap or snare intended for red fox or wolf, may be used for subsistence purposes.

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 22(C)—1 bear every four regulatory years	Sept. 1–Oct. 31. May 10–May 25.
Remainder of Unit 22—1 bear every four regulatory years	Sept. 1–Oct. 31. Apr. 15–May 25.
Caribou:	
Unit 22 (A) and (B)—5 caribou per day; however, cow caribou may not be taken May 16–June 30	July 1–June 30.
Moose:	
Unit 22(A)—1 antlered bull; however, the period of Oct. 1–Oct. 10 is restricted to residents of Unit 22(A) only	Aug. 1–Oct. 10. Dec. 1–Jan. 31.
Unit 22(B)—1 moose; however, antlerless moose may be taken only from Dec. 1–Dec. 31; no person may take a cow accompanied by a calf.	Aug. 1–Jan. 31.
Unit 22(C)—1 antlered bull	Sept. 1–Sept. 14.
Unit 22(D)—1 moose; however, antlerless moose may be taken only from Dec. 1–Dec. 31; no person may take a cow accompanied by a calf.	Aug. 1–Jan. 31.
Unit 22(E)—1 moose; no person may take a cow accompanied by a calf	Aug. 1–Mar. 31.
Muskox:	
Unit 22 (D) and (E)—1 bull by Federal registration permit only. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users.	Sept. 1–Jan. 31.
Remainder of Unit 22	No open season.
Coyote:	
Federal public lands are closed to the taking of coyotes	No open season.
Fox, Arctic (Blue and White Phase):	
2 foxes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes	Nov. 1–Apr. 15.
Hare (Snowshoe and Tundra):	
No limit	Sept. 1–Apr. 15.
Lynx:	
2 lynx	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 15.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
Unit 22(A) and 22(B) east of and including the Niukluk River drainage—40 per day, 80 in possession	Aug. 10–Apr. 30.
Unit 22 Remainder—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Beaver:	
Unit 22 (A) and (B)—50 beaver	Nov. 1–June 10.
Unit 22 (C), (D), and (E)—50 beaver	Nov. 1–Apr. 15.
Coyote:	
Federal public lands are closed to the taking of coyotes	No open season.
Fox, Arctic (Blue and White Phase):	
No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Apr. 15.
Lynx:	
No limit	Nov. 1–Apr. 15.
Marten:	
No limit	Nov. 1–Apr. 15.
Mink and Weasel:	
No limit	Nov. 1–Jan. 31.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	

Harvest limits	Open season
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 15.
Wolverine:	
No limit	Nov. 1–Apr. 15.

(23) *Unit 23.* (i) Unit 23 consists of Kotzebue Sound, Chukchi Sea, and Arctic Ocean drainages from and including the Goodhope River drainage to Cape Lisburne.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) The Noatak Controlled Use Area, which consists of that portion of Unit 23 in a corridor extending five miles on either side of the Noatak River beginning at the mouth of the Noatak River, and extending upstream to the mouth of Sapun Creek, is closed for the period August 25–September 15 to the use of aircraft in any manner either for hunting of ungulates, bear, wolves, or wolverine, or for transportation of hunters or harvested species. This does not apply to the transportation of hunters or parts of ungulates, bear, wolves, or wolverine by regularly scheduled flights to communities by carriers that normally provide scheduled air service;

(B) The Northwest Alaska Brown Bear Management Area, which consists of these portions of Unit 23, except the Baldwin Peninsula north of the Arctic Circle, Unit 24 west of the Dalton Highway Corridor Management Area, and Unit 26(A) is open to brown bear hunting by State registration permit in lieu of a resident tag; no resident tag is required for taking brown bears in the Northwest Alaska Brown Bear Management Area, provided that the hunter has obtained a State registration permit prior to hunting; aircraft may not be used in the Northwest Alaska Brown Bear Management Area in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears or parts of bears; however, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iii) Unit-specific regulations:

(A) Motor-driven boats or snowmachines may be used to take caribou; however, shooting from a snowmachine in motion is prohibited;

(B) Swimming caribou may be taken with a firearm using rimfire cartridges;

(C) a firearm may be used to take beaver with a trapping license in all of Unit 23 from Nov. 1–Jan. 10.

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 23—except the Baldwin Peninsula north of the Arctic Circle—1 bear	Sept. 1–May 31.
Remainder of Unit 23—1 bear every four regulatory years	Sept. 1–Oct. 10. Apr. 15–May 25.
Caribou:	
15 caribou per day; however, cow caribou may not be taken May 16–June 30	July 1–June 30.
Sheep:	
Unit 23—that portion west of Howard Pass and the Aniuk, Cutler and Redstone Rivers	No open season.
Remainder of Unit 23—1 ram with ⅞ curl horn or larger	Aug. 10–Sept. 20.
Remainder of Unit 23—1 sheep	Oct. 1–Apr. 30.
Moose:	
Unit 23—that portion north and west of and including the Singoalik River drainage, and all lands draining into the Kupuk and Ipewik Rivers—1 moose; no person may take a cow accompanied by a calf.	July 1–Mar. 31.
Unit 23—that portion lying within the Noatak River drainage—1 moose; however, antlerless moose may be taken only from Nov. 1—Mar. 31; no person may take a cow accompanied by a calf.	Aug. 1–Sept. 15. Oct. 1–Mar. 31.
Remainder of Unit 23—1 moose; no person may take a cow accompanied by a calf	Aug. 1–Mar. 31.
Muskox:	
Unit 23 South of Kotzebue Sound and west of and including the Buckland River drainage—1 bull by Federal registration permit only. Federal public lands are closed to the taking of muskox except by Federally-qualified subsistence users.	Sept. 1–Jan. 31.
Remainder of Unit 23	No open season.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
2 foxes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Sliver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Dec. 1–Jan. 15.
Wolf:	
5 wolves	Nov. 10–Mar. 31.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	

Harvest limits	Open season
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Beaver:	
Unit 23—the Kobuk and Selawik River drainages—50 beaver	Nov. 1–June 10.
Remainder of Unit 23—30 beaver	Nov. 1–June 10.
Coyote:	
No limit	Nov. 1–Apr. 15.
Fox, Arctic (Blue and White Phase):	
No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Apr. 15.
Lynx:	
3 lynx	Dec. 1–Jan. 15.
Marten:	
No limit	Nov. 1–Apr. 15.
Mink and Weasel:	
No limit	Nov. 1–Jan. 31.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 10–Mar. 31.
Wolverine:	
No limit	Nov. 1–Apr. 15.

(24) *Unit 24.* (i) Unit 24 consists of the Koyukuk River drainage upstream from but not including the Dulbi River drainage.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) The Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending five miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, is closed to the use of motorized vehicles, except aircraft and boats, and to licensed highway vehicles, snowmobiles, and firearms except as follows: The use of snowmobiles is authorized only for the subsistence taking of wildlife by residents living within the Dalton Highway Corridor Management Area. The use of licensed highway vehicles is limited only to designated roads within the Dalton Highway Corridor Management Area. The use of firearms within the Corridor is authorized only for the residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor;

(B) The Kanuti Controlled Use Area, which consists of that portion of Unit 24 bounded by a line from the Bettles Field VOR to the east side of Fish Creek Lake, to Old Dummy Lake, to the south end of Lake Todatonten (including all waters of these lakes), to the northernmost headwaters of Siruk Creek, to the highest peak of Double Point Mountain, then back to the Bettles Field VOR, is closed during moose-hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area;

(C) The Koyukuk Controlled Use Area, which consists of those portions of Units 21 and 24 bounded by a line from the north bank of the Yukon River at Koyuku, then northerly to the confluences of the Honhosa and Kateel Rivers, then northeasterly to the confluences of Billy Hawk Creek and the Huslia River (65° 57′ N. lat., 156° 41′ W. long.), then easterly to the south end of Solsmunket Lake, then east to Hughes, then south to Little Indian River, then southwesterly to the crest of Hochandochtla Mountain, then southwest to the mouth of Cottonwood Creek, then southwest to Bishop Rock, then westerly along the north bank of the Yukon River (including Koyukuk Island) to the point of beginning, is closed during moose-hunting seasons to the use of aircraft for hunting moose, including transportation of any moose hunter or moose part; however, this does not apply to transportation of a moose hunter or moose part by aircraft between publicly owned airports in the controlled use area or between a publicly owned airport within the area and points outside the area; all hunters on the Koyukuk River passing the ADF&G operated check station at Ella's Cabin (15 miles upstream from the Yukon on the Koyukuk River) are required to stop and report to ADF&G personnel at the check station;

(D) The Northwest Alaska Brown Bear Management Area, which consists of those portions of Unit 23, except the Baldwin Peninsula north of the Arctic Circle, Unit 24 west of the Dalton Highway Corridor Management Area, and Unit 26(A), is open to brown bear hunting by State registration permit in lieu of a resident tag. No resident tag is required for taking brown bears in the Northwest Alaska Brown Bear Management Area, provided that the hunter has obtained a State registration permit prior to hunting. Aircraft may not be used in the Northwest Alaska Brown Bear Management Area in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears or parts of bears. However, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provided scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iii) Unit-specific regulations:

(A) Bait may be used to hunt black bear between April 15 and June 30;

(B) Arctic fox, incidentally taken with a trap or snare intended for red fox, may be used for subsistence purposes.

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 24—that portion west of the Dalton Highway Corridor Management Area—1 bear	Sept. 1–May 31.
Remainder of Unit 24—1 bear every four regulatory years	Sept. 1–May 31.
Caribou:	
Unit 24—the Kanuti River drainage upstream from Kanuti, Chalatna Creek, the Fish Creek drainage (including Bonanza Creek)—1 bull.	Aug. 10–Sept. 30.
Remainder of Unit 24—5 caribou per day; however, cow caribou may not be taken May 16–June 30	July 1–June 30.
Sheep:	
Unit 24—that portion within the Gates of the Arctic National Park—3 sheep	Aug. 1–Apr. 30.
Unit 24—that portion within the Dalton Highway Corridor Management Area; except, Gates of the Arctic National Park—1 ram with 7/8 curl horn or larger by Federal registration permit only.	Aug. 10–Sept. 20.
Remainder of Unit 24—1 ram with 7/8 curl horn or larger	Aug. 10–Sept. 20.
Moose:	
Unit 24—that portion within the Koyukuk Controlled Use Area—1 moose; however, antlerless moose may be taken only during the periods of Sept. 21–Sept. 25, Dec. 1–Dec. 10, and Mar. 1–Mar. 10.	Sept. 5–Sept. 25. Dec. 1–Dec. 10. Mar. 1–Mar. 10.
Unit 24—that portion that includes the John River drainage within the Gates of the Arctic National Park—1 moose	Aug. 1–Dec. 31.
Unit 24—all drainages to the north of the Koyukuk River upstream from and including the Alatna River to and including the North Fork of the Koyukuk River, except that portion of the John River within the Gates of the Arctic National Park—1 moose; however, antlerless moose may be taken only from Sept. 21–Sept. 25 and Mar. 1–Mar. 10.	Aug. 25–Sept. 25. Mar. 1–Mar. 10.
Unit 24—that portion within the Dalton Highway Corridor Management Area; except, Gates of the Arctic National Park—1 antered bull by Federal registration permit only.	Aug. 25–Sept. 25.
Remainder of Unit 24—1 antlered bull. Public lands in the Kanuti Controlled Use Area are closed to taking of moose, except by eligible rural Alaska residents during seasons identified above.	Aug. 25—Sept 25.
Coyote:	
2 coyotes	Sept. 1—Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Feb. 28.
Wolf:	
5 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Beaver:	
No limit	Nov. 1–Apr. 15.
Coyote:	
No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Feb. 28.
Lynx:	
No limit	Nov. 1–Feb. 28.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Mar. 31.
Wolverine:	
No limit	Nov. 1–Mar. 31.

(25 *Unit 25*. (i) Unit 25 consists of the Yukon River drainage upstream from but not including the Hamlin Creek drainage, and excluding drainages into the south bank of the Yukon River upstream from the Charley River:

(A) Unit 25(A) consists of the Hodzana River drainage upstream from the Narrows, the Chandalar River drainage upstream from and including the East Fork drainage, the Christian River drainage upstream from Christian, the Sheenjek River drainage upstream from and including the Thluichohnjik Creek, the Coleen River drainage, and the Old Crow River drainage;

(B) Unit 25(B) consists of the Little Black River drainage upstream from but not including the Big Creek drainage, the Black River drainage upstream from and including the Salmon Fork drainage, the Porcupine River drainage upstream from the confluence of the Coleen and Porcupine Rivers, and drainages into the north bank of the Yukon River upstream from Circle, including the islands in the Yukon River;

(C) Unit 25(C) consists of drainages into the south bank of the Yukon River upstream from Circle to the Subunit 20(E) boundary, the Birch Creek drainage upstream from the Steese Highway bridge (milepost 147), the Preacher Creek drainage upstream from and including the Rock Creek drainage, and the Beaver Creek drainage upstream from and including the Moose Creek drainage;

(D) Unit 25(D) consists of the remainder of Unit 25.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) The Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending five miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, is closed to the use of motorized vehicles, except aircraft and boats, and to licensed highway vehicles, snowmobiles, and firearms except as follows: The use of snowmobiles is authorized only for the subsistence taking of wildlife by residents living within the Dalton Highway Corridor Management Area. The use of licensed highway vehicles is limited only to designated roads within the Dalton Highway Corridor Management Area. The use of firearms within the Corridor is authorized only for the residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor;

(B) The Arctic Village Sheep Management Area; that portion of Unit 25(A) north and west of Arctic Village, which is bounded on the east by the East Fork Chandalar River beginning at the confluence of Red Sheep Creek and proceeding southwesterly downstream past Arctic Village to the confluence with Crow Nest Creek, continuing up Crow Nest Creek, through Portage Lake, to its confluence with the Junjik River; then down the Junjik River past Timber Lake and a larger tributary, to a major, unnamed tributary, northwesterly, for approximately 6 miles where the stream forks into two roughly equal drainages; the boundary follows the easternmost fork, proceeding almost due north to the headwaters and intersects the Continental Divide; the boundary then follows the Continental Divide easterly, through Carter Pass, then easterly and northeasterly approximately 62 miles along the divide to the head waters of the most northerly tributary of Red Sheep Creek then follows southerly along the divide designating the eastern extreme of the Red Sheep Creek drainage then to the confluence of Red Sheep Creek and the East Fork Chandalar River. Sheep hunting in this area is restricted to residents of Arctic Village, Venetie, Fort Yukon, Kaktovik and Chalkytsik.

(iii) Unit-specific regulations:

(A) Bait may be used to hunt back bear between April 15 and June 30;

(B) Motor-driven boats or snowmachines may be used to take caribou and moose; however, shooting from a snowmachine in motion is prohibited.

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Caribou:	
Unit 25(A), (B), and the remainder of Unit 25(D)——10 caribou; however, no more than 5 caribou may be transported from these units per regulatory year.	July 1–Apr. 30.
Unit 25(C)—that portion south and east of the Steese Highway—1 bull by Federal registration permit only; the season will close when a harvest quota for the Fortymile herd has been reached. The harvest quota will be determined by the Board after consultation with ADF&G and announced before the season opening.	Aug. 10–Sept. 30. Dec. 1–Feb. 28.
Unit 25(C)—that portion north and west of the Steese Highway—1 caribou; however, only bull caribou may be taken during the Aug. 10–Sept. 20 session. During the winter season, caribou may be taken only with a Federal registration permit.	Aug. 10–Sept. 20. Feb. 15–Mar. 15.
Unit 25(D)—that portion of Unit 25(D) drained by the west fork of the Dall River west of 150° W. long.—1 bull	Aug. 10–Sept. 30.
Sheep:	
Unit 25(A)—that portion within the Dalton Highway Corridor Management Area	No open season.
Units 25(A)—Arctic Village Sheep Management Area—2 rams by Federal registration permit only. Public lands are closed to the taking of sheep except by rural Alaska residents of Arctic Village, Venetie, Fort Yukon, Kaktovik and Chalkytsik during seasons identified above.	Aug. 10–Apr. 30.
Remainder of Unit 25(A)—3 sheep by Federal registration permit only	Aug. 10–Apr. 30.
Moose:	
Unit 25(A)—1 antlered bull	Aug. 25–Sept. 25. Dec. 1–Dec. 10.
Unit 25(B)—that portion within the Porcupine River drainage upstream from, but excluding the Coleen River drainage—1 antlered bull.	Aug. 25–Sept. 30. Dec. 1–Dec. 10.
Unit 25(B)—that portion draining into the north bank of the Yukon River upstream from and including the Kandik River drainage, including the islands in the Yukon River—1 antlered bull.	Sept. 5–Sept. 30. Dec. 1–Dec. 15.
Remainder of Unit 25(B)—1 antlered bull	Aug. 25–Sept. 25. Dec. 1–Dec. 15.
Unit 25(C)—1 antlered bull	Sept. 1–Sept. 15.

Harvest limits	Open season
Unit 25(D) (West)—that portion lying west of a line extending from the Unit 25(D) boundary on Preacher Creek, then downstream along Preacher Creek, Birch Creek and Lower Mouth Birch Creek to the Yukon River, then downstream along the north bank of the Yukon River (including islands) to the confluence of the Hadweenzik River, then upstream along the west bank of the Hadweenzik River to the confluence of Forty and One-Half Mile Creek, then upstream along Forty and One-Half Mile Creek to Nelson Mountain on the Unit 25(D) boundary—1 bull by a Federal registration permit. Alternate permits allowing for designated hunters are available to qualified applicants who reside in Beaver, Birch Creek, or Stevens Village. Moose hunting on public land in this portion of Unit 25(D)(West) is closed at all times except for residents of Beaver, Birch Creek and Stevens Village during seasons identified above. The moose season will be closed when 30 antlered moose have been harvested in the entirety of Unit 25(D)(West).	Aug. 25–Feb. 28.
Remainder of Unit 25(D)—1 antlered moose	Aug. 25–Sept. 25. Dec. 1–Dec. 20.
Beaver:	
Unit 25, excluding Unit 25(C)—1 beaver per day; 1 in possession	Apr. 16–Oct. 31.
Unit 25(C)	No open season.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
10 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
Unit 25(C)—2 lynx	Dec. 1–Jan. 31.
Remainder of Unit 25—2 lynx	Nov. 1–Feb. 28.
Wolf:	
Unit 25(A)—No limit	Aug. 10–Apr. 30.
Remainder of Unit 25—10 wolves	Aug. 10–Apr. 30.
Wolverine:	
1 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
Unit 25(C)—15 per day, 30 in possession	Aug. 10–Mar. 31.
Remainder of Unit 25—15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
Unit 25(C)—those portions within 5 miles of Route 6 (Steese Highway)—20 per day, 40 in possession	Aug. 10–Mar. 31.
Remainder of Unit 25—20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Beaver:	
Unit 25(C)—25 beaver	Nov. 1–Apr. 15.
Remainder of Unit 25—50 beaver	Nov. 1–Apr. 15.
Coyote:	
No limit	Nov. 1–Mar. 31.
Fox, Red (including Cross, Black and Silber Phases):	
No limit	Nov. 1–Feb. 28.
Lynx:	
Unit 25(C)—No limit	Dec. 1–Jan. 15.
Remainder of Unit 25—No limit	Nov. 1–Feb. 28.
Marten:	
No limit	Nov. 1–Feb. 28.
Mink and Weasel:	
No limit	Nov. 1–Feb. 28.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Mar. 31.
Wolverine:	
Unit 25(C)—No limit	Nov. 1–Feb. 28.
Remainder of Unit 25—No limit	Nov. 1–Mar. 31.

(26) *Unit 26.* (i) Unit 26 consists of Arctic Ocean drainages between Cape Lisburne and the Alaska-Canada border including the Firth River drainage within Alaska:

(A) Unit 26(A) consists of that portion of Unit 26 lying west of the Itkillik River drainage and west of the east bank of the Colville River between the mouth of the Itkillik River and the Arctic Ocean;

(B) Unit 26(B) consists of that portion of Unit 26 east of Unit 26(A), west of the west bank of the Canning River and west of the west bank of the Marsh Fork of the Canning River;

(C) Unit 26(C) consists of the remainder of Unit 26.

(ii) In the following areas, the taking of wildlife for subsistence uses is prohibited or restricted on public land:

(A) The Unit 26(A) Controlled Use Area, which consists of Unit 26(A), is closed to the use of aircraft in any manner for moose hunting, including transportation of moose hunters or parts of moose from Aug. 1–Aug. 31 and from Jan. 1–Mar. 31. No hunter may take or transport a moose, or part of a moose in Unit 26(A) after having been transported by aircraft into the unit. However, this

does not apply to transportation of moose hunters or moose parts by regularly scheduled flights to and between villages by carriers that normally provide scheduled service to this area, nor does it apply to transportation by aircraft to or between publicly owned airports;

(B) The Dalton Highway Corridor Management Area, which consists of those portions of Units 20, 24, 25, and 26 extending five miles from each side of the Dalton Highway from the Yukon River to milepost 300 of the Dalton Highway, is closed to the use of motorized vehicles, except aircraft and boats, and to licensed highway vehicles, snowmobiles, and firearms except as follows: The use of snowmobiles is authorized only for the subsistence taking of wildlife by residents living within the Dalton Highway Corridor Management Area. The use of licensed highway vehicles is limited only to designated roads within the Dalton Highway Corridor Management Area. The use of firearms within the Corridor is authorized only for the residents of Alatna, Allakaket, Anaktuvuk Pass, Bettles, Evansville, Stevens Village, and residents living within the Corridor;

(C) The Northwest Alaska Brown Bear Management Area, which consists of those portions of Unit 23, except the Baldwin Peninsula north of the Arctic Circle, Unit 24 west of the Dalton Highway Corridor Management Area, and Unit 26(A), is open to brown bear hunting by State registration permit in lieu of a resident tag. No resident tag is required for taking brown bears in the Northwest Alaska Brown Bear Management Area, provided that the hunter has obtained a State registration permit prior to hunting. Aircraft may not be used in the Northwest Alaska Brown Bear Management Area in any manner for brown bear hunting under the authority of a brown bear State registration permit, including transportation of hunters, bears or parts of bears. However, this does not apply to transportation of bear hunters or bear parts by regularly scheduled flights to and between communities by carriers that normally provide scheduled service to this area, nor does it apply to transportation of aircraft to or between publicly owned airports.

(iii) Unit-specific regulations:

(A) Motor-driven boats and snowmachines may be used to take caribou; however, shooting from a snowmachine in motion is prohibited;

(B) Swimming caribou may be taken with a firearm using rimfire cartridges.

Harvest limits	Open season
Hunting:	
Black Bear:	
3 bears	July 1–June 30.
Brown Bear:	
Unit 26(A)—1 bear by Federal registration permit only	May 1–Oct. 31.
Unit 26(B)—1 bear	May 1–Oct. 31.
Unit 26(B)—1 bear	Sept. 1–May 31.
Caribou:	
Unit 26(A)—10 caribou per day; however, cow caribou may not be taken May 16–June 30. Federal lands south of the Colville River and east of the the Killik River are closed to the the taking of caribou by non-Federally qualified subsistence users from Aug. 1–Sept. 30.	July 1–June 30.
Unit 26(B)—10 caribou per day; however, cow caribou may be taken only from Oct. 1–Apr. 30	July 1–June 30.
Unit 26(C)—10 caribou per day	July 1–Apr 30.
Not more than 5 caribou per regulatory year may be transported from Unit 26 except to the community of Anaktuvuk Pass.	
Sheep:	
Unit 26(A)—those portions within the Gates of the Arctic National Park—3 sheep	Aug. 1–Apr. 30.
Unit 26(A)—that portion west of Howard Pass and the Etivluk River	No open season.
Unit 26(B)—that portion within the Dalton Highway Corridor Management Area—1 ram with 7/8 curl horn or larger by Federal registration permit only..	Aug. 10–Sept. 20.
Remainder of Unit 26 (A) and (B)—including the Gates of the Arctic National Preserve—1 ram with 7/8 curl horn or larger.	Aug. 10–Sept. 20.
Unit 26(C)—3 sheep per regulatory year; the Aug. 10–Sept. 20 season is restricted to 1 ram with 7/8 curl horn or larger. A Federal registration permit is required for the Oct. 1–Apr. 30 season. Kaktovik residents may harvest sheep in accordance with a Federal community harvest strategy for Unit 26(C) which provides for take of up to two harvest limits of 3 sheep by designated hunter..	Aug. 10–Sept. 20. Oct. 1–Apr. 30.
Moose:	
Unit 26(A)—that portion of the Colville River drainage upstream from and including the Chandler River drainage—1 moose; however, no person may take a cow accompanied by a calf.	Aug. 1–Mar. 31.
Remainder of Unit 26(A)—1 moose; however, no person may take a cow accompanied by a calf	Aug. 1–Dec. 31.
Unit 26(B)—that portion within two miles of the Dalton Highway	No open season.
Unit 26(B) Remainder and (C)—1 moose	Aug. 1–Dec. 31.
Musk Oxen:	
Unit 26(C)—1 bull by Federal registration permit only; up to 10 permits may be issued to rural Alaska residents of the village of Kaktovik only. Public lands are closed to the taking of musk oxen, except by rural Alaska residents of the village of Kaktovik during seasons identified above..	Oct. 1–Nov. 15. Mar. 1–Mar. 31.
Coyote:	
2 coyotes	Sept. 1–Apr. 30.
Fox, Arctic (Blue and White Phase):	
2 foxes	Sept. 1–Apr. 30.
Fox, Red (including Cross, Black and Silver Phases):	
Unit 26 (A) and (B)—20 foxes; however, no more than 2 foxes may be taken prior to Oct. 1	Sept. 1–Mar. 15.
Unit 26(C)—10 foxes	Nov. 1–Apr. 15.
Hare (Snowshoe and Tundra):	
No limit	July 1–June 30.
Lynx:	
2 lynx	Nov. 1–Apr. 15.
Wolf:	

Harvest limits	Open season
15 wolves	Aug. 10–Apr. 10.
Wolverine:	
5 wolverine	Sept. 1–Mar. 31.
Grouse (Spruce, Blue, Ruffed, and Sharp-tailed):	
15 per day, 30 in possession	Aug. 10–Apr. 30.
Ptarmigan (Rock, Willow, and White-tailed):	
20 per day, 40 in possession	Aug. 10–Apr. 30.
Trapping:	
Coyote:	
No limit	Nov. 1–Apr. 15.
Fox, Arctic (Blue and White Phase):	
No limit	Nov. 1–Apr. 15.
Fox, Red (including Cross, Black and Silver Phases):	
No limit	Nov. 1–Apr. 15.
Lynx:	
No limit	Nov. 1–Apr. 15.
Marten:	
No limit	Nov. 1–Apr. 15.
Mink and Weasel:	
No limit	Nov. 1–Jan. 31.
Muskrat:	
No limit	Nov. 1–June 10.
Otter:	
No limit	Nov. 1–Apr. 15.
Wolf:	
No limit	Nov. 1–Apr. 30.
Wolverine:	
No limit	Nov. 1–Apr. 15.

Dated: July 27, 1995.

Richard S. Pospahala,

Acting Chair, Federal Subsistence Board.

Dated: July 28, 1995.

Robert W. Williams,

Regional Forester USDA-Forest Service.

[FR Doc. 95–19484 Filed 8–14–95; 8:45 am]

BILLING CODE 3410–11–M; 4310–55–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH40–1–5784b; AD–FRL–5276–8]

Approval and Promulgation of Small Business Assistance Program; Ohio

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Ohio for the purpose of establishing a Small Business Assistance Program. In the Final Rules section of this **Federal Register**, USEPA is approving the State's SIP revision as a direct final rule without prior proposal, because the USEPA views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to these actions, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received on or before September 14, 1995.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Regulation Development Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays, Regulation Development Branch, Regulation Development Section (AR–18J), United States Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–6067.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: July 23, 1995.

William E. Muno,

Acting Regional Administrator.

[FR Doc. 95–20018 Filed 8–14–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–268; FCC 95–315]

Broadcast Services; Advanced Television Systems

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking, Notice of inquiry.

SUMMARY: This Fourth Further Notice of Proposed Rule Making and Third Notice of Inquiry examines a broad range of issues related to the conversion of our current broadcast television to digital technology. In previous orders in this Advanced Television (''ATV'') proceeding, our focus was on fostering the development of High Definition Television. Technological evolution now obliges us to revisit some of those decisions, which we do in this document. Accordingly, we invite comment on a broad range of issues related to the conversion by television broadcasters to digital television, including eligibility requirements,

spectrum issues, definition of the service, public interest obligations, transition issues, recovery of spectrum, length of the application/construction period, issues related to small markets and noncommercial stations, all-channel receiver issues, and must-carry and retransmission consent, to ensure that the rules that we fashion in this proceeding serve the public interest in all respects. We also institute an inquiry to invite comment as to where in the spectrum broadcasters should eventually be located and as to the amount, value and uses of the spectrum that could eventually be recovered when the conversion to digital television is completed.

DATES: Comments are due by October 18, 1995, and reply comments are due by December 4, 1995.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Saul Shapiro (202–418–2600) or Roger Holberg (202–776–1653), Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Fourth Notice of Proposed Rule Making and Third Notice of Inquiry in MM Docket No. 87–268, FCC 95–315, adopted July 28, 1995, and released August 9, 1995. The complete text of this *NPRM and NOI* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Synopsis of Notice of Proposed Rule Making

1. With this Fourth Further Notice of Proposed Rule Making and Third Notice of Inquiry (''Notice''), we continue the process of moving toward the next era of broadcast television: *digital* broadcast television. In previous orders in this Advanced Television (''ATV'') [1] proceeding,[2] our focus was on fostering the development of High Definition Television (''HDTV'').[3] Technological evolution now obliges us to revisit some of those decisions and consider new information, which we do in this document.

2. The current technology allows for multiple streams, or ''multicasting,'' of Standard Definition Television (''SDTV'') [4] programming at a quality at least comparable to, and possibly better than, the current analog signal, as well as CD-quality audio signals and the rapid delivery of huge amounts of data. It allows broadcasters to send, simultaneously, video, voice and data. In addition, it allows broadcasters to provide a range of services dynamically, that is, it allows them to switch easily and quickly from one type of service to another.

3. Revisiting our earlier decisions is consistent with our statutory responsibility to ''encourage the provision of new technologies and services to the public,'' 47 U.S.C. 157, as well as with our general statutory obligations to promote the public interest, since these developments have the potential to provide profound benefits to the American public.

4. In deciding what rules should govern the transition to digital television, we recognize our obligation to manage the spectrum efficiently and in the public interest and to take account of the legitimate interests of all those with a stake in that transition. With the foregoing considerations in mind, we will pursue and balance the following goals in this proceeding: (1) Preserving a free, universal broadcasting service; (2) fostering an expeditious and orderly transition to digital technology that will allow the public to receive the benefits of digital television while taking account of consumer investment in NTSC television sets; (3) managing the spectrum to permit the recovery of contiguous blocks of spectrum, so as to promote spectrum efficiency and to allow the public the full benefit of its spectrum; and (4) ensuring that the spectrum—both ATV channels and recovered channels—will be used in a manner that best serves the public interest.

5. It has become apparent that the flexibility of the Grand Alliance system will allow for more applications and alternative uses than we had previously contemplated. We are issuing this Fourth Further Notice of Proposed Rule Making and Third Notice of Inquiry to invite comment on several aspects of this changed ATV environment and their ramifications for this proceeding.

A. Spectrum Issues

6. The Commission previously decided that ATV would be introduced by assigning existing broadcasters a temporary channel on which to operate an ATV station during a transition period and that the spectrum needed for the transition would be obtained from the spectrum currently allocated to broadcasting. We continue to believe that providing 6 MHz channels for ATV purposes represents the optimum balance of broadcast needs and spectrum efficiency. We invite comment, however, on any means of achieving greater spectrum efficiency.

B. Definition of Service

7. We reaffirm in this proceeding our intention to preserve and promote universal, free, over-the-air television. We envision that the 6 MHz channel earmarked for ATV will be used for free, over-the-air broadcasting. The digital transmission system currently proposed would provide broadcasters with new flexibility and new capabilities as they embark on serving the American public with the next generation of television. Broadcasters will be capable of providing through ATV not only a vastly improved high definition picture, but also multiple program steams. In addition, the ATV system is capable of nonbroadcast uses that are nonvideo and/or subscription-based in nature. Allowing at least some level of flexibility would increase the ability of broadcasters to compete in an increasingly competitive marketplace, and would allow them to serve the public with new and innovative services Flexibility could also allow for a more rapid transition to digital broadcasting. Nonetheless, any flexibility afforded broadcasters must not undermine our American system of universal, free, over-the-air television. In establishing a regulatory framework for the provision of ATV in light of this new flexibility, we therefore seek comment on the following questions:

- Should we require broadcasters to provide a minimum amount of HDTV and, if so, what minimum amount should be required?
- To what extent should we allow broadcasters to use their ATV spectrum for uses other than free, over-the-air broadcasting? We recognize that we

[1] Advanced Television (''ATV'') refers to any television technology that provides improved audio and video quality or enhances the current NTSC television system.

[2] Our earlier Notices and Orders are: Notice of Inquiry, 52 FR 34259, September 10, 1987; Tentative Decision and Further Notice of Inquiry, 53 FR 38747, October 3, 1988; First Report and Order, 55 FR 39275, September 26, 1990; Notice of Proposed Rule Making, 56 FR 58207, November 18, 1991; Second Report and Order/Further Notice of Proposed Rule Making, 57 FR 21744 & 21755, May 22, 1992; Second Further Notice of Proposed Rule Making, 57 FR 38652, August 26, 1992; Memorandum Opinion and Order/Third Report and Order/Third Further Notice of Proposed Rule Making in MM Docket No. 87–268, 57 FR 53679 & 53588, November 12, 1992.

[3] High Definition Television offers approximately twice the vertical and horizontal resolution of NTSC, which is a picture quality approaching 35 millimeter film, and has sound quality approaching that of a compact disc.

[4] Standard Definition Television (''SDTV'') is a digital television system in which picture quality is approximately equivalent to the current NTSC television system.

currently allow broadcasters to use a portion of their analog spectrum for ancillary and supplementary uses that do not interfere with or detract from their primary broadcast function. Should such uses of the ATV spectrum be permitted and, if so, how should they be defined? What portion of the ATV system's capacity should be allowed to be used for ancillary and supplementary services?

• To what extent should we allow braodcasters to use their ATV spectrum for services that go beyond traditional broadcast television or ancillary and supplementary uses analogous to those allowed under our current regulatory regime? Should broadcasters be permitted to provide nonbroadcast and/or subscription services?[5] If so, how should such services be defined and how much of the ATV system's capacity should be allowed for such uses? If allowed, what regulation, if any, would be appropriate for such services?

8. In responding to the above questions, if commenters propose that licensees be required to meet any requirements (such as a minimum HDTV requirement) or be limited in providing ancillary and supplementary services, they should include comment on the administrative processes we would use to implement any requirements or limitations. For instance, how should we measure use—by the amount of time, data packet ''headers,'' or by some other means? Should the time of day when broadcast or other video service is offered have any significance? What administrative process should we use to enforce such a requirement—self reporting, complaints from the public, operating logs, etc.—and what costs would be associated with each?

C. Eligibility Issues

9. The Commission has previously established that during the initial period, existing broadcasters would have the first opportunity to acquire ATV channels. Included in the class of existing broadcasters were: (a) All full-service television broadcast station licensees; (b) permittees authorized as of October 24, 1991, and (c) all parties with applications for a construction permit on file as of October 24, 1991, who are ultimately awarded full-service broadcast station licenses.

10. We continue to believe that initial eligibility should be limited to existing broadcasters given the shortage of suitable spectrum and our decision not to allocate additional spectrum for this purpose. We are still asking existing broadcasters to inaugurate a television service that will deliver a signal of superior quality. Furthermore, we are not creating a new service, and our eligibility restriction does not ultimately result in more spectrum for broadcasters or less spectrum for others. We are merely moving each existing broadcaster from one channel to a different channel in a one-for-one exchange designed to accomplish a number of long-term public interest goals.[6] Broadcasters will be required to cease their analog operations after a relatively short period, thereby permitting a swift, certain transition to digital technology and a rapid recovery of spectrum for the benefit of the public.

11. We believe that we are not precluded by *Ashbacker Radio Corp.* v. *FCC*, 326 U.S. 327 (1945), from limiting initial eligibility to incumbent broadcasters, even if we permit flexible use of the digital system and especially since the broadcasters' ''analog'' operations will be shut down and one of the channels will be relinquished.[7] Under Section 309 of the Communications Act, as applied by the Supreme Court in *United States* v. *Storer Broadcasting Co.*,[8] we are authorized to set licensee eligibility standards. As an independent matter, we note that we also have authority under Section 316 of the Communications Act, 47 U.S.C. 316, to modify existing licenses as the public interest requires. In so doing, our actions are not governed by the hearing and other requirements of Section 309 of the Act.[9] In light of our authority under both *Storer* and Section 316 of the Act, we invite comment on our tentative conclusion that no *Ashbacker* problem is presented by our proposals.

12. While we reiterate our tentative conclusion to limit initial eligibility for ATV frequencies to existing broadcasters, we seek comment on the potential impact our proposal would have on the Commission's long standing policy of fostering programming and ownership diversity. Specifically, we seek comment on what measures, if any, the Commission may adopt to include new entrants into this emerging era of digital television.

13. Some parties have suggested that we should auction the spectrum intended to be used for ATV service. Section 309(j) of the Communications Act of 1934, as amended, limits the uses of spectrum that is subject to being auctioned. It specifically requires that, ''the principal use of such spectrum will involve, or is reasonably likely to involve, the licensee receiving compensation from subscribers. * * *'' Our experience and our judgment concerning market conditions lead us to believe that the broadcasters would use this spectrum for free over-the-air broadcast service; therefore, it cannot be auctioned under Section 309(j). For this reason, as well as those set forth above, we reiterate our previous decision to limit initial eligibility to existing licensees. Commenters may address whether any changed circumstances should alter this conclusion.

14. Given our decision not to allocate additional spectrum for television broadcasting, the number of transition channels is limited. Therefore, we also solicit comment on granting eligibility status to those broadcasters that are in bankruptcy, off-the-air, have construction permits or are otherwise non-operational, or otherwise incapable of engaging in the transition to digital television. We specifically request comment on whether the transition channels identified for these licensees or permittees would be better used to support service to the public if instead they were made available to new entrants.

D. Public Interest Obligations

15. Our rules imposing public interest obligations on broadcast licensees flow from the statutory mandate that broadcasters serve the ''public interest, convenience and necessity,''[10] as well as other provisions of the Communications Act. Broadcasters are

[5] We note that, under our current rules, a licensee may provide video programming primarily on a subscription basis. We also note pending legislative proposals that contemplate granting us the authority to require licensees to pay annual spectrum fees where licensees charge the public for the new services provided on the conversion channels. We will publish a Public Notice or other appropriate document with respect to the effect on our ATV decisions of any relevant law enacted.

[6] There is ample precedent for our reallocation of spectrum in the public interest, even where such reallocation results in displacement of current users of the spectrum, and it is clear that we have broad discretion to do so. We have, in a number of contexts, moved users of spectrum to different bands.

[7] The Court of Appeals has held that *Ashbacker* applies only to parties whose applications have been declared mutually exclusive and does not apply to ''prospective applicants.'' *Reuters Ltd.* v. *FCC*, 781 F.2d 946, 951 (D.C. Cir. 1986). No *Ashbacker* rights would be triggered because we are defining the category of eligible applicants rather than rejecting one *bona fide* applicant without comparing it to the others.

[8] 351 U.S. 192 (1956).

[9] Section 316 does not require us to accept petitions to deny an application filed as a result of a proposed modification, but it does require us to consider protests filed by other licensees or permittees who believe their own licenses or permits would be modified by the Section 316 modification. See 47 U.S.C. § 316(a)(3).

[10] 47 U.S.C. 307(c). See also id. § 307(a).

required to air programming responsive to community needs and interests. They are required to air programming designed to ''serv[e] the educational and informational needs of children.'' They must provide ''reasonable access'' to candidates for federal elective office, and must afford ''equal opportunities'' to candidates for any public office. Broadcasters are also obliged to refrain from airing certain programming, such as indecent programming outside the ''safe harbor'' period. Finally, in order to promote diversity of viewpoint, broadcasters must refrain from discriminating in employment and must establish and maintain an equal employment opportunity (''EEO'') program designed to provide equal employment opportunities for minorities and women. Our previous orders reflect the assumption that public interest obligations would attach to ATV broadcasting. Indeed, that broadcasters ''have an obligation to serve the public interest'' is one of our reasons for limiting initial eligibility for ATV channels to existing broadcasters.

16. We remain committed to enforcing our statutory mandate to ensure that broadcasters serve the public interest. Our current public interest rules, including those implementing specific statutory requirements, were developed for broadcasters essentially limited by technology to a single, analog video programming service. The potential for more flexible and dynamic use of the advanced television channel than what broadcasters currently enjoy gives rise to important questions about the nature of public interest obligations in the digital broadcasting world. We request comment on how the conversion to digital broadcasting should affect broadcasters' obligation to serve the public interest.

17. Our future rules may allow broadcasters to use their advanced television channels to provide a high definition television service, multiple standard definition television services and perhaps other services, some of which may be on a subscription basis. Should a licensee's public interest obligations depend on the nature of the services it chooses to provide and, if that is the case, how so? For example, if a broadcaster chooses to provide multiple standard definition services, should public interest obligations attach to each one? What if one or more of those services are provided on a subscription basis? Alternatively, should public interest obligations be seen as attaching not to services but to licensees, each of whom would be required to operate the facilities associated with its 6 MHz ATV channel in the public interest? We note that attaching a public interest requirement on one type of ''service'' could skew broadcaster investment away from providing that service—a situation that could potentially result in a net public interest loss. Commenters are requested to discuss whether, if Congress grants the Commission the requisite authority, we should consider imposing spectrum fees for that portion of the spectrum used by broadcasters to provide subscription services. We note that the use of spectrum fees may allow the Commission to establish a regulatory framework that does not discourage broadcasters from providing free over-the-air channels or other services to which public interest obligations might attach. We also invite comment on whether the conversion to digital broadcasting justifies other changes in our public interest framework.

18. Finally, we express our intention to continue to apply EEO requirements on broadcasters. We ask, however, whether there are additional means available to further our objective of promoting diversity of viewpoints in a digital world.

E. Transition

1. Simulcast Requirement

19. Previously, we determined that ATV licensees should simulcast on their NTSC stations the programming offered on their ATV stations. We preliminarily decided that, beginning one year after the six year application and construction period, ATV licensees would have to simulcast 50 percent of their ATV programming, increasing to 100 percent two years later. Additionally, we indicated that we would review this schedule at the time of our initial review of the pace of conversion at the end of the application/construction period and immediately prior to the imposition of 100 percent simulcasting.

20. Our concern was, and remains, that consumers not be prematurely deprived of the benefits of existing television equipment. We also stated that requiring simulcasting would assist us in reclaiming the analog channel as soon as possible by minimizing broadcaster and consumer reliance on the ATV and NTSC channels carrying separately programmed services. Additionally, we believed that a simulcast requirement would ''give added impetus to ATV receiver penetration by eliminating the need for dual mode receivers capable of receiving both NTSC and ATV,'' thereby helping to lower the cost of ATV receivers, spurring increased penetration.

21. These decisions were appropriate and practical when it appeared that ATV would primarily consist of the broadcast of a single HDTV program service. However, it is apparent that a digital TV system can be used to transmit multiple simultaneous SDTV program services. Obviously, a licensee would be unable to simulcast multiple program services on its NTSC channel. Under such circumstances, it is clear that our simulcasting requirement must be revisited and we must consider alternatives.

22. The simulcasting requirement was in large measure intended to allow consumers to avoid being prematurely deprived of the benefits of their NTSC video equipment. We hoped to avoid having broadcasters move their best programs to HDTV, with the result that large numbers of viewers that do not have HDTV equipment would lose much of the value of broadcast television service. At the present time, this no longer appears to be a likely prospect. We do not foresee broadcasters taking their best programming off of their NTSC stations and putting it on HDTV where potential audiences will, at first, be small. Similarly, we do not see broadcasters moving their best programming off of NTSC and on to ATV early in the conversion process. We believe that, instead, the market will continue to serve consumer demand by assuring the continued presence of good programming on NTSC channels. However, we still perceive a need for a simulcast requirement, albeit different from that first envisioned.

23. Some number of consumers, unaware of the transition to digital television or unable to afford replacement equipment, may continue viewing analog television throughout the transition period. At the end of the transition period, we may be confronted with the choice of either terminating analog service, causing such viewers to lose their only source of free broadcast service, or, alternatively, allowing analog broadcasting to continue, thereby depriving the broad general public of the benefits that we believe are to be found from the recovery of one of the channels. We wish to avoid either alternative and believe that a simulcasting requirement may be useful in speeding the migration of these consumers from analog to digital broadcasting. Accordingly, we propose to require the simulcast of all material being broadcast on the licensee's NTSC station (with the exception of commercials and promotions) on a

program service of the ATV channel. If a program is available only on the analog service, then all viewers (those with digitally capable and analog-only sets) will need to watch it in the analog service. In a simulcast environment, the number of consumers who will lose access to a specific program service will be reduced by the number who have a digitally capable set or set top converter.

24. We ask parties to comment on this proposal, including assessing its impact on broadcasters' ability to provide HDTV service, and to offer other viable alternatives, keeping in mind our goals of avoiding a reliance on NTSC service and assuring recovery of large blocks of contiguous spectrum at the conclusion of a speedy and smooth transition process. We are open to suggestions and will consider any option that does not slow the conversion to digital television. For instance, commenters may wish to comment on whether the simulcast requirement should be tradeable. That is, should a licensee be permitted to purchase time on a competitor's ATV station on which to broadcast its analog programming?

25. Also, we seek comment on the phasing in of a simulcasting requirement. We believe that at the beginning of the transition a broadcaster should be required to simulcast little or no NTSC programming. Few viewers would have ATV receivers at that stage. Later, as fewer consumers depend upon analog television and ATV equipment proliferates, we tentatively believe that the simulcasting requirement should be increased. Commenters are invited to comment on the relevant time periods for each phase and the amount of simulcasting that should be required in each such phase.

2. Licensing of ATV and NTSC Stations

26. We revisit the question of whether licensees' NTSC and ATV station licenses should be considered a single license or two separate and distinct licenses. We previously decided to treat the licensee as having two paired licenses. That is, each licensee's NTSC and ATV station would receive a separate license. Because the licenses were to be paired, however, if a licensee's NTSC license were to be revoked or not renewed while its ATV application was pending, the licensee would lose its priority eligibility status. Also, if either a licensee's NTSC or ATV license were revoked or not renewed, the remaining license would automatically suffer the same fate. We nonetheless indicated that we would consider permitting a licensee to voluntarily surrender its NTSC channel while retaining the corresponding ATV channel on a case-by-case basis in the interest of spectrum efficiency.

27. We decided that broadcasters would be operating two distinct facilities having different characteristics and, frequently, transmitting from different locations. Treating the ATV and NTSC channels as separately licensed facilities would, we concluded, simplify enforcement and administration. However, we paired the two licenses to prevent the separate transfer of one channel of the pair because we believed that would make it impossible to recapture one of the 6 MHz channels at the end of the transition period and still leave the existing licensee with a broadcast outlet.

28. We tentatively conclude that substantial benefits could be obtained if, instead of licensing the NTSC and ATV facilities separately, we authorized both under a single, unified license. It would ease administrative burdens on the Commission and broadcasters alike by reducing the number of applications that would have to be filled out, filed and processed. Licensing the two facilities under a single authorization is also consistent with our view that the authorizations may be issued pursuant to our broad authority under Section 316 of the Act to modify an existing license. Finally, treating the two facilities under a single license would retain the sound policy announced in the Second Report/Further Notice of treating both facilities the same from the revocation/non-renewal standpoint. We seek comment on this tentative conclusion.

29. Commenters advocating separate licenses for the ATV channels may wish to address whether, if NTSC and ATV licenses were licensed separately, we should allow the sale of an authorization for an unbuilt ATV facility. Allowing such transfers could speed the transition to digital ATV by putting transition spectrum into the hands of parties willing and able to construct ATV facilities. Commenters should be mindful, however, that even if NTSC and ATV licenses were to be issued separately and unpaired the NTSC licensee would have to cease its NTSC operations at the end of the transition period. Moreover, unpairing the NTSC and ATV licenses would raise complex issues regarding simulcast and retransmission/must carry rights. In the event we adopt an NTSC–ATV simulcast requirement, should the transfer of a separated ATV license be permitted only if the programming on the accompanying NTSC license were simulcast in digital?

F. Transition Period

30. In the Third Report/Further Notice we made a preliminary decision to establish a transition period that concludes 15 years from the date of adoption of an ATV system or a final Table of ATV Allotments is effective, whichever is later. In addition, we adopted a schedule of periodic reviews to permit us to monitor the progress of ATV implementation and to make any necessary adjustments. We decided that the transition period should not be modified without a substantial showing that the change is in the public interest. We reiterated that we planned to award broadcasters interim use of an additional 6 MHz channel to permit a smooth, efficient transition to an improved technology with as much certainty and as little inconvenience to the public and the industry as possible. Finally, we clarified that, in general, broadcaster who do not convert to ATV will nevertheless have to cease broadcasting in NTSC at the end of the 15-year transition period.

31. There may now be reasons to expect that broadcasters will adopt ATV more rapidly than was anticipated in 1992, when we last analyzed the transition period. The broadcast industry, including equipment manufacturers, have been at the forefront of developing digital technology for television. Other new services, such as ''video dialtone,'' that would use digital transmission technologies are also being initiated or planned. In this environment, broadcasters have added incentive to convert more rapidly in order to remain competitive.

32. Consumers will buy or rent digitally capable receivers or set-top converters as their choice of digitally-based video products expands. For each household which transitions to any of the new media, including over-the-air digital, there will be at least one less television set reliant upon over-the-air NTSC analog transmissions. Given the degree of competition that exists between suppliers of electronic equipment, and expected economies of scale resulting from the proliferation of digitally based media, we anticipate that declining costs will translate into reduced prices and increased sales of digital receivers and converters to consumers.

33. We previously cautioned that broadcasters' cessation of NTSC transmission and surrender of a 6 MHz channel would depend on ATV becoming the prevalent medium, stemming in part from our concern over the number of households that might

continue to rely on NTSC transmissions. As discussed above, purchase of an ATV receiver or converter is not the only meaning of ending reliance on NTSC transmission, so projections solely of ATV receiver penetration may not be the most accurate benchmark for deciding when broadcasters should cease NTSC transmission and surrender a 6 MHz channel.

34. We now wish to consider whether some objective benchmark(s) could be used to determine when broadcasters should cease NTSC transmission. Is it possible to end the transition period in a market by tying the transition period to some objective benchmark(s)? If so, what benchmark(s) should be used? The conversion could be considered complete when the number of households that rely on NTSC has fallen to a given percentage. We ask parties to comment on tying the transition period and final conversion date to the percentage of households in a market that rely on NTSC transmission. If the final conversion date is triggered when the number of households that rely on NTSC falls to a given percentage, what should the threshold percentage be that triggers the final conversion date? How would we measure the number of households that rely on NTSC transmission from year to year? Should we measure households or television sets? What other objective benchmarks should we consider in determining the transition period and the final conversion date? To what extent should the availability of inexpensive digital receivers and converters be used as a benchmark in determining the length of the transition period?

35. We previously reasoned that by adopting a target date approach we could speed the transition to digital technologies. Are there mechanisms other than the date certain approach that we adopted in 1992, that we could put in place to create incentives for rapid adoption of ATV by consumers, broadcasters, manufacturers, and others? For example, should we consider having the transition period end at the earlier of a date certain or attainment of an objective benchmark? We seek information on how broadcasters could assist consumers by providing alternate methods of acquiring or leasing digital equipment in the short term so that the transition costs can be reduced and the transition schedule can be shortened. Could broadcasters in a market cooperate in leasing converters and/or ATV receivers to consumers? Would cooperation between broadcasters in a market raise anti-competitive concerns? If so, how could the cooperative arrangements of broadcasters be adapted to reduce household reliance on NTSC transmission without raising these concerns?

G. Recovery of Spectrum

36. We have put broadcasters on notice that when ATV becomes the prevalent medium, they will be required to surrender a 6 MHz channel and cease broadcasting in NTSC, reiterated that we are awarding broadcasters interim use of an additional 6 MHz channel, and clarified that broadcasters who do not convert to ATV will nevertheless have to cease broadcasting in NTSC.

37. The rationale underlying the recovery of spectrum was the freeing of spectrum of significant value for other uses. The spectrum to be used for the transition to ATV has significant value for other services and benefits and that any delay in reclaiming the reversion spectrum carries potential costs to the public.

38. When the transition to digital technologies is complete, we must have some mechanism in place to recover the extra 6 MHz channel. One option would be to continue renewing licenses for five year periods but explicitly terminate authority to use one of the 6 MHz channels at the end of the transition period. If we were to adopt a ''two-license'' approach, one of the two licenses could expire at the end of the transition period. We ask parties to comment on the advantages and disadvantages of each approach.

39. We remain committed to the recovery of spectrum. In addition, we believe that spectrum will be of greater value if available in large contiguous nationwide blocks. To create contiguous blocks of spectrum following the transition period, it may be necessary to move some digital broadcast stations to new channels that are contiguous with others. This would have the effect of condensing broadcast assignments to a narrower band of spectrum without eliminating any licenses. Today, television broadcasters have over 400 MHz assigned to them, but NTSC technology does not permit all of the channels to be used in the same geographic area. We believe that the ''Grand Alliance'' digital system does not have these difficulties. By moving some digital broadcast stations, we would be able to obtain a more spectrum-efficient arrangement by condensing broadcasting assignments to less than 400 MHz. We believe that information concerning spectrum recovery and moving some digital broadcast stations to new channels should be solicited at this time to assure the future availability of contiguous spectrum and encourage immediate planning and investment in new services. We request comment on our tentative plans to create contiguous blocks of spectrum.

40. While broadcasters have been given notice that they must surrender a 6 MHz channel after full conversion to digital technologies, no final decisions have been made concerning which of the two channels would be surrendered. Allowing licensees to determine which 6 MHz channel they would use for digital transmission and which channel they would surrender may result in broadcasters providing digital services on channels scattered throughout the VHF and UHF broadcast band. Allowing this would inhibit the formation of large contiguous blocks of spectrum. To minimize the number of digital broadcast stations that may need to be moved to new channels to facilitate the creation of large contiguous blocks of VHF and/or UHF spectrum, it will likely be necessary for us, not the licensee, to determine which 6 MHz channel the broadcaster must use for digital transmission and which channel must be surrendered. Also, we believe that by making these decisions early we can aid broadcasters in their investment decisions.

41. In order to create the maximum amount of contiguous spectrum following the transition period, it may be necessary to move some digital broadcast stations to new channels. We recognize that there are costs associated with moving stations to new channels. We request comment on the benefits and costs of moving stations to new channels. We also seek comment on how to minimize the costs of moving stations to new channels. Finally, we ask parties to comment on whether each broadcaster should pay for its own move, whether all broadcasters should pay for the costs of relocation, or whether the licensee the bumps the broadcaster should pay to move the broadcaster, as was done in the emerging technologies band for PCS.

H. Length of Application/Construction Period

42. We previously granted existing broadcasters three years from the effective date of ATV system selection or an ATV Allotment Table, whichever is later, in which they exclusively may apply for a preferred or ''set-aside'' ATV channel, and a total of six years to both apply for and construct an ATV facility. We previously stated that such factors as the time needed to raise the necessary capital to invest in ATV technology, to plan for the creation of a new station, including, in some cases, having to

locate a new transmitter site, and to allow ATV equipment to become available, required that we establish these application and construction periods.

43. We propose to establish a procedure by which broadcasters have six months in which to make an election and confirm to the Commission that they want an ATV license. After that, they would have the remainder of the three-year period in which to supply supporting data as we may require. If they elect not to construct an ATV facility, or elect to construct but do not proceed to do so, their NTSC licenses will expire at the end of the ATV conversion period and they will have to cease broadcasting. This process would have the benefit of identifying early on locations where existing broadcasters do not want to transition to ATV and where applications from new entrants for ATV stations could therefore be considered.

44. We ask that commenters address all aspects of the construction period. Is the current six-year period appropriate, too long, or is it insufficient? We believe that the exclusive eligibility period can be shortened, primarily by requiring licensees to make an election within the first six months after the adoption of an ATV standard or final Table of Allocations, whichever is later, as to whether to convert. This should not place an undue burden on licensees. Broadcasters have now been on notice for a number of years of the general direction in which we are moving toward digital television and some, we understand, have begun planning in earnest for the transition. Moreover, much digital broadcasting equipment has been developed and demonstrated. Commenters should provide information on their ability to apply for and construct ATV facilities and discuss the difficulties they would have in meeting a shorter time frame.

45. Nevertheless, we are mindful of the difficulties to be encountered by television broadcasters converting to ATV. Sources of financing may be limited and their willingness to support the conversion is unknown. For some stations tower sites may need to be found, leases negotiated and towers built. Equipment will have to be purchased and installed, and the capacity of industry to supply over 1500 broadcasters with new equipment, from cameras to transmitters to antennas, all within the same time frame is not currently known. Given the different aspect ratio for ATV as opposed to NTSC, new studio sets may have to be designed and constructed in order for stations to originate programming. We fully appreciate that this transition will not be an easy task. Accordingly, we request comment on the practical difficulties licensees will have in successfully undertaking the conversion and on proposed solutions.

I. Small Markets

46. We previously decided not to adopt a ''staggered approach'' to initial ATV implementation with large markets required to implement first and small markets last. While recognizing that small market stations produce less revenue than those in large markets, adversely affecting their ability to finance the transition, we also noted that our extension of the application/construction period to a total of six years, and our ''sliding scale'' approach [11] should provide small market stations adequate relief. Nevertheless, we indicated that if the application/construction period appeared insufficient, we could adjust it at later reviews.

47. We now seek comment on whether we should reconsider this decision, and if so, on what type of relief should be provided from the six year deadline and to whom? For example, should there be a general extension of the deadline for a certain class of stations? If so, for how long and to whom? Should it be to stations that make a showing of financial hardship and if so how would that be defined? Should there be a different rule for small markets? What about stations serving economically disadvantaged areas? How should ''small markets'' or ''economically disadvantaged areas'' be defined? Commenters should address whether such a general extension would result in slowing the implementation of advanced television in these markets.

48. We also seek comment on whether a waiver would be an appropriate way to address the issues of stations who can not afford to make the transition to digital. If commenters believe a waiver would be an appropriate mechanism, they should specify what factors the Commission should consider in granting such a waiver. They should also address ways to reduce the administrative burden of such a waiver process on the Commission and on licensees.

49. Finally, we seek comment on an alternative proposal which would allow the Commission to automatically extend the deadline for a licensee that has not built after the six-year period if no one else files for the ATV license. If, at the end of the six-year period, another party applies to construct the unbuilt ATV facility, should we permit the incumbent broadcaster to retain its preferential status if it makes a sufficient showing in this regard? Such a policy would recognize that in some markets economic factors may not support all of the stations introducing digital broadcast within the six-year time frame. If, however, there is a new entrant who can provide service immediately, then the public might be better served by the immediate initiation of service.

J. Noncommercial Stations

50. We earlier sought comment on whether some additional measures of relief or further action should be taken on behalf of noncommercial stations with respect to the presumptive six-year application/construction deadline. We indicated that we would consider a wide array of alternatives to mitigate the problems faced by noncommercial broadcasters.

51. Commenters addressing the difficulties of noncommercial broadcasters in converting to digital television chiefly seek relief with respect to the financial qualifications that they would have to demonstrate. The Association of America's Public Television Stations, Corporation for Public Broadcasting, and Public Broadcasting Service (''Public Television'') argue that, because of funding constraints, it will take substantially longer than three, or even six years, for public stations to be able to obtain necessary funds to convert to ATV. Public Television asks that noncommercial educational stations be allowed to file ATV applications without certifying or demonstrating financial qualifications on the filing date. Rather, it believes such licensees should be given three years after the filing of an ATV application to demonstrate, with a business plan, how they will raise matching funds and that public broadcasters should not have to make any showing with respect to having sufficient access to funds to meet their operating costs in the first 90 days of operation. Public Television asks that we accept no competing applications while that application is being processed. In this way, public broadcasters would be able to timely file and avoid the possibility of being able to obtain only a short-spaced UHF

[11] Under the sliding scale approach, parties applying early in the six-year application/construction period would have the remainder of the application period and the full three-year construction period in which to construct. Thus, they would have a longer time to devote to construction of ATV facilities than those applying later. Should we adopt our proposal to require an election by the end of the sixth month, licensees filing earlier in the remaining two-and-one-half years would still have more time in which to construct than those filing later in that period.

channel, a VHF transition channel, or no channel at all.

52. The National Association of College Broadcasters (''NACB'') asks that the Commission reserve ATV channels in the same proportion as they are reserved on NTSC. Arizona State also urges that each vacant noncommercial allocation be kept in reserve for future public ATV use. Both NACB and Arizona State ask that we provide noncommercial educational television stations with additional time in which to apply for, and construct ATV facilities.

53. It is clear from comments received that noncommercial licensees will face unique problems in their transition to ATV, chiefly in the area of funding, where noncommercial broadcasters appear to be subject to the vagaries of forces and parties beyond their control. Indeed, historically, we have recognized ''that in making our statutory findings as to financial qualifications, greater leeway must be accorded the educational station because of its very nature.'' *NTA Television Broadcasting Corp.*, 44 FCC 2563, 2574 (1961). (Citation omitted.)

54. Commenters should address whether noncommercial broadcasters would obtain sufficient relief in the event that we adopt for all existing broadcasters a paired channel assignment scheme and requirements such as proposed above. If we do not adopt that proposal or, if adopted, it does not provide sufficient relief for noncommercial broadcasters, we ask for comment on what further relief would be appropriate and will permit them to participate in the channel assignment process on an equitable basis. In particular, commenters may address the implications of our system instead of a fixed channel scheme.

55. A second problem that noncommercial broadcasters commented on was the length of the application/construction period. We have previously expressed our belief that to provide different schedules for commercial and noncommercial broadcasters would not be conducive to the goal of a speedy and smooth transition. It is still our preference to establish a firm transition schedule, but with the safeguard of having that schedule subject to periodic review. Additionally, unique problems can be dealt with on a case-by-case basis. We believe this may be preferable to establishing two separate classes of broadcasters, each with its own schedule, causing confusion to the public and additional administrative burdens to the Commission.

56. Additionally, commenters should address other things that the Commission can do to assist them in their conversion to ATV. For instance, the broadcast of ''advertisements'' is currently prohibited by Section 399B of the Communications Act. Commenters may want to address whether this should be viewed as applying only to one program service or, if to all program services broadcast by noncommercial broadcasters, whether it would be desirable for the Commission to seek legislative alteration of this prohibition. We also ask commenters to discuss whether the transition to digital by noncommercial broadcasters might be facilitated through re-defining what ''noncommercial'' means. If the Commission mandated only that the minimum required broadcast programming must be ''noncommercial,'' would it be possible for noncommercial broadcasters to finance the transition through commercial and flexible uses of the spectrum that would not interfere with the noncommercial broadcast stream? Is there other relief that we can grant noncommercial broadcasters to minimize restrictions on their operations and allow them greater flexibility?

K. All-Channel Receiver Issues

57. In 1962, Congress adopted the All Channel Receiver Act, which authorizes us to require that television receivers ''be capable of adequately receiving all frequencies allocated by the Commission to television broadcasting.'' [12] Pursuant to this authority we required that all TV receivers be capable of UHF channel reception and adopted standards to make reception of UHF channels comparable with reception of VHF channels.[13] We previously determined in this proceeding that the All Channel Receiver Act does not mandate the manufacture of dual-mode (ATV and NTSC) receivers. We expressed concern that such a requirement might overly or prematurely burden consumers, and sought comment on whether there is any need to require that manufacturers produce receivers capable of both NTSC and ATV reception during the period prior to full conversion to ATV.

58. With ATV now considered to include both HDTV and SDTV, we request comment on whether SDTV receivers should be required to have the ability to receive an HDTV signal or vice versa, and whether we should regulate how such a signal must be displayed. We understand that companies are working on receiver designs that would display the Grand Alliance HDTV signal as a lower resolution SDTV picture. Such as conversion could result in relatively inexpensive receivers or converter boxes for NTSC receivers, compared with the projected HDTV receiver costs. We seek comment on whether permitting the manufacture and sale of receivers that display only NTSC, SDTV, or HDTV signals, or a combination of two but not all three, would be consistent with the All Channel Receiver Act or otherwise would be in the public interest. Should we require that, during the transition period, all sets be capable of receiving and displaying NTSC and SDTV signals? Should we require ''all-format'' receivers capable of receiving and displaying NTSC, SDTV and HDTV signals, and, if so, how should we require HDTV signals to be displayed, in a true HDTV fashion or as a lower resolution SDTV picture? What impact should a decision not to require HDTV broadcasting have on whether we should require all receivers to have HDTV reception and display capabilities? Should a decision on one be coupled with the other? What impact should a decision to adopt only minimal broadcast SDTV requirements have on this question? Would limiting the sale of NTSC equipment help consumers by assuring that they do not purchase equipment that will soon be obsolete, or harm them by, for example, depriving them of access to equipment they may need to obtain the benefit of other video equipment they have, such as VCRs? If we permit the sale of NTSC equipment, should we require a visible label warning that, as of a date certain, it will no longer be able to provide over-the-air broadcast reception? Or, if we permit the sale of NTSC equipment after the specified date, should we require that the sale of such equipment be accompanied by the provision of or ability to use a digital converter? We believe that the All Channel Receiver Act provides us with adequate authority to address these issues. We ask for comment on how we should exercise it.

L. Must Carry and Retransmission Consent

59. We have not previously addressed the impact of ATV on cable television carriage or retransmission consent obligations. Sections 614 and 615 of the Communications Act of 1934 contain the cable television ''must carry'' requirements. Section 325 contains revised ''retransmission consent'' requirements, pursuant to which cable operators may be required to obtain the

[12] 47 U.S.C. 303(s).

[13] See 47 CFR 15.117.

consent of broadcasters before retransmitting their signals. Within local market areas broadcasters have an option to proceed under either the retransmission consent or the mandatory carriage requirements. These provisions were added by the Cable Television Consumer Protection and Competition Act of 1992,[14] subsequent to the adoption of our last decision in this proceeding.

60. Under the mandatory carriage provisions, cable operators, subject to certain capacity based limitations, are generally required to carry the signals of local television stations on their cable systems.[15] Section 614(b)(4)(B) of the Act requires that, at the time we prescribe standards for advanced television, we ''initiate a proceeding to establish any changes in the signal carriage requirements of cable television systems necessary to ensure cable carriage of such broadcast signals of local commercial television stations which have been changed to conform with such * * * standards.'' While we have not yet prescribed standards for advanced television, in the sense of having defined or determined final standards, we believe it timely to begin our consideration of must-carry obligations at this point.

61. Clearly, during the transition period, at least the station's NTSC channel will be subject to must carry obligations. During the transition period, when, under our original plan, the NTSC channel would have been carrying 100% of the HDTV programming being aired on the conversion channel, there did not appear to be a must-carry problem because, as long as the two were carrying duplicative programming, the NTSC and commonly owned HDTV stations would not both have had to have been carried.[16] But, if we change the simulcast requirement, programming on the NTSC and ATV channels might not be duplicative, and both might qualify for carriage. Additional issues are raised if the conversion channel is being used for the transmission of multiple SDTV program services. If carriage of all material being broadcast by the station were required, the dedication of, for instance, five cable channels (one for the NTSC programming and, for example, four multicast programs being offered on the conversion channel) might be required. Thus, a review of the must carry and retransmission consent rules now is an important component of this proceeding. In addition, it is necessary to clearly identify any issues regarding cable carriage that need to be factored into the ATV transitional rules, technical standards, and regulatory policies in order to facilitate the most productive possible interaction between ATV broadcasting and cable television service.

62. We seek comment on any relevant differences in rules or policies that might be needed both during the transition and as a consequence of ATV having replaced NTSC broadcasting. For instance, how should channel capacity be defined in a digital environment, i.e., in terms of channels, bandwidth, or bits of data per second? Does ''on-channel'' carriage have the same meaning in a digital as it does in an analog environment? Should ''substantially duplicates'' include duplication of programming in different transmission formats? Will changes in station coverage require changes in carriage obligations? Additionally, what is the meaning of ''primary video'' in the context of digital broadcast transmission?[17] Is there appropriate parallel to line 21 of the vertical blanking interval of NTSC stations for ATV stations? What, if any, flexibility does the Commission have under Section 614(b)(4)(B) to modify requirements applied by the Communications Act to NTSC signals in the new digital environment? For example, does the Commission have authority to address ''A/B'' switch issues to enhance subscriber access to signals or portions of signals that may not receive carriage notwithstanding the existing prohibition? Is a revised definition of ''basic tier'' needed? Is a common retransmission/must carry election required for all of the video programming from an individual broadcast license in a market or just for one ''primary video'' stream, as defined by the broadcast licensee? In the more flexible broadcast environment associated with digital transmission would changes be needed in the rules that mandate that local signals be carried in their entirety even if carried under the retransmission consent option? Are there other issues relating to the retransmission consent process that would need to be addressed?

63. A second set of issues relates to the technical interface and associated coast and rate issues. We expect that there will be parallel development of both cable and broadcast digital video communications. At the same time, it is inevitable that particular cable systems and particular broadcast markets will progress on different time schedules. Accordingly, issues will arise as to how digital broadcasts may be carried on cable systems that are still entirely analog in their opinions, are partially analog and partially digital, or that are entirely digital. With respect to each type of operation there are potential issues relating to headend equipment, transmission plant, subscriber premises equipment, and type of digital transmission system that may arise. Accordingly, we seek information on what technical modifications may be needed to enable cable systems to deliver ATV signals to subscribers and what costs may be associated with these modifications. How should digital broadcast programming be required to be carried? Should it be required to be carried digitally or would it be adequate to have it carried in whatever format the cable operator selects? Does ''material degradation'' in the statute require that HDTV signals be carried in an HDTV format? Further, we need to begin to consider and seek comment on what, if any, changes may be warranted in the rate regulation process, in the technical standards, or in other rules to account for the changes resulting from ATV carriage.

64. Assuming that an appropriate set of rules can be developed for application at the end of the transition period, an interim process is still needed to govern the transition from NTSC to ATV broadcasting. During the period when broadcast licensees are broadcasting in both the existing NTSC analog mode and in the new ATV mode, what should the carriage obligations be? Must both signals be carried and if not should the change from NTSC to the ATV signals be at the discretion of the cable operator or the broadcaster? Alternatively, should it be based on a fixed transition schedule or on an external event such as the market penetration of digital television

[14] Pub. L. 102–385, 106 Stat. 1460, codified at 47 U.S.C. 521 *et seq.*

[15] Although we recognize that there is an ongoing challenge to the constitutionality of the existing requirements, *Turner Broadcasting System* v. *FCC,* 114 S. Ct. 2445 (1994), we assume for purposes of this discussion the validity of the existing statutory provisions. Parties are welcome to comment on the implications of any of the issues involved in this proceeding in terms of the judicial sustainability of any future requirements.

[16] See Section 614(b)(5) of the Communications Act of 1934, as amended (47 U.S.C. § 534(b)(5)).

[17] Section 614 of the Act requires carriage of ''the primary video, accompanying audio, and line 21 closed caption transmission'' of each local commercial broadcast station carried on the cable system. Also required, to the extent technically feasible, is carriage of program-related material carried in the vertical blanking interval or on subcarriers. Similar requirements are found in Section 615 with respect to noncommercial educational stations. However, ''[r]etransmission of other material in the vertical blanking interval or other nonprogram-related material (including teletext and other subscription and advertiser supported information services) shall be at the discretion of the cable operator.''

receivers or the system operator's transmission of its own digital video programming? Given the complex economic and technical interrelationships between broadcasters and cable operators during this transitional period, are there market mechanisms that can be incorporated into the rules to facilitate cooperation?

V. Third Notice of Inquiry

65. Over 400 MHz of spectrum in the VHF and UHF bands is currently allocated to television broadcasting. As part of our long-term plans to promote spectrum efficiency, we are considering reducing the amount of spectrum allocated television broadcasting, which, as explained above, could be accomplished in the digital environment without reducing the number of broadcasters in any market due to the inherent efficiencies of the proposed digital system. If we were to readjust channel assignments, we would need to know where in current broadcast spectrum broadcasters would eventually be located. Although we previously preliminarily viewed UHF as the part of the spectrum to which all television broadcasting would be moved, we now question the tentative conclusion. Accordingly, at this time, we ask parties to comment on the best place for broadcasting. Specifically, we seek comment on which parts of the VHF and UHF bands are most highly valued for broadcast use (e.g., VHF, lower UHF, middle UHF, upper UHF). We also request commenters to identify the costs associated with placing television broadcasting in each of the four possible locations.

66. Today, TV broadcasters have over 400 MHz assigned to them, but because of interference and market forces, on average only 80 MHz is used per market. In the top markets, around 120 MHz is used. Digital broadcasting will allow much more efficient and intensive use of this spectrum. During the transition period, however, digital TV stations must operate alongside NTSC stations. The digital TV system will enable us to authorize these stations under controlled circumstances (each channel will be available only at certain locations with limits on radiated power and effective antenna height) to minimize interference to NTSC and digital TV service. While these digital stations allow for the development of many new broadcast services, they would be of limited value for other users because they generally would not occupy a contiguous block of channels, there would be no common nationwide channels, and their use would be restricted by the need to avoid interference with NTSC analog television sets. When the transition to digital is completed, however, and the analog NTSC stations are turned off, we have an opportunity to create contiguous blocks of spectrum nationwide. Some or all of this spectrum could be allocated and auctioned. We ask commenters to provide estimates of the total amount of contiguous spectrum blocks that could be created following recovery of the NTSC channels. We also seek estimates of the total market value of these contiguous blocks of spectrum. What services would be most efficiently provided using contiguous blocks of spectrum? We request that commenters explain the methodology and analysis used to derive estimates of the amount and value of contiguous spectrum. In addition to the broadcast industry, we solicit comment from other industries (e.g. land mobile and computer) that may have an interest in providing services using these blocks of spectrum.

Administrative Matters

67. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before April 17, 1995, and reply comments on or before May 17, 1995. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in the proceeding, you must file an original plus four copies of all comments, reply comments, and support comments. If you want each Commissioner to receive a personal copy of your comments you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC 20554.

68. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission Rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

Initial Regulatory Flexibility Analysis

I. Reason for Action

69. The Commission seeks comment not only on a variety of new issues central to the development of advanced television service in the United States, but on several of the tentative decisions made earlier in this proceeding because of the rapidly changing nature of digital television. Advanced television, at the time this proceeding was initiated was envisioned primarily as a system for improving higher picture and sound quality, limited to transmitting/receiving a single channel of television. The emergence of digital technology with its extensive flexibility and the approach of the National Information Infrastructure require that the Commission review the issues surrounding high definition television from a new, more expansive perspective.

II. Objectives of the Action

70. The *Fourth Further Notice of Proposed Rulemaking* portion of this decision solicits comment on a variety of issues, several of which are being revisited, in order to establish an accurate, comprehensive, reliable record on which to base the Commission's ultimate decisions in this proceeding. The record established from comments filed in response to this decision, as well as other Commission decisions, and the combined efforts of the Commission, the affected industries, the Advisory Committee on Advanced Television Service, and ATV testing process, will lead to implementation of ATV in the most harmonious fashion and to selection of the most desirable ATV system.

III. Legal Basis

71. Authority for this action may be found at 47 U.S.C. 154 and 303.

IV. Reporting, Recordkeeping and Other Compliance Requirements

72. Such requirements are not proposed in this phase of the proceeding, but may be raised and comment sought in future decisions in this proceeding.

V. Federal Rues Which Overlap, Duplicate or Conflict With These Rules

73. There are no rules which would overlap, duplicate, or conflict with these rules.

VI. Description, Potential Impact and Number of Small Entities Involved

74. There are approximately 1,539 UHF and VHF, commercial and educational television stations, 2,509 UHF translator stations, 2,261 VHF translator stations, and 1,648 UHF and VHF low power television stations which would be affected by decisions reached in this proceeding. The impact of actions taken in this proceeding on small entities would ultimately depend

on the final decisions taken by the Commission. However, the Commission, in taking future action will continue to balance the need to provide the public with affordable, flexible, accessible high definition television service with the economic and administrative interests of the affected industries.

VII. Any Significant Alternatives Minimizing the Impact on Small Entities Consistent With Stated Objectives.

75. In re-examining issues discussed in past decisions, the Commission is seeking not only to establish a more comprehensive, reliable record, but, with that intent, is soliciting comments and suggestions that hopefully will represent the views of all of the industries concerned, and thus the commission will be better able to minimize whatever negative impact might face small entities as a result of our decisions.

76. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. The IRFA is set forth above. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Notice, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of this Fourth Further Notice of Proposed Rule Making and Third Notice of Inquiry, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq* (1981).

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

[FR Doc. 95–20243 Filed 8–14–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB75 and 1018–AC09

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Rules To List the Copperbelly Water Snake and Lake Erie Water Snake as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is reopening the comment period on the proposals to list the copperbelly water snake (*Nerodia erythrogaster neglecta*) and the Lake Erie water snake (*Nerodia sipedon insularum*) as threatened species. The copperbelly water snake occupies portions of southern Michigan, northwestern Ohio and adjacent northeastern Indiana, southern Indiana, southeastern Illinois, and western Kentucky. The Lake Erie water snake is found only on the Ohio and Ontario islands of western Lake Erie and the adjacent mainland of Ohio.

DATES: The comment period on the two proposals is reopened, effective immediately, and will close on September 30, 1995.

ADDRESSES: Comments and materials concerning these proposals should be sent to the Division of Endangered Species, Bishop Henry Whipple Federal Building, 1 Federal Drive, Ft. Snelling, Minnesota 55111–4056. Comments and materials received will be available for public inspection, by appointment, during normal business hours at that location (612/725–3536; fax 612/725–3526).

FOR FURTHER INFORMATION CONTACT: Robert Adair, Chief, Division of Endangered Species, at the above address and phone number.

SUPPLEMENTARY INFORMATION:

Background

The copperbelly water snake occurs in two disjunct populations: (1) a southern population in the lower Ohio River Valley and the lower Wabash River Valley in southern Indiana, adjacent Illinois, and western Kentucky; and (2) a northern population in southern Michigan, northeastern Indiana, and northwestern Ohio. The Lake Erie water snake is found only on the islands of western Lake Erie and the nearby mainland of Ohio. Both species are threatened by habitat destruction and direct persecution by humans.

These two snakes were proposed for Federal listing as threatened species on August 18, 1993 (58 FR 43857 and 43860). Public hearings were subsequently held in Port Clinton and Put-in-Bay, Ohio, for the Lake Erie water snake; and in Indianapolis, Indiana, for the copperbelly water snake. Public comment periods were reopened and extended to accommodate these hearings (October 12–November 16, 1993, 58 CFR 52740; March 22–April 21, 1994, 59 CFR 13472; May 13–June 16, 1994, 59 CFR 25024). The comment period for the copperbelly water snake was subsequently reopened two additional times to allow the Service to obtain, and for the public to review, additional data concerning intergradation of *N. e. neglecta* with *N. e. flavigaster* and the status of the species in Kentucky (July 11–November 1, 1994, 59 CFR 35307; December 15, 1994–January 13, 1995, 59 CFR 64647).

On April 10, 1995, Public Law 104–6, the Emergency Supplemental Appropriations and Rescissions for the Department of Defense to Preserve and Enhance Military Readiness Act of 1995 (109 Stat 73), was signed and became effective. Language in that act established a moratorium on the final determinations of species to be threatened or endangered and on the designation of new critical habitat. During this period the Service is prohibited from finalizing rules which list additional species as threatened or endangered. This moratorium is in effect until September 30, 1995.

While the moratorium is in effect the Service will continue to monitor these proposed species, their habitats, and threats to their continued existence. The Service will also continue to discuss the conservation needs of the species and the appropriateness of listing them as threatened or endangered. If opportunities arise, the Service will promote and implement conservation actions for the species.

In order to promote the necessary free and open exchange of information and continued discussions with interested parties, the Service is reopening the comment periods on the proposed listings of the Lake Erie water snake and the copperbelly water snake until September 30, 1995. If the listing moratorium is extended or shortened the Service will modify, by **Federal Register** notice, the closing date of these comment periods, as appropriate.

The Service recognizes that there are no explicit provisions in the Endangered Species Act for this additional evaluation and clarification

process. We take very seriously our role in evaluating species for listing and our statutory duty to consider the best available scientific and commercial data. We believe that this additional open comment period will allow a full and fair hearing of all information presented concerning these two snakes.

Public Comments Solicited

The Service intends that any final actions resulting from the two August 18, 1993, proposals will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning these proposed rules continue to be solicited by the Service. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to these species;

(2) The location of any additional populations of these species and the reasons why any habitat should or should not be determined to be critical habitat pursuant to section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of the two species;

(4) Current or planned activities in the subject areas and their possible impacts on these species.

Any final promulgation of the regulations on these species will take into consideration the comments and any additional information received by the Service; such communications may lead to final regulations that differ from the proposals of August 18, 1993.

Author

This notice was prepared by Ronald L. Refsnider (see **ADDRESSES** section).

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

Dated: July 6, 1995.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 95–20109 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 60, No. 157

Tuesday, August 15, 1995

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Determination of Total Amounts and Quota Period for Tariff-Rate Quotas for Raw Cane Sugar and Certain Imported Sugars, Syrups, and Molasses

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: This notice establishes the aggregate quantity of 1,117,195 metric tons, raw value, of raw cane sugar that may be entered under subheading 1701.11.10 during fiscal year 1996 (FY 96). This notice in addition establishes the aggregate quantity of 22,000 metric tons (raw value basis) for certain sugars, syrups and molasses that may be entered under subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44 of the Harmonized Tariff Schedule of the United States (HTS) during FY 96.

EFFECTIVE DATE: August 15, 1995.

ADDRESSES: Inquiries may be mailed or delivered to the Sugar Team Leader, Import Policy and Programs Division, Foreign Agricultural Service, Room 5531, South Building, U.S. Department of Agriculture, Washington, DC 20250–1000.

FOR FURTHER INFORMATION CONTACT: Stephen Hammond (Sugar Team Leader, Import Policy and Programs Division), 202–720–1061.

SUPPLEMENTARY INFORMATION: Paragraph (a)(i) of additional U.S. note 5 to chapter 17 of the HTS provides in pertinent part as follows:

* * * the aggregate quantity of raw cane sugar entered, or withdrawn from warehouse for consumption, under subheading 1701.11.10, during any fiscal year, shall not exceed in the aggregate an amount (expressed in terms of raw value), not less than, 1,117,195 metric tons, as shall be established by the Secretary of Agriculture * * *, and the aggregate quantity of sugars, syrups and molasses entered, or withdrawn from warehouse for consumption, under subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10 and 2106.90.44, during any fiscal year, shall not exceed in the aggregate an amount (expressed in terms of raw value), less than 22,000 metric tons, as shall be established by the Secretary. With either the aggregate quantity for raw cane sugar or the aggregate quantity for syrups, sugars and molasses other than raw cane sugar, the Secretary may reserve a quota quantity for the importation of specialty sugars as defined by the United States Trade Representative.

These provisions of paragraph (a)(i) of additional U.S. note 5 to chapter 17 of the HTS authorize the Secretary of Agriculture to establish the total amounts (expressed in terms of raw value) for imports of raw cane sugar and certain other sugars, syrups, and molasses that may be entered under the subheadings of the HTS subject to the lower tier of duties of the tariff-rate quotas for entry during the fiscal year beginning October 1.

Allocations of the quota amounts among supplying countries and areas will be made by the United States Trade Representative.

Notice

Notice is hereby given that I have determined, in accordance with paragraph (a) of additional U.S. note 5 to chapter 17 of the HTS, that an aggregate quantity of up to 1,117,195 metric tons, raw value, of raw cane sugar described in subheading 1701.11.10 of the HTS may be entered or withdrawn from warehouse for consumption during the period from October 1, 1995 through September 30, 1996. I have further determined that an aggregate quantity of up to 22,000 metric tons, raw value, of certain sugars, syrups, and molasses described in subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44 of the HTS may be entered or withdrawn from warehouse for consumption during the period from October 1, 1995 through September 30, 1996. I have further determined that out of the latter quantity of 22,000 metric tons for certain sugars, syrups, and molasses described in subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44 of the HTS, the quantity of 1,656 metric tons, raw value, is reserved for the importation of specialty sugars. These quota amounts will be allocated among supplying countries and areas by the United States Trade Representative.

Signed at Washington, D.C., on August 3, 1995.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 95–20045 Filed 8–14–95; 8:45 am]

BILLING CODE 3410–10–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Maryland Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Maryland Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 5:00 p.m. on Thursday, September 7, 1995, at the Omni Hotel, 101 W. Fayette Street, Baltimore, Maryland 21201. The purpose of the meeting is: (1) To decide on activity for FY 1996, and (2) gather information from governmental agencies and civil rights organizations on status of civil rights in Maryland.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Dr. Chester Wickwire, 301–516–6320, or Edward Darden, Acting Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, August 4, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–20056 Filed 8–14–95; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the New Jersey Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New Jersey Advisory Committee to the

Commission will convene at 1:00 p.m. and adjourn at 5:00 p.m. on Thursday, September 14, 1995, at the Somerset Marriott, 110 Davidson Street, Somerset, New Jersey 08873. The purpose of the meeting is to plan a project activity for fiscal year 1996, to followup to the Committee's report, *The Use and Abuse of Police Powers: Law Enforcement Practices and the Minority Community in New Jersey*.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Dr. Irene Hill-Smith, 609–468–5546, or Edward Darden, Acting Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, August 4, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–20057 Filed 8–14–95; 8:45 am]

BILLING CODE 6335–01–P

Agenda and Notice of Public Meeting of the New Hampshire Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New Hampshire Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 12:30 p.m. on Wednesday, September 6, 1995, at the Sheraton Wayfarer Inn, Board Room, 121 S. River Road, Bedford, New Hampshire 03110. The purpose of the meeting is to decide on adoption of a report, ''Racial Tensions in New Hampshire: Their Effects on Education and Law Enforcement,'' and develop planning for upcoming activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Chairperson Sylvia Chaplain, 617–227–5662, or Edward Darden, Acting Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, August 3, 1995.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 95–20058 Filed 8–14–95; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; New York & Southern Lumber Corp.; Order Denying Permission To Apply For or Use Export Licenses

In the matter of: New York & Southern Lumber Corporation, 6 West Park Place, Great Neck, New York 11023.

On June 15, 1995, New York & Southern Lumber Corporation was convicted in the United States District Court for the Western District of Louisiana of violating the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701–1706 (1991)) (IEEPA). Specifically, New York & Southern Lumber Corporation was convicted on one count of willfully selling and causing to be exported from Louisiana to Italy, for transshipment to Libya, approximately 7670.46 cubic board meters of southern yellow pine lumber, in violation of the President's embargo on the exportation of all goods to that country.

Section 11(h) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401–2420 (1991, Supp. 1993, and Pub. L. No. 103–277, July 5, 1994)) (the Act),[1] provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating the IEEPA, or certain other provisions of the United States Code, shall be eligible to apply for or use any export license issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 CFR Parts 768–799 (1995)) (the Regulations) for a period of up to 10 years from the date of the conviction. In addition, any export license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to Sections 770.15 and 772.1(g) of the Regulations, upon notification that a person has been convicted of violating the IEEPA, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any export license issued pursuant to, or provided by, the Act and the Regulations, and shall also determine whether to revoke any export license previously issued to such a person.

Having received notice of New York & Southern Lumber Corporation's conviction for violating the IEEPA, and following consultations with the Director, Office of Export Enforcement, I have decided to deny New York & Southern Lumber Corporation permission to apply for or use any export license, including any general license, issued pursuant to, or provided by, the Act and the Regulations, for a period of 10 years from the date of its conviction. The 10-year period ends on June 15, 2005. I have also decided that this denial period be suspended for the entire 10-year period and thereafter waived, provided that, during the period of suspension, New York & Southern Lumber Corporation has committed no violations of the Act or any regulation, order, or license issued under the Act.

Accordingly, it is hereby Ordered:

I. Until June 15, 2005, New York & Southern Lumber Corporation, 6 West Park Place, Great Neck, New York 11023, hereby is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) as a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the department or using any validated or general export license, reexport authorization or other export

[1] The Act expired on August 20, 1994. Executive Order 12924 (59 *Fed. Reg.* 43437, August 23, 1994) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701–1706 (1991)).

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Section 11(h) of the Act. Because of a recent Bureau of Export Administration reorganization, this responsibility now rests with the Director, Office of Exporter Services. Subsequent regulatory references herein to the ''Director, Office of Export Licensing,'' should be read as meaning ''Director, Office of Exporter Services.''

control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States, and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

II. After notice and opportunity for comment as provided in Section 770.15(h) of the Regulations, any person, firm, corporation, or business organization related to New York & Southern Lumber Corporation by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

III. As provided in Section 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) in any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

IV. The 10-year denial period is suspended until June 15, 2005 and shall thereafter be waived, provided that New York & Southern Lumber Corporation, during the period of suspension, has committed no violations of the Act or any regulation, license, or order issued under the Act.

V. This Order is effective immediately.

VI. A copy of this Order shall be delivered to New York & Southern Lumber Corporation.

Dated: July 26, 1995.

Eileen M. Albanese,

Acting Director, Office of Exporter Services.

[FR Doc. 95–20080 Filed 8–14–95; 8:45 am]

BILLING CODE 3510–DT–M

National Institute of Standards and Technology

[Docket No. 950628170–5170–01]

RIN 0693–AB23

Approval of Federal Information Processing Standards Publication 195, Federal Building Grounding and Bonding Requirements for Telecommunications

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce that the Secretary of Commerce has approved a new standard, which will be published as FIPS Publication 195, Federal Building Grounding and Bonding Requirements for Telecommunications.

On December 6, 1994, notice was published in the **Federal Register** (59 FR 62712–62714) that a Federal Information processing Standard (FIPS) for Federal Building Grounding and Bonding Requirements for Telecommunications was being proposed for Federal use.

NIST reviewed written comments submitted by interested parties and other available material. On the basis of this review, NIST recommended that the Secretary approve the standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW, Washington, DC 20230.

This FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section, which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice.

EFFECTIVE DATE: This standard becomes effective February 12, 1996.

ADDRESSES: Interested parties may purchase copies of this standard, including the technical specifications section, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the announcement section of the standard.

FOR FURTHER INFORMATION CONTACT: Mr. A. Glenn Hanson, Institute for Telecommunications Sciences, National Telecommunications and Information Administration, 325 Broadway, Boulder, CO 80303–3328, telephone 303–497–5449; FAX 303–497–6982.

Dated: August 8, 1995.

Samuel Kramer,

Associate Director.

Proposed Federal Information Processing Standards Publication 195 (date) Announcing the Standard for Federal Building Grounding and Bonding Requirements for Telecommunications

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology (NIST) after approval by the Secretary of Commerce pursuant to Section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the Computer Security Act of 1987, Public Law 100–235.

1. Name of Standard

Federal Building Grounding and Bonding Requirements for Telecommunications. (Former Draft Federal Standard 1093).

2. Category of Standard

Telecommunications Standard; Grounding and Bonding.

3. Explanation

This standard, by adoption of ANSI/TIA/EIA–607–1994, Commercial Building Grounding and Bonding Requirements for Telecommunications, specifies the requirements for a uniform telecommunications grounding and bonding infrastructure for Federal buildings where telecommunications equipment is installed. The standard provides the requirements for a ground reference for telecommunications systems within the telecommunications entrance facility, the telecommunications closet, and equipment room; it also provides the requirements for bonding and connecting pathways, cable shields, conductors, and hardware at

telecommunications closets, equipment rooms, and entrance facilities.

This standard supports the telecommunications infrastructure which encompasses telecommunications equipment spaces, cable pathways, grounding, wiring, termination hardware, and other devices, and which provides the basic support for the distribution of all forms of information within a building or campus.

The grounding and bonding approach described in this standard is consistent with the cabling topology specified in Federal Information Processing Standards Publication (FIPS PUB) 174, Federal Building Telecommunications Wiring Standard (ANSI/EIA/TIA–568–1991) and installed in accordance with Federal Information Processing Standards Publication (FIPS PUB) 175, Federal Building Standard for Telecommunications Pathways and Spaces (ANSI/EIA/TIA 569–1990).

4. Approving Authority

Secretary of Commerce.

5. Maintenance Agency

National Communications System, Office of Technology and Standards.

6. Related Documents

a. Federal Information Resources Management Regulations subpart 201–20.303, Standards, and subpart 201–39.1002, Federal Standards.

b. Federal Standard 1037B, Glossary of Telecommunications Terms.

c. Federal Information Processing Standards Publication (FIPS PUB) 174, Federal Building Telecommunications Wiring Standard.

d. Federal Information Processing Standards Publication (FIPS PUB) 175, Federal Building Standard for Telecommunications Pathways and Spaces.

e. Federal Information Processing Standards Publication (FIPS PUB) 176, Residential and Light Commercial Telecommunications Wiring Standard.

f. Federal Information Processing Standards Publication (FIPS PUB) 187, Administrative Standard for the Telecommunications Infrastructure of Federal Buildings.

At the time of publication of this standard, the editions indicated above were valid, All publications are subject to revision, and parties to agreements based on this standard are encouraged to investigate the possibility of applying the most recent editions of these publications.

7. Objectives

The purpose of this standard is to facilitate the planning, design, and installation of telecommunications grounding systems within a Federal government building with or without prior knowledge of the telecommunications systems that will subsequently be installed. This telecommunications grounding and bonding infrastructure supports a multivendor, multiproduct environment as well as the grounding practices for various systems that may be installed on customer premises.

This standard should be useful to anyone engaged in the design, maintenance, renovation, or retrofit or new or existing buildings. This standard will also be useful to manufacturers of telecommunications equipment and to those responsible for purchasing, installing, or operating such equipment and devices.

8. Applicability

This standard shall be used by all departments and agencies of the Federal Government in the planning, design, and installation of telecommunications grounding systems in new Federal buildings. Use of this standard is recommended in the maintenance, renovation, or retrofit of telecommunications grounding systems in existing Federal buildings. Existing building wiring systems, especially those installed prior to the emergence of digital communications and voice/data integration, may not readily accept application of this standard. Modernization of the existing pathway, space, and wiring systems to meet the FIPS 174, FIPS 175, FIPS 176, and FIPS 187 infrastructure standards may require a significant monetary expenditure. Agencies should conduct a thorough facility analysis of existing and renovated building to determine the cost of applying the standards, and develop a migration plan where cost savings can be achieved. This plan will help to ensure timely and efficient completion of the conversion process. The result of following this standard will be a telecommunications infrastructure that supports advanced technology and is compatible with modern telecommunications equipment. This standard is not intended to hasten the obsolescence of telecommunications grounding systems currently in use in Federal facilities; nor is it intended to provide systems engineering or applications guidelines.

9. Specifications

This FIPS adopts ANSI/TIA/EIA–607–1994, Commercial Building Grounding and Bonding Requirements for Telecommunications, The American National Standard specifies the requirements for a uniform telecommunications grounding and bonding infrastructure for a building where telecommunications equipment is to be installed. Areas of the infrastructure include:

(a) A ground reference for telecommunications systems within the telecommunications entrance facility, the telecommunications closet, and equipment room.

b. Bonding and connecting pathways, cable shields, conductors and hardware at telecommunications closets, equipment rooms, and entrance facilities.

c. Interconnectivity to other building grounding systems.

10. Implementation

The use of this standard by Federal departments and agencies is compulsory and binding for the planning, design, and installation of telecommunications grounding systems within new Federal buildings, effective February 12, 1996.

Use of the standard is recommended in the maintenance, renovation, or retrofit of the telecommunications grounding systems within existing buildings.

11. Waivers

Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to Section 3506(b) of Title 44, U.S. Code. Waivers shall be granted only when:

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system or related telecommunications system, or

b. Cause a major adverse financial impact on the operator which is not offset by Governmentwide savings.

Agency heads may act upon a written waiver request containing the information detailed above. Agency heads may also act without a written waiver request when they determine that conditions for meeting the standard cannot be met. Agency heads may approve waivers only by a written decision which explains the basis on which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to: National Institute of Standards and Technology; Attn: FIPS Waiver Decisions, Technology Building, Room B–154; Gaithersburg, MD 20899.

In addition, notice of each waiver granted and each delegation of authority to approve waivers shall be sent promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the **Federal Register**.

When the determination on a waiver applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as a part of the notice of solicitation for offers of an acquisition, or if the waiver determination is made after the notice is published, by amendment to such notice.

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. Sec. 552(b), shall be part of the procurement documentation and retained by the agency.

12. Where to Obtain Copies

Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the Electronic Industries Association.) When ordering, refer to Federal Information Processing Standards Publication 195 (FIPSPUB195), and the title. Payment may be made by check, money order, purchase order, credit card, or deposit account.

[FR Doc. 95–20171 Filed 8–14–95; 8:45 am]

BILLING CODE 3510–CN–M

National Oceanic and Atmospheric Administration

[Docket No. 950728196–5196–01]

Use of the ''NAD 83/GWS 84'' Datum Tag on Mapping Products

AGENCY: Office of National Geodetic Survey, National Ocean Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Office of National Geodetic Survey, redefined and readjusted the North American Datum of 1927 (NAD 27), creating the North American Datum of 1983 (NAD 83). The World Geodetic System of 1984 (WGS 84) was defined by the Defense Mapping Agency (DMA). The interagency Federal Geodetic Control Subcommittee (FGCS) at its meeting on December 7, 1994, recommended that ''All maps and charts produced for North America, at scales of 1:5,000 or smaller, that are based on *either* the North American Datum of 1983 (NAD 83) or the World Geodetic System of 1984 (WGS 84), should have the horizontal datum labeled as NAD 83/WGS 84''.

SUPPLEMENTARY INFORMATION: The following supplementary information was reviewed by FGCS membership. A **Federal Register** notice published on June 29, 1979 (44 FR 37969), by the National Oceanic and Atmospheric Administration (NOAA) provided notification of the establishment of a new Datum (NAD 83) to which the geographic and plane coordinate values for the National Network of Horizontal Geodetic Control would be referenced. A **Federal Register** notice published on June 14, 1989 (54 FR 25318), by NOAA affirmed NAD 83 as the official horizontal datum for all future U.S. surveying and mapping activities performed or financed by the Federal Government. Furthermore, this notice said that to the extent practicable and feasible, all Federal agencies using coordinate information should provide for an orderly transition to NAD 83.

Both NAD 83 and WGS 84 were originally defined (in words) to be geocentric and oriented as the Bureau International de l'Heure (BIH) Terrestrial System. In principle, the three-dimensional coordinates of a single physical point should therefore be the same in both NAD 83 and WGS 84 systems; in practice, small differences are sometimes found. The original intent was that both systems would use the Geodetic Reference System of 1980 (GRS 80) as a reference ellipsoid. As it happened, the WGS 84 ellipsoid differs very slightly from GRS 80. The difference is 0.0001 meters in the semi-minor axis.

Effective January 2, 1994, the WGS 84 reference system was realigned to be compatible with the International Earth Rotation Service's Terrestrial Reference Frame (ITRF).

FOR FURTHER INFORMATION CONTACT: Mr. James E. Stem, N/CG11, SSMC3 Station 9357, National Geodetic Survey, NOAA, Silver Spring, Maryland 20910; telephone: (301) 713–3231, FAX: (301) 713–4176, Internet: jstem@ngs.noaa.gov.

Dated: July 5, 1995.

W. Stanley Wilson,

Assistant Administrator, NOS.

[FR Doc. 95–19408 Filed 8–14–95; 8:45 am]

BILLING CODE 3510–08–M

[I.D. 080495A]

Marine Mammals; Pinniped Removal Authority

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: NMFS announces a public meeting of the Pinniped-Fishery Interaction Task Force (Task Force) on the sea lion/steelhead conflict at the Ballard Locks, Seattle, WA. The Task Force is meeting to review the available information from the 1994–95 wild winter steelhead run and to evaluate the effectiveness of both the authorized intentional lethal taking of individually identified pinnipeds and the alternative actions that were implemented. Following their evaluation, the Task Force may recommend additional actions which they believe to be necessary for the elimination of the problem interaction.

DATES: The public meeting of the Task Force is scheduled for September 6–8, 1995, at 9:00 a.m.

ADDRESSES: The Task Force meeting will be held in Building 9, NOAA's Western Regional Center, 7600 Sand Point Way NE., Seattle, WA.

FOR FURTHER INFORMATION CONTACT: Joe Scordino, Northwest Region, NMFS, 206–526–6150.

SUPPLEMENTARY INFORMATION: NMFS received an application from the State of Washington on July 12, 1994, to consider the lethal removal of California sea lions that are depredating a wild run of winter steelhead as they migrate through the Ballard Locks. Notice of receipt and acceptance of the State's application, along with an explanation of the process set forth in section 120 of the MMPA, was published in the **Federal Register** on August 2, 1994 (59 FR 39325), with a request for public comments. On September 27, 1994, a notice announcing the establishment of the Pinniped-Fishery Interaction Task Force and its first public meeting was published in the **Federal Register** (59 FR 49234). Subsequent meetings were announced through NOAA Press Releases and reported in the local media. The 21–member Task Force, consisting of scientists; representatives of affected conservation and fishing community organizations; and representatives of Washington Department of Fish and Wildlife, Treaty Tribes, U.S. Fish and Wildlife Service, Army Corps of Engineers, and NMFS, held a series of meetings to review and discuss the comments received from the

public during the comment period and all other available information on the sea lion/steelhead conflict. Following the meetings, the Task Force submitted a report giving their recommendations and minority views regarding the State's application.

The Task Force's primary recommendation was to make all practicable attempts to remove all identified predatory sea lions and temporarily hold them in captivity for the duration of the steelhead run. Regarding lethal removal, the Task Force recommended that approval of lethal removal of individually identifiable predatory California sea lions be allowed only under specific conditions. These conditions are explained in detail in the Environmental Assessment On Protecting Winter-run Wild Steelhead From Predation By California Sea Lions In The Lake Washington Ship Canal, Seattle, Washington, January 1995. In brief, the conditions include the use of non-lethal deterrence measures such as an acoustic barrier; all practicable attempts to capture identified predatory sea lions and place them in captivity during the steelhead run; threshold limits on levels of predation which must be exceeded before lethal removal measures may be implemented; the formation of an Animal Care Committee (ACC) to review and recommend protocols for captive maintenance, medical procedures and euthanasia; stipulations that any lethal removals must be done in a humane manner as specified by the ACC; and recommendations for the development of additional information on the construction and operation of Ballard Locks and on use of the facility by the fish.

Following the recommendations of the Task Force, NMFS approved the State's application and specified the terms and conditions for implementation in a Letter of Authorization as published in the **Federal Register** on January 19, 1995 (60 FR 3841). The authorization is valid until June 31, 1997 although it may be modified or revoked by NMFS. To date no California sea lions have been lethally removed by the State under this authorization.

Under 16 U.S.C. 1389(c)(5), the Task Force will now meet to evaluate the effectiveness of alternative actions taken by the State of Washington under the lethal removal authority granted with conditions by NMFS in January 1995. The meeting is open to the public; however, the public will not be allowed to discuss or debate the issues with members of the Task Force at the meetings.

Dated: August 9, 1995.

Patricia Montanio,

Acting Deputy Director, Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–20175 Filed 8–14–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 080895B]

Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of emergency permit 972 (P503R) and emergency permit 973 (P211I).

SUMMARY: Notice is hereby given that NMFS has issued two emergency permits authorizing takes of listed species for the purpose of scientific research and enhancement, subject to certain conditions set forth therein, to the Idaho Department of Fish and Game (IDFG) and the Oregon Department of Fish and Wildlife (ODFW).

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Environmental and Technical Services Division, F/NWO3, NMFS, 525 NE Oregon Street, Portland, OR 97232–4169 (503–230–5400).

SUPPLEMENTARY INFORMATION: Emergency permits 972 and 973 were issued under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing listed fish and wildlife permits (50 CFR parts 217–222).

On June 13, 1995 and June 19, 1995, NMFS received emergency direct take permit applications from IDFG and ODFW, respectively. Each applicant proposed to initiate experimental captive broodstock programs for three populations (total of six populations) of listed Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*). IDFG proposed to collect juveniles from the upper Salmon River (Idaho) tributaries of West Fork Yankee Fork, upper East Fork, and Lemhi River beginning in August 1995. ODFW proposed to collect juveniles from the Lostine River, Catherine Creek, and upper Grande Ronde River (all located in the Grande Ronde River Basin of northeast Oregon) beginning in August 1995. These six populations have been determined to be extremely close to becoming extinct. Both applicants requested 5-year permits for authorization to collect no more than 25 percent of the juveniles from these populations annually and rear them in hatcheries to maturity for propagation.

The applicants stated that these emergency experimental and enhancement measures are required to forestall the extinction of the local populations and to preserve the overall stock structure of Snake River spring/summer chinook salmon. The long-term objective of the programs is to achieve the sustainable recovery of the Snake River salmon populations.

The urgency of the permit requests is based on the limited time remaining in which to successfully intervene and collect genetically representative samples of the record low 1994 spring/summer chinook salmon broodyear from the populations. Delaying juvenile collections would likely result in less genetically diverse samples as up to 60 percent of the populations may migrate downstream in the fall to overwinter in mainstem rivers where individual population groups are indistinguishable. Acquiring and maintaining genetic diversity in hatchery-reared population segments is necessary to minimize adverse breeding alterations and to preserve the wild attributes of the fish.

On August 7, 1995, NMFS issued emergency permits 972 and 973 to IDFG and ODFW, respectively. The permits were written to authorize the collection of listed juveniles in 1995 only, and to allow the hatchery rearing of those fish to adults. The collection of listed juveniles in subsequent years is contingent on the submission of additional permit requests, to be presented to NMFS after the development of long-term management plans for the two programs. The development of long-term management plans will be accomplished by a technical oversight committee made up of representatives from NMFS, the U.S. Fish and Wildlife Service, the State agencies, and the appropriate Tribes. Any additional permits issued for the captive broodstock programs would supersede the emergency permits. Permits 972 and 973 expire on September 30, 1998, when the fish collected in 1995 will be mature.

Issuance of these permits, as required by the ESA, was based on the finding that such permits: (1) Were applied for in good faith, (2) will not operate to the disadvantage of the listed species that are the subject of the permits, and (3) are consistent with the purposes and

policies set forth in section 2 of the ESA and the NMFS regulations governing listed species permits.

Dated: August 9, 1995.

Russell J. Bellmer,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–20176 Filed 8–14–95; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

August 9, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: August 16, 1995.

FOR FURTHER INFORMATION CONTACT: Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6714. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing, special shift and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 59 FR 65531, published on December 20, 1994). Also see 60 FR 9014, published on February 16, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 9, 1995.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on February 13, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period beginning on January 1, 1995 and extending through December 31, 1995.

Effective on August 16, 1995, you are directed to adjust the limits for the following categories, pursuant to the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
237	166,573 dozen.
239	1,043,292 kilograms.
315	68,937,690 square meters.
317/617	22,289,745 square meters.
331/631	2,217,445 dozen pairs.
334/634	232,140 dozen.
335/635	315,483 dozen.
336/636	397,355 dozen.
338	5,020,012 dozen.
339	1,125,569 dozen.
340/640	529,806 dozen of which not more than 185,680 dozen shall be in dress shirts in Categories 340–D/640–D [2].
347/348	781,754 dozen.
352/652	662,258 dozen.
359–C/659–C [3]	562,594 kilograms.
363	40,619,515 numbers.
369–F/369–P [4]	1,986,775 kilograms.
369–R [5]	9,271,615 kilograms.
613/614	11,872,889 square meters.
638/639	196,829 dozen.
647/648	538,508 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

[2] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030; Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030.

[3] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010; Category 369–P: only HTS numbers 6302.60.0010 and 6302.91.0005.

[4] Category 369–F: only HTS number 6302.91.0045;

[5] Category 369–R: only HTS number 6307.10.2020.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–20092 Filed 8–14–95; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Bangladesh

August 9, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: August 11, 1995.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for swing and carryforward and recrediting carryforward not used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see

Federal Register notice 59 FR 65531, published on December 20, 1994). Also see 60 FR 5371, published on January 27, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 9, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 24, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on January 1, 1995 and extends through December 31, 1995.

Effective on August 11, 1995, you are directed to amend the January 24, 1995 directive to adjust the limits for the following categories, as provided under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
331	954,937 dozen pairs.
335	151,933 dozen.
338/339	1,202,962 dozen.
340/640	2,200,785 dozen.
341	1,823,150 dozen.
342/642	296,787 dozen.
347/348	1,717,308 dozen.
363	18,673,393 numbers.
369–S [2]	1,308,513 kilograms.
638/639	1,141,600 dozen.
641	673,081 dozen.
645/646	237,771 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1994.

[2] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.95–20095 Filed 8–14–95; 8:45 am]

BILLING CODE 3510–DR–F

Amendment of Export Visa Requirements for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in the Philippines

August 9, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending visa requirements.

EFFECTIVE DATE: September 1, 1995.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Effective on September 1, 1995, for goods produced or manufactured in the Philippines and exported from the Philippines on and after September 1, 1995, merged and part-category visas will no longer be required for 359–S, 659–S, 359–S/659–S, 669–P and 669–O. Shipments in part-categories 359–S and 659–S will require a 359–O and 659–O visa, respectively. Shipments in part-categories 669–P and 669–O will require a 669 visa. During the period September 1, 1995 through September 30, 1995, U.S. Customs will accept either the new or the old visa. Goods exported on and after October 1, 1995 shall be denied entry if not visaed as 359–O, 659–O and 669. Merchandise in Categories 359–O and 659–O may be visaed as merged Categories 359–O/659–O or the correct part category corresponding to the actual shipment.

A complete list of part and merged categories is included in the following letter to the Commissioner of Customs.

See 52 FR 11308, published on April 8, 1987.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 9, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on April 3, 1987, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directs you to prohibit entry of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines which were not properly visaed by the Government of the Philippines.

Effective on September 1, 1995, for goods produced or manufactured in the Philippines and exported from the Philippines on and after September 1, 1995, merged and part-category visas will no longer be required for 359–S, 659–S, 359–S/659–S, 669–P and 669–O. Shipments in part-categories 359–S and 659–S will require a 359–O and 659–O visa, respectively. Shipments in part-categories 669–P and 669–O will require a 669 visa. During the period September 1, 1995 through September 30, 1995, you are directed to accept either the new or the old visa. Goods exported on and after October 1, 1995 shall be denied entry if not visaed as 359–O, 659–O and 669. Merchandise in Categories 359–O and 659–O may be visaed as merged Categories 359–O/659–O or the correct part category corresponding to the actual shipment.

Following is a complete list of part and merged categories for goods exported from the Philippines:

Part-Category

359–C—HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010.

359–O—All HTS numbers except those in Category 359–C.

369–S—Only HTS number 6307.10.2005.

369–O—All HTS numbers except those in Category 369–S.

659–C—Only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

659–H—Only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

659-O—All HTS numbers except those in Categories 659–C and 659–H.

670–L—Only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025.

670–O—All HTS numbers except those in Category 670–L.

Merged Category

331/631
333/334
338/339
340/640
341/641
342/642
347/348
351/651
352/652
359–C/659–C
359–O/659–O
445/446
638/639
645/646
647/648

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate export visa shall be denied entry and a new visa must be obtained.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–20094 Filed 8–14–95; 8:45 am]

BILLING CODE 3510–DR–F

Temporary Exemption of ''Fashion Samples'' From Visa and Quota Requirements

August 9, 1995.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs exempting ''fashion samples'' from visa and quota requirements for a three-month trial period.

EFFECTIVE DATE: September 1, 1995.

FOR FURTHER INFORMATION CONTACT: Brian Fennessy, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

Effective on September 1, 1995, textile and apparel articles described as ''fashion samples'' which are produced or manufactured in various countries and entered into the United States for consumption shall be exempt from visa and quota requirements for a three-month trial period, beginning on September 1, 1995 and extending through November 30, 1995.

The term ''fashion samples'' is limited to wearing apparel and other textile articles purchased at retail and not imported in multiple units, i.e., no more than a single article in a particular style and/or color. These shipments must not be greater than twenty-four (24) pieces and must accompany a returning buyer. Mail and cargo shipments would not be eligible for treatment as ''fashion samples.''

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 9, 1995.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, all import control directives issued to you by the Chairman, Committee for the Implementation of Textile Agreements. This directive also amends, but does not cancel, all visa requirements for all countries for which visa arrangements are in place with the United States.

Effective on September 1, 1995, for a three-month trial period, you are directed to no longer require a visa for textile and apparel articles described as ''fashion samples'' which are produced or manufactured in various countries and entered into the United States for consumption during the period beginning on September 1, 1995 and extending through November 30, 1995. Also for the period September 1, 1995 through November 30, 1995, these textile and apparel articles shall not be subject to existing quota.

These textile and apparel items, frequently called buyers ''fashion samples'' are limited to textile and apparel items purchased at retail. The ''fashion samples'' must accompany a buyer returning to the United States, must not be more than a single article in a particular style or color and must not exceed more than 24 pieces total. Mail and cargo shipments would not be eligible for treatment as ''fashion samples.''

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 95–20093 Filed 8–14–95; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of the Air Force

Performance Review Boards; List of Members

Below is a list of additional individuals who are eligible to serve on the Performance Review Boards for the Department of the Air Force in accordance with the Air Force Senior Executive Appraisal and Award System.

Air Force Materiel Command

Mr. Blaise J. Durante

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–20082 Filed 8–14–95; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Meeting of the Industry/Government Working Group for Performance Criteria of Military Clothing and Equipment

AGENCY: U.S. Army Soldier Systems Command, DOD.

ACTION: Meeting announcement.

SUMMARY: The Industry/Government Working Group for Performance Criteria of Military Clothing and Equipment will meet on Tuesday, 29 August 1995 at the Soldier Systems Command, Natick Research, Development and Engineering Center, Natick, MA. The meeting will be devoted to Comfort, Durability, and Protection Performance Criteria subgroup activities.

The purpose of the Industry/Government Working Group is to identify performance criteria and test methodology that will be used to measure comfort, durability, and protection performance of military clothing and individual equipment. The U.S. Army is interested in consumer and market research data in the areas of comfort, durability, and flame resistance of fabrics, clothing and equipment, as well as related test methods, standards, specifications, or handbooks.

FOR FURTHER INFORMATION CONTACT: Carole A. Faria, Textile Technologist, at (508) 651–5460.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 95–20059 Filed 8–14–95; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Notice of Availability of the Draft Environmental Impact Statement for the Disposal of Decommissioned, Defueled Cruiser, Ohio Class, and Los Angeles Class Naval Reactor Plants

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 [42 U.S.C. 4321 *et seq.*] and in accordance with the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR Parts 1500–1508), the Department of the Navy has prepared and filed with the U.S. Environmental Protection Agency the Draft Environmental Impact Statement for disposal of reactor plants from U.S. Navy cruisers, OHIO Class submarines and LOS ANGELES Class submarines. The Department of Energy is participating as a cooperating agency and may adopt the Environmental Impact Statement, if appropriate, to fulfill its environmental review obligations under NEPA.

The Department of the Navy invites public comments on the Draft Environmental Impact Statement and will hold public hearings on the document.

DATES: The public comment period for the Draft Environmental Impact Statement ends on October 10, 1995. Written comments regarding the document should be postmarked by this date to ensure consideration in preparation of the Final Environmental Impact Statement. Comments sent after that date will be considered to the extent practicable. Four public hearings (which will also serve as informational meetings), will be held on the Draft Environmental Impact Statement: September 18 in Bremerton, Washington; September 19 in Portland, Oregon; September 20 in Seattle, Washington; and September 21 in Richland, Washington. Locations for these meetings are identified below.

ADDRESSES: Addresses for the public meeting locations are provided below. Written comments on the Draft Environmental Impact Statement, requests for copies of the document, and requests for further information should be directed to Mr. John Gordon (Code 1160), Puget Sound Naval Shipyard, 1400 Farragut Avenue, Bremerton, Washington 98314–5001, telephone (360)476–7111.

SUPPLEMENTARY INFORMATION:

Scope of the Draft EIS

The Draft Environmental Impact Statement analyzes the alternative ways for disposing of decommissioned, defueled, reactor compartments from U.S. Navy nuclear-powered cruisers (BAINBRIDGE, TRUXTUN, LONG BEACH, CALIFORNIA Class and VIRGINIA Class) and submarines (LOS ANGELES and OHIO Classes). The total number of reactor compartments in these classes is expected to be approximately 100. A disposal method for the defueled reactor compartment is needed when a nuclear-powered ship no longer has sufficient military value to justify its continued maintenance, or it is no longer needed. For disposal, the ship can be: (1) placed in protective storage for an extended period followed by permanent disposal or recycling; or (2) prepared for permanent disposal or recycling.

The alternatives examined in detail in the Draft Environmental Impact Statement are the preferred alternative—land burial of the entire defueled reactor compartment at the Department of Energy Low-Level Waste Burial Grounds at Hanford, Washington; the no action alternative—protective waterborne storage for an indefinite period; disposal and reuse of subdivided portions of the reactor compartments; and indefinite storage above ground at Hanford.

Several other alternatives are examined in limited detail. These alternatives include sea disposal; land disposal of entire reactor compartments at other sites; and permanent above ground disposal of entire defueled reactor compartments at Hanford.

Public Scoping Process

On February 24, 1994 the Department of the Navy published a Notice of Intent (59 FR 8915) to prepare an Environmental Impact Statement for Disposal of Decommissioned, Defueled Cruiser OHIO, and LOS ANGELES Class Naval Reactor Plants. Subsequently, the Navy held five public scoping meetings at the following locations:

Bremerton, Washington, March 10, 1994;
Richland, Washington, March 11, 1994;
Olympia, Washington, March 12, 1994;
Portland, Oregon, March 15, 1994; and
Portsmouth, Virginia, March 17, 1994.

The Navy received oral and written comments from individuals and organizations during the scoping process. All of those comments were considered during preparation of the Draft Environmental Impact Statement.

Background Information

Navy reactor plants constructed prior to the USS LOS ANGELES (SSN 688) (referred to as pre-LOS ANGELES Class submarines) share many common design characteristics with reactor plants from cruisers, OHIO Class submarines and LOS ANGELES Class submarines. Pre-LOS ANGELES Class submarine reactor compartments are currently being disposed of at the Department of Energy Hanford Site in Eastern Washington by the Puget Sound Naval Shipyard in Bremerton, Washington, consistent with the Secretary of the Navy's 1984 Record of Decision on disposal of decommissioned, defueled Naval submarine reactor plants. This method of disposal is the preferred alternative for disposal of reactor compartments from cruisers, OHIO Class submarines and LOS ANGELES Class submarines because it has minimal environmental impacts and appears to be preferable from an environmental standpoint to other alternatives.

Except for sea disposal, no new legislation or Congressional action would be required to implement any of these alternatives. In all of the alternatives considered in the Draft Environmental Impact Statement there would be no spent nuclear fuel left in the reactor compartments; all the spent nuclear fuel would be removed before disposal. Management of the naval spent nuclear fuel has been addressed in a separate Department of Energy Environmental Impact Statement. Nevertheless, there would be some other radioactive materials left within the reactor compartments, and the Draft Environmental Impact Statement evaluates disposal of these residual materials. Types of U.S. Navy nuclear-powered ships that are not expected to be decommissioned in the next 20 years (e.g., aircraft carriers, SEAWOLF Class submarines) are not included in the Draft Environmental Impact Statement.

Availability of the Draft Environmental Impact Statement

The Draft Environmental Impact Statement has been distributed to various federal, state, and local government agencies, tribes, elected officials, and special interest groups. Requests for copies of the Draft Environmental Impact Statement should be directed to the address listed above. In addition, copies of the Draft Environmental Impact Statement and comments received during scoping are

also available for public inspection in the following libraries:

Kitsap County Public Library, Main Branch, 1301 Sylvan Way, Bremerton, Washington, (360)377–7601

Public Reading Room for U.S. Department of Energy, Richland Operations Office, Washington State University, Tri-Cities, 100 Sprout Road, Room 130 West, Richland, Washington, (509)376–8583

Suzallo Library, University of Washington, Seattle, Washington, (206)543–9158

Multnomah County Library, 801 Southwest 10th Avenue, Portland, Oregon, (503)248–5234

Information Meetings and Public Hearings

The Department of the Navy will hold public hearings to inform the public of the Draft Environmental Impact Statement and to solicit comments. Hearings will be held at the following locations:

September 18, 1995, 7 pm–10 pm

Bremerton, Washington, Bremerton High School, Performing Arts Center, 1500 13th St.

September 19, 1995, 7 pm–10 pm

Portland, Oregon, Red Lion Inn, Jantzen Beach, 909 N. Hayden Island Dr.

September 20, 1995, 7 pm–10 pm

Seattle, Washington, H.M. Jackson Fed. Bldg, 915 2nd Ave.

September 21, 1995, 7 pm–10 pm

Richland, Washington, Shiloh Inn, Rivershore (O'Callahan's), 50 Comstock

The hearings will be conducted by the Navy. Federal, state, tribal and local agencies and interested parties are invited to attend or be represented at the hearings. All statements, both oral and written, will become part of the public record. Equal weight will be given to both oral and written comments.

Dated: August 3, 1995.

Michael A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 95–20083 Filed 8–14–95; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP95–652–000]

Eastern Shore Natural Gas Company; Notice of Request Under Blanket Authorization

August 9, 1995.

Take notice that on July 31, 1995, Eastern Shore Natural Gas Company (Eastern Shore), P.O. Box 1769, Dover, Delaware 19903, filed in Docket No. CP95–652–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate new delivery point facilities for service to Delaware Division of Chesapeake Utilities Corporation (Delaware Division), an existing customer, in New Castle County, Delaware, under Eastern Shore's blanket certificate issued in Docket No. CP83–40–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Eastern Shore proposes to install a meter and appurtenant equipment and approximately 200 feet of 4-inch service line to comprise the Armstrong Corner delivery point. It is stated that Eastern Shore would use the delivery point for the delivery on a firm basis of approximately 1,084 Mcf of gas on a peak day to Delaware Division and approximately 127,730 Mcf on an annual basis. It is further stated that the volumes to be delivered would not exceed Delaware Division's currently authorized firm entitlement from Eastern Shore. It is explained that the construction cost would be paid by Delaware Division. Eastern Shore states that construction of the delivery point would not affect its peak day or annual deliveries to other firm customers. It is asserted that Eastern Shore's tariff does not prohibit the addition of delivery points on behalf of existing customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–20088 Filed 8–14–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP95–655–000]

Northwest Pipeline Corporation; Notice of Request Under Blanket Authorization

August 9, 1995.

Take notice that on August 1, 1995, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed a request with the Commission in Docket No. CP95–655–000 pursuant to Sections 157.205, 157.211 and 157.216(b) of the Commission's Regulations under the Natural Gas Act (NGA) for permission to, authorized in blanket certificate issued in Docket No. CP82–433–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest proposes to remove and retire two existing 8-inch regulators and appurtenances at the North Seattle Meter Station (Meter Station) in Smohomish County, Washington, at the request of Washington Natural Gas Company (Washington Natural). Northwest further proposes to construct and operate appurtenant replacement facilities at the Meter Station which would accommodate a higher delivery pressure and additional delivery capacity. Northwest states that the removal of the regulators will change the design capacity of the Meter Station from 117,500 Dth per day at the 260 psig to approximately 165,000 Dth per day at a minimum of 500 psig, with higher capacities and pressures. The estimated cost of the proposed facility upgrade would be approximately $75,646 which would be reimbursed by Washington Natural.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed

for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–20087 Filed 8–14–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–295–002]

Koch Gateway Pipeline Co.; Notice of Application for Special Permission to Withdraw Suspended Tariff Sheets

August 9, 1995.

Take notice that on August 4, 1995, Koch Gateway Pipeline Company (Koch Gateway) tendered an application for special permission to withdraw the tariff sheets suspended in this docket.

Koch Gateway states that after evaluating prospective surcharges as an alternative to the direct bill recovery mechanism, Koch Gateway intends to submit a new filing proposing prospective surcharges as the recovery mechanism for the balance of its Account No. 191. Because Koch Gateway's current transportation customers will be subject to these proposed surcharges and were not subject to the direct bill mechanism filed in this docket, Koch Gateway believes that administratively, it would be more efficient, and would be in the best interest of all interested parties, to file the proposed surcharges under a new docket number. Therefore, Koch Gateway requests the Commission's special permission to withdraw the direct bill filing in this docket.

Koch Gateway states that copies of its application are being served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest said application should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Regulations. All such protests should be filed on or before August 16, 1995. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of the filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–20086 Filed 8–11–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–396–000]

Tennessee Gas Pipeline Co.; Notice of Filing of Stipulation and Agreement

August 9, 1995.

Take notice that on July 25, 1995, Tennessee Gas Pipeline Company (Tennessee), pursuant to Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602, submitted a Stipulation and Agreement as settlement of certain system operations and tariff-related matters at issue in Tennessee's Docket Nos. RP95–63, RP95–88 and RP95–112.

Tennessee states that copies of the stipulation and agreement have been served to Tennessee's customers, affected parties and affected state regulatory commissions.

Any person desiring to file comments on the stipulation and agreement should file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rule 602(f)(2) of the Commission's Rules of Practice and Procedure. All comments should be filed in Docket No. RP95–396–000 on or before August 14, 1995. Reply comments must be filed on or before August 24, 1995.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–20085 Filed 8–14–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–415–000]

East Tennessee Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

August 9, 1995.

Take notice that on August 7, 1995, East Tennessee Natural Gas Company (East Tennessee), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheet with a proposed effective date of July 1, 1995:

Fourth Revised Sheet No. 4

East Tennessee states that it is making this filing pursuant to its Rate Schedule LMS–MA, Section 1.5 which requires East Tennessee to reflect in its no-notice, Daily Demand Service (DDS) rates changes in the Daily Demand Service rates of its upstream transporter, Tennessee Gas Pipeline Company (Tennessee). East Tennessee further states that consistent with that language, East Tennessee seeks to revise its Daily Variance Charge. The revised tariff sheet reflects the decrease in Tennessee's Rate Schedule LMS–MA Daily Demand Service and Daily Variance Charge rates pursuant to Tennessee's implementation of its motion rates in Docket No. RP95–112.

East Tennessee states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214. All such petitions or protests should be filed on or before August 16, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file and available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–20084 Filed 8–14–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EG95–72–000, et al.]

EI Services Colombia, et al.; Electric Rate and Corporate Regulation Filings

August 9, 1995.

Take notice that the following filings have been made with the Commission:

1. EI Services Colombia

[Docket No. EG95–72–000]

On August 2, 1995, EI Services Colombia (''EI Colombia''), c/o Energy Initiatives, Inc., One Upper Pond Road, Parsippany, New Jersey 07054, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to 18 CFR Part 365 of the Commission's Regulations.

According to its application, EI Colombia, a Colombian corporation, was formed to operate and maintain a gas fired electric generating facility with a capacity of up to 980 MW to be located in Soledad near Barranquilla, Colombia (the ''Facility''). The Applicant states that it intends to operate the Facility

pursuant to an operation and maintenance agreement with the Facility's owner, Termobarranquilla S.A., Empresa de Servicios Publicos (''TEBSA''), a Colombian corporation. All of the Facility's electricity will be sold at wholesale to Corporacion Electrica de la Costa Atlantica, a Colombian entity.

Comment date: August 28, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Guaracachi America, Inc.

[Docket No. EG95–73–000]

On August 4, 1995, Guaracachi America, Inc. (''Applicant''), c/o Energy Initiatives, Inc., One Upper Pond Road, Parsippany, NJ 07054–1050, filed a request for a determination by the Commission, pursuant to 18 CFR Part 365 of the Commission's Regulations, that Applicant is an exempt wholesale generator. Applicant states that all communications regarding this application should be addressed to: Michael B. Barr, Esq., Hunton & Williams, 2000 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

Applicant states that it is a Delaware corporation whose sole business purpose is to acquire and own capital stock in Empresa Guaracachi, S.A. (''Empresa Guaracachi''), a Bolivian company which owns and operates electric generating facilities in the Republic of Bolivia. Applicant states that upon Applicant's acquisition of capital stock in Empresa Guaracachi, Applicant will indirectly own and operate the electric generating facilities owned by Empresa Guaracachi within the meaning of Section 32(a)(1) of PUHCA. Empresa Guaracachi is a Bolivian corporation which owns and operates electric generating facilities in the Republic of Bolivia. Empresa Guaracachi was one of the three generating companies formed by the Government of Bolivia through the spin off of the principal generating assets of Empresa Nacional de Electricedad S.A. (''ENDE''), the Bolivian government owned electric company, as part of the capitalization of ENDE pursuant to the Capitalization Law No. 1544, which was passed by the Bolivian Congress on March 21, 1994.

Comment date: August 28, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Enron Power Marketing, Inc.

[Docket No. ER94–24–009]

Take notice that on July 31, 1995, Enron Power Marketing, Inc. filed certain information as required by the Commission's December 2, 1993, letter-order in Docket No. ER94–24–000. Copies of Enron Power Marketing, Inc.'s informational filing are on file with the Commission and are available for public inspection.

4. North American Energy Conservation, Inc.

[Docket No. ER94–152–006]

Take notice that on July 31, 1995, North American Energy Conservation, Inc. filed certain information as required by the Commission's February 10, 1994, order in Docket No. ER94–152–000. Copies of North American Energy Conservation Inc.'s informational filing are on file with the Commission and are available for public inspection.

5. Rainbow Energy Marketing Corporation

[Docket No. ER94–1061–005]

Take notice that on August 1, 1995, Rainbow Energy Marketing Corporation filed certain information as required by the Commission's June 10, 1994, order in Docket No. ER94–1061–000. Copies of Rainbow Marketing Corporation's informational filing are on file with the Commission and are available for public inspection.

6. Direct Electric, Inc.

[Docket No. ER94–1161–005]

Take notice that on August 2, 1995, Direct Electric, Inc. filed certain information as required by the Commission's July 18, 1994, order in Docket No. ER94–1161–000. Copies of Direct Electric Inc.'s informational filing are on file with the Commission and are available for public inspection.

7. C.C. Pace Energy Services

[Docket No. ER94–1181–004]

Take notice that on July 26, 1995, C.C. Pace Energy Services, filed certain information as required by the Commission's July 25, 1994, letter-order in Docket No. ER94–1181–000. Copies of C.C. Pace Energy Services's informational filing are on file with the Commission and are available for public inspection.

8. MidCon Power Services Corp. Inc.

[Docket No. ER94–1329–004]

Take notice that on July 28, 1995, MidCon Power Services Corp. (MidCon) filed certain information as required by the Commission's August 11, 1994, order in Docket No. ER94–1329–000. Copies of MidCon's informational filing are on file with the Commission and are available for public inspection.

9. Coastal Electric Services Company

[Docket No. ER94–1450–006]

Take notice that on July 31, 1995, Coastal Electric Services Company filed certain information as required by the Commission's September 29, 1994, order in Docket No. ER94–1450–000. Copies of Coastal Electric Services Company's informational filing are on file with the Commission and are available for public inspection.

10. Tennessee Power Company

[Docket No. ER95–581–001]

Take notice that on July 21, 1995, Tennessee Power Company filed certain information as required by the Commission's April 28, 1995, order in Docket No. ER95–581–000. Copies of Tennessee Power Company's informational filing are on file with the Commission and are available for public inspection.

11. Sierra Pacific Power Company

[Docket No. ER95–1059–000]

Take notice that on July 7, 1995, Sierra Pacific Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: August 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Commonwealth Edison Company

[Docket No. ER95–1092–000]

Take notice that on August 4, 1995, Commonwealth Edison Company (ComEd) amended the filing made earlier in this proceeding to submit Service Agreements, establishing Enron Power Marketing, Inc. (Enron), and Wisconsin Power & Light Company (WP&L), as customers under the terms of ComEd's Transmission Service tariff FTD–1 Tariff). The Commission has previously designated the FTS–1 Tariff as FERC Electric Tariff, Original Volume No. 4.

ComEd requests an effective date of July 7, 1995, and accordingly seeks waiver of the Commission's notice requirements. Copies of the filing were served upon Enron, WP&L and the Illinois Commerce Commission.

Comment date: August 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Arizona Public Service Company

[Docket No. ER95–1210–000]

Take notice that on July 21, 1995, Arizona Public Service Company

tendered for filing an amendment in the above-referenced docket.

Comment date: August 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Wisconsin Electric Power Company

[Docket No. ER95–1450–000]

Take notice that Wisconsin Electric Power Company (Wisconsin Electric) on July 31, 1995, tendered for filing an Electric Service Agreement between itself and Upper Peninsula Power Company (UPPCo). The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff (CST).

Wisconsin Electric requests waiver of the Commission's notice requirements and requests an effective date of July 17, 1995 in order to facilitate economic transactions under the CTS. Copies of the filing have been served on UPPCo, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: August 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Northeast Utilities Service Company

[Docket No. ER95–1451–000]

Take notice that Northeast Utilities Service Company (NUSCO) on July 31, 1995, tendered for filing a Service Agreement and a Certificate of Concurrence with Massachusetts Municipal Wholesale Electric Company (MMWEC) under the NU System Companies' System Power Sales/ Exchange Tariff No. 6.

NUSCO states that a copy of this filing has been mailed to MMWEC.

NUSCO requests that the Service Agreement become effective on September 1, 1995.

Comment date: August 24, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–20140 Filed 8–14–95; 8:45 am]

BILLING CODE 6717–01–P

Federal Energy Regulatory Commission

[Docket No. CP91–2206–010, et al.]

Tennessee Gas Pipeline Company, et al.; Natural Gas Certificate Filings

August 8, 1995.

Take notice that the following filings have been made with the Commission:

1. Tennessee Gas Pipeline Company

[Docket No. CP91–2206–010]

Take notice that on August 3, 1995, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas, 77252, filed an abbreviated application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act, 15 U.S.C. § 717f(b), (c), and 18 CFR Part 157, for authorization to amend the certificate of public convenience and necessity issued to Tennessee in this proceeding on May 20, 1992 and June 30, 1992 (the Elgen Certificate).

Tennessee requests the Commission to: (1) grant abandonment of certain firm natural gas transportation service provided for Pepperell Power Associates Limited Partnership (Pepperell), under a November 1, 1992 firm natural gas transportation agreement between Pepperell and Tennessee, Tennessee's Rate Schedule NET (the NET Contract), and the Elgen Certificate; and (2) permit Commonwealth Gas Company (Commonwealth) to assume this transportation service by substituting Commonwealth in place of Pepperell under the NET Contract and the Elgen Certificate.

Comment date: August 29, 1995, in accordance with the first paragraph of Standard Paragraph F at the end of this notice.

2. Southern Natural Gas Company

[Docket No. CP95–83–001]

Take notice that on August 4, 1995, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP95–83–001 a petition to amend the order issued March 17, 1995, in Docket No. CP95–83–000 pursuant to Section 7(b) of the Natural Gas Act to abandon by sale the 4.8-mile Corinne Field Pipeline instead of in place as authorized by the March 17, 1995, order, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By order issued March 17, 1995, Southern was authorized to abandon by sale the Black Warrior Pipeline to Geodyne Gas Company (Geodyne), abandon in place the Corinne Field Pipeline and abandon by removal two field compressors and a measuring and receiving station.

Southern requests amendment of the March 17, 1995 order so as to abandon by sale the Corinne Field Pipeline to Geodyne. Southern states that the Corinne Field Pipeline extends from Milepost 4.45 on the Black Warrior Pipeline in Monroe County, Mississippi, to an interconnection with Southern's Muldon Pipeline in Monroe County, Mississippi. Southern also states that it will remove the Corinne Field receiving station for which it received abandonment authorization under the March 17, 1995, order, and install it at the interconnection of the Corinne Field Pipeline and Southern's 30-inch Muldon Pipeline near Milepost 35.311 as an eligible facility under its Part 157, Subpart F blanket certificate.

Comment date: August 19, 1995, in accordance with the first paragraph of Standard Paragraph F at the end of this notice.

3. Tennessee Gas Pipeline Company

[Docket No. CP95–659–000]

Take notice that on August 2, 1995, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP95–659–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate a delivery point for deliveries of natural gas to an existing customer, Bolivar Gas Department (Bolivar), under Tennessee's blanket certificate issued in Docket No. CP82–413–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee proposes to install a 3-inch hot tap assembly and electronic gas measurement (EGM) equipment in order to provide a delivery point to Bolivar on its system at M.P. 72 − 4+7.61 located in McNairy County, Tennessee. The hot tap assembly would be installed on Tennessee's existing right-of-way and the EGM would be located on an adjacent site provided by Bolivar. Tennessee states that the total cost of the new facilities would be $38,820 and

that Tennessee would be reimbursed 100% for the cost of these facilities.

Tennessee would deliver up to 6,575 Dth per day to Bolivar at this new delivery point. Tennessee states that it does not propose to increase the maximum contract quantity under an existing FT–GS contract with Bolivar and that there would be no impact on Tennessee's peak day or annual deliveries as a result of establishing this delivery point.

Comment date: September 22, 1995, in accordance with Standard Paragraph G at the end of this notice.

4. Columbia Gas Transmission Corporation

[Docket No. CP95–665–000]

Take notice that on August 4, 1995, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP95–665–000 a request pursuant to Sections 157.205, 157.211 ad 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211 and 157.212) for authorization to construct and operate a new point of delivery to Baltimore Gas & Electric Company (BGE), in Baltimore County, Maryland, and reassign and reduce Maximum Daily Delivery Obligations (MDDO's) at another existing point to BGE, under Columbia's blanket certificate issued in Docket No. CP83–76–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

The proposed delivery point for BGE would be used to provide up to 412 Dth/Day for residential service to serve Edrich Manor, a new subdivision. Columbia states that it will provide the service pursuant to Columbia's blanket certificate issued in Docket No. CP86–240–000 and that the transportation service to be initially provided through the new point of delivery will be firm service provided under Columbia's Rate Schedules SST or FTS, or it may be provided under firm capacity released by other shippers.

Columbia states that BGE has not requested an increase in its peak day entitlements in conjunction with this request for a new point of delivery and, therefore, there is no impact on Columbia's existing peak day obligations to its customers as a result of the construction and operation of the proposed new point of delivery. Columbia states that BGE agrees to amend its existing SST Service Agreement with an MDDO increase for Edrich Manor and a like reduction to the granite MDDO by 412 Dth/Day.

Columbia states that the estimated cost to establish this point of delivery will be approximately $41,000, plus gross-up for income tax purposes. Columbia states that BGE has agreed to reimburse Columbia for the actual cost.

Columbia states that it will comply with all of the environmental requirements of Section 157.206(d) of the Commission's regulations prior to the construction of any facilities.

Comment date: September 22, 1995, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or to make any protest with reference to said application should on or before the comment date, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and/or permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95–20089 Filed 8–14–95; 8:45 am]

BILLING CODE 6717–01–M

Southeastern Power Administration

[Rate Order No. SEPA–34]

Jim Woodruff Project

AGENCY: Southeastern Power Administration (Southeastern), DOE.

ACTION: Notice.

SUMMARY: On August 8, 1995, the Deputy Secretary, U. S. Department of Energy, confirmed and approved, on an interim basis, Rate Schedules JW–1–E and JW–2–B for the Jim Woodruff Project's power. The rates were approved on an interim basis through September 19, 2000, and are subject to confirmation and approval by the Federal Regulatory Commission on a final basis.

DATES: Approval of rates on an interim basis is effective September 20, 1995.

FOR FURTHER INFORMATION CONTACT: E. B. Crenshaw, Acting Assistant Administrator, Finance and Marketing, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635.

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission (FERC) by Order issued September 6, 1994, in Docket No. EF94–3031–000, confirmed and approved Wholesale Power Rate Schedule JW–1–D through September 19, 1995. By Order issued July 16, 1991, the FERC approved Rate Schedule JW–2–B through September 19, 1995. Rate Schedule JW–1–E replaces Rate Schedule JW–1–D. Rate Schedule JW–2–B is to be extended to September 19, 2000.

Issued in Washington, D.C., August 8, 1995.

Bill White,

Deputy Secretary.

Order Confirming and Approving Power Parts on an Interim basis

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Public Law 95–91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the Southeastern Power Administration (Southeastern) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–108, effective May 30, 1986, 51 FR 19744 (May 30, 1986), the Secretary of Energy delegated to the Administrator the authority to develop power and transmission rates, and delegated to the Under Secretary the authority to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Administrator under the delegation. On November 4, 1993, the Secretary of Energy issued Amendment No. 3 to Delegation Order No. 0204–108, granting the Deputy Secretary authority to confirm, approve, and place into effect Southeastern's rates on an interim basis. This rate order is issued by the Deputy Secretary pursuant to said notice.

Background

Power from the Jim Woodruff Project is presently sold under Wholesale Power Rate Schedules JW–1–D and JW–2–B. Rate Schedule JW–2–B was approved by the FERC on July 16, 1991, for a period ending September 19, 1995 (56 FERC 62035).[1] Rate Schedule JW–1–D was approved by the FERC on September 6, 1994, (68 FERC 62216) for a period ending September 19, 1995.[2]

Public Notice and Comment

Southeastern prepared a Power Repayment Study dated February 1995 for the Jim Woodruff Project which showed that revenues at current rates were more than adequate to meet repayment criteria, with a reserve of about seven percent. On February 7, 1995, by **Federal Register** Notice 60 F.R. 7181, Southeastern proposed to extend the current Rate Schedules five years, to September 19, 2000. The Notice also announced a Public Information and Comment Forum to be held March 23, 1995, in Tallahassee, Florida, with a deadline for written comments of May 12, 1995. The Public Information and Comment Forum was canceled after no interested party expressed an intention to attend. Southeastern received one written comment from one party representing the six preference customers. The preference customers requested a rate reduction of about five percent.

Southeastern prepared a revised repayment study with the requested reduction to preference customers in May of 1995, which included a reserve of about two and one-half percent. Southeastern generally includes a reserve of one to three percent in its rates. Even with a rate reduction of about five percent to preference customers, the repayment study meets repayment criteria with a reserve of about two and one-half percent. Southeastern is proposing Rate Schedule JW–1–E, which includes the requested reduction, to replace Rate Schedule JW–1–D. Rate Schedule JW–1–E establishes a charge of $5.13/kw/month for capacity and 15.2 mills/kwh for energy. Rate Schedule JW–2–B, which is a formula rate to Florida Power Corporation, is to be extended. Under this rate, Florida Power pays 60 percent of their avoided fuel cost. These rate schedules are to be in effect from September 20, 1995, to September 19, 2000.

Discussion

System Repayment

An examination of Southeastern's revised system power repayment study, prepared in May 1995, for the Jim Woodruff Project, shows that with the proposed rates, all system power costs are paid within the 50-year repayment period required by existing law and DOE Procedure RA 6120.2. The Acting Administrator of Southeastern has certified that the rates are consistent with applicable law and that they are the lowest possible rates to customers consistent with sound business principles.

Environmental Impact

Southeastern has reviewed the possible environmental impacts of the rate adjustment under consideration and has concluded that, because the adjusted rates would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, the proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Availability of Information

Information regarding these rates, including studies, and other supporting materials is available for public review in the offices of Southeastern Power Administration, Samuel Elbert Building, Elberton, Georgia 30635, and in the Power Marketing Liaison Office, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D. C. 20585.

Submission to the Federal Energy Regulatory Commission

The rates hereinafter confirmed and approved on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis for a period beginning September 20, 1995, and ending no later than September 19, 2000.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective September 20, 1995, attached Wholesale Power Rate Schedules JW–1–E and JW–2–B. The rate schedules shall remain in effect on an interim basis through September 19, 2000, unless such period is extended or until the FERC confirms and approves them or substitute rate schedules on a final basis.

Issued in Washington, D.C., this 8th day of August.

Bill White,

Deputy Secretary.

[FR Doc. 95–20150 Filed 8–14–95; 8:45 am]

BILLING CODE 6450–01–P

[1] Rate Schedule JW–2–B was the rate for non-firm energy sold to the Florida Power Corporation.

[2] Rate Schedule JW–1–D was the modification of preference customer firm power rate previously approved by FERC to remain in effect through September 19, 1995. The previously approved rate would have increased over a five-year period from $2.70 to $5.94/kw month of contract demand and from 8 mills to 17.6 mills/kwh of associated energy. The Rate Schedule JW–1–D approved by FERC on September 6, 1994, established a rate of $5.40/kw month of contract demand and 16 mills per kwh for associated energy through September 19, 1995.

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to OMB for Review

August 10, 1995.

The Federal Communications, 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 collections, as required by the Paperwork Reduction Act of 1980, (44 U.S.C. 3507). Comments concerning the Commission's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated information techniques are requested.

Persons wishing to comment on this information collection should submit comments on or before September 22, 1995.

Direct all comments to Timothy Fain, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–3561. and Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

For additional information or copies of the information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov. Copies may also be obtained via fax by contacting the Commission's Fax on Demand System. To obtain fax copies call 202–418–0177 from the handset on your fax machine, and enter the document retrieval number indicated below, when prompted.

The FCC is proposing to revise FCC Form 349 Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station. The revised FCC 349 will elicit information to identify the nature of the proposed modification, change or amendment being made by the FM Translator/Booster application. The addition of this services of check boxes will expedite processing by enabling FCC staff to readily identify the nature of the application without needing to contact the applicant. This revision will not impose any additional burden on the applicants. We have requested that OMB approval the above changes by September 22, 1995.

OMB Approval Number: 3060–0405.

Title: Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station.

Form No.: FCC 349.

Type of Review: Revision of an existing collection.

Respondents: Business or other for-profit.

Number of Respondents: 500.

Estimated Time Per Response: 15 hours.

Total Annual Burden: 7,500 hours.

Needs and Uses: FCC Form 349 is used to apply for authority to construct a new or FM translator or FM booster broadcast station, or make changes in the existing facilities of such station. The data is used by FCC staff to ensure that the applicant meets basic statutor requirements and will not cause interference to other licensed broadcast services.

Fax Document Retrieval Number: 600405.

Federal Communications Commission.

LaVera F. Marshall,

Acting Secretary.

[FR Doc. 95–20188 Filed 8–14–95; 8:45 am]

BILLING CODE 6712–01–F

[CC Docket No. 92–237; DA 95–1721]

Administration of the North American Numbering Plan

AGENCY: Federal Communications Commission.

ACTION: Policy statement; Public notice.

SUMMARY: On August 9, 1995, the Common Carrier Bureau of the Federal Communications Commission released a Public Notice (Notice) requesting nominations for membership on the North American Numbering Council Advisory Committee. The Notice listed the requirements for applications and nominations for membership.

DATES: Interested parties may file applications or nominations for Council membership on or before September 14, 1995.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Mike Specht (Senior Engineer) 202–418–2378, Scott Shefferman (Attorney) (202) 418–2332, or Elizabeth Nightingale (Attorney) (202) 418–2352, Domestic Facilities Division, Common Carrier Bureau, Room 6008, Washington, DC 20554.

SUPPLEMENTARY INFORMATION: FCC Requests Nominations for Membership on the North American Numbering Council Advisory Committee; Public Notice [CC Docket No. 92–237; DA 95–1721].

Released: August 9, 1995.

1. On July 13, 1995, the Commission adopted a new model for administration of the North American Numbering Plan (NANP) by announcing the establishment of the North American Numbering Council (NANC or Council). *See Administration of the North American Numbering Plan,* CC Docket No. 92–237, Report and Order, FCC 95–283 (released July 13, 1995) 60 FR 38737, July 28, 1995. The NANP is the basic numbering scheme that permits calls to be placed within the United States, Canada, Bermuda and most of the Caribbean with, at most, 11 digit dialing. The model is guided by several principles, including maintaining and fostering an integrated approach to number administration throughout North America and providing a structure for number administration that is impartial and pro-competitive. The NANC will be organized under the provisions of the Federal Advisory Committee Act, 5 U.S.C., App. 2 (1988) (FACA), and will advise the Commission on numbering issues, select and guide a neutral NANP Administrator, apply Commission policy to resolve issues arising in the administration of the NANP, and conduct initial dispute resolution of all issues. The NANP Administrator will process number resource applications and maintain administrative numbering databases. Operational details and additional activities of the NANP Administrator are to be determined by the NANC. The Commission, with other NANP member countries, will oversee the NANC. Because the Council will include representatives from every sector of the telecommunications industry, as well as members representing NANP member countries, the states, and consumers, the Council's membership will be impartial and well balanced.

2. In carrying out its responsibilities, the Council shall assure that NANP administration supports the following policy objectives: (1) That the NANP facilitates entry into the communications marketplace by making numbering resources available on an efficient, timely basis to communications service providers; (2) that the NANP does not unduly favor or disfavor any particular industry segment or group of consumers; (3) that the NANP gives due regard to state and local interests; (4) that the NANP does not unduly favor one technology over another; (5) that the NANP gives consumers easy access to the public switched telephone network; and (6) that the NANP ensure that the interests of all NANP member countries are addressed fairly and efficiently, fostering continued integration of the NANP across NANP member countries.

I. Formation of the Advisory Committee

A. Procedure for Establishing an Advisory Committee

3. A Federal Advisory Committee may be established only after consultation with the Office of Management and Budget (OMB) and the General Services Administration (GSA) and the filing of a charter with Congress. The

Commission will prepare a charter and initiate the requisite consultation process prior to formation of the Council.

B. Participants

4. Each interested party will have the opportunity to be adequately represented. Further, the Commission must be satisfied that the group, as a whole, reflects a proper balance and mix of interests.

5. Entities may apply for, or nominate another entity for, membership on the Council. Each application or nomination must include:

(a) the name and title of the applicant or nominee and a description of the interests the applicant or nominee will represent;

(b) the applicant's or nominee's mail address, e-mail address (where available), telephone number and facsimile number;

(c) evidence that the applicant or nominee is authorized to represent parties related to the interests the applicant or nominee proposes to represent;

(d) the reasons why the applicant or nominee is an interested party; and

(e) a written commitment that the applicant or nominee shall actively participate in good faith in the objectives of the Council.

C. Agenda

6. If the Council's charter is approved, the Council's first meeting should take placed within 30 days after such approval. At this initial meeting, the Council will begin the selection process for a neutral NANP Administrator; such selection shall occur no later than 180 days from the initial meeting of the Council.

D. Meetings and Compensation

7. The Federal Communications Commission will provide facilities needed to conduct the meetings, if the Commission has meeting facilities available. Otherwise, private sector members will provide facilities. Private sector members of the Council will serve without any government compensation, and will not be entitled to travel expenses or per diem subsistence allowances. Private sector members will not be considered special government employees for any purpose.

E. Record of Meetings

8. Pursuant to FACA, at all Council meetings, the Council will keep a record of meeting minutes and a Designated Federal Official will be present. This record will be placed in CC Docket No. 92–237. The Commission will announce Council meetings in the **Federal Register**. These meetings will be open to the public.

VI. Conclusion

9. Interested parties may file applications or nominations for Council membership on or before thirty days from publication of this notice in the **Federal Register.** Applications and nominations should be sent to the Office of the Secretary, CC Docket No. 92–237, Federal Communications Commission, Washington, DC 20554. Applications and nominations will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 1919 M Street, NW., Room 239, Washington, DC 20554.

10. For further information pertaining to membership on the Council contact Mike Specht (202) 418–2378, Scott Shefferman (202) 418–2332, or Elizabeth Nightingale (202) 418–2352, Common Carrier Bureau, 2025 M Street, NW., Room 6008 Washington, DC 20554.

Federal Communications Commission.

Linda Dubroof,

Deputy Chief, Domestic Facilities Division, Common Carrier Bureau.

[FR Doc. 95–20117 Filed 8–14–95; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

[Petition No. P3–95]

Marine Terminal Tariff Provisions Regarding Liability of Vessel Agents; Petition for Rulemaking; Enlargement of Time

The Commission by notice published July 12, 1995, (60 FR 35906) invited comments by interested persons regarding a petition filed by various associations of maritime interests including independent vessel agents (''Petitioners''). Petitioners seek the establishment by the Commission of a rule which would declare unlawful any marine terminal tariff provision that holds the vessel agent liable for terminal charges of its disclosed principal. Comments were required to be filed by August 14, 1995.

Counsel for Georgia Ports Authority now seeks an extension of the comment period to September 15, 1995. Counsel for Petitioners has no objection to grant of this request and, accordingly, it is granted.

Interested persons may reply to the petition no later than September 15, 1995. Replies shall be directed to the Secretary, Federal Maritime commission, Washington, DC 20573–0001, shall consist of an original and 15 copies, and shall be served on counsel for petitioners, Richard W. Kurrus, Esq., Kurrus & Kirchner, P.C. 2445 M Street NW., Washington, DC 20037.

Copies of the petition are available for examination at the Washington, D.C. office of the Commission, 800 N. Capitol Street NW., Room 1046.

Joseph C. Polking,

Secretary.

[FR Doc. 95–20110 Filed 8–14–95; 8:45 am]

BILLING CODE 6730–01–M

OFFICE OF THE FEDERAL REGISTER

Agreements Between the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States

AGENCY: Office of the Federal Register.

ACTION: Notice of availability of agreements.

SUMMARY: The American Institute in Taiwan has concluded a number of agreements with the Taipei Economic and Cultural Representative Office in the United States (formerly the Coordination Council for North American Affairs) in order to maintain cultural, commercial and other unofficial relations between the American people and the people of Taiwan. The Director of the Federal Register is publishing the list of these agreements on behalf of the American Institute in Taiwan in the public interest.

SUPPLEMENTRY INFORMATION: Cultural, commercial and other unofficial relations between the American people and the people on Taiwan are maintained on a nongovernmental basis through the American Institute in Taiwan (AIT), a private nonprofit corporation created under the Taiwan Relations Act (Pub. L. 96–8; 93 Stat. 14). The Coordination Council for North American Affairs (CCNAA) was established as its nongovernmental Taiwan counterpart. On October 10, 1995, the Coordination Council for North American Affairs was renamed the Taipei Economic and Cultural Representative Office in the United States (TECRO).

Under section 1(a) of the Act, agreements concluded between the AIT and the TECRO (CCNAA) are transmitted to the Congress, and according to sections 6 and 10(a) of the Act, such agreements have full force and effect under the law of the United States.

The texts of the agreements are available from the the American

Institute in Taiwan, 1700 North Moore Street, 17th Floor, Arlington, Virginia 22209. For further information contact the Corporate Secretary of AIT at this address, telephone: (703) 525–8474, fax: (703) 841–1385.

Following is a list of agreements between AIT and TECRO (CCNAA) which were in force as of January 1, 1995.

Dated: August 7, 1995.

J. Richard Bock,

Deputy Managing Director and Corporation Secretary.

Dated: August 10, 1995.

Richard L. Claypoole,

Acting Director, Office of the Federal Register.

AIT–CCNAA AGREEMENTS

Agriculture

1. Guidelines for a cooperative program in the agriculture sciences. Signed January 15 and 28, 1986. Entered into force January 28, 1986.

2. Amendment to the 1986 guidelines for a cooperative program in the agricultural sciences. Effected by exchange of letters September 1 and 11, 1989. Entered into force September 11, 1989.

3. Memorandum on cooperation in enhancing commodity situation and outlook reporting. Signed February 7, 1991. Entered into force February 7, 1991.

4. Agreement amending and extending the memorandum of February 7, 1991 on cooperation in enhancing commodity situation and outlook reporting. Signed November 2, 1993. Entered into force November 22, 1993.

5. Cooperative service agreement to facilitate fruit and vegetable inspection through their designated representatives, the United States Department of Agriculture Animal and Plant Health Inspection Service (APHIS) and the Taiwan Provincial Fruit Marketing Cooperative (TPFMC) supervised by the Taiwan Council of Agriculture (COA). Signed April 28, 1993. Entered into force April 28, 1993.

6. Memorandum of agreement between the American Institute in Taiwan and the Coordination Council for North American Affairs (Sanitary/Phytosanitary and Agricultural Standards). Signed November 4, 1993. Entered into force November 4, 1993.

Aviation

1. Air transport agreement, with annexes and exchanges of letters. Signed at Washington, March 5, 1980. Entered into force March 5, 1980.

2. Agreement implementing the air transport agreement of March 5, 1980. Effected by exchange of letters at Arlington and Washington March 31, 1981. Entered into force March 31, 1981.

3. Memorandum of understanding for consultations relating to the air transport agreement of March 5, 1980. Singed at Taipei October 15, 1981. Entered into force October 15, 1981.

4. Agreement amending Article 6 of the air transport agreement of March 5, 1980. Effected by exchange of letters at Taipei May 8 and July 28, 1985. Entered into force July 28, 1986.

5. Memorandum of agreement concerning the arrangement for certain aeronautical equipment and services relating to civil aviation, with annexes. Signed September 24 and October 23, 1981. Entered into force October 23, 1981.

6. Amendment 1 to memorandum of agreement concerning aeronautical equipment and services of September 24 and October 23, 1981. Signed September 18 and 23, 1985. Entered into force September 23, 1985.

7. Amendment 2 to memorandum of agreement of September 24 and October 23, 1981, concerning aeronautical equipment and services. Signed September 23 and October 17, 1991. Entered into force October 17, 1991.

Conservation

1. Memorandum on cooperation in forestry and natural resources conservation. Signed May 23 and July 4, 1991. Entered into force July 4, 1991.

2. Memorandum on cooperation in soil and water conservation under the guidelines for a cooperative program in the agricultural sciences. Signed at Washington on October 5, 1992. Entered into force October 5, 1992.

Customs

1. Agreement for technical assistance in customs operations and management, with attachment. Signed May 14 and June 4, 1991. Entered into force June 4, 1991.

Education and Culture

1. Agreement amending the agreement for financing certain educational and cultural exchange programs of April 23, 1964. Effected by exchange of letters of Taipei on April 14 and June 4, 1979. Entered into force June 4, 1979.

2. Agreement concerning the Taipei American School, with annex. Signed at Taipei February 3, 1983. Entered into force February 3, 1983.

Energy

1. Agreement relating to the establishment of a joint standing committee on civil nuclear cooperation. Signed at Taipei October 3, 1984. Entered into force October 3, 1984.

2. Agreement amending and extending the agreement of October 3, 1984, relating to the establishment of a joint standing committee on civil nuclear cooperation. Signed October 19, 1989. Entered into force October 19, 1989.

3. Agreement Amending and Extending the Agreement between the American Institute in Taiwan and the Coordination Council for North American Affairs Relating to the Establishment of a Joint Standing Committee on Civil Nuclear Cooperation. Signed October 3, 1994. Entered into force October 3, 1994.

4. Agreement abandoning in place in Taiwan the Argonaut Research Reactor loaned to National Tsing Hua University. Signed November 28, 1990.

5. Agreement concerning safeguards arrangements for nuclear materials transferred from France to Taiwan. Effected by exchange of letters of February 12 and May 13, 1993. Entered into force May 13, 1993.

6. Agreement relating to participation in the USNRC program of severe accident research, with appendix. Signed February 18 and June 24, 1993. Entered into force June 24, 1993; effective January 1, 1993.

7. Agreement Regarding Participation in the Second USNRC International Piping Integrity Research Group Program, with addendum. Signed at Arlington and Washington February 7 and June 30, 1994. Entered into force June 30, 1994.

8. Agreement Relating to Participation in the USNRC Program of Thermal-Hydraulic Code Applications and Maintenance, with addendum. Signed at Arlington and Washington February 7 and June 30, 1994. Entered into force June 30, 1994.

Environment

1. Agreement for Technical Cooperation in the field of Environmental Protection. Signed June 21, 1993. Entered into force June 21, 1993.

Health

1. Guidelines for a cooperative program in the biomedical sciences. Signed May 21, 1984. Entered into force May 21, 1984.

2. Amendment No. 1 to the 1984 guidelines for a cooperative program in the biomedical sciences, with attachment. Signed April 20, 1989. Entered into force April 20, 1989.

3. Amendment No. 2 to the 1984 guidelines for a cooperative program in the biomedical sciences, with attachment. Signed August 24, 1989. Entered into force August 24, 1989.

4. Guidelines for a cooperative program in food hygiene. Signed January 15 and 28, 1985. Entered into force January 28, 1985.

5. Guidelines for a cooperative program in public health and preventive medicine. Signed at Arlington and Washington June 30 and July 19, 1994. Entered into force July 19, 1994.

6. Agreement for Technical Cooperation in Vaccine and Immunization-related Activities. Signed at Washington October 6 and 7, 1994. Entered into force October 7, 1994.

Intellectual Property

1. Agreement concerning the protection and enforcement of rights in audiovisual works. Effected by exchange of letters at Arlington and Washington June 6 and June 27, 1989. Entered into force June 27, 1989.

2. Understanding concerning the protection of intellectual property rights. Signed at Washington June 5, 1992. Entered into force June 5, 1992.

3. Agreement for the protection of copyright, with appendix. Signed July 16, 1993. Entered into force July 16, 1993.

Judicial Procedure

1. Memorandum of understanding on cooperation in the field of criminal investigations prosecutions. Signed at Taipei October 5, 1992. Entered into force October 5, 1992.

Labor

1. Guidelines for a cooperative program in labor affairs. December 6, 1991. Entered into force December 6, 1991.

Maritime

1. Agreement concerning mutual implementation of the 1974 Convention for the safety of life at sea. Effected by exchange of letters at Arlington and Washington August 17 and September 7, 1982. Entered into force September 7, 1982.

2. Agreement concerning mutual implementation of the 1969 international convention on tonnage measurement. Effected by exchange of letters at Arlington and Washington May 13 and 26, 1983. Entered into force May 26, 1983.

3. Agreement concerning mutual implementation of the protocol of 1978 relating to the 1974 international convention for the safety of life at sea. Effected by exchange of letters at Arlington and Washington January 22 and 31, 1985. Entered into force January 31, 1985.

4. Agreement concerning mutual implementation of the protocol of 1978 relating to the international convention for the prevention of pollution from ships, 1973. Effected by exchange of letters at Arlington and Washington January 22 and 31, 1985. Entered into force January 31, 1985.

5. Agreement concerning mutual implementation of the 1966 international convention on load lines. Effected by exchange of letters at Arlington and Washington March 26 and April 10, 1985. Entered into force April 10, 1985.

6. Agreement concerning the operating environment for ocean carriers. Effected by exchange of letters at Washington and Arlington October 25 and 27, 1989. Entered into force October 27, 1989.

Postal

1. Agreement concerning establishment of INTELPOST service. Effected by exchange of letters at Arlington and Washington April 19 and November 26, 1990. Entered into force November 26, 1990.

2. International business reply service agreement, with detailed regulations. Signed at Washington February 7, 1992. Entered into force February 7, 1992.

Privileges and Immunities

1. Agreement on privileges, exemptions and immunities, with addendum. Signed at Washington October 2, 1980. Entered into force October 2, 1980.

2. Agreement governing the use and disposal of vehicles imported by the American Institute in Taiwan and its personnel. Signed at Taipei April 21, 1986. Entered into force April 21, 1986.

Scientific & Technical Cooperation

1. Agreement on scientific cooperation. Effected by exchange of letters at Arlington and Washington on September 4, 1980. Entered into force September 4, 1980.

2. Agreement concerning renewal & extension of the 1980 agreement on scientific cooperation. Signed and accepted March 10, 1987. Entered into force March 10, 1987.

3. Contract relating to provision to the AIT of ionospheric weather observations by the CCNAA, with attachments, as extended. Signed November 26, 1980. Entered into force November 26, 1980.

4. Agreement for technical assistance in dam design and construction, with appendices. Signed August 24, 1987. Entered into force August 24, 1987.

5. Agreement amending extending the agreement of August 24, 1987, for technical assistance in dam design and construction. Signed May 11 and June 9, 1992. Entered into force June 9, 1992.

6. Agreement for a cooperative program in the sale and exchange of technical, scientific, and engineering information. Signed November 17, 1987. Entered into force November 17, 1987.

7. Agreement renewing and extending the agreement of November 17, 1987, for a cooperative program in the sale and exchange of technical, scientific and engineering information. Signed and accepted August 8, 1990. Entered into force August 8, 1990.

8. Cooperative program on Hualien soil-structure interaction experiment. Signed and accepted September 28, 1990.

9. Guidelines for a cooperative program in the physical sciences. Signed March 10, 1987. Entered into force March 10, 1987.

10. Amendment No. 1 to the guidelines of March 10, 1987, for a cooperative program in the physical sciences. Signed on January 26, 1989. Entered into force January 26, 1989.

11. Amendment No. 2 to the guidelines of March 10, 1987, for a cooperative program in the physical sciences. Signed October 25, 1990 and March 22, 1991. Entered into force March 22, 1991.

12. Guidelines for a cooperative program in atmospheric research. Signed May 4, 1987. Entered into force May 4, 1987.

13. Agreement for procurement of equipment for the Taiwan synchrotron radiation research laboratory, with appendices. Signed April 20, 1988. Entered into force April 20, 1988.

14. Agreement for technical cooperation in meteorology and forecast systems development, with implementing arrangements. Signed June 5 and 28, 1990. Entered into force June 28, 1990.

15. Agreement for technical cooperation in energy and water resources, with annex. Signed December 21, 1990 and February 13, 1991. Entered into force February 13, 1991.

16. Agreement for technical cooperation in geodetic research and use of advanced geodetic technology, with implementing arrangement. Signed January 11 and February 21, 1991. Entered into force February 21, 1991.

17. Cooperative program in highway-related sciences. Signed October 30, 1990 and January 7, 1992. Entered into force January 7, 1992.

18. Agreement for technical cooperation in seismology and earthquake monitoring systems development, with implementing arrangement. Signed July 22 and 24, 1992. Entered into force July 24, 1992.

Security of Information

1. Protection of information agreement. Signed September 15, 1981. Entered into force September 15, 1981.

Taxation

1. Agreement concerning the reciprocal exemption from income tax of income derived from the international operation of ships and aircraft. Effected by exchange of letters at Taipei May 31, 1988. Entered into force May 31, 1988.

2. Agreement for technical assistance in tax administration, with appendices. Signed August 1, 1989. Entered into force August 1, 1989.

Trade

1. Agreement concerning trade matters, with annexes. Effected by exchange of letters at Arlington and Washington October 24, 1979. Entered into force October 24, 1979; effective January 1, 1980.

2. Agreement concerning trade matters. Effected by exchange of letters at Arlington and Washington December 31, 1981. Entered into force December 31, 1981.

3. Agreement concerning measures that the CCNAA will undertake in connection with implementation of the GATT Customs Valuation Code. Effected by exchange of letters at Bethesda and Arlington August 22, 1986. Entered into force August 22, 1986.

4. Agreement concerning the export performance requirement affecting investment in the automotive sector. Effected by exchange of letters at Washington and Arlington of October 9, 1986. Entered into force October 9, 1986.

5. Agreement concerning beer, wine and cigarettes. Signed at Washington December 12, 1986. Entered into force December 12, 1986; effective January 1, 1987.

6. Agreement implementing the 1986 beer, wine and cigarettes agreement. Effected by exchange of letters at Taipei April 29, 1987. Entered into force April 29, 1987; effective January 1, 1987.

7. Agreement regarding new requirements for health warning legends on cigarettes sold in the territory represented by CCNAA. Effected by exchange of letters at Washington and Arlington October 7 and 16, 1991. Entered into force October 16, 1991.

8. Agreement concerning trade in whole turkeys, turkey parts, processed turkey products and whole ducks, with memorandum of understanding. Effected by exchange of letters at Arlington and Washington of March 16, 1989. Entered into force March 16, 1989.

9. Agreement on trade in high-quality beef, with technical addendum. Signed June 18, 1990. Entered into force June 18, 1990.

10. Agreement concerning the protection of trade in strategic commodities and technical data, with memorandum of understanding. Effected by exchange of letters at Arlington and Washington December 4, 1990 and April 8, 1991. Entered into force April 8, 1991.

11. Administrative arrangement concerning the textile visa system. Effected by exchange of letters at Arlington and Washington April 18 and May 1, 1991. Entered into force May 1, 1991.

12. Memorandum of understanding concerning a new quota arrangement for cotton and man-made fiber trousers. Signed at Washington December 18, 1992. Entered into force December 18, 1992.

13. Memorandum of understanding on the exchange of information concerning commodity futures and options matters, with appendix. Signed January 11, 1993. Entered into force January 11, 1993.

14. Agreement relating to trade in cotton, wool, man-made fiber, silk blend and other non-cotton vegetable fiber textile products, with annexes. Effected by exchange of letters of June 4 and 24, 1993. Entered into force June 24, 1993.

15. Agreement concerning a framework or principles and procedures for consultations regarding trade and investment, with annex. Signed at Washington September 19, 1994. Entered into force September 19, 1994.

[FR Doc. 95–20097 Filed 8–14–95; 8:45 am]

BILLING CODE 1505–02–M

FEDERAL RESERVE SYSTEM

NBD Bancorp, Inc.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 95-19103) published on page 39740 of the issue for Thursday, August 3, 1995.

Under the Federal Reserve Bank of Kansas City heading, the entry for NBD Bancorp, Inc., is revised to read as follows:

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. NBD Bancorp, Inc., Detroit, Michigan; to acquire 100 percent of the voting shares of NBD Bank, Venice, Florida.

Comments on this application must be received by August 28, 1995.

Board of Governors of the Federal Reserve System, August 9, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–20181 Filed 8–14–95; 8:45 am]

BILLING CODE 6210–01–F

New Era Bancorporation, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 29, 1995.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. New Era Bancorporation, Inc., Fredericktown, Missouri; proposes to acquire 100 percent of the voting shares

of St. Francois County Financial Corp., and its subsidiary, St. Francois County Bank, F.S.B., Farmington, Missouri, and thereby engage in operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y. Immediately following consummation, St. Francois County Financial Corp. will be merged with and into New Era Bancorporation, Inc. and its subsidiary bank will purchase all the assets and assume all the liabilities of St. Francois County Bank, F.S.B.

Board of Governors of the Federal Reserve System, August 9, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–20182 Filed 8–14–95; 8:45 am]

BILLING CODE 6210–01–F

PNC Bank Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 8, 1995.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. PNC Bank Corp., Pittsburgh, Pennsylvania, and PNC Bancorp, Wilmington, Delaware; to merge with Midlantic Corporation, Edison, New Jersey, and thereby indirectly acquire Midlantic Bank, N.A., Newark, New Jersey.

In connection with this application, Applicant also has applied to acquire Midlantic Securities Corp., Philadelphia, Pennsylvania; and thereby engage in providing securities brokerage services, related securities credit activities, and incidental activities such as offering custodial services, individual retirement accounts, and cash management services. All activities are restricted to buying and selling securities as agent for the account of customers and will not include securities underwriting or dealing or offering investment advice or providing research services, pursuant to § 225.25(b)(15) of the Board's Regulations Y; Lenders Life Insurance Company, Phoenix, Arizona, and Pennsauken, New Jersey, and thereby engage in in underwriting, as reinsurer, credit life and credit disability insurance directly related to extensions of credit by Midlantic Bank, N.A., pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y; Greater Jersey Mortgage Co. Edison, New Jersey, and thereby engage in originating and/or purchasing commercial mortgage loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y; Midlantic Commercial Leasing Corp., Edison, New Jersey, and thereby engage in the business of commercial leasing, pursuant to § 225.25(b)(5) of the Board's Regulation Y.

In connection with this application, PNC Bank Corp., Pittsburgh, Pennsylvania, and PNC Bancorp, Inc., Wilmington, Delaware; have applied to acquire at least 19.90 percent of the voting shares of Midlantic Corporation, Edison, New Jersey, and Midlantic Corporation, Edison, New Jersey, also has applied to acquire at least 19.90 percent of the voting shares of PNC Bank Corp., Pittsburgh, Pennsylvania.

Board of Governors of the Federal Reserve System, August 9, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–20183 Filed 8–14–95; 8:45 am]

BILLING CODE 6210–01–F

James Michael Shaw; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than August 29, 1995.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. James Michael Shaw, Fort Smith, Arkansas; to acquire an additional 63.07 percent, for a total of 72.17 percent, of the voting shares of Mansfield Bankstock, Inc., Mansfield, Arkansas, and thereby indirectly acquire Bank of Mansfield, Mansfield, Arkansas.

Board of Governors of the Federal Reserve System, August 9, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–20184 Filed 8–14–95; 8:45 am]

BILLING CODE 6210–01–F

SNBNY Holdings Limited, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 8, 1995.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. SNBNY Holdings Limited, Neptune House, Marina Bay, City of Gibraltar; to become a bank holding company by acquiring approximately 8.29 percent of the voting shares of Safra National Bank of New York, New York, New York.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. First State Bancorp, Inc., Winchester, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The First State Bank of Adams County, Winchester, Ohio.

2. Premier Financial Bancorp, Inc., Vanceburg, Kentucky; to acquire 100 percent of the voting shares of The Citizens Bank, Sharpsburg, Kentucky.

Board of Governors of the Federal Reserve System, August 9, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–20185 Filed 8–14–95; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[File No. 931–0121]

Mustad International Group NV and Mustad Connecticut, Inc.; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a Bulle, Switzerland-based company and its Bloomfield, Connecticut-based subsidiary to divest assets or technology in its manufacture and sale of roll horseshoe nails.

DATES: Comments must be received on or before October 16, 1995.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Howard Morse, Bureau of Competition, Federal Trade Commission, S–3627, 6th Street & Pennsylvania Ave. NW., Washington, DC 20580. (202) 326–2949.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

The Federal Trade Commission (''Commission'') having initiated an investigation of acquisitions by Mustad Connecticut, Inc. (''Mustad Connecticut'') and Mustad International Group NV (''Mustad Group'') of the horseshoe nail assets of Capewell Manufacturing Company, the assets of Cooper Horseshoe Nail Co., Ltd., a majority interest in Emcoclavos S.A., and the horseshoe nail assets of Sterward Engineering Company, Ltd., and it now appearing that Mustad Connecticut and Mustad Group, hereinafter sometimes referred to as ''proposed respondents,'' are willing to enter into an agreement containing an order to divest certain assets and to cease and desist from making certain acquisitions, and providing for other relief.

It is hereby agreed by and between proposed respondents, by their duly authorized officers and attorney, and counsel for the Commission that:

1. Proposed respondent Mustad Connecticut, a wholly owned subsidiary of Mustad International Group NV, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Connecticut, with its principal place of business at 1395 Blue Hills Avenue, Bloomfield, Connecticut 06002.

2. Proposed respondent Mustad Group is a corporation organized, existing, and doing business under and by virtue of the laws of the Netherlands Antilles with its principal place of business at St. Pierhalsteeg 5, NL–1012 GL Amsterdam.

3. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint.

4. Proposed respondents waive:

(a) any further procedural steps;

(b) the requirement that the Commission's decision contain a statement of findings of fact and conclusions of laws;

(c) all rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceedings unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following order to divest, license, and cease and desist in disposition of the proceeding, and (2) make information public with respect

thereto. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the United States Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' or to their counsel's addresses as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Proposed respondents have read the proposed complaint and order contemplated hereby. Proposed respondents understand that once the order has been issued, they will be required to file one or more compliance reports showing they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that, as used in this order, the following definitions shall apply:

A. ''Mustad Connecticut'' means Mustad Connecticut, Inc., a wholly owned subsidiary of Mustad International Group NV, its predecessors, subsidiaries, divisions, and groups and affiliates controlled by Mustad Connecticut, their successors and assigns, and their directors, officers, employees, agents and representatives.

B. ''Mustad Group'' means Mustad International Group NV, its predecessors, subsidiaries, divisions, and groups and affiliates controlled by Mustad Group, their successors and assigns, and their directors, officers, employees, agents and representatives.

C. ''Respondents'' or ''Mustad'' means Mustad Connecticut and Mustad Group.

D. ''Acquisitions'' means the acquisitions by Mustad of the assets of Cooper Horseshoe Nail Co., Ltd.; stock of Emcoclavos S.A.; and assets of Sterward Engineering Company, Ltd.

E. ''Capewell'' means substantially all assets of Capewell Horsenails, Inc., including assets, properties, business and goodwill, tangible and intangible, used in the manufacture and sale of Rolled Horseshoe Nails, including the following:

1. Machinery, fixtures, equipment, vehicles, transportation facilities, furniture, tools and other tangible personal property;

2. Customer lists, vendor lists, catalogs, sales promotion literature, advertising materials, research materials, technical information, management information systems, software, inventions, trade secrets, intellectual property, patents, technology, know-how, specifications, designs, drawings, processes and quality control data;

3. Inventory of nails produced by Capewell;

4. Rights, titles and interests in and to the contracts entered into in the ordinary course of business with customers (together with associated bid and performance bonds), suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consignors and consignees;

5. Rights under warranties and guarantees, express or implied;

6. Books, record, files; and

7. Items of prepaid expense.

F. ''Commission'' means the Federal Trade Commission.

G. ''Rolled Horseshoe Nails'' means horseshoe nails that are produced by the rolling process of drawing the shank of the nail through a series of dies.

H. ''Functioning Nail Machine'' means a fully functioning and operational machine that has produced at least 800 pounds per week of City Head No. 5 Rolled Horseshoe Nails during the preceding year, or the equivalent production of other types and sizes of nails, including tooling used in the maintenance or operation of such nail machines, and capable of producing Rolled Horseshoe Nails in at least the following sizes: city head 5, city head 6, slim blade 5, regular head 5, and race nail 3½.

I. ''Spare Nail Machine'' means a functioning or non-functioning machine suitable for use in providing spare and replacement parts for the Functioning Nail Machines.

J. ''Nail Machine'' means a Functioning Nail Machine or Spare Nail Machine.

K. ''Technology and Know-how'' means all of Mustad's drawings, blueprints, patents, specifications, tests, and other documentation, and all information contained therein or available to Mustad personnel relating to the design, and the production methods, processes and systems used in the production of Rolled Horseshoe Nails.

II

It is further ordered that:

A. Mustad shall divest, absolutely and in good faith, by May 15, 1996, either (i) Capewell as an ongoing business, or (ii) four (4) Functioning Nail Machines and one (1) Spare Nail Machine and shall grant a perpetual non-exclusive license of the Technology and Know-how to the acquirer.

B. The divestiture and granting of the license shall be made only to an acquirer that receives the prior approval of the Commission and only in a manner that receives the prior approval of the Commission. The purpose of the divestiture and licensing is to create an independent competitor in the production and sale of Rolled Horseshoe Nails and to remedy the lessening of competition in the United States resulting from the Acquisitions as alleged in the Commission's complaint. Mustad shall divest such other ancillary assets and effect such other arrangements as are reasonably necessary for the acquirer to be viable, and competitive.

C. If Mustad divests the Functioning Nail Machines and Spare Nail Machine, then upon reasonable notice from the acquirer to respondents, respondents shall provide such assistance to the acquirer as is reasonably necessary to enable the acquirer to produce Rolled Horseshoe Nails in substantially the same manner and quality employed or achieved by the respondent prior to divestiture. Such assistance shall include reasonable consultation with knowledgeable employees and training for a period of time sufficient to satisfy the acquirer's management that its personnel are appropriately trained in the production of rolled horseshoe nails. Respondents shall convey all know-how necessary to produce rolled horseshoe nails in substantially the same manner and quality employed or achieved by respondent prior to divestiture. However, respondents shall not be required to continue providing such assistance for more than one (1) year from the date of divestiture. Respondents shall charge the acquirer its own direct costs for providing such assistance.

III

It is further ordered that, pending divestiture of Capewell or the Functioning Nail Machines and Spare Nail Machine pursuant to Paragraphs II.A., Mustad shall take such action as is necessary to maintain the viability and marketability of the Nail Machines to be divested and shall not cause or permit the destruction, removal,

wasting, deterioriation or impairment of such Nail Machines, except for ordinary wear and tear that does not affect the viability and marketability of the Nail Machines.

IV

It is further order that:

A. If respondents have not completed the divestiture required by paragraph II.A. by May 15, 1996, the Commission may appoint a trustee to divest four (4) Functioning Nail Machines, one (1) Spare Nail Machine, and license the Technology and Know-how. In the event the Commission or the Attorney General brings an action pursuant to § 5(*1*) of the Federal Trade Commission Act, 15 U.S.C. § 45(*1*), or any other statute enforced by the Commission, Mustad shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this Paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to Section 5(*1*) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by Mustad to comply with this order.

B. If a trustee is appointed by the Commission or a court pursuant to Paragraph IV.A. of this order, Mustad shall consent to the following terms and conditions regarding the trustee's powers, duties, authorities, and responsibilities:

(1) The Commission shall select the trustee, subject to the consent of Mustad, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If Mustad has not opposed the selection of a proposed trustee within fifteen (15) days after notice by the Commission's staff to Mustad of the identity of the proposed trustee, Mustad shall be deemed to have consented to the selection of the proposed trustee.

(2) Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Nail Machines and grant a license for the Technology and Know-how and to make any further arrangements that may be reasonably necessary to maintain the viability and competitiveness of the business.

(3) The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph IV.B.8 to accomplish the divestiture, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period, the trustee has submitted a plan of divestiture or believes that the divestiture can be accomplished within a reasonable time, the divestiture period may be extended by the Commission or, in the case of a court-appointed trustee, by the court, provided, however, that the Commission may extend this period only two (2) times and for a total period not to exceed two (2) years.

(4) The trustee shall have full and complete access to the personnel, books, records, and facilities related to the Nail Machines, or to any other relevant information, as the trustee may reasonably request. Respondents shall provide such financial or other information as such trustee may reasonably request and shall cooperate with the trustee. Mustad shall take no action to interfere with or impede the trustee's accomplishment of the divestiture and licensing. Any delays in divestiture caused by Mustad shall extend the time for divestiture under Paragraph IV.B.3 in an amount equal to the delay, as determined by the Commission or, for a court-appointed trustee, by the court.

(5) Subject to Mustad's absolute and unconditional obligation to divest and license at no minimum price, and the purpose of the divestiture and licensing as stated in Paragraph II of this order, the trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission. The divestiture shall be made in the manner set out in Paragraph III of this order, provided, however, if the trustee receives bona fide offers from more than one acquiring entity, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity or entities selected by Mustad from among those approved by the Commission.

(6) The trustee shall serve, without bond or other security, at the cost and expense of Mustad, on such reasonable and customary terms and conditions as the Commission or, in the case of a court-appointed trustee, the court may set. The trustee shall have authority to employ, at the cost and expense of Mustad, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are reasonably necessary and at reasonable cost to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the divestiture and licensing and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of Mustad and the trustee's power shall be terminated. The trustee's compensation shall be based in significant part on a reasonable commission arrangement contingent on the trustee's divesting the Nail Machines and licensing the technology and know-how.

(7) Mustad shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trusteeship, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, negligence, willful or wanton acts, or bad faith by the trustee.

(8) Within ten (10) days after appointment of the trustee, and subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, Mustad shall execute a trust agreement that transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestiture and licensing required by this order.

(9) If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner as provided in Paragraph IV.A. of this order.

(10) The Commission or, in the case of a court-appointed trustee, the court may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestiture and licensing required by this order.

(11) The trustee shall have no obligation or authority to operate or maintain the Nail Machines.

(12) The trustee shall report in writing to Mustad and to the Commission every sixty (60) days concerning the trustee's efforts to accomplish the divestiture and licensing.

V

It is further ordered that:

A. Within sixty (60) days after the date this order becomes final and every sixty (60) days thereafter until Mustad has fully complied with the provisions of Paragraph II or IV of this order, Mustad shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with those provisions.

Mustad shall include in its compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II and IV of the order, including a description of all substantive contacts or negotiations for the divestiture and licensing and the identity of all parties contacted. Mustad also shall include in its compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture.

B. One year from the year that this order becomes final, annually for the next nine (9) years on the anniversary of the date on which this order becomes final, and at such other times as the Commission may require, Mustad shall file with the Commission a verified written report setting forth in detail the manner and form in which it has complied and is complying with Paragraph VI of this order.

It is further ordered that, for a period of ten (10) years from the date this order becomes final, respondent shall not, without providing advance written notification to the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise:

A. Acquire any stock, share capital, equity or other interest in any concern, corporate or non-corporate, presently engaged in, within the two years preceding such acquisition engaged in, or in the process of attempting to engage in producing or selling horseshoe nails in the United States; or

B. Acquire any assets used for, or previously used for (and still suitable for use for) the production of horseshoe nails from any concern, corporate or non-corporate, presently engaged in, within the past two years engaged in, or in the process of attempting to engage in producing or selling horseshoe nails in the United States.

Said notification shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended (hereinafter referred to as ''the Notification''). Respondent shall provide to the Commission at least thirty days prior to acquiring any such interest (hereinafter referred to as the ''first waiting period''), both the Notification and supplemental information either in respondent's possession or reasonably available to respondent. Such supplemental information shall include a copy of the proposed acquisition agreement; the names of the principal representatives of respondent and of the firm respondent desires to acquire who negotiated the acquisition agreement; and any management or strategic plans discussing the proposed acquisition. If, within the first waiting period, representatives of the Commission make a written request for additional information, respondent shall not consummate the acquisition until twenty days after submitting such additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. § 18a.

VII

It is further ordered that, for the purposes of determining or securing compliance with this order, and subject to any legally recognized privilege, upon written request, Mustad reasonably shall permit any duly authorized representatives of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of Mustad relating to any matters contained in this order; and

B. Upon five (5) days notice to Mustad, and without restraint or interference from Mustad, to interview officers or employees of Mustad, who may have counsel present, regarding such matters.

VIII

It is further ordered that Mustad shall notify the Commission at least thirty (30) days prior to any proposed change in Mustad, such as dissolution, assignment, or sale resulting in the emergence of a successor, the creation or dissolution of subsidiaries, or any other change that may affect compliance obligations arising out of this order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, and Agreement Containing Consent Order (''Agreement'') from Mustad International Group NV (''Mustad''), a Netherlands Antilles firm, and Mustad Connecticut, Inc., a Connecticut company.

The proposed Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the Agreement and the comments received and will decide whether it should withdraw from the Agreement or make final the Agreement's proposed Order.

Mustad has consummated a series of acquisitions, beginning in July 1985 through January 1993. The proposed complaint alleges that the effect of the acquisitions was to substantially lessen competition and to give Mustad a virtual monopoly in the market for rolled horseshoe nails, which allowed Mustad to raise prices by as much as 50–75% on the most popular, large volume sizes of horseshoe nails in the United States.

The complaint alleges that Mustad acquired Capewell Manufacturing Company (''Capewell''), Cooper Horseshoe Nail Co., Ltd. (''Cooper''), and Emcoclavos S.A. (''Emcoclavos'') and acquired a horseshoe nail machine from Sterward Engineering Company, Ltd. (''Sterward''). Cooper and Emcoclavos were direct competitors of Mustad and Sterward was a potential competitor to Mustad. The complaint also alleges that Mustad entered into non-compete agreements with Cooper and Sterward for a period of at least twenty years. The complaint also alleges that Mustad destroyed saleable rolled horseshoe nail machines in order to prevent potential competitors from producing horseshoe nails.

The proposed complaint alleges that the Mustad's acquisitions of Cooper, Emcoclavos and Sterward violated Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; that the Sterward non-compete agreement violates Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and that Mustad, in making its acquisitions of Capewell, Cooper, and Emcoclavos, in destroying machinery, and in entering the non-compete agreements, attempted to monopolize and did monopolize the market for rolled horseshoe nails in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45.

The complaint alleges that rolled horseshoe nails are a relevant line of commerce that differ from other types of nails used by farriers (the people who shoe horses). Rolled horseshoe nails are not reasonably interchangeable with forged nails.

The complaint alleges that Mustad gained a virtual monopoly, nearly a 90% share of sales of rolled horseshoe nails in the world, as a result of its acquisitions of Cooper, Emcoclavos, and

Sterward. Prior to each acquisition, the rolled horseshoe nail market was highly concentrated and concentration increased substantially following each acquisition. The complaint alleges that entry into the production and sale of rolled horseshoe nails would be difficult and time consuming—taking well in excess of two years, entailing significant sunk costs, and requiring technical expertise.

The proposed Order would remedy the alleged violations by replacing the lost competition that has resulted from the acquisitions. The proposed Order would require Mustad to divest either (1) Capewell as an ongoing business, or (2) four fully functioning horseshoe nail machines, one spare nail machine, and grant a perpetual non-exclusive license to technology and know-how. In order to ensure that the acquirer of machinery would be able to quickly begin production at the same level of quality as exists currently, Mustad would be required to provide training and technical assistance to the acquirer for up to one year.

The proposed Order provides that Mustad shall divest Capewell or the machinery no later than May 15, 1996. If Mustad does not complete the required divestiture during the allotted time period, then a trustee may be appointed to divest the machinery within twelve months. The time period for the trustee to complete the divestiture may be extended twice.

The proposed Order requires Mustad to submit a report of compliance with the proposed Order's divestiture requirements within sixty (60) days following the date the proposed Order becomes final, and every sixty (60) days thereafter until Mustad has completed the divestiture.

Finally, the proposed Order prohibits Mustad from acquiring any interest in any other company engaged in, or attempting to engage in, the production or sale of horseshoe nails without giving prior notice to the Commission and observing certain waiting periods for a period of ten years.

The purpose of this analysis is to facilitate public comment on the proposed Order. This analysis is not intended to constitute an official interpretation of the Agreement or the proposed Order or in any way to modify the terms of the Agreement or the proposed Order.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 95–20142 Filed 8–14–95; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee (CLIAC) and Subcommittee on Proficiency Testing, Quality Assurance, and Quality Control; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Federal advisory committee meetings.

Name: Subcommittee on Proficiency Testing, Quality Assurance, and Quality Control, Clinical Laboratory Improvement Advisory Committee (CLIAC).

Time and Date: 8:30 a.m.–12 noon, August 30, 1995.

Place: Swissôtel Atlanta, 3391 Peachtree Road, NE, Atlanta, Georgia 30326.

Status: Open to the public, limited only by the space available.

Purpose: This subcommittee advises CLIAC on issues related to proficiency testing, quality assurance, and quality control.

Matters to be discussed: The Subcommittee will discuss quality control requirements for test method verification and appropriate materials for quality control testing.

Agenda items are subject to change as priorities dictate.

Name: Clinical Laboratory Improvement Advisory Committee.

Times and Dates: 1 p.m.–4:30 p.m., August 30, 1995., 8 a.m.–4 p.m., August 31, 1995.

Place: Swissôtel Atlanta, 3391 Peachtree Road, NE, Atlanta Georgia 30326.

Status: Open to the public, limited only by the space available.

Purpose: This committee is charged with providing scientific and technical advice and guidance to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the need for, and the nature of, revisions to the standards under which clinical laboratories are regulated; the impact of proposed revisions to the standards; and the modification of the standards to accommodate technological advances.

Matters to be discussed: The agenda will include an update on the implementation of the Clinical Laboratory Improvement Amendments (CLIA), a CDC presentation on CLIA quality control requirements, public presentations on quality control requirements, a discussion of the quality control requirements for the final regulations, and a summary of the meeting of the Subcommittee on Proficiency Testing, Quality Assurance, and Quality Control.

Agenda items are subject to change as priorities dictate.

Written comments on the quality control requirements are welcome. Comments should not exceed five single-spaced, typed pages in length and should be received by the contact person no later than August 24, 1995.

Anyone wishing to make an oral presentation that would include data pertinent to CLIA quality control requirements should submit their request, in writing, to the contact person by close of business, August 24, 1995. The request should include the name, address, and telephone number of the participant; the approximate time needed; and a brief summary of the topic and data to be presented. Depending on the number of requests, up to 10 minutes will be allowed for each oral presentation.

Contact Person for addition information: John C. Ridderhof, Dr. P.H., Division of Laboratory Systems, Public Health Practice Program Office, CDC, 4770 Buford Highway, NE, Mailstop G–25, Atlanta, Georgia 30341–3724, telephone 404/488–7660, FAX 404–488–7663.

Dated: August 9, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–20104 Filed 8–14–95; 8:45 am]

BILLING CODE 4163–18–M

National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Mental Health Statistics and NCVHS Subcommittee on Disability and Long-Term Care Statistics; Meetings

Pursuant to Pub. L. 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following subcommittee meetings.

Name: NCVHS Subcommittee on Mental Health Statistics and NCVHS Subcommittee on Disability and Long-Term Care Statistics.

Time and Date: 9 a.m.–5 p.m., September 12, 1995.

Place: Room 503A–529A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, D.C. 20201.

Status: Open.

Purpose: The Subcommittee on Mental Health Statistics and the Subcommittee on Disability and Long-Term Care Statistics will meet jointly to consider and discuss presentations on a variety of payment and service models. There will be presentations on the Program of All-inclusive Care for the Elderly (PACE), the second phase of the Social Health Maintenance Organizations, consumer choice plans, and demonstration projects.

Name: NCVHS Subcommittee on Mental Health Statistics.

Time and Date: 9 a.m.–12 noon, September 13, 1995.

Place: Room 503A–529A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, D.C. 20201.

Status: Open.

Purpose: The Subcommittee on Mental Health Statistics will continue discussion of enrollment and encounter minimum data sets, and receive updates on National Health Interview Survey activities with respect to mental health.

Contact Person for More Information: Substantive program information as well as summaries of the meetings and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: August 8, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–20105 Filed 8–14–95; 8:45 am]

BILLING CODE 4163–18–M

National Center for Environmental Health; Meetings

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) will convene the following meeting cosponsored by the European Commission, the National Institute of Diabetes, Digestive, and Kidney Diseases (NIDDK), the National Institute of Environmental Health Sciences (NIEHS), and the Oregon Health Sciences University Foundation.

Name: Urinary Biomarkers to Detect Significant Effects of Environmental and Occupational Exposure to Nephrotoxins.

Times and Dates: 8:45 a.m.–5 p.m., September 15, 1995. 9 a.m.–5 p.m., September 16, 1995. 9 a.m.–12:30 p.m., September 17, 1995.

Place: Terrace Garden Inn–Buckhead, 3405 Lenox Road, NE, Atlanta, Georgia 30326.

Status: Open to the public, limited only by the space available.

Purpose: The purpose of the meeting is to recommend a battery of tests for use in epidemiologic studies of environmental/occupational nephrotoxicity; determine the utility and applicability of the individual tests of renal injury; provide guidance for interpretation of information obtained from the tests; and provide direction for future useful markers to detect nephrotoxicity.

Matters to be discussed: Agenda items include: a workshop to discuss the latest information on categories of tests for detecting effects of nephrotoxins, interpreting health implications of these tests, nephrotoxins of significant frequency and economic impact, test batteries, monitoring individuals with elevated test patterns, and future research needs. Experts from the United States and Europe will participate in discussions of these issues and provide individual advice and guidance from their respective scientific and clinical experiences.

Contact person for more information: Patricia W. Mueller, Ph.D., Chief, Health Effects Laboratory (F50), Molecular Biology Branch, Division of Environmental Health Laboratory Sciences, NCEH, CDC, 4770 Buford Hwy., NE, Atlanta, Georgia 30341–3724, telephone 404/488–7983.

Dated: August 9, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–20106 Filed 8–14–95; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 95N–0247]

Drug Export; DILAUDID HP–PLUS (Hydromorphone Hydrochloride) 20 Milligram (mg)/Milliliter (mL) Vials and DILAUDID XP (Hydromorphone Hydrochloride) 50mg/mL Vials for Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Knoll Pharmaceutical Co. has filed an application requesting approval for the export of the human drug DILAUDID HP–PLUS (hydromorphone hydrochloride) 20mg/mL Vials and DILAUDID XP (hydromorphone hydrochloride) 50mg/mL Vials for Injection to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: James E. Hamilton, Center for Drug Evaluation and Research (HFD–310), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20857, 301–594–3150.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Knoll Pharmaceutical Co., 30 North Jefferson Rd., Whippany, NJ 07981, has filed an application requesting approval for the export of the human drug DILAUDID HP–PLUS (hydromorphone hydrochloride) 20mg/mL Vials DILAUDID XP (hydromorphone hydrochloride) 50mg/mL Vials for Injection to Canada. The firm has an NDA for DILAUDID 10mg/mL (250mg/vial). This product is used for the relief of severe pain in patients who require subcutaneously, intravenously, or intramuscularly administered opioids in doses or concentrations higher than those usually needed. The application was received and filed in the Center for Drug Evaluation and Research on June 26, 1995, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by August 25, 1995, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: July 25, 1995.

Betty L. Jones,

Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 95–20187 Filed 8–14–95; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meetings of

the following Heart, Lung, and Blood Special Emphasis Panels.

These meetings will be open to the public to provide concept review of proposed contract or grant solicitations.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the Contact Person listed below in advance of the meeting.

Name of Panel: Longitudinal Cohort Studies

Dates of Meeting: September 5–6, 1995

Time of Meeting: 9:00 a.m.

Place of Meeting: National Institutes of Health, Rockledge II Building, Conference Rooms A1 & A2, 6701 Rockledge Drive, Bethesda, Maryland

Agenda: The panel will review the current status of research in the designated areas, identify gaps and make recommendations regarding opportunities and priorities for future contract or grant solicitations.

Contact Person: Teri Manolio, M.D., M.H.S., Rockledge II Building, Rm. 8160, 6701 Rockledge Drive, Bethesda, Maryland 20892, (301) 435–0707

Name of Panel: Homocysteinemia and Cardiovascular Diseases

Dates of Meeting: September 27, 1995

Time of Meeting: 9:30 a.m.

Place of Meeting: National Institutes of Health, Rockledge II Building, Conference Room 8119, 6701 Rockledge Drive, Bethesda, Maryland 20892

Agenda: The panel will review the current status of research in the designated areas, identify gaps and make recommendations regarding opportunities and priorities for future contract or grant solicitations.

Contact Person: Lawrence Friedman, M.D., Rockledge II Building, Room 8100, 6701 Rockledge Drive, Bethesda, Maryland 20892, (301) 435–0422

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: August 9, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–20040 Filed 8–14–95; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Notice of Meeting of the Sleep Disorders Research Advisory Board

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Sleep Disorders Research Advisory Board, National Center on Sleep Disorders Research, National Heart, Lung, and Blood Institute, September 26–27, 1995. This meeting will be held at the National Institutes of Health, Building 31, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 9:00 a.m. to adjournment, to discuss recommendations on the implementation and evaluation of the National Center on Sleep Disorders Research programs. Attendance by the public will be limited to space available.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

Dr. James P. Kiley, Executive Secretary and Director, National Center on Sleep Disorders Research, NHLBI, Two Rockledge Center Suite 7024, 6701 Rockledge Drive MSC 7920, Bethesda, Maryland 20892–7920, (301) 435–0199, will furnish meeting and member information.

(Catalog of Federal Domestic Assistance Program No. 93.838, Lung diseases Research, National Institutes of Health)

Dated: August 8, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–20041 Filed 8–14–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Alcohol Abuse and Alcoholism; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of meetings of the National Institute on Alcohol Abuse and Alcoholism.

The National Advisory Council on Alcohol Abuse and Alcoholism meeting on September 21 will be open to the public, as noted below, to discuss Institute programs and other issues relating to committee activities as indicated in the notice. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Ida Nestorio at 301–443–4376.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual research grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meeting and the roster of committee members may be obtained from: Ms. Ida Nestorio, Office of Scientific Affairs, National Institute on Alcohol Abuse and Alcoholism, Willco Building, Suite 409, 6000 Executive Blvd., Rockville, MD 20892–7003, Telephone: 301–443–4375. Other information pertaining to the meeting can be obtained from the contact person indicated.

Name of Committee: National Advisory Council on Alcohol Abuse and Alcoholism

Executive Secretary: James F. Vaughan, 6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003, 301–443–4375

Dates of Meeting: September 21, 1995

Place of Meeting: Conference Room D, Building 45 (Natcher), NIH Campus, 9000 Rockville Pike, Bethesda, MD 20892

Open: September 21, 10:30 a.m. to adjournment

Agenda: Discussion of Institute extramural research programs, health services research, and other program and peer review issues relevant to Council activities

Closed: September 21, 8 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications

(Catalog of Federal Domestic Assistance Program No. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.281, Scientist Development Award, Research Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.891, Alcohol Research Center Grants; National Institutes of Health)

Dated: August 8, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–20042 Filed 8–14–95; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Drug Abuse; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Council on Drug Abuse, National Institute on Drug Abuse on September 19–20, 1995.

On September 19, from 9 a.m. to 5 p.m., the meeting will be held at the National Institutes of Health, Building 1, Wilson Hall, 9000 Rockville Pike, Bethesda, Maryland 20892. This portion of the meeting will be open to the public for announcements and reports of

administrative, legislative, and program developments in the drug abuse field. Attendance by the public will be limited to space available.

On September 20, from 9 a.m. to 1 p.m., the meeting will be held at the Parklawn Building, Conference Room E, 5600 Fishers Lane, Rockville, MD 20857. In accordance with provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, this portion of the meeting will be closed to the public for the review, discussion, and evaluation of grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meeting and a roster of committee members may be obtained from Ms. Camilla L. Holland, NIDA Committee Management Officer, National Institutes of Health, Parklawn Building, Room 10–42, 5600 Fishers Lane, Rockville, Maryland 20857 (301/443–2755).

Substantive program information may be obtained from Ms. Eleanor C. Friedenberg, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301/443–2755).

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the contact person named above in advance of the meeting.

(Catalog of Federal Domestic Assistance Program Numbers: 93.277, Drug Abuse Research Scientist Development and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs)

Dated: August 8, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–20043 Filed 8–14–95; 8:45 am]

BILLING CODE 4140–01–M

National Institutes Of Health

Prospective Grant of Exclusive License: Immunologic Enhancement With Intermittent Interleukin-2 Therapy

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 15 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive world-wide license to practice the invention embodied in U.S. Patent Application SN 08/063,315 (U.S. Patent 5,419,900) entitled ''Immunologic Enhancement with Intermittent Interleukin-2 Therapy'' and related U.S. and foreign patent applications to Chiron Corporation of Emeryville, CA. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. It is anticipated that this license may be limited to all therapeutic applications including treatment of HIV infection and AIDS. This prospective exclusive license may be granted unless within 60 days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The patent application describes the continuous intermittent infusion of interleukin-2, alone or in combination with retroviral therapy, into a patient as a means of enhancing the patient's immune system. The ability of this therapy to stimulate immune function may have advantages in any disease state in which interleukin-2 plays a role in the associated immune response, and may therefore be useful in the treatment of HIV infections and AIDS, as well as for the attendant opportunistic infections that occur in AIDS patients.

ADDRESSES: Requests for a copy of this patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Steven M. Ferguson, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852. Telephone: (301) 496–7735; Facsimile: (301) 402–0220; E-mail: Steve—Ferguson@NIH.GOV. Applications for a license filed in response to this notice will be treated as objections to the grant of the contemplated license. Only written comments and/or applications for a license which are received by NIH on or before October 16, 1995, will be considered. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552. A signed Confidential Disclosure Agreement will be required to receive a copy of the patent application.

Dated: August 2, 1995.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 95–20044 Filed 8–14–95; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. FR–3917–N–16]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

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.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (3) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the

information submission including number of respondents, frequency of response, and hours of response; (7) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 8, 1995.

David S. Cristy,

Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Housing Discrimination Complaint Form (English/Spanish Version).

Office: Fair Housing and Equal Opportunity.

Description of the Need for the Information and its Proposed Use: Pursuant to Public Law 90–284, any person who believes he/she has been or is about to be injured by a discriminatory housing practice on the basis of race, color, religion, sex, or national origin may file a complaint with the Secretary of HUD using these forms. HUD needs the information provided for the basis of an investigation of a housing discrimination complaint.

Form Number: HUD–903 and 903A.

Respondents: Individual or Households, Business or other For-Profit, Not-For-Profit Institutions, and State, Local, or Tribal Government.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–903 and 903A	9,300		1		1		9,300

Total Estimated Burden Hours: 9,300.

Status: Extension, no changes.

Contact: Goldia D. Hodgdon, (202) 619–8041, Jospeh F. Lackey, Jr., OMB, (202) 395–7316.

Dated: August 8, 1995.

[FR Doc. 95–20090 Filed 8–14–95; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–1220–00; Closure Notice No. NV–030–95–06]

Temporary Closure of Certain Public Lands in the Carson City District for Management of the 1995 Running of the V.O.R.R.A. ''Yerington to Fallon and Back'' Off-Highway Vehicle (OHV) Race

AGENCY: Bureau of Land Management, Nevada.

ACTION: Temporary closure of certain public lands in Churchill County and Lyon County, Nevada, on and adjacent to the 1995 ''Yerington to Fallon and Back'' race course on September 3, 1995. Access will be limited to race officials, entrants, law enforcement and emergency personnel, BLM personnel monitoring the event, licensed permittee(s) and right-of-way grantees.

SUMMARY: The Carson City District Manager announces the temporary closure of selected public lands under his administration. This action is being taken to provide for public safety during the official running of the 1995 ''Yerington to Fallon and Back'' OHV Race.

EFFECTIVE DATE: September 3, 1995.

FOR FURTHER INFORMATION CONTACT: Fran Hull or Terry Knight, Outdoor Recreation Planners, Carson City District Office, 1535 Hot Springs Road, Suite 300, Carson City, Nevada 89706–0638. Telephone (702) 885–6100.

SUPPLEMENTARY INFORMATION: Certain public lands in the Carson City District, Churchill County and Lyon County, Nevada, will be temporarily closed to public access on September 3, 1995, to protect persons, property, and public land resources on and adjacent to the 1994 ''Yerington to Fallon and Back'' OHV race, permit number NV–03–4–011. Specific restrictions and closure information are as follows:

1. The public lands to be closed or restricted are those lands adjacent to and including roads, trails and washes identified as the 1995 ''Yerington to Fallon and Back'' OHV race course. These lands are within T.13N., R.25E.; T.13N., R.24E.; T.14N., R.24E.; T.15N., R.24E.; T.16N., R.24E.; T.16N., R.25E.; T.16N., R.26E.; T.16N., R.27E.; T.16N., R.28E.; T.16N., R29E.; T.16N., R.30E.; T.16N., R.31E.; T.17N., R.26E.; T.17N., R.30E.; T.17N., R.31E.; and T.18N., R.30E. M.D.M. A map of the race course may be obtained from Fran Hull or Terry Knight at the contact address. The event permittee is required to mark and monitor the race course during this closure period.

2. From 6:00 A.M. to 11:59 P.M., Sunday, September 3, 1995, the race course and those public lands 300 feet to either side of the course are closed to the public, except for designated check points and spectator areas.

3. Areas from which spectators may view the event are confined to the start/finish area in Section 21, T.13N., R.25E., the restart area in Section 32, T.18N., R.30E, M.D.M. and check points 1, 2, 3, 4, 5 and 6, identified on the map of the race course. All public spectator vehicles operating within these designated areas shall maintain a maximum speed of 10 MPH. Spectators shall remain in safe locations as directed by event officials or BLM personnel.

The above restrictions do not apply to race officials, law enforcement and emergency personnel, or BLM personnel monitoring the event.

Authority for closure of public lands is found in 43 CFR 8341, 43 CFR 8364 and 43 CFR 8372. Any person who fails to comply with this closure order may be subject to the penalties provided in 43 CFR 8360.7

Dated: August 4, 1995.

John O. Singlaub,

District Manager.

[FR Doc. 95–20135 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–HC–M

Bureau of Land Management

[UT–920–05–1310–01]

Oil and Gas Leases; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of adoption/notice of availability of Record of Decision.

SUMMARY: This notice is to advise the public that the Bureau of Land Management (BLM) Plans to adopt the Final Environmental Impact Statement for Oil and Gas Leasing in the North Slope Area of the Wasatch-Cache and Ashley National Forests and of the availability of the BLM's Record of Decision (ROD).

DATES: The public will have until September 14, 1995 to appeal this

decision in accordance with the instructions provided in this Notice.

SUPPLEMENTARY INFORMATION: In accordance with section 102 of the National Environmental Policy Act of 1969 (NEPA), a Final Environmental Impact Statement (FEIS) for Oil and Gas Leasing within the North Slope Area of the Wasatch-Cache and Ashley National Forests has been prepared by the U. S. Forest Service (USFS) and the Bureau of Land Management. National and local agreements between the two agencies identified the USFS as lead agency for preparing the analysis with BLM participating as a cooperating agency as described in 40 CFR 1501.6.

The FEIS addresses the potential impacts of leasing on lands within the Wasatch-Cache and adjacent Ashley National Forests determined to have high potential for the occurrence of oil and gas and identifies which areas are available for leasing and any stipulations that will be attached to leases. The two Forest Plans have been amended to be consistent with the decisions reached in this FEIS.

The Mineral Leasing Act of 1920, as amended, provides the Secretary of the Interior the authority to issue oil and gas leases on lands where oil and gas rights are held by the Federal Government. This authority has been delegated to the BLM. The Federal Onshore Oil and Gas Leasing Reform Act of 1987 requires the BLM to obtain the consent of the Secretary of Agriculture before issuing leases on National Forest System Lands. Authority to consent has been delegated to Forest Supervisors. The North Slope Leasing FEIS identifies those lands that will be made available to BLM for leasing and site specific stipulations that will be attached to leases.

In accordance with 40 CFR 1506.3(c), BLM is adopting the FEIS for the purpose of issuing oil and gas leases within the North Slope area of the Wasatch-Cache and Ashley National Forests. BLM actively participated in the preparation of the Draft and Final EISs and independently reviewed each document. Department of the Interior as well as Public comments and concerns have been satisfactorily addressed in the FEIS. The FEIS complies with NEPA and meets the requirements of the regulations for implementing the Federal Land Policy and Management Act of 1976 (43 CFR part 1600). BLM's preferred alternative is Alternative P as described in the FEIS which is also the preferred alternative of the USFS.

Copies of the FEIS are available from the Wasatch-Cache National Forest, 8230 Federal Building, 125 South State Street, Salt Lake City, Utah 84138, and the Ashley National Forest, 355 North Vernal Avenue, Vernal, Utah 84078. Public reading copies are available at the following BLM locations:

Utah State Office, 324 South State Street, Salt Lake City, Utah 84111.

Rock Springs District Office, Highway 191 North, Rock Springs, Wyoming 82902.

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations in 43 CFR part 4. The Appellant has the burden of showing the decision appealed from is in error. If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for stay must accompany your notice of appeal. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

FOR FURTHER INFORMATION CONTACT: James Fouts, Bureau of Land Management, Utah State Office, P. O. Box 45155, Salt Lake City, Utah 84145–0155 or Teri Deakins, Rock Springs District Office, P. O. Box 1869, Rock Springs, Wyoming 82902–1869.

Mat Millenbach,

Utah State Director.

Alan R. Pierson,

Wyoming State Director.

[FR Doc. 95–20039 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–DQ–P

[AZ–055–05–1820–01; AZA–28649]

Arizona: Notice of Realty Action; Lease/Conveyance of Public Lands for Recreation and Public Purposes in Yuma County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Classification of public lands for recreation and public purposes lease/conveyance.

SUMMARY: The following described public land in Yuma County, Arizona, has been examined and found suitable for classification for lease or conveyance for public purposes under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended (43 U.S.C. 869 et seq.). The Yuma County Board of Supervisors proposes to use the land for public purposes on which to locate a Consolidated County Office Complex.

Gila and Salt River Meridian, Arizona

T. 9 S., R. 22 W.,
Sec. 17, NE¼,

containing 160.00 acres, more or less.

SUPPLEMENTARY INFORMATION: The land is not required for any Federal purposes. The lease/conveyance is consistent with current Bureau planning for this area and would be in the public interest. The lease/patent when issued would be subject to the following terms, conditions, and reservations:

1. Provisions of the R&PP Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

4. A 50-foot wide right-of-way for a Bureau of Reclamation canal across the north boundary.

5. A 33-foot wide road right-of-way for Yuma County along the north and east boundaries.

DATES: Upon publication of this notice in the **Federal Register** the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease/conveyance under the R&PP Act and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register** interested parties may submit comments regarding the proposed classification for lease/conveyance of the lands to the District Manager, Yuma District Office, 3150 Winsor Avenue, Yuma, Arizona 85365.

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the Bureau of Land Management followed proper administrative procedures in reaching the decision related to the suitability of the land for public purposes.

EFFECTIVE DATE: Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this Notice will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be offered for lease/conveyance until after the classification becomes effective.

FOR FURTHER INFORMATION CONTACT: Realty Specialist Pete Gonzales, Yuma Resource Area Office, 3150 Winsor Avenue, Yuma, Arizona 85365, telephone (520) 726–6300.

Dated: August 4, 1995.

Judith I. Reed,

District Manager.

[FR Doc. 95–20146 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–32–M

[AZ–054–05–1430–00; AZA 28721]

Notice of Realty Action, Recreation and Public Purposes (R&PP) Act Classification, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice

SUMMARY: The following public lands in La Paz County, Arizona have been examined and found suitable for classification for lease or conveyance to Arizona State Parks Board under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). Arizona State Parks Board proposes to use the lands as part of Alamo State Park.

Gila and Salt River Meridian, Arizona

T. 10 N., R. 12 W.,
Sec. 6, lots 3–6, 11–14, E½SW¼;
T. 10 N., R. 13 W.,
Sec. 1, lots 1–3, S½NE¼, SE¼NW¼, SW¼SW¼, E½SW¼, N½SE¼;
Sec. 2, SW¼SW¼;
Sec. 11, N½NW¼, NW¼NE¼;
Sec. 12, NW¼NW¼;
T. 11 N., R. 13 W.,
Sec. 36, S½SE¼;
Containing 1077.70 acres, more or less.

The lands are not needed for Federal purposes. Lease or Conveyance is consistent with current BLM land use planning and would be in the public interest.

The lease/patent, when issued, will be subject to the following terms, conditions and reservations;

1. Provisions of the Recreation and Public Purposes Act and all applicable regulations of the Secretary of the Interior.

2. All valid existing rights documented on the official public land records at the time of lease/patent issuance.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove materials.

4. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Yuma District, Havasu Resource Area, 3189 Sweetwater Avenue, Lake Havasu City, Arizona. Upon publication of this notice in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

DATES: On or before September 29, 1995, interested persons may submit comments regarding the proposed lease or conveyance of the lands to the Area Manager, Havasu Resource Area, 3189 Sweetwater Avenue, Lake Havasu City, AZ 86406.

CLASSIFICATION COMMENTS: Interested parties may submit comments involving the suitability of the lands for a State Park. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with the local planning and zoning, or if the use is consistent with the State and Federal programs.

APPLICATION COMMENTS: Interested parties may submit comments regarding the specific use proposed in the application, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the lands for a state park.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publications of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Janice Easley, Land Law Examiner, Bureau of Land Management, Havasu Resource Area, 3189 Sweetwater Avenue, Lake Havasu City, Arizona 86406. Detailed information concerning this action is also available for review.

Dated: August 7, 1995.

William J. Liebhauser,

Acting Area Manager.

[FR Doc. 95–20145 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–32–P

[OR 51890; OR–080–05–1430–01: G5–193]

Realty Action; Proposed Modified Competitive Sale

August 7, 1995.

This Notice of Realty Action replaces and supercedes those notices published in the May 12 and June 29, 1995, editions of the **Federal Register** (60 FR 25730 and 60 FR 33843, respectively).

The following described public land has been examined and determined to be suitable for transfer out of Federal ownership by modified competitive sale under the authority of Sections 203 and 209 of the Federal Land Policy and Management Act of 1976, as amended (90 Stat. 2750; 43 U.S.C. 1713 and 90 Stat. 2757; 43 U.S.C. 1719), at not less than the appraised fair market value of $57,100.00:

Willamette Meridian, Oregon

T. 4 S., R. 4 E.,
Sec. 11, Lot. 3

The above-described parcel contains 2.44 acres in Clackamas County.

The parcel will not be offered for sale until at least 60 days after publication of this notice in the **Federal Register**.

The above-described land is hereby segregated from appropriation under the public land laws, including the mining laws, but not from sale under the above-cited statute, for 270 days or until title transfer is completed or the segregation is terminated by publication in the **Federal Register**, whichever occurs first.

The parcel is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency. No significant resource values will be affected by this transfer. The sale is consistent with the Salem District Resource Management Plan and the public interest will be served by offering this parcel for sale.

Modified Bidding Procedures

Modified bidding procedures are being used to recognize Clackamas County land use plans and zoning. Preference to meet the high bid is authorized under 43 CFR 2711.3–2. The parcel is being offered to any qualified bidder subject to the following designated bidders to meet the high bid: Douglas W. and Lisa W. Smith (fee owners of Tax Lot 1303, Map 4 4E 10) and Richard D. Mott (fee owner of Tax Lot 1701, Map 4 4E 10).

Bidders must be United States citizens and 18 years of age or older. Sealed written bids, delivered or mailed, must be received by the Bureau of Land Management, Salem District Office, 1717 Fabry Road SE, Salem, Oregon 97306, prior to 11:00 a.m. on Wednesday, October 25, 1995. Each written sealed bid must be accompanied by a certified check, postal money order, bank draft or cashier's check, made payable to USDI—Bureau of Land Management for not less than 10 percent of the amount bid. The sealed bid envelopes must be clearly marked in the lower left hand corner, ''Bid for Public Land Sale OR 51890''.

The written sealed bids will be opened and an apparent high bid will be declared at the sale. The designated bidders will be notified through certified mail that they have 30 days to meet the high bid. Failure to meet the high bid within the 30-day period following the sale, shall constitute a waiver of their preference rights. The balance of the purchase price shall be paid within 180 days of the sale date.

The terms, conditions, and reservations applicable to the sale are as follows:

1. The mineral interests being offered for conveyance have no known mineral value. A bid submitted will also constitute an application for conveyance of the mineral estate, in accordance with Section 209 of the Federal Land Policy and Management Act. All qualified bidders must include with their bid a nonrefundable $50.00 filing fee for the conveyance of the mineral estate.

2. The bargain and sale deed will subject to:

a. Rights-of-way for ditches or canals will be reserved to the United States under 43 U.S.C. 945; and

b. All valid existing rights and reservations of record.

Detailed information concerning the sale is available for review at the Salem District Office, address above.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Cascades Area Manager, Salem District Office, address above. Any adverse comments will be reviewed by the Salem District Manager, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Robert B. Hershey,

Acting Cascades Area Manager.

[FR Doc. 95–20148 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–33–M

Fish and Wildlife Service

Great Lakes Panel on Aquatic Nuisance Species Meeting

AGENCY: Department of the Interior, Fish and Wildlife Service.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Great Lakes Panel on Aquatic Nuisance Species, a regional committee of the Aquatic Nuisance Species Task Force. A number of subjects will be discussed including: United States and Canadian funding for Aquatic Nuisance Species programs; presentation of a model state aquatic nuisance species management plan; reauthorization of the Nonindigenous Aquatic Nuisance Prevention and Control Act; and, a report on Panel committee initiatives-workplan.

DATES: The Great Lakes Panel will meet from 1:00 p.m. to 5:00 p.m. on Thursday, September 21, and 8:30 a.m. to 12:00 p.m. on Friday, September 22, 1995.

ADDRESSES: The meeting will be held at the Duluth Entertainment Convention Center, 350 Harbor Drive, Duluth, Minnesota 55802. The telephone number is (800) 628–8385.

FOR FURTHER INFORMATION CONTACT: Lori Reynolds, Great Lakes Commission, The Argus II Building, 400 Fourth Street, Ann Arbor, Michigan 58103–4816, at (313) 665–9135.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Great Lakes Panel on Aquatic Nuisance Species, a regional committee of the Aquatic Nuisance Species Task Force established under the authority of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Pub. L. 101–646, 104 Stat. 4761, 16 U.S.C. 4701 *et seq.*, November 29, 1990). Minutes of the meeting will be maintained by Coordinator, Aquatic Nuisance Species Task Force, Room 840, 4401 North Fairfax Drive, Arlington, Virginia 22203 and the Great Lakes Panel Coordinator, Great Lakes Commission, The Argus Building, 400 Fourth Street, Ann Arbor, Michigan 58103–4816, and will be available for public inspection during regular business hours, Monday through Friday, within 30 days following the meeting.

Dated: August 9, 1995.

W.E. Knapp,

Acting Assistant Director—Fisheries; Co-Chair, Aquatic Nuisance Species Task Force.

[FR Doc. 95–20173 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–55–M

United States Geological Survey

Notice

SUMMARY: Notice is hereby given that the United States Geological Survey (USGS) is planning to enter into a Cooperative Research and Development Agreement (CRADA) with Corbis Publishing, a small, privately-owned, digital archiving company. The purpose of the CRADA is to collaborate with Corbis Corporation to produce a consumer CD–ROM software title on a variety of geological topies. Any other software companies or organizations interested in pursuing the possibility of a CRADA for similar activities should contact the U.S. Geological Survey no later than 30 days from the publication of this notice.

ADDRESSES: Information on the proposed CRADA is available to the public upon request at the following location: U.S. Geological Survey, Branch of Volcanic and Geothermal Processes, MS–910, 345 Middlefield Road, Menlo Park, California 94025–3591.

FOR FURTHER INFORMATION CONTACT: Jacob B. Lowenstern of the U.S. Geological Survey, Branch of Volcanic and Geothermal Processes, at the address given above; telephone (415) 329–5238; FAX (415) 329–5203; email jlwnstrn@mojave.wr.usgs.gov.

P. Patrick Leahy,

Chief Geologist.

[FR Doc. 95–20079 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–31–M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The collection of information listed below has been submitted to the Office of Management and Budget (OMB) for reapproval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the Information Collection requirements and related explanatory material may be obtained by contacting Dennis Jones at 303–231–3046. Comments and suggestions on the requirement should be made directly to the Bureau Clearance officer at the telephone number listed below and to the OMB, Paperwork Reduction Project (1010–0061), Washington, DC 20503, telephone 202–395–7340.

Title: Oil Transportation Allowances.

OMB Approval Number: 1010–0061.

Abstract: The Government collects royalties resulting from the sale of Federal and Indian oil. In some cases an allowance is granted to compensate lessees for the reasonable costs of transporting the royalty portion of the oil to a delivery point remote from the lease. Transportation allowances are taken as a deduction from royalty. The allowance determination procedure is essential to ensure that the public and the Indians receive the full royalty payment to which they are entitled, and that lessees are correctly compensated for allowable transportation costs. Failure to collect the date described in this information collection could make

it impossible to ensure that royalty rates computed and paid are appropriate.

Bureau Form Number: MMS–4110.

Frequency: On occasion, annually, or when circumstances change.

Description of Respondents: Oil companies.

Estimated Completion Time: Average, 3.5 hours.

Annual Responses: 1,200.

Annual Burden Hours: 4,400.

Bureau Clearance Officer: Arthur Quintana 703–787–1101.

Dated: July 7, 1995.

James W. Shaw,

Associate Director for Royalty Management.

[FR Doc. 95–20074 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget (OMB) for Review under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collections of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggested on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010–0034); Washington, DC 20503, telephone (202) 395–7340, with copies to Chief, Engineering and Standards Branch; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 220–70–4817.

Title: Notice of Processing of Geological and Geophysical Information and Data, 30 CFR 251.11 and 250.12.

OMB Approval Number: 1010–0034.

Abstract: Respondents conducting exploration for oil or gas in the Federal Outer Continental Shelf (OCS) provide the Minerals Management Service (MMS) with the following information:

- Geological and Geophysical Information and Data
- Processed and Analyzed Information and Data
- Interpretations of Geological and Geophysical Information Data

The MMS uses the information and data to properly evaluate OCS resources and environmental conditions as required by the OCS Lands Act.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Federal OCS permittees.

Annual Burden Hours: 1,000 hours.

Bureau Clearance Officer: Arthur Quintana, (703) 787–1239.

Dated: July 6, 1995.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 95–20063 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collections of informations and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Officer of Management and Budget; Paperwork Reduction Project (1010–0048); Washington, DC 20503, telephone (202) 395–7340, with copies to Chief, Engineering and Standards Branch; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: Applying for Notices or Permits, 30 CFR 251.5.

OMB Approval Number: 1010–0048.

Abstract: Respondents provide the Minerals Management Service (MMS) with a status report that enables MMS to verify that permit requirements are met, estimate completion dates, and determine the quality of data acquired by persons operating under a permit for geological and geophysical exploration for mineral resources and scientific research in the Outer Continental Shelf (OCS).

Bureau Form Number: Form MMS–327.

Frequency: On occasion.

Description of Respondents: Federal OCS permittees.

Annual Burden Hours: 1,530.

Bureau Clearance Officer: Arthur Quintana, (703) 787–1239.

Dated: July 19, 1995.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 95–20064 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collections of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010–0049); Washington, DC 20503, telephone (202) 395–7340, with copies to Chief, Engineering and Standards Branch; Engineering and Technology Division; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: 30 CFR Part 250, Subpart B, Exploration and Development and Production Plans.

OMB Approval Number: 1010–0049.

Abstract: This information will be used by the Minerals Management Service to determine if activities covered in exploration, development and production plans, and environmental reports are carried out in a safe and environmentally acceptable manner.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Federal Outer Continental Shelf oil and gas lessees.

Annual Burden Hours: 171,680.

Bureau Clearance Officer: Arthur Quintana, (703) 787–1239.

Dated: July 19, 1995.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 95–20065 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget (OMB) for Review under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collections of information and related forms may be obtained by contacting the Bureau's Clearance Office at the telephone

number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010–0036); Washington, DC 20503, telephone (202) 395–7340, with copies to Chief, Engineering and Standards Branch; Mail Stop 4700; Minerals Management Service; 381 Elden Street, Herndon, Virginia 22070–4817.

Title: Inspection and Reporting of Progress and Results of Activities Conducted Under Permits, 30 CFR 251.7

OMB Approval Number: 1010–0036.

Abstract: Respondents provide the Minerals Management Service (MMS) with a status report that enables MMS to verify that permit requirements are met, estimate completion dates, and determine the quality of data acquired by persons operating under a permit for geological and geophysical exploration for mineral resources and scientific research in the Outer Continental Shelf (OCS).

Bureau Form Number: Forms MMS–328 and MMS–329.

Frequency: Monthly and other.

Description of Respondents: Federal OCS permittees.

Annual Burden Hours: 6,400.

Bureau Clearance Officer: Arthur Quintana, (703) 787–1239.

July 19, 1995.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 95–20068 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collections of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010–0043); Washington, DC 20503, telephone (202) 395–7340, with copies to Chief, Engineering and Standards Branch; Mail Stop 4700; Minerals Management Service: 381 Elden Street; Herndon, Virginia 22070–4817.

Title: 30 CFR Part 350, Subpart F, Well-Workover Operations.

OMB Approval Number: 1010–0043.

Abstract: This information will be used by the District Supervisors to evaluate and approve or disapprove the adequacy of equipment and/or procedures to be used during the conduct of well-workover operations.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Federal Outer Continental Shelf oil, gas, and sulphur lessees.

Recordkeeping Hours: 430.

Annual Burden Hours: 15.

Bureau Clearance Officer: Arthur Quintana (703) 787–1239.

Dated: July 12, 1995.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 95–20069 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collections of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010–0086); Washington, DC 20503, telephone (202) 395–7340, with copies to Chief, Engineering and Standards Branch; Mail Stop 4700; Minerals Management Service, 381 Elden Street; Herndon, Virginia 22070–4817.

Title: 30 CFR Part 250, Subpart P, Sulphur Operations.

OMB Approval Number: 1010–0086.

Abstract: This information is needed to ascertain the conditions of a drilling site. This is necessary to mitigate the hazards inherent in drilling operations and to increase the margin of safety of personnel and the environment.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Lessees of Outer Continental Shelf Sulphur Leases.

Recordkeeping Hours: 331.

Annual Burden Hours: 116.

Bureau Clearance Officer: Arthur Quintana, (703) 787–1239.

Dated: July 12, 1995.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 95–20070 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010–0059); Washington, DC 20503, telephone (202) 395–7340, with copies to Chief, Engineering and Standards Branch; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: 30 CFR Part 250, Subpart H, Production Safety Systems.

OMB Approval Number: 1010–0059.

Abstract: This information will be used by the District Supervisors to evaluate equipment and/or procedures that lessees propose to use during production operations. The recordkeeping requirements provide the means for the Minerals Management Service inspectors to verify compliance with the minimum safety requirements prescribed in Subpart H.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: Federal Outer Continental Shelf oil, gas, and sulphur lessees.

Recordkeeping Hours: 2,450.

Annual Burden Hours: 1,350.

Bureau Clearance Officer: Arthur Quintana, (703) 787–1239.

Dated; July 21, 1995.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 95–20071 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collections of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010–0058); Washington, DC 20503, telephone (202) 395–7340, with copies to Chief, Engineering and Standards Branch; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: 30 CFR Part 250, Subpart I, Platforms and Structures.

OMB Approval Number: 1010–0058.

Abstract: Respondents submit this information to the Minerals Management Service's regional offices so they can determine the structural integrity of offshore structures and ensure that such integrity will be maintained throughout the useful life of the structures.

Bureau Form Number: None.

Frequency: Varies.

Description of Respondents: Federal Outer Continental Shelf oil and gas lessees.

Annual Recordkeeping Hours: 1,000.

Annual Burden Hours: 13,324 (rounded).

Bureau Clearance Officer: Arthur Quintana, (703) 787–1239.

Dated: July 21, 1995.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 95–20072 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for reapproval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting Dennis Jones at 303–231–3046. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer at the telephone number listed below, and to the OMB Paperwork Reduction Project (1010–0063), Washington, DC 20503, telephone 202–395–7340.

Title: Production Accounting and Auditing System Reports on Solid Minerals.

OMB Approval Number: 1010–0063.

Abstract: Production Accounting and Auditing System information is needed to provided comprehensive production and disposition data on solid minerals produced from Federal and Indian leases. The data collected from lease and mine operators will be used to monitor production and check reported disposition against royalties. The monitoring function will enable MMS to verify that proper royalties are being received for solid minerals produced from Federal and Indian land.

Bureau Form Numbers: MMS–4050, MMS–4051–S, MMS–4059 A and B, MMS–4060 A and B.

Frequency: Intermittently, monthly, quarterly.

Description of Respondents: Companies producing and processing solid minerals from Federal and Indian leases.

Estimated Completion Time: .5 to 1.5 hours.

Annual Responses: 4,017.

Annual Burden Hours: 3,425.

Bureau Clearance Officer: Arthur Quintana, (703) 787–1101.

Dated: July 10, 1995.

James W. Shaw,

Associate Director for Royalty Management.

[FR Doc. 95–20073 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collections of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010–0017); Washington, DC 20503, telephone (202) 395–7340, with copies to Chief, Engineering and Standards Branch; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: Semiannual Well Test Report, Form MMS–128.

OMB Approval Number: 1010–0017.

Abstract: Respondents submit Form MMS–128 to the Minerals Management Service's (MMS) Regional Supervisors so they can evaluate the results of well tests to ascertain if reservoirs are being depleted in a manner that will lead to the greatest ultimate recovery of hydrocarbons. The form is designed to present current well data on a semiannual basis to permit the updating of permissible producing rates and provide the basis for estimates of currently remaining recoverable gas reserves.

Bureau Form Number: Form MMS–128.

Frequency: Semiannual.

Description of Respondents: Outer Continental Shelf oil and gas lessees.

Annual Burden Hours: 3,080.

Bureau Clearance Officer: Arthur Quintana, (703) 787–1239.

Dated: July 28, 1995.

E.P. Danenberger,

Acting Deputy Associate Director for Operations and Safety Management.

[FR Doc. 95–20067 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collections of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010–0051); Washington, DC 20503, telephone (202) 395–7340, with copies to Chief, Engineering and Standards Branch; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: Oil and Gas Production Measurement, Surface Commingling, and Security, Subpart L, 30 CFR Part 250.

OMB Approval Number: 1010–0051.

Abstract: Respondents submit this information to the Minerals Management Service's District Supervisors so they can evaluate the equipment and/or procedures and approve or disapprove the equipment and/or procedures for use during offshore production measurement and commingling operations.

Bureau Form Number: None.

Frequency: Varied.

Description of Respondents: Federal Outer Continental Shelf oil and gas lessees.

Recordkeeping Hours: 2,255.

Annual Burden Hours: 4,650 (rounded).

Bureau Clearance Officer: Arthur Quintana; (703) 787–1239.

Dated: July 28, 1995.

E. P. Danenberger,

Acting Deputy Associate Director for Operations and Safety Management.

[FR Doc. 95–20066 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related form and explanatory material may be obtained by contacting Dennis C. Jones at (303) 231–3046. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer at the telephone number listed below, and to the OMB Paperwork Reduction Project, Washington, DC 20503, telephone (202) 395–7340.

Title: Proposed Form MMS–4393—Requests to Exceed Regulatory Allowance Limitation.

Abstract: The Minerals Management Service (MMS) Royalty Management Program is proposing a new form to be used by royalty payors on Federal or Indian mineral leases when requesting MMS approval to exceed established transportation or processing allowance limits. The Form will be included with the payor's request to exceed allowance limits in order to ensure that MMS receives the lease data required to make a decision on the request.

Bureau Form Number: MMS–4393.

Frequency: Annually.

Description of Respondents: Oil and gas companies.

Estimated Completion Time: Average of one-half hour.

Annual Responses: 50.

Annual Burden Hours: 25.

Bureau Clearance Officer: Arthur Quintana, (703) 787–1101.

Dated: July 12, 1995.

James W. Shaw,

Associate Director for Royalty Management.

[FR Doc. 95–20060 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–MR–M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related explanatory material may be obtained by contacting Dennis C. Jones at 303–231–3046. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer at the telephone number listed below, and to the OMB Paperwork Reduction Project (1010–0074), Washington, DC 20503, telephone 202–395–7340.

Title: Coal Washing and Transportation Allowances.

OMB Approval Number: 1010–0074.

Abstract: The Government collects royalties resulting from the sale of Federal and Indian coal. Coal sales contracts are required to be submitted upon request by MMS to ensure that the Federal or Indian lessor receives royalties that are based on product values representing fair market value. In some cases an allowance may be granted from royalties to compensate the lessee for the reasonable actual costs of washing the royalty portion of the coal. An allowance may also be granted for transporting the royalty portion of coal to a sales point not on the lease or in the mine area. Failure to collect the data described in this information collection could result in the undervaluation of coal and render it impossible to ensure that the public and/or the Indians receive payment on the full value of the minerals being removed.

Bureau Form Numbers: MMS–4292 and MMS–4293.

Frequency: Annually, or whenever a contract terminates, or circumstances otherwise cause changes.

Description of Respondents: Solid minerals mining companies.

Annual Responses: 44.

Annual Burden Hours: 498.

Bureau Clearance Officer: Arthur Quintana, (703) 787–1101.

Dated: July 12, 1995.

James W. Shaw,

Associate Director for Royalty Management.

[FR Doc. 95–20061 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–MR–P

Information Collection Submitted to the Office of Management and Budget (OMB) for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to OMB for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collections of information and related forms may be obtained by contacting the Bureau's Clearance Officer at the telephone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget; Paperwork Reduction Project (1010–0031); Washington, DC 20503, telephone (202) 395–7340, with copies to Chief, Engineering and Standards Branch; Mail Stop 4700; Minerals Management Service; 381 Elden Street; Herndon, Virginia 22070–4817.

Title: Reimbursement to Permittees for Certain Geological and Geophysical Information and Data, 30 CFR 251.13.

OMB approval number: 1010–0031.

Abstract: Section 26 of the Outer Continental Shelf (OCS) Lands Act requires that certain costs be reimbursed to the parties submitting required geological and geophysical (G&G) information and data requested by the Minerals Management Service (MMS). Under the law, permittees can be reimbursed for the costs of reproducing any G&G data required to be submitted. In order for the Government to determine the propriety and level of reimbursement, permittees are required to send a request for reimbursement to the Director, MMS, where it will be reviewed and evaluated. Reimbursement will be made according to appropriate criteria.

Bureau form number: None.

Frequency: On occasion.

Description of respondents: Federal OCS oil and gas permittees.

Annual burden hours: 1,500.

Bureau Clearance Officer: Arthur Quintana, (703) 787–1239.

Dated: July 6, 1995.

Henry G. Bartholomew,

Deputy Associate Director for Operations and Safety Management.

[FR Doc. 95–20062 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

California National Historic Trail/Pony Express National Historic Trial General Management Plan/Environmental Impact Statement, California and Pony Express National Historic Trails, Iowa, Nebraska, Missouri, Kansas, Colorado, Wyoming, Utah, Nevada, California, Oregon

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of intent to prepare an environmental impact statement for the California and Pony Express National Historic Trails General Management Plan/Environmental Impact Statements, California and Pony Express National Historic Trails.

SUMMARY: Under the provisions of the National Environmental Policy Act, the National Park Service is preparing an environmental impact statement for the California and Pony Express National Historic Trails General Management Plan/Environmental Impact Statement for California and Pony Express National Historic Trails.

The effort will result in a comprehensive general management plan that encompasses preservation of natural and cultural resources, visitor use and interpretation, roads, and facilities. In cooperation with the U.S. Fish and Wildlife Service, U.S.D.A. Forest Service, Bureau of Land Management, and the sovereign Native American Tribes with lands adjacent to the trails, attention will also be given to resources adjacent to the trails that affect the integrity of the California and Pony Express National Historic Trails. Alternatives to be considered include no-action and a range of alternatives from which the preferred alternative will be selected.

Major issues include cooperative agreements with land management agencies and private land owners for visitor use and trial preservation; identification of historic sites and trail segments; development of a consistent management strategy for the trails, which can be easily implemented by land owners and land management agencies.

A scoping brochure has been prepared that details the issues identified to date. Copies of that information can be obtained from the Denver Service Center (TCE), Attn: Patrick O'Brien, P.O. Box 25287, Denver, Colorado 80225–0287; (303) 969–2458.

FOR FURTHER INFORMATION CONTACT: Jere Krakow, Trail Program Manager, Long Distance Trails Program Office at (801) 539–4094.

Dated: June 22, 1995.

Ronald E. Everhart,

Acting Field Director, Intermountain Area.

[FR Doc. 95–20159 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–70–M

Chesapeake and Ohio Canal National Historical Park Commission Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting will be held at the Cliffside Inn in Harpers Ferry, West Virginia, on September 9, 1995, at 1:00 p.m.

The Commission was established by Public Law 91–664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mrs. Sheila Rabb Weindenfeld, Chairman, Washington, D.C.
Ms. Diane C. Ellis, Brunswick, Maryland
Brother James J. Kirkpatrick, F.S.C., Cumberland, Maryland
Ms. Anne L. Gormer, Cumberland, Maryland
Ms. Elise B. Heinz, Arlington, Virginia
Mr. George M. Wykoff, Jr., Cumberland, Maryland
Mr. Rockwood H. Foster, Washington, D.C.
Mr. Barry A. Passett, Washington, D.C.
Mrs. Jo Reynolds, Potomac, Maryland
Ms. Nancy C. Long, Glen Echo, Maryland
Ms. Mary E. Woodward, Shepherdstown, West Virginia
Dr. James H. Gilford, Frederick, Maryland
Mr. Edward K. Miller, Hagerstown, Maryland
Mrs. Sue Ann Sullivan, Williamsport, Maryland
Mr. Terry W. Hepburn, Hancock, Maryland
Mr. Laidley E. McCoy, Charleston, West Virginia
Ms. Jo Ann M. Spevacek, Burke, Virginia
Mr. Charles J. Weir, Falls Church, Virginia
Ms. Ferial S. Bishiop, Washington, D.C.

Agenda items for this meeting include the park's historic leasing program, planning for Fort Duncan area, and fundraising for the Monocacy Aqueduct.

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed. Persons wishing further information concerning this meeting or who wish to submit written statements, may contact the Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782.

Minutes of the meeting will be available for public inspection six (6) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: August 9, 1995.

Richard E. Powers,

Field Director, National Capital Area.

[FR Doc. 95–20158 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–70–M

Chesapeake and Ohio Canal National Historical Park

Notice is hereby given that the Canal Place Preservation and Development Authority and the National Park Service will conduct a public hearing on Thursday, August 31, 1995, at 7 p.m. in council chambers at Cumberland City Hall, 57 N. Liberty Street, Cumberland, Maryland. The purpose of the hearing will be for soliciting public comment on the Canal Place Preservation District Management Plan. The National Park Service is a partner in the preparation of this plan and will use the document as its official plan for the terminus area of the C&O Canal National Historical Park.

Representatives from the consulting firm of Wallace Roberts and Todd will make the final presentation and, along with Authority members, will be available to answer questions and receive comments.

The Management Plan specifies the goals and objectives for preservation, development, and management of the Canal Place Preservation District. In addition, the Plan: (1) Provides an inventory of cultural, historic, and natural resources; (2) identifies the types of public and private uses to be accommodated; (3) describes the educational, interpretive, and recreational programs and projects; (4) describes plans for encouraging tourism and economic development; (5) provides an economic assessment of costs, benefits, and funding sources related to implementation; (6) describes the means for the long term preservation and protection of cultural, historic, and natural resources; (7) describes the organizational structure for planning, development, and management; (8) provides a schedule for the planning, development, and management of the Preservation District; and (9) identifies specific programs and projects to be undertaken by the C&O Canal National Historical Park.

Inquiries regarding this hearing may be directed to the Canal Place Authority, 301–759–6418, TTY/TDD 1–800–735–

2258, or Superintendent, C&O Canal National Historical Park, 301–739–4200.

Dated: August 9, 1995.

Richard E. Powers,

Field Director, National Capital Area.

[FR Doc. 95–20160 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–70–M

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 5, 1995. 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 to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by August 30, 1995.

Carol D. Shull,

Keeper of the National Register.

ALABAMA

Jefferson County

Thomas By—Product Coke Works Historic District, Roughly bounded by RR Tracks and the sand and gravel quarry, Birmingham, 95001060

COLORADO

Denver County

Ogden Theatre, 935 E. Colfax Ave., Denver, 95001055

FLORIDA

Palm Beach County

El Cid Historic District, Roughly bounded by Flamingo Dr., S. Flagler Dr., Dyer Rd. and S. Dixie Hwy., West Palm Beach, 95001064

IDAHO

Bonner County

Priest River Commercial Core Historic District, Roughly bounded by Wisconsin, Montgomery, and Cedar Sts. and Albeni Rd., Priest River, 95001057

Latah County

Cordelia Lutheran Church, S. of the jct. of Genesee-Troy and Danielson Rds., Moscow vicinity, 95001058

Twin Falls County

Twin Falls Milling and Elevator Company Warehouse, 516 Second St. S., Twin Falls, 95001059

ILLINOIS

Cook County

Hotel St. Benedict Flats, 40, 42, 50 E. Chicago Ave., 801 N. Wabash Ave., Chicago, 88003311

KANSAS

Dickinson County

Smith, D. G., Building, 217 W. First St., Abilene, 95001053

Riley County

Seven Dolors Catholic Church, NE of the jct. of Juliette and Pierre Sts., Manhattan, 95001054

MONTANA

Lincoln County

Farmers and Merchants State Bank, 223 Dewey Ave., Eureka, 95001062

NEW HAMPSHIRE

Hillsborough County

North Weare Schoolhouse, Old Concord Stage Rd., N side, E of the jct. with NH 114, Weare, 95001051

Merrimack County

Tuttle, Donald D., House, 257 Pleasant St., Concord, 95001052

NORTH CAROLINA

Buncombe County

McCracken, Dr. Cireo McAfee, House, 1384 Charlotte Hwy., Fairview, 95001066

Chowan County

Hicks Field, Jct. of Freemason and Woodard Sts., NE corner Edenton, 95001050

Henderson County

Kanuga Lake Historic District, Roughly, area surrounding Kanuga Lake, Hendersonville vicinity, 95001056

Robeson County

Pembroke High School, Former, E of the jct. of Hwy. 711 and NC 1561, Pembroke, 95001071

Wayne County

Barnes—Hooks Farm, 414 Stuckey Rd., Fremont vicinity, 95001072

OHIO

Cuyahoga County

First Methodist Church (Upper Prospect MRA) 3000 Euclid Ave., Cleveland, 84003953

TENNESSEE

Hamilton County

Central Block Building, 630—638 Market St., Chattanooga, 95000293

Warren County

First Presbyterian Church, 205 W. Main St., McMinnville, 95001061

WISCONSIN

Sheboygan County

Foeste, Henry Store, Building, 522 S. Eighth St., Sheboygan, 95001063

[FR Doc. 95–20186 Filed 8–14–95; 8:45 am]

BILLING CODE 4310–70–P

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 388 (Sub-No. 5)]

Intrastate Rail Rate Authority—Georgia

AGENCY: Interstate Commerce Commission.

ACTION: Notice of recertification.

SUMMARY: Pursuant to 49 U.S.C. 11501(b), the Commission recertifies the State of Georgia to regulate intrastate rail rates, classifications, rules, and practices for a 5-year period.

DATES: Recertification will be effective on September 14, 1995 and will expire on September 13, 2000.

FOR FURTHER INFORMATION CONTACT: Elaine Sehrt-Green, (202) 927–5269 or Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

Decided: August 7, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95–20164 Filed 8–14–95; 8:45 am]

BILLING CODE 7035–01–P

[Ex Parte No. 388 (Sub-No. 10)]

Intrastate Rail Rate Authority—Kansas

AGENCY: Interstate Commerce Commission.

ACTION: Notice of recertification.

SUMMARY: Pursuant to 49 U.S.C. 11501(b), the Commission recertifies the State of Kansas to regulate intrastate rail rates, classifications, rules, and practices for a 5-year period.

DATES: Recertification will be effective on September 14, 1995 and will expire on September 13, 2000.

FOR FURTHER INFORMATION CONTACT: Elaine Sehrt-Green, (202) 927–5269 or Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

Decided: August 7, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95–20165 Filed 8–14–95; 8:45 am]

BILLING CODE 7035–01–P

[Ex Parte No. 388 (Sub-No. 1)]

Intrastate Rail Rate Authority—Alabama

AGENCY: Interstate Commerce Commission.

ACTION: Notice of recertification.

SUMMARY: Pursuant to 49 U.S.C. 11501(b), the Commission recertifies the State of Alabama to regulate intrastate rail rates, classifications, rules, and practices for a 5-year period.

DATES: Recertification will be effective on September 14, 1995 and will expire on September 13, 2000.

FOR FURTHER INFORMATION CONTACT: Elaine Sehrt-Green, (202) 927–5269 or Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

Decided: August 7, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95–20166 Filed 8–14–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

New Collection

(1) United States Trustee Program Customer Surveys.

(2) N/A. United States Trustees. United States Department of Justice.

(3) Primary: Individuals or households. Other: Business or other for-profit, farms. The information furnished will be used by the Executive Office for United States Trustees to determine the level of customer satisfaction and to identify specific policies or procedures that may require attention. There are six separate surveys which will be conducted annually.

(4) 1,000 annual respondents, .25 hours per response.

(5) 1,500 annual burden hours.

(6) Not applicable under section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: August 9, 1995.

Kathleen T. Albert,

Acting Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–20096 Filed 8–14–95; 8:45 am]

BILLING CODE 4410–01–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) an the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Reinstatement, Without Change, of a Previously Approved Collection for Which Approval Has Expired

(1) Report of Public Safety Officer's Death.

(2) Form OJP 3650/6 (Rev 2–89). Bureau of Justice Assistance. United States Department of Justice.

(3) Primary: Individuals or households. Other: Federal Government, State, Local or Tribal Government. This form is used by public safety agencies to give notice of the death of public safety officers killed in the line of duty. It also serves to identify persons eligible for benefits under the Public Safety Officers Benefits Act.

(4) 320 annual respondents, 2.5 hours per response.

(5) 800 annual burden hours.

(6) Not applicable under section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: August 8, 1995.

Kathleet T. Albert,

Acting Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–20098 Filed 8–14–95; 8:45 am]

BILLING CODE 4410–18–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division, Suite 850, WCTR, Washington, DC 20530.

Reinstatement, Without Change, of a Previously Approved Collection for Which Approval Has Expired

(1) Claim for Death Benefits.

(2) Form OJP 3650/5 (Rev 2–89). Bureau of Justice Assistance. United States Department of Justice.

(3) Primary: Individuals or households. Other: Federal Government, State, Local or Tribal Government. This form is used to submit claims for benefits under the Public Safety Officers Benefits.

(4) 320 annual respondents, 2.5 hours per response.

(5) 800 annual burden hours.

(6) Not applicable under section 3504(h) of the Public Law 96–511.

Public comment on this item is encouraged.

Dated August 9, 1995.

Kathleen T. Albert,

Acting Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–20099 Filed 8–14–95; 8:45 am]

BILLING CODE 4410–18–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection.

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/Information Resources Management/Justice Management Division Suite 850, WCTR, Washington, DC 20530.

Revision of a Currently Approved Collection

(1) Guam Visa Waiver Agreement.

(2) From I–760. Immigration and Naturalization Service. United States Department of Justice.

(3) Primary: Business or other for-profit. Other: Not-for-profit institutions. This form is the agreement between a carrier of aliens and the United States pursuant to Public Law 99–386.

(4) 5 annual respondents, 1 hour per response.

(5) 5 annual burden hours.

(6) Not applicable under section 3504(h) of Public Law 96–511.

Public Comment on this item is encouraged.

Dated: August 9, 1995.

Kathleen T. Albert,

Acting Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–20100 Filed 8–14–95; 8:45 am]

BILLING CODE 4410–10–M

Information Collection Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/collection, but find that time to prepare

such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/ Information Resources Management/ Justice Management Division, Suite 850, WCTR, Washington, DC 20530.

Extension of a Currently Approved Collection

(1) Passenger List, Crew List.

(2) Form I–418. Immigration and Naturalization Service. United States Department of Justice.

(3) Primary: Individuals or households. Other: None. This form is prescribed by the Attorney General for use by masters, owners or agents of vessels in complying with sections 231 and 251 of the Immigration and Nationality Act.

(4) 95,000 annual respondents, 1 hour per response.

(5) 95,000 annual burden hours.

(6) Not applicable under section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: August 9, 1995.

Kathleen T. Albert,

Acting Department Clearance Officer, United States Department of Justice.

[FR Doc. 95– 20101 Filed 8–14–95; 8:45 am]

BILLING CODE 4410–10–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/ collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/ Information Resources Management/ Justice Management Division, Suite 850, WCTR, Washington, DC 20530.

Extension of a Currently Approved Collection

(1) Request for Cancellation of Public Charge Bond.

(2) Form I–356. Immigration and Naturalization Service. United States Department of Justice.

(3) Primary: Individuals or households. Other: None. The information collected will allow the Immigration and Naturalization Service to determine if bond posted on behalf of an alien in the United States should be cancelled.

(4) 2,000 annual respondents, .25 hours per response.

(5) 500 annual burden hours.

(6) Not applicable under section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: August 9, 1995.

Kathleen T. Albert,

Acting Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–20102 Filed 8–14–95; 8:45 am]

BILLING CODE 4410–10–M

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) Who will be asked or required to respond, as well as a brief abstract;

(4) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(5) An estimate of the total public burden (in hours) associated with the collection; and,

(6) An indication as to whether Section 3504(h) of Public Law 96–511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Jeff Hill on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Robert B. Briggs, on (202) 514–4319. If you anticipate commenting on a form/ collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the Department of Justice Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Robert B. Briggs, Department of Justice Clearance Officer, Systems Policy Staff/ Information Resources Management/ Justice Management Division, Suite 850, WCTR, Washington, DC 20530.

Extension of a Currently Approved Collection

(1) Application for Removal.

(2) Form I–243. Immigration and Naturalization Service, United States Department of Justice.

(3) Primary: Individuals or households. Other: None. The information collected will allow the Immigration and Naturalization Service to determine eligibility for the alien's request for removal from the United States.

(4) 41 annual respondents, .166 hours per response.

(5) 7 annual burden hours.

(6) Not applicable under section 3504(h) of Public Law 96–511.

Public comment on this item is encouraged.

Dated: August 9, 1995.

Kathleen T. Albert,

Acting Department Clearance Officer, United States Department of Justice.

[FR Doc. 95–20103 Filed 8–14–95; 8:45 am]

BILLING CODE 4410–10–M

Notice of Lodging of Consent Decree Pursuant to the Safe Drinking Water Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed consent Decree in *United States* v. *City of Cushman, Arkansas,* Civil Action No. B–C–94–40, was lodged on August 3, 1995 with the United States District Court for the Eastern District of Arkansas.

The United States field a Complaint pursuant to 42 U.S.C. 300–3(b) and (g) and the Drinking Water Regulations at 40 CFR Part 141 alleging that the City of Cushman violated provision of the Act and Regulations and seeking injunctive relief and civil penalties. Subsequently, the United States and the City of Cushman, Arkansas reached a settlement which resolves the issues set forth in the Complaint. The settlement includes the payment of $15,000 in civil penalties by the City of Cushman and the construction of a new water treatment plant.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *City of Cushman, Arkansas,* DOJ Ref. No. 90–5–1–1–3955.

The proposed Consent Decree can be examined at the office of the United States Attorney for the Eastern District of Arkansas, 425 W. Capitol, Suite 500, Little Rock, Arkansas, the Region VI Office of the Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $3.25 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Acting Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 95–20149 Filed 8–14–95; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Data Collection Instruments for the Evaluation of the Emergency Unemployment Compensation Act

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effect to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information, in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Unemployment Insurance Service of the Employment and Training Administration is soliciting comments concerning the proposed new collection of data for the evaluation of the Emergency Unemployment Compensation Program. A copy of the proposed information collection request can be obtained by contacting the employee listed below in the contact section of this notice.

DATES: Written comments must be submitted on or before October 16, 1995. If you anticipate submitting written comments, but find it difficult to do so within the length of time allowed by this notice, you should request an extension from the contact person listed below as soon as possible. An effort will be made to accommodate each request, unless otherwise justified

FOR FURTHER INFORMATION CONTACT: Robert Pavosevich, U.S. Dept of Labor, Unemployment Insurance Service, Room S–4519, 200 Constitution Ave., NW., Washington, DC 20210, (202) 219–8640.

SUPPLEMENTARY INFORMATION:

I. Background

The collection of survey data and State administrative records is being done to support an evaluation of the Emergency Unemployment Compensation (EUC) program implemented in 1991. The EUC program paid federally-financed extended unemployment insurance benefits from November 1991, through April 1994. More than $28 billion in benefits were paid in the program.

II. Current Actions:

The data collection effort will consist of a telephone survey of 4,000 individuals, and acquiring administrative data records from twenty-three States. The interview will take roughly thirty minutes and gather information on an EUC recipient's characteristics and behavior. Computer Assisted Telephone Interviewing (CATI) will be used to conduct the survey in order to reduce the burden on respondents and provide greater accuracy. All respondents will be informed that the information they provide will be kept strictly confidential. All data will be collected by a private contractor and only information that will preclude any individual's identification will be provided to the U.S. Dept. of Labor. This data collection process from individuals and States will occur only once. The total burden of conducting the survey and collecting administrative records from twenty-three States is estimated to be 4,520 hours.

Public comments are being solicited to address the accuracy of the burden estimates and ways to minimize burden, including the use of automated collection techniques or the use of other forms of information technology.

Type of Review: New.

Agency: Employment and Training Administration.

Title: Data Collection Instruments for the Evaluation of the Emergency Unemployment Compensation Program.

Frequency: One Time.

Affected Public: Individuals or households and State Government.

Number of Respondents: 4,000 and 23 States.

Estimated Time per Respondent: 30 minutes.

Total Burden Hours: 4520.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter or public record.

Signed at Washington, DC., this 9th day of August 1995.

Timothy M. Barnicle,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 95–20133 Filed 8–14–95; 8:45 am]

BILLING CODE 4510–30–M

Office of the Secretary

Secretary's Task Force on Excellence in State and Local Government Through Labor-Management Cooperation; Meeting

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of public meeting.

SUMMARY: The Secretary's Task Force on Excellence in State and Local Government Through Labor-Management Cooperation was established in accordance with the Federal Advisory Committee Act (FACA) (Pub. L. 82–463)). Pursuant to Section 10(a) of FACA, this is to announce that the Task Force will meet at the time and place shown below.

TIME AND PLACE: The meeting will be held on Wednesday, September 13, 1995, from approximately 9 a.m. to 12 noon and on Thursday, September 14, 1995, from approximately 9 a.m. to 12 noon in Conference Room N–3437 B–D in the Department of Labor, 200 Constitution Avenue, NW, Washington, DC.

AGENDA: At this meeting, the Task Force intends to hear testimony on and discuss the following topics, among others: (1) experiences of state or local elected officials in implementing workplace changes through labor-management cooperation, and (2) the progress of the Task Force in the development of its report.

PUBLIC PARTICIPATION: The meeting will be open to the public. Seating will be available on a first-come, first-served basis. Individuals with disabilities wishing to attend should contact the Task Force if special accommodations are necessary. Individuals or organizations wishing to submit written statements should send 20 copies on or before September 5 to Mr. Charles A. Richards, Designated Federal Official, Secretary of Labor's Task Force on Excellence in State and Local Government through Labor-Management Cooperation, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S–2203, Washington, DC 20210. These statements will be thoroughly reviewed and become part of the record.

For the purposes of this meeting, the Task Force is primarily interested in statements that address the topics mentioned above under the heading ''Agenda.'' However, the Task Force continues to welcome submissions that address the questions in the mission statement and the following eight general areas: (1) Finding Models, Ingredients, and Barriers to Service Excellence and Labor-Management Cooperation and, as the following relate to promoting workplace cooperation and excellence; (2) Bargaining and Related Institutions and Practices; (3) Conflict Resolution Skills, Practices, and Institutions; (4) Legal and Regulatory Issues; (5) Effects of Civil Service; (6) Ensuring a High-Performance Work Environment; (7) Political and Electoral Considerations and Relationships; and (8) Financial Background, Financial Security, and Budget Systems.

FOR FURTHER INFORMATION CONTACT: Mr. Charles A. Richards, Designated Federal Official, Secretary of Labor's Task Force on Excellence in State and Local Government through Labor-Management Cooperation, U.S. Department of Labor, Room S–2203, Washington, DC 20210, (202) 219–6231.

Signed at Washington, DC, this 4th day of August 1995.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 95–20134 Filed 8–14–95; 8:45 am]

BILLING CODE 4510–23–M

Pension and Welfare Benefits Administration

Advisory Council on Employee Welfare and Pension Benefits Plan; Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 ERISA), 29 U.S.C. 1142, a public meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on September 13, 1995, in Suite S–2508, U.S. Department of Labor Building, Third and Constitution Avenue, N.W., Washington, DC 20210.

The purpose of the meeting, which will begin at 1:00 p.m. is to receive status reports of the Advisory Council's 1995 work groups and to invite public comment on any aspect of the administration of ERISA.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before Sept. 1, 1995 to Linda Jackson, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, N.W., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Advisory Council should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before Sept. 1, 1995.

Signed at Washington, DC this 10th day of August, 1995.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 95–20123 Filed 8–14–95; 8:45 am]

BILLING CODE 4510–29–M

Work Group on Pension Education, Advisory Council on Employee Welfare and Pension Benefits Plan; Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Work Group on Pension Education of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Sept. 11 and 12,1 995, in room S–3215 A–B, U.S. Department of Labor Building, Third and Constitution Avenue, N.W., Washington, DC 20210.

The purpose of the meetings, which will begin at 1 p.m. on Sept. 11 and 9:30 a.m. on Sept. 12, is to continue to take testimonies on the necessity of better educating the public to save for retirement and to explore successful programs that are working to this end.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before Sept. 1, 1995 to Linda Jackson, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, N.W., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Advisory Council should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory

Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before Sept. 1, 1995.

Signed at Washington, DC, this 10th day of August, 1995.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 95–20124 Filed 8–14–95; 8:45 am]

BILLING CODE 4510–29–M

Work Group on Real Estate Investment, Advisory Council on Employee Welfare and Pension Benefits Plan; Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Work Group of the Real Estate Investment of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Sept. 12, 1995, in Room S–3215 A&B, U.S. Department of Labor Building, Third and Constitution Avenue, N.W., Washington, DC 20210.

The purpose of the meeting, which will begin at 1:00 p.m. is to concentrate on the regulatory issues that impact on real estate investments for pension funds and to hear witnesses addressing this topic.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before Sept. 1, 1995 to Linda Jackson, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, N.W. Washington, DC 20210. Individuals or representatives of organizations wishing to address the advisory Council should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before Sept. 1, 1995.

Signed at Washington, DC, this 10th day of August, 1995.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 95–20125 Filed 8–14–95; 8:45 am]

BILLING CODE 4510–29–M

Work Group on Defined Contribution Adequacy, Advisory Council on Employee Welfare and Pension Benefits Plan; Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 19974 (ERISA), 29 U.S.C. 1142, public meetings of the Work Group on Defined Contribution Adequacy of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Sept. 11 and 13, 1995, in Room S–3215 A–B, U.S. Department of Labor Building, Third and Constitution Avenue, N.W., Washington, DC 20210.

The purpose of the meetings, which will begin at 9:30 a.m. each day, is to hear more testimony relating to various policy issues surrounding retirement income adequacy.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before Sept. 1, 1995 to Linda Jackson, Acting Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, N.W., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Advisory Council should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before Sept. 1, 1995.

Signed at Washington, DC, this 10th day of August 1995.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 95–20126 Filed 8–14–95; 8:45 am]

BILLING CODE 4510–29–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–213]

Connecticut Yankee Atomic Power Company; Notice of Withdrawal of Applications for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Connecticut Yankee Atomic Power Company (the licensee) to withdraw its July 31, 1992 and January 29, 1993, applications for proposed amendments to Facility Operating License No. DPR–61 for the Haddam Neck Plant, located in Middlesex County, Connecticut.

The proposed amendments would have revised the plugging criteria for the steam generator tubes due to cracking in the tubesheet expansion roll transition area.

The Commission had previously issued Notices of Consideration of Issuance of Amendment published in the **Federal Register** on September 1, 1992 (57 FR 39709) and March 4, 1993 (58 FR 12379). However, by letter dated July 25, 1995, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendments dated July 31, 1992, and January 29, 1993, and the licensee's letter dated July 25, 1995, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Russell Library, 123 Broad Street, Middletown, CT 06457.

Dated at Rockville, Maryland, this 9th day of August 1995.

For the Nuclear Regulatory Commission.

Alan B. Wang,

Project Manager, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–20118 Filed 8–14–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–327 and 328]

Sequoyah Nuclear Plant Units 1 and 2; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed no Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–77 and DPR–79 issued to the Tennessee Valley Authority (the licensee) for operation of the Sequoyah Nuclear Plant, Units 1 and 2, located in Soddy Daisy, Tennessee.

The proposed amendment would revise the numerical values for the overtemperature and overpower delta-temperature equation constants in Technical Specification (TS) Table 2.2–

1, Reactor Trip System Instrumentation Trip Setpoints. The original proposed change, published in the **Federal Register** April 26, 1995 (60 FR 20527), would have moved these values from the TS to the Core Operating Limit Report.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has evaluated the proposed technical specification (TS) change and has determined that it does not represent a significant hazards consideration based on criteria established in 10 CFR 50.92(c). Operation of Sequoyah Nuclear Plant (SQN) in accordance with the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The revision of the [tau]$_4$ constant numerical value in the overtemperature delta temperature (OT[delta]T) and overpower delta temperature (OP[delta]T) equations have been analyzed by the [* * *] Westinghouse Electric Corporation evaluation and have been found to have sufficient margin for the proposed change. This evaluation shows that the proposed changes are bounded by the existing analysis for Chapter 6 and 15 accidents. The setpoint change will continue to meet the applicable safety analysis acceptance criteria for the transients evaluated. The offsite dose rates for postulated accidents have not exceeded the values stated in the Updated Final Safety Analysis Report as a result of this change. The clarification of the equality signs for the constant numerical values does not change plant or accident mitigation functions. Therefore, the proposed changes will not increase the consequences of an accident.

This change affects the OT[delta]T and OP[delta]T functions that are designed to mitigate the consequences of an accident and are not considered to be an accident initiating source. Therefore, the probability of an accident is not increased by the proposed change.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

The revision of lead/lag dynamic compensation for the OT[delta]T and OP[delta]T functions do not impact accident initiators because these functions are used for accident mitigation and are not postulated as a source. Therefore, the possibility of a new or different kind of accident is not created by the proposed revision.

3. Involve a significant reduction in a margin of safety.

The proposed revision to the lead/lag compensation for the OT[delta]T and OP[delta]T functions does not invalidate the conclusions in the safety analysis. Margins provided for in the safety analysis are maintained with the proposed changes such that no reduction in the margin of safety is involved.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 14, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's

property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Frederick J. Hebdon: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to General Council, Tennessee Valley Authority, ET 11H, 400 West Summit Hill Drive, Knoxville, Tennessee 37902, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 6, 1995, which was superseded by the application dated August 7, 1995, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the local public document room located at the Chattanooga-Hamilton County Library, 1101 Broad Street, Chattanooga, Tennessee 37402.

Dated at Rockville, Maryland, this 9th day of August 1995.

For the Nuclear Regulatory Commission.

David E. LaBarge,

Sr. Project Manager, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–20119 Filed 8–14–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. STN 50–530]

Arizona Public Service Company, et al.; Palo Verde Nuclear Generating Station, Unit No. 3; Environmental Assessment and Finding of no Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from certain requirements of 10 CFR Part 50, Appendix J, Paragraph III.D.1.(a), Type A Tests, to the Arizona Public Service Company, et al. (APS or the licensee), for operation of the Palo Verde Nuclear Generating Station (PVNGS), Unit No. 3, located in Maricopa County, Arizona.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow an exemption from the requirements of 10 CFR Part 50, Appendix J, Paragraph III.D.1.(a), on a one-time schedular extension which would permit rescheduling the second containment integrated leak rate test (ILRT) in the first 10-year service period from the fifth refueling outage (3R5) currently scheduled for November 1995 to the sixth refueling outage (3R6) planned for April 1997.

The proposed action is in accordance with the licensee's application for exemption dated June 21, 1995.

The Need for the Proposed Action

The current ILRT requirements for PVNGS, Unit 3, as set forth in Appendix J, are that, after the pre-operational leak rate test, a set of three Type A tests must be performed at approximately equal intervals during each 10-year period. Also, the third test of each set must be conducted when the plant is shut down for the 10-year plant inservice inspection (ISI). The first periodic Type A test was performed in May of 1991 during the second refueling outage in Unit 3 (3R2), 40 months from the date of Unit 3 commercial operation. The second periodic test is currently scheduled to be performed in November of 1995 during the fifth refueling outage (3R5), corresponding to an interval of 54 months. The third Type A test is currently planned to be performed during the seventh refueling outage

(3R7) which would coincide with the completion of the first 10-year ISI interval.

The licensee has requested a schedular exemption from 10 CFR 50, Appendix J, Section III.D.1.(a) in regards to ''approximately equal time intervals.'' Specifically, the proposed exemption would allow APS to delay the Unit 3 second Type A test until the sixth refueling outage (3R6). The Type A test would tentatively be scheduled for April of 1997, and would increase the interval between the first and second Type A test from 54 months to 71 months. The third Type A test is not being altered by this exemption request and is scheduled to be performed during the seventh refueling outage (3R7) which would coincide with the completion of the first 10-year ISI interval. This exemption request proposes an increase to the interval between the first and second Type A test but does not alter the frequency of testing (three Type A tests performed in a ten year period) during the first 10 year ISI interval. The visual inspection of the containment is not included in the proposed exemption and will be performed as originally planned during the fifth refueling outage (3R5).

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed one-time exemption would not increase the probability or consequences of accidents previously analyzed and the proposed one-time exemption would not affect facility radiation levels or facility radiological effluents. The licensee has analyzed the results of previous Type A tests performed at the Palo Verde Nuclear Generating Station, Unit 3. The licensee has provided an acceptable basis for concluding that the proposed one-time extension of the Type A test interval would maintain the containment leakage rates within acceptable limits. Accordingly, the Commission has concluded that the one-time extension does not result in a significant increase in the amounts of any effluents that may be released nor does it result in a significant increase in individual or cumulative occupational radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption only involves Type A testing on the containment. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would not result in any change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupation radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed exemption.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the ''Final Environmental Statement Related to the Operation of Palo Verde Nuclear Generating Station, Units 1, 2, and 3,'' dated February 1982.

Agencies and Persons Consulted

In accordance with its stated policy, on July 17, 1995, the staff consulted with the Arizona State official, Mr. William Wright of the Arizona Radiation Regulatory Agency, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the licensee's letter dated June 21, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Phoenix Public Library, 1221 N. Central, Phoenix, Arizona 85004.

Dated at Rockville, Maryland, this 9th day of August 1995.

For the Nuclear Regulatory Commission.

Charles R. Thomas,

Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–20113 Filed 8–14–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–277 and 50–278]

Peco Energy Company Public Service Electric and Gas Company; Delmarva Power and Light Company; Atlantic City Electric Company; Peach Bottom Atomic Power Station, Units 2 and 3; Environmental Assessment and Finding of no Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–44 and DPR–56, issued to PECO Energy Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company (the licensee), for the Peach Bottom Atomic Power Station (PBAPS), Units 2 and 3, located at the licensee's site in York County, Pennsylvania.

Environmental Assessment

Identification of the Proposed Action

The proposed amendment will replace the existing PBAPS Technical Specifications (TS) in their entirety with Improved Technical Specifications (ITS). The proposed action is in accordance with the licensee's amendment request dated September 29, 1994 as supplemented by letters dated March 3, March 30, May 4 (two letters), May 8, May 9, May 16, May 24, May 25, May 26, June 7, July 7, July 13 and July 21, 1995.

The Need for the Proposed Action

It has been recognized that nuclear safety in all plants would benefit from improvement and standardization of TS. The ''NRC Interim Policy Statement on Technical Specification Improvements for Nuclear Power Reactors,'' (52 FR 3788, February 6, 1987) and later the Final Policy Statement (58 FR 39132, July 22, 1993), formalized this need. To facilitate the development of individual ITS, each reactor vendor owners group (OG) and the NRC staff developed standard TS (STS). For General Electric (GE) plants, the STS are NUREG–1433 for BWR/4 reactor facilities and NUREG–1434 for BWR/6 facilities.

NUREG–1433 formed the basis of the PBAPS ITS. The NRC Committee to Review Generic Requirements (CRGR) reviewed the STS and made note of the safety merits of the STS and indicated its support of conversion to the STS by operating plants.

Description of the Proposed Change

The proposed revision to the TS is based on NUREG–1433 and on guidance provided in the Policy Statement. Its objective is to completely rewrite, reformat, and streamline the existing TS. Emphasis is placed on human factors principles to improve clarity and understanding. The Bases section has been significantly expanded to clarify and better explain the purpose and foundation of each specification. In addition to NUREG–1433, portions of the existing TS were also used as the basis for the ITS. Plant-specific issues (unique design features, requirements, and operating practices) were discussed at length with the licensee, and generic matters with the OGs.

The proposed changes from the existing TS can be grouped into four general categories, as follows:

1. Non-technical (administrative) changes, which were intended to make the ITS easier to use for plant operations personnel. They are purely editorial in nature or involve the movement or reformatting of requirements without affecting technical content. Every section of the PBAPS TS has undergone these types of changes. In order to ensure consistency, the NRC staff and the licensee have used NUREG–1433 as guidance to reformat and make other administrative changes.

2. Relocation of requirements, which includes items that were in the existing PBAPS TS but did not meet the criteria set forth in the Policy Statement for inclusion in the TS. In general, the proposed relocation of items in the PBAPS TS to the Updated Final Safety Analysis Report (UFSAR), appropriate plant-specific programs, procedures and ITS Bases follows the guidance of the BWR/4 STS, NUREG–1433. Once these items have been relocated by removing them from the TS to other licensee-controlled documents, the licensee may revise them under the provisions of 10 CFR 50.59 or other NRC staff-approved control mechanisms which provide appropriate procedural means to control changes.

3. More restrictive requirements, which consist of proposed PBAPS ITS items that are either more conservative than corresponding requirements in the existing PBAPS TS, or are additional restrictions which are not in the existing PBAPS TS but are contained in NUREG–1433. Examples of more restrictive requirements include: placing a Limiting Condition of Operation (LCO) on plant equipment that is not required by the present TS to be operable; more restrictive requirements to restore inoperable equipment; and more restrictive surveillance requirements.

4. Less restrictive requirements, which are relaxations of corresponding requirements in the existing PBAPS TS which provided little or no safety benefit and placed unnecessary burden on the licensee. These relaxations were the result of generic NRC action or other analyses. They have been justified on a case-by-case basis for PBAPS as described in the staff's draft Safety Evaluation which was issued on July 20, 1995. The staff will issue a final Safety Evaluation with the license amendment, which will be noticed in the **Federal Register**.

In addition to the changes described above, the licensee proposed certain changes to the existing technical specifications that deviated from the standard technical specifications in NUREG–1433. Each of these additional proposed changes is described in the licensee's application and in the staff's Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing (60 FR 26905). These changes have been justified on a case-by-case basis for PBAPS as described in the staff's draft Safety Evaluation which was issued on July 20, 1995. The staff will issue a final Safety Evaluation with the license amendment, which will be noticed in the **Federal Register**.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revision to the TS. Changes that are administrative in nature have been found to have no effect on technical content of the TS, and are acceptable. The increased clarity and understanding these changes bring to the TS are expected to improve the operator's control of the plant in normal and accident conditions.

Relocation of requirements to other licensee-controlled documents does not change the requirements themselves. Future changes to these requirements may be made by the licensee under 10 CFR 50.59 or other NRC-approved control mechanisms, which ensures continued maintenance of adequate requirements. All such relocations have been found to be in conformance with the guidelines of NUREG–1433 and the Policy Statement, and, therefore, to be acceptable.

Changes involving more restrictive requirements have been found to be acceptable.

Changes involving less restrictive requirements have been reviewed individually. When requirements have been shown to provide little or no safety benefit or to place unnecessary burden on the licensee, their removal from the TS was justified. In most cases, relaxations previously granted to individual plants on a plant-specific basis were the result of a generic NRC action, or of agreements reached during discussions with the OG and found to be acceptable for PBAPS. Generic relaxations contained in NUREG–1433 as well as proposed deviations from NUREG–1433 have also been reviewed by the NRC staff and have been found to be acceptable.

In summary, the proposed revision to the TS was found to provide control of plant operations such that reasonable assurance will be provided that the health and safety of the public will be adequately protected.

These TS changes will not increase the probability or consequences of accidents, no changes are being made in the types of any effluent that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed TS amendment.

With regard to potential non-radiological impacts, the proposed amendment involves features located entirely within the restricted areas as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological impacts associated with the proposed amendment.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed amendment, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the amendment would be to deny the amendment request. Such action would not enhance the protection of the environment.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for the Peach Bottom Atomic Power Station, Units 2 and 3, dated April 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on April 19, 1995, the staff consulted with the Pennsylvania State official, Mr. Stan Maingi of the Pennsylvania Department of Environmental Resources, Bureau of Radiation Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this proposed action, see the licensee's letter dated September 29, 1994 and supplemental letters dated March 3, March 30, May 4 (two letters), May 8, May 9, May 16, May 24, May 25, May 26, June 7, July 7, July 13 and July 21, 1995. These letters are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC 20555, and at the local public document room located at Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Dated at Rockville, Maryland this 8th day of August 1995.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–20120 Filed 8–14–95; 8:45 am]

BILLING CODE 7590–01–P

[Docket Nos. 50–287 and 50–388]

Pennsylvania Power & Light Company; Susquehanna Steam Electric Station, Units 1 and 2; Environmental Assessment and Finding of no Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering an exemption from the requirements of 10 CFR Part 50, Appendix J. Sections II.H.4, III.C.2, and III.C.3, for Facility Operating Licenses No. NPF–14 and NPF–22 respectively, issued to Pennsylvania Power & Light Company, (the licensee), for operation of the Susquehanna Steam Electric Station (SSES), Units 1 and 2, located in Luzerne County, Pennsylvania.

Environmental Assessment

Identification of the Proposed Action

The proposed action would grant an exemption from 10 CFR Part 50, Appendix J, Sections II.H.4, III.C.2, and III.C.3 for SSES, Units 1 and 2, in conjunction with the removal of the main stream isolation value (MSIV) leakage control system (LCS) and the proposed use of an alternative pathway.

Appendix J, Sections II.H.4 and III.C.2 of 10 CFR Part 50, require leak rate testing of MSIVs at the calculated peak containment pressure related to the design basis accident, and Section III.C.3 of Appendix J requires that the measured MSIV leak rates be included in the combined local leak rate test results. The proposed deletion of the MSIV LCS and proposed use of an alternate leakage pathway affects the description of an existing exemption (NUREG–0776) which allows the leak rate testing of the MSIVs at a reduced pressure and allows the exclusion of the measured MSIV leakage from the combined local leak rate test results.

The proposed action is in accordance with the licensee's application for exemption dated February 21, 1995.

The Need for the Proposed Action

The proposed exemption is similar to the current exemption from 10 CFR Part 50, Appendix J, Sections II.H.4, III.C.2. The exemption is needed since the design of the MSIVs is such that testing in the reverse direction tends to unseat the MSIV and would result in a meaningless test. The total observed MSIV leak rate resulting from a leakage test where two MSIVs on one steam line are tested utilizing a reduced pressure (22.5 psig) will continue to be assigned to the penetration. The proposed exemption is also similar to the current exemption from 10 CFR Part 50, Appendix J, Section III.C.3. The licensee proposes that the MSIV leakage rate will continue to be accounted for separately in the radiological site analysis in accordance with the existing exemption. However, the existing exemption from 10 CFR Part 50, Appendix J, Section III.C.3 will not be applicable when the MSIV LCS is replaced with an Alternate Treatment Path (ATP) (Main steam lines and condenser).

The proposed action regarding the TS amendment will reduce the need for repairs of the MSIVs, resolve concerns associated with the current LCS performance capability at high MSIV leakage rates, and provide an effective method for dealing with a potential MSIV leakage during a postulated loss-of-coolant accident (LOCA). Many boiling water reactors have difficulty meeting their MSIV leakage rate limits. Extensive repair, rework, and retesting efforts have negative effects on the outage costs and schedules, as well as significant impact on the licensee's as low as it is reasonable achieveable (ALARA) radiological exposure programs. The alternatives proposed by the licensee to deal with the MSIV leakage make use of components (main steam lines and condenser) that are expected to remain intact and serviceable following a design basis LOCA.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that this action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Regarding the exemption, the MSIV leakage, along with the containment leakage is used to calculate the maximum radiological consequences of a design basis accident. Section 15.6.5 of the SSES Final Safety Analysis Report (FSAR) identifies that standard and conservative assumptions have been used to calculate the offsite and control room doses, including the doses due to MSIV leakage, which could potentially result from a postulated LOCA. Further, the control room and offsite doses resulting from a postulated LOCA have recently been recalculated using currently accepted assumptions and methods. These analyses have demonstrated that the total leakage rate of 300 scfh results in dose exposures for the control room and offsite that remain within the requirements of 10 CFR Part 100 for offsite doses and 10 CFR Part 50, Appendix A, for the control room doses.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not

affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Susquehanna Steam Electric Station, Units 1 and 2.

Agencies and Persons Consulted

In accordance with its stated policy, on July 7, 1995, the staff consulted with the Pennsylvania State official, David Ney of the Department of Radiation Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated February 21, 1995, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes Barre, Pennsylvania 18701.

Dated at Rockville, Maryland, this 8th day of August 1995.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–20121 Filed 8–14–95; 8:45 am]

BILLING CODE 7590–01–M

Workshop on Development of Regulatory Guidance Implementing the Final Rule on Radiological Criteria for Decommissioning; Notice

SUMMARY: The Nuclear Regulatory Commission (NRC) is preparing to hold a workshop to provide information to interested members of the public regarding draft implementation guidance for the final rule on Radiological Criteria for Decommissioning. Implementation issues to be discussed include pathways modeling, dose assessment, performance of site surveys, and instrumentation. NRC staff will discuss the use of the World Wide Web (WWW) to allow the public to interact with the staff during the development of implementation guidance. In addition, NRC staff will present an overview of the status of the final rule, including a discussion of the major issues identified in the public comments on the proposed rule (59 FR 43200).

DATES: The workshop will be held on Friday, September 29, 1995, from 9 a.m. until 5 p.m.

ADDRESSES: The workshop will be held in the main auditorium located at the NRC Headquarters Building, Two White Flint North (TWFN), 11545 Rockville Pike, Rockville, MD 20852–2738, telephone (301) 415–5811. Seating is limited to 300 people and will be on a first-come, first-served basis. It should also be noted that parking at the TWFN building is very limited.

FOR FURTHER INFORMATION CONTACT: Charleen Raddatz, Office of Research, Mail Stop T–9C24, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6215 or Christine Daily, Office of Research, Mail Stop T–9C24, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6026.

SUPPLEMENTARY INFORMATION: On August 22, 1994 (59 FR 43200), NRC published for comment a proposed rule on Radiological Criteria for Decommissioning, 10 CFR Parts 20, 30, 40, 50, 51, 70, and 72, that would provide the regulatory basis for determining the extent to which lands and structures must be remediated before a site can be considered decommissioned. Between January and June of 1993, seven workshops were conducted throughout the United States to solicit commentary from affected interested parties on the fundamental approaches and issues that must be addressed in establishing radiological criteria for decommissioning.

The purpose of this workshop is to provide information and training in specific technical areas including pathways modeling, dose assessment, performance of site surveys and instrumentation to interested members of the public. The staff will provide additional information to facilitate the use of the World Wide Web as a means of participating in a virtual working group (VWG). The purpose of the VWG is to encourage interactive constructive input between participants and NRC staff. The VWG will be devoted to the further development of useful implementation guidance and will have the opportunity to review and comment on staff documents as they are developed. In this way, NRC staff hopes to continue the Enhanced Participatory process that has distinguished this rulemaking.

Conduct of the Meeting

The format will consist of a lecture by NRC personnel with emphasis on providing training for potential participants of the Virtual Working Group followed by time for questions and comments from the audience. Staff drafts of implementation documents will be available 30 days prior to the meeting and will be available on the NRC Enhanced Participatory Rulemaking on Radiological Criteria for Decommissioning Electronic Bulletin Board. Interested persons may connect to the bulletin board by calling 1–800–880–6091 (58 FR 37760; July 13, 1993). The bulletin board may be accessed using a personal computer, a modem, and most commonly available communications software packages. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Use ANSI or VT–100 terminal emulation. Background documents on the rulemaking are also available for downloading and viewing on the bulletin board. For more information, call Ms. Christine Daily, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Phone (301) 415–6026; FAX (301) 415–5385.

Dated at Rockville, Maryland, this 8th day of August, 1995.

For the Nuclear Regulatory Commission.

John E. Glenn,

Chief, Radiation Protection & Health Effects Br., Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 95–20114 Filed 8–14–95; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Notice of Meeting

AGENCY: Office of Management and Budget.

ACTION: National Industrial Security Program Policy Advisory Committee (NISPPAC) meeting: Notice of meeting and invitation for public comments.

SUMMARY: The National Industrial Security Program Policy Advisory Committee will hold a meeting that shall serve as a forum to discuss National Industrial Security Program (NISP) policy issues in dispute, and to advise the Chairman of these issues. The agenda will include a discussion of the status of the NISP, Executive Order 12958 and its impact on industry, and the introduction of new NISPPAC industry members.

The Information Security Oversight Office (ISOO) will host the meeting. ISOO is part of OMB's Office of Information and Regulatory Affairs.

DATES: The meeting will be held on Wednesday, September 27, 1995, at 10:00 a.m., at the Information Security Oversight Office in Washington, DC. The meeting is open to the public; however due to access procedures, the names and telephone numbers of those planning to attend must be submitted to the Information security Oversight Office no later than Monday, September 24, 1995.

ADDRESSES: The meeting will be held at the Information Security Oversight Office, Suite 530, 750 17th Street, NW., Washington, DC 20006.

Written statements may be forwarded by mail to the above address, or faxed to (202) 395–7460.

FOR FURTHER INFORMATION CONTACT: For additional information about the meeting or to submit the names of those planning to attend, contact Ms. Dorothy Cephas of the Information Security Oversight Office at (202) 395–7450.

James B. MacRae, Jr.,

Acting Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 95–20050 Filed 8–14–95; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

Request Under Review by Office of Management and Budget

Agency Clearance Officer: Michael E. Bartell (202) 942–8800.

Upon written request copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 17a–5(c) File No. 270–199.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. §§ 3501 *et seq.*), the Securities and Exchange Commission has submitted to the Office of Management and Budget a request for approval of extension on the following:

Rule 17a–5(c) sets forth the financial statements which must be sent to public customers of broker-dealers. The total number of hours required for all respondents to comply with Rule 17a–5(c) is 50,000 hours annually.

Direct general comments to the Clearance Officer for the Securities and Exchange Commission at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Commission rules and forms to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549 and the Clearance Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Project Number 3235–0199, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: August 8, 1995.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–20156 Filed 8–14–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21273; No. 812–9398]

AUSA Life Insurance Company, Inc., et al.

August 8, 1995.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the ''1940 Act'').

APPLICANTS: AUSA Life Insurance Company, Inc. (''AUSA Life''), AUSA Series Annuity Account B (the ''Variable Account''), and InterSecurities, Inc.

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to Section 6(c) of the 1940 Act granting exemptions from the provisions of Sections 26(a)(2)(C) and 27(c)(2) thereof.

SUMMARY OF APPLICATION: Applicants seek an order permitting the deduction of a mortality and expense risk charge from the assets of: (a) The Variable Account in connection with the offer and sale of certain variable annuity contracts (''Existing Contracts''); (b) the Variable Account in connection with the issuance of variable annuity contracts that are substantially similar in all material respects to the Existing Contracts (''Future Contracts,'' together with existing Contracts, the ''Contracts''); and (c) any other separate account established in the future by AUSA Life in connection with the issuance of Contracts.

FILING DATE: The application was filed on December 21, 1994, and amended on June 20 and August 2, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving the Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 5, 1995, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Applicants, Robert F. Colby, AUSA Life Insurance Company, Inc., 4 Manhattanville Road, Purchase, New York 10577.

FOR FURTHER INFORMATION CONTACT: Kevin M. Krichoff, Senior Counsel, or Patrice M. Pitts, Special Counsel, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the Commission.

Applicants' Representations

1. AUSA Life (formerly Dreyfus Life Insurance Company) is a stock life insurance company incorporated under the laws of the State of New York. AUSA Life is a wholly-owned subsidiary of First AUSA Life Insurance Company, a stock life insurance company which is wholly-owned by AEGON, USA, Inc., which is a wholly-owned indirect subsidiary of AEGON, nv, a Netherlands corporation.

2. InterSecurities, Inc., an affiliate of AUSA Life, will serve as distributor and

principal underwriter of the Contracts. InterSecurities, Inc. is registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers. InterSecurities, Inc. will receive no commissions for acting as distributor or principal underwriter for the Contracts.

3. The Variable Account was established by AUSA Life as a separate investment account under New York law on October 24, 1994, to act as a funding medium for variable annuity contracts. The Variable Account is registered with the Commission as a unit investment trust under the 1940 Act. Units of interest in the Variable Account under the Existing Contracts are registered under the Securities Act of 1933.

4. The Variable Account presently consists of eight subaccounts (the ''Subaccounts''). Each Subaccount will invest solely in the shares of a designated portfolio of the Janus Aspen Series, an open-end ''series'' management investment company registered under the 1940 Act. Contract owners may invest in any one or more of the Subaccounts, and also may invest in the fixed account, part of the general account of AUSA Life. In the future, other subaccounts may be established by AUSA Life which will invest in specified portfolios of Janus Aspen Series or other investment companies. In the future, AUSA Life may issue, through the Variable Account and through Other Accounts, other variable annuity contracts which are substantially similar in all material respects to the Existing Contracts.

5. The Existing Contracts may be purchased on a non-tax qualified basis or may be purchased and used in connection with retirement plans that qualify for favorable federal income tax treatment.

6. The Existing Contracts provide for minimum initial purchase payments and permit additional minimum purchase payments and periodic payments, subject to certain limitations. The contract owner may allocate net purchase payments to one or more Subaccounts, the fixed account, or to a combination of both.

7. The Existing Contracts also provide for the payment of a death benefit. If the Annuitant dies during the accumulation period and the owner is a natural person other than the Annuitant, the owner will automatically become the new Annuitant. If the Annuitant dies during the accumulation period and the owner is either the same individual as the Annuitant or is not a natural person, AUSA Life will pay the death benefit to the beneficiary in a lump sum upon receipt of proof of death, unless the beneficiary elects to receive a complete distribution of the death benefit: (i) Within five years of the Annuitant's death; (ii) over the lifetime of the beneficiary; or (iii) over a period that does not exceed the life expectancy of the beneficiary. If the beneficiary is entitled to receive the death benefit and is the spouse of the deceased Annuitant, he or she may instead elect to become the new owner and Annuitant and continue the Existing Contract. The death benefit is equal to the greater of: (i) The annuity value, defined as the sum of the Variable Account value and the fixed account value, or (ii) the excess of (a) the amount of the purchase payments paid, over (b) any partial withdrawals (and less any applicable premium taxes).

8. Various fees and expenses are deducted under the Existing Contracts. AUSA Life will assess an Annual Contract Charge of $30 on each contract anniversary through the maturity date, and at the time of a full surrender on other than a contract anniversary, for the cost of providing administrative services under the Existing Contracts. Applicants guarantee that this fee will not increase for the life of the Existing Contracts.

9. AUSA Life also will deduct a daily charge from the assets of the Variable Account equal on an annual basis to 0.15% of the average daily net assets of the Variable Account (''Administrative Service Charge''). This charge will be deducted from the Variable Account both during the accumulation period and after the maturity date. This fee is guaranteed not to increase for the duration of the Existing Contracts.

10. The Administrative Service Charge and the Annual Contract Charge are designed to reimburse AUSA Life for the actual administrative costs incurred over the life of an Existing Contract.

11. AUSA Life also reserves the right to impose a $10 charge for the thirteenth and each subsequent transfer from a Subaccount during a single contract year (''Transfer Charge'').

12. AUSA Life does not expect to realize a profit from the Annual Contract Charge, the Administrative Service Charge, and the Transfer Charge (if any). Applicants represent that the Annual Contract Charge, the Administrative Service Charge, and any Transfer Charge will be deducted in reliance upon and in conformity with all of the requirements of Rule 26a–1 under the 1940 Act.

13. If applicable, and if AUSA Life has incurred or reasonably expects to incur expenses with respect to premium taxes, such taxes will be deducted, as required by law, from: A purchase payment when received; amounts partially withdrawn or surrendered; death benefit proceeds; or the amount applied to an annuity at the time annuity payments commence. AUSA Life intends to deduct any applicable premium taxes when it incurs them, but reserves the right to defer deduction to a later date if such deferral is not detrimental to owners.

14. No charges currently are made for federal, state or local income taxes other than premium taxes. AUSA Life may make such a charge in the future, however, subject to obtaining any necessary regulatory approvals. Charges for any other applicable taxes—including any tax or other economic burden resulting from the application of tax laws that AUSA Life determines to be properly attributable to the Variable Account—also may be made.

15. No sales charges are deducted from purchase payments under the Contracts. No contingent deferred sales charges will be deducted from annuity value if a partial withdrawal or surrender occurs prior to the maturity date. AUSA Life will pay the expected costs of distribution from its general assets, which may include revenue from the mortality and expense risk charge deducted from the Variable Account.

16. A daily charge equal to an effective annual rate of 0.70% of the average daily net assets of the Variable Account will be imposed to compensate AUSA Life for bearing certain mortality and expense risks in connection with the Contracts. The portion of the charge attributable to mortality risk is approximately 0.35% of the average daily net assets of the Variable Account and the portion of the charge attributable to expense risk is approximately 0.35% of the average daily net assets of the Variable Account.

17. AUSA Life will assume two mortality risks under the Contracts: (1) that the annuity rates under the Existing Contracts cannot be changed to the detriment of the contract owners even if Annuitants live longer than projected; and (2) that AUSA Life may be obligated to pay a death benefit claim in excess of the cash value of an Existing Contract.

18. The expense risk borne by AUSA Life is the risk that the charges for administrative expenses, which are guaranteed not to increase for the life of the Contracts, may be insufficient to cover the actual costs of issuing and administering the Contracts.

19. If the mortality and expense risk charge is insufficient to cover actual costs, the loss will be borne by AUSA Life; conversely, if the amount deducted

proves more than sufficient, the excess will be a profit to AUSA Life. The mortality and expense risk charge will be deducted from the Variable Account both during the accumulation period and after the maturity date. The mortality and expense risk charge will not be assessed against the fixed account value or against monies that have been applied to purchase an annuity option under the fixed account annuity payments provisions. AUSA Life expects to earn a profit from the mortality and expense risk charge.

Applicants' Legal Analysis and Conditions

1. Applicants request an order of the Commission pursuant to Section 6(c) of the 1940 Act for exemptions from Sections 26(a)(2)(C) and 27(c)(2) thereof to the extent necessary to permit the deduction of a charge of 0.70% for the assumption of mortality and expense risks from the assets of: (a) The Variable Account in connection with the issuance of the Contracts; and (b) any other separate account established in the future by AUSA Life in connection with the issuance of Contracts.

2. Section 6(c) of the 1940 Act authorizes the Commission, by order upon application, to conditionally or unconditionally grant an exemption from any provision, rule or regulation of the 1940 Act to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

3. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act, in relevant part, prohibit a registered unit investment trust, its depositor or principal underwriter, from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, are deposited with a qualified bank and held under arrangements which prohibit any payment to the depositor or principal underwriter except a reasonable fee, as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the bank itself.

4. Applicants submit that their request for exemptive relief for deduction of the 0.70% mortality and expense risk charge from the assets of the Variable Account or any other separate accounts established in the future by AUSA Life in connection with the issuance of Future Contracts, would promote competitiveness in the variable annuity contract market by eliminating the need for AUSA Life to file redundant exemptive applications, thereby reducing AUSA Life's administrative expenses and maximizing the efficient use of its resources. Applicants further submit that the delay and expense involved in having repeatedly to seek exemptive relief would impair AUSA Life's ability effectively to take advantage of business opportunities as they arise. Further, if AUSA Life were required repeatedly to seek exemptive relief with respect to the same issues addressed in this Application, investors would not receive any benefit or additional protection thereby. Thus, Applicants believe that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the 1940 Act.

5. Applicants represent that the 0.70% mortality and expense risk charge under the Existing Contracts is reasonable in relation to the risks assumed by AUSA Life under the Existing Contracts and is within the range of industry practice for comparable annuity contracts. This representation is based upon AUSA Life's analysis of publicly available information about similar industry products, taking into account such factors as current charge levels, existence of charge level guarantees, and guaranteed annuity rates. AUSA Life undertakes to maintain at its principal office, available to the Commission and its staff upon request, a memorandum setting forth in detail the products analyzed in the course of, and the methodology used in making these determinations.

6. Applicants represent that, prior to offering Future Contracts, they will conclude that the mortality and expense risk charge under such contracts (which cannot exceed in amount the mortality and risk charge under the Existing Contracts) will be reasonable in relation to the risks assumed by AUSA Life under the Contracts and is within the range of industry practice for comparable annuity contracts. AUSA Life will maintain at its principal offices, and make available to the Commission and its staff upon request, a memorandum setting forth in detail the products analyzed in the course of, and the methodology used in, making that determination.

7. Applicants acknowledge that, if a profit is realized from the mortality and expense risk charge under the Contracts, all or a portion of such profit may be available to pay distribution expenses not reimbursed under the Contracts. AUSA Life has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Variable Account (or future accounts) and the owners of the Existing Contracts (or Future Contracts). The basis for that conclusion is set forth in a memorandum which will be maintained by AUSA Life at its principal office and will be made available to the Commission and its staff upon request.

8. Applicants also represent that the Accounts will invest only in underlying management investment companies which undertake, in the event they should adopt a plan pursuant to Rule 12b–1 under the 1940 Act to finance distribution expenses, to have such plan formulated and approved by a board of directors or trustees, a majority of whom are not ''interested persons'' of such investment company within the meaning of Section 2(a)(19) of the 1940 Act.

Conclusion

For the reasons set forth above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan F. Katz,

Secretary.

[FR Doc. 95–20047 Filed 8–14–95; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–21274; File No. 812–9382]

Landmark VIP Funds, et al.

August 8, 1995.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the ''1940 Act'').

APPLICANTS: Landmark VIP Funds (the ''Trust''), Citibank, N.A. (''Citibank'') and certain life insurance companies and their accounts investing now or in the future in the Trust (''Separate Accounts'').

RELEVANT 1940 ACT SECTIONS: Order requested under Section 6(c) of the 1940 Act for exemptions from the provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules (6e–2(b)(15) and 6e–3(T)(b)(15).

SUMMARY OF APPLICATION: Applicants seek an order to the extent necessary to permit shares of any current or future series of the Trust to be sold to and held by separate accounts funding variable

annuity and variable life insurance contracts issued by both affiliated and unaffiliated life insurance companies.

FILING DATE: The application was filed on December 20, 1994. An amendment was filed on July 19, 1995. Applicants have represented that they will file another amendment to the application during the notice period to include the representations contained herein.

HEARING AND NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 5, 1995, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, Lea Anne Copenhefer, Esq., Bingham, Dana & Gould, 150 Federal Street, Boston, Massachusetts 02110.

FOR FURTHER INFORMATION CONTACT: Mark C. Amorosi, Staff Attorney, or Wendy Finck Friedlander, Deputy Chief, at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is an open-end management investment company organized as a Massachusetts business trust on August 22, 1991. The Trust currently consists of four separate series: (1) the Landmark VIP U.S. Government Portfolio, (2) the Landmark VIP Balanced Portfolio, (3) the Landmark VIP Equity Portfolio and (4) the Landmark VIP International Equity Portfolio (each individually a ''Portfolio'' and collectively the ''Portfolios''). The Board of Trustees may establish additional portfolios at any time.

2. Shares of the Portfolios initially will be offered only to Citicorp Life Variable Annuity Separate Account and First Citicorp Life Variable Annuity Separate Account, separate accounts of Citicorp Life Insurance Company and first Citicorp Life Insurance Company (the ''Citicorp Insurance Companies''), respectively, to serve as an investment vehicle for variable annuity contracts issued by the Citicorp Insurance Companies. The Citicorp Insurance Companies are affiliated companies by virtue of both being indirect subsidiaries of Citicorp, a bank holding company organized under the laws of Delaware. Shares of the Portfolios, and of any future series of the Trust that serves exclusively as an investment vehicle for Separate Accounts (hereinafter referred to as ''Other Portfolios''), will be offered to separate accounts of other insurance companies, including insurance companies that are not affiliated with the Citicorp Insurance Companies, to serve as the investment vehicle for various types of insurance products, which may include variable annuity contracts, single premium variable life insurance contracts, scheduled premium variable life insurance contracts and flexible premium variable life insurance contracts (collectively ''variable contracts''). Insurance companies whose separate account or accounts own shares of the Portfolios or of any Other Portfolio are referred to herein as ''Participating Insurance Companies.''

3. Citibank will serve as the investment adviser for each Portfolio. the Landmark Funds Broker-Dealer Services, Inc. will serve as administrator and distributor for each Portfolio.

Applicants' Legal Analysis

1. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust, Rule 6e–2(b)(15) provides exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act. The relief provided by Rule 6e–2 is available to a separate account's investment adviser, principal underwriter, and sponsor or depositor. The exemptions granted by Rule 6e–2(b)(15) are available only where a management investment company underlying a unit investment trust (''underlying fund'') offers its shares ''exclusively to variable life insurance separate accounts of the life insurer, or of any affiliated life insurance company.'' Therefore, the relief granted by Rule 6e–2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that also offers it shares to a variable annuity or a flexible premium variable life insurance separate account of the same company or of any affiliated life insurance company. The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts of the same life insurance company or of any affiliated life insurance company is referred to herein as ''mixed funding.''

2. In addition, the relief granted by Rule 6e–2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that also offers its shares to separate accounts funding variable contracts of one or more unaffiliated life insurance companies. The use of a common management investment company as the underlying investment medium for variable life insurance separate accounts of one insurance company and separate accounts funding variable contracts of one or more unaffiliated life insurance companies is referred to herein as ''shared funding.''

3. In connection with the funding of flexible premium variable life insurance contracts through a unit investment trust, Rule 6e–3(T)(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act. The relief provided by Rule 6e–3(T) is available to a separate account's investment adviser, principal underwriter, and sponsor or depositor. The exemptions granted by Rule 6e–3(T) are available only where a unit investment trust's underlying fund offers its shares ''exclusively to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled contracts or flexible contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company * * *.'' Therefore, Rule 6e–3(T) permits mixed funding with respect to a flexible premium variable life insurance separate account, subject to certain conditions. However, Rule 6e–3(T) does not permit shared funding because the relief granted by Rule 6e–3(T)(b)(15) is not available with respect to a flexible premium variable life insurance separate account that owns shares of a management company that also offers its shares to separate accounts (including variable annuity and flexible premium and scheduled premium variable life insurance separate accounts) of unaffiliated life insurance companies.

4. Applicants therefore request that the Commission, under its authority in Section 6(c) of the 1940 Act, grant relief from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder for

themselves and for variable life insurance separate accounts of the Participating Insurance Companies, and the principal underwriters and depositors of such separate accounts, to the extent necessary to permit mixed funding and shared funding.

5. Section 9(a) of the 1940 Act makes it unlawful for any company to serve as an investment adviser to, or principal underwriter for, any registered open-end investment company if an affiliated person of that company is subject to any disqualification specified in Sections 9(a)(1) or 9(a)(2). Rule 6e–2(b)(15)(i) and (ii) and Rule 6e–3(T)(b)(15)(i) and (ii) provide exemptions from Section 9(a) under certain circumstances, subject to limitations on mixed and shared funding. The relief provided by Rules 6e–2(b)(15)(i) and 6e–3(T)(b)(15)(i) permits a person disqualified under Section 9(a) to serve as an officer, director, or employee of the life insurer, or any of its affiliates, so long as that person does not participate directly in the management or administration of the underlying fund. The relief provided by Rules 6e–2(b)(15)(ii) and 6e–3(T)(b)(15)(ii) permits the life insurer to serve as the underlying fund's investment adviser or principal underwriter, provided that none of the insurer's personnel who are ineligible pursuant to Section 9(a) participate in the management or administration of the fund.

6. Applicants state that the partial relief granted in Rules 6e–2(b)(15) and 6e–3(T)(b)(15) from the requirements of Section 9(a), in effect, limits the monitoring of an insurer's personnel that would otherwise be necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of Section 9. Applicants state that Rules 6e–2 and 6e–3(T) recognize that it is not necessary for the protection of investors or for the purposes of the 1940 Act to apply the provisions of Section 9(a) to the many individuals in an insurance company complex, most of whom typically will have no involvement in matters pertaining to an investment company. Applicants submit that there is no regulatory reason to apply the provisions of Section 9(a) to the many individuals in various unaffiliated insurance companies (or affiliated companies of Participating Insurance Companies) that may utilize the Trust as the funding medium for variable contracts.

7. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) provide partial exemptions from Sections 13(a), 15(a), and 15(b) of the 1940 Act to the extent that those sections have been deemed by the Commission to require ''pass-through'' voting with respect to management investment company share held by a separate account, to permit the insurance company to disregard the voting instructions of its contract owners in certain limited circumstances.

Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii)(A) provide that the insurance company may disregard voting instructions of its contract owners in connection with the voting of shares of an underlying fund if such instructions would require such share to be voted to cause such companies to make, or refrain from making, certain investments which would result in changes in the subclassification or investment objectives of such companies, or to approve or disapprove any contract between an underlying fund and its investment adviser, when required to do so by an insurance regulatory authority, subject to the provisions of paragraphs (b)(5)(i) and (b)(7)(ii)(A) of each Rule.

Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(B) provide that the insurance company may disregard contract owners' voting instructions in the contract owners initiate any change in such company's investment policies or any principal underwriter or investment adviser, provided that disregarding such voting instructions is reasonable and subject to the other provisions of paragraphs (b)(5)(ii) and (b)(7)(ii)(B) and (C) of each Rule.

8. Applicants submit that shared funding by unaffiliated insurance companies does not present any issues that do not already exist where a single insurance company is licensed to do business in several or all states. In this regard, Applicants state that a particular state insurance regulatory body could require action that is inconsistent with the requirements of other states in which the insurance company offers its policies. Accordingly, Applicants submit that the fact that different insurers may be domiciled in different states does not create a significantly different or enlarged problem.

9. Applicants state further that, under Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii), the rights of the insurance company to disregard the voting instructions of its contract owners do not rise any issues different from those raised by the authority of state insurance administrators over separate accounts, and that affiliation does not eliminate the potential, if any, for divergent judgments as to the advisability or legality of a change in investment policies, principal underwriter, or investment adviser initiated by contractowners. Applicants state that the potential for disagreement is limited by the requirement in Rules 6e–2 and 6e–3(T) that the insurance company's disregard of voting instructions be reasonable and based on specific good faith determinations.

10. Applicants submit that mixed funding and shared funding should benefit variable contract owners by: (a) eliminating a significant portion of the costs of establishing and administering separate funds; (b) allowing for a greater amount of assets available for investment by the Portfolios, thereby promoting economies of scale, permitting greater safety through greater diversification, and/or making the addition of new portfolios more feasible; and (c) encouraging more insurance companies to offer variable contracts, resulting in increased competition with respect to both variable contract design and pricing, which can be expected to result in more product variation and lower charges. Each Portfolio will be managed to attempt to achieve its investment objectives and not to favor or disfavor any particular Participating Insurance Company or type of insurance product.

11. Applicants assert that there is no significant legal impediment to permitting mixed and shared funding. Applicants state that separate accounts organized as unit investment trusts have historically been employed to accumulate shares of mutual funds which have not been affiliated with the depositor or sponsor of the separate account. Applicants also represent that mixed and shared funding will have no adverse federal income tax consequences.

Applicants' Conditions

The Applicants have consented to the following conditions:

1. A majority of the Board of Trustees of the Trust (''Board'') shall consist of persons who are not ''interested persons,'' as defined by Section 2(a)(19) of the 1940 Act and Rules thereunder and as modified by any applicable orders of the Commission, except that, if this condition is not met by reason of death, disqualification, or bona fide resignation of any trustee or trustees, then the operation of this condition shall be suspended: (i) for a period of 45 days, if the vacancy or vacancies may be filled by the Board; (ii) for a period of 60 days, if a vote of shareholders is required to fill the vacancy or vacancies; or (iii) for such longer period as the Commission may prescribe by order upon application.

2. The Board will monitor the Trust for the existence of any material

irreconcilable conflict between the interests of the contract owners of all separate accounts investing in any Portfolio or Other Portfolio. A material irreconcilable conflict may arise for a variety of reasons, including: (a) state insurance regulatory authority action; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretive letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of a Portfolio or Other Portfolio are being managed; (e) a difference in voting instructions given by variable annuity and variable life insurance contract owners; or (f) a decision by a Participating Insurance Company to disregard contract owner voting instructions.

3. Participating Insurance Companies and Citibank will report any potential or existing conflicts, of which they become aware, to the Board and will be obligated to assist the Board in carrying out its responsibilities by providing the Board with all information reasonably necessary for it to consider any issues raised. This responsibility includes, but is not limited to, an obligation by each Participating Insurance Company to inform the Board whenever contract owner voting instructions are disregarded. These responsibilities will be contractual obligations of all Participating Insurance Companies investing in a Portfolio or Other Portfolio under their agreements governing participation therein, and such agreements shall provide that such responsibilities will be carried out with a view only to the interests of the contract owners.

4. If a majority of the Board, or a majority of the disinterested members of the Board, determine that a material irreconcilable conflict exists, the relevant Participating Insurance Companies shall, at their expense and to the extent reasonably practicable (as determined by a majority of disinterested members of the Board), take whatever steps are necessary to remedy or eliminate the irreconcilable material conflict, up to and including: (a) withdrawing the assets allocable to some or all of the separate accounts from the Trust or any Portfolio or Other Portfolio therein and reinvesting such assets in a different investment medium (including another Portfolio, if any, of the Trust), or submitting the question whether such segregation should be implemented to a vote of all affected contract owners and, as appropriate, segregating the assets of any appropriate group (*i.e.*, annuity contract owners, life insurance contract owners, or variable contract owners of one or more participating Insurance Companies) that votes in favor of such segregation, or offering to the affected contract owners the option of making such a change; and (b) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a Participating Insurance Company's decision to disregard contract owner voting instructions, and that decision represents a minority position or would preclude a majority vote, the Participating Insurance Company may be required, at the election of the Portfolio or Other Portfolio, to withdraw its separate account's investment therein, and no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a Board determination of an irreconcilable material conflict and to bear the cost of such remedial action shall be a contractual obligation of all Participating Insurance Companies under their agreements governing participation in a Portfolio or Other Portfolio and these responsibilities will be carried out with a view only to the interests of the contract owners.

For the purposes of condition (4), a majority of disinterested members of the Board shall determine whether or not any proposed action adequately remedies any irreconcilable material conflict, but in no event will the Trust or Citibank be required to establish a new funding medium for any variable contract. No Participating Insurance Company shall be required by this condition (4) to establish a new funding medium for any variable contract if an offer to do so has been declined by a vote of a majority of contract owners materially affected by the irreconcilable material conflict.

5. The determination by the Board of the existence of an irreconcilable material conflict and its implications shall be made known promptly in writing to all Participating Insurance Companies.

6. Participating Insurance Companies will provide pass-through voting privileges to all variable contract owners so long as the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for variable contract owners. Accordingly, each Participating Insurance Company will vote shares of each Portfolio or Other Portfolio held in its separate accounts in a manner consistent with timely voting instructions received from contract owners. Each Participating Insurance Company also will vote shares of each Portfolio and Other Portfolio held in its separate accounts for which no timely voting instructions from contract owners are received, as well as shares it owns, in the same proportion as those shares for which voting instructions are received. Each Participating Insurance Company shall be responsible for assuring that each of their separate accounts participating in a Portfolio or Other Portfolio calculates voting privileges in a manner consistent with all other Participating Insurance Companies. The obligation to calculate voting privileges in a manner consistent with all other separate accounts investing in the Trust shall be a contractual obligation of all Participating Insurance Companies under their agreements governing participation in the Trust.

7. Each Portfolio or Other Portfolio will notify all Participating Insurance Companies that prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. Each Portfolio and Other Portfolio shall disclose in its prospectus that: (a) its shares are offered to separate accounts which fund both annuity and life insurance contracts of both affiliated and unaffiliated Participating Insurance Companies; (b) because of differences of tax treatment or other considerations, the interests of various contract owners participating in the Trust might at some time be in conflict; and (c) the Board will monitor the Trust for any material conflicts and determine what action, if any, should be taken.

8. All reports received by the Board regarding potential or existing conflicts, and all Board action with respect to determining the existence of a conflict, notifying Participating Insurance Companies of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

9. If and to the extent Rule 6e–2 and Rule 6e–3(T) are amended, or Rule 6e–3 is adopted, to provide exemptive relief from any provision of the 1940 Act or the rules thereunder with respect to mixed and shared funding on terms and conditions materially different from any exemptions granted in the order requested, then each Portfolio and Other Portfolio and the Participating Insurance Companies, as appropriate, shall take such steps as may be necessary to comply with Rule 6e–2 and Rule 6e–3(T), as amended, and Rule 63–3, as

adopted, to the extent such rules are applicable.

10. The Trust will comply with all provisions of the 1940 Act requiring voting by shareholders (which, for these purposes, shall be the persons having a voting interest in the shares of the Trust), and in particular the Trust either will provide for annual meetings (except insofar as the Commission may interpret Section 16 of the 1940 Act not to require such meetings) or comply with Section 16(c) (although Applicants assert that the Trust is not one of the trusts described in this section) as well as with Sections 16(a) and, if and when applicable, Section 16(b). Further, the Trust will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of directors (or trustees) and with whatever rules the Commission may promulgate with respect thereto.

11. The Participating Insurance Companies and Citibank, at least annually shall submit to the Board such reports, materials or data as the Board may reasonably request so that it may fully carry out the obligations imposed upon it by these stated conditions, and said reports, materials, and data shall be submitted more frequently if deemed appropriate by the Board. The obligations of the Participating Insurance Companies to provide these reports, materials, and data to the Board when it so reasonably requests, shall be a contractual obligation of all Participating Insurance Companies under their agreements governing participation in each Portfolio or Other Portfolio.

Conclusion

For the reasons stated above, Applicants believe that the requested exemptions, in accordance with the standards of Section 6(c), are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 95–20048 Filed 8–14–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36076; File No. SR–NASD–95–12]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Advertising and Sales Literature Filing and Review Requirements Under the Rules of Fair Practice and the Government Securities Rules

August 9, 1995.

I. Introduction

On May 10, 1995, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change[1] pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder.[3] The rule change amends Article III, Section 35 of the Rules of Fair Practice and Section 8 of the Government Securities Rules.

Notice of the proposed rule change, together with its terms of substance was provided by issuance of a Commission release[4] and by publication in the **Federal Register**.[5] Two comments were received in response to the Commission release, both raising concerns about the proposal. This order approves the proposed rule change.

II. Description

Under the rules as amended, the definitions of ''advertisement'' and ''sales literature'' will include electronic messages. The inclusion of the term ''electronic'' with regard to advertisements is intended to apply to communications available to all network subscribers including items displayed over network bulletin boards. As it applies to sales literature, the term ''electronic'' is intended to apply to messages sent directly to individuals or targeted groups. The term ''sales literature'' also will include telemarketing scripts. Generally, these scripts are intended to be read to prospective and existing customers or delivered electronically through a telemarketing service. They differ from other forms of telephone prospecting and customer contact in that these scripts are followed without variation by the caller.

Further, the rules will require that advertising and sales literature be approved internally by a registered principal prior to filing such materials with the NASD. Currently, the rules only require internal approval prior to the use of advertising and sales literature. Also, a registered principal will no longer be able to delegate his or her responsibility regarding internal approval procedures.

When material must be filed within a specified time frame, the rules will require members to provide the actual or anticipated date of first use or publication. For example, a firm that has never filed material with the Advertising Regulation Department is required to file its first advertisement at least ten days prior to first use and, therefore, under the rules as amended, will be required to provide the actual or anticipated date of first use.

The proposed rule change also will amend the scope of the rules relating to the use of recommendations by members. The amendment will make clear that the price of the security at the time the recommendation is made must be provided only when the recommendation is for corporate equities.

III. Comments

As noted above the Commission received two comment letters in response to the NASD's proposed rule change. The Investment Company Institute (''ICI'') expressed general support for the NASD's initiative, but indicated a number of concerns about the proposal.[6] First the ICI believes the requirements that only registered principals may approve advertising and sales literature would impose unnecessary burdens on members. The ICI believes legal or compliance officers are, in most cases, more qualified to handle the review and approval of advertising and sales literature than are registered principals. The ICI argues that since most legal or compliance officers are not registered principals, members will be forced to register such officers as principals, transfer review procedures to less qualified principals, or allow principals to rely on the opinions of the officers. The ICI sees no benefit in achieving such results. The ICI recommends that, instead of disrupting an industry practice that appears to be working well, the NASD should deal directly with the problem firms.

The ICI also recommends that the proposal to require materials to be

[1] The proposed rule change was initially submitted on April 10, 1995, and was amended on May 10, 1995, prior to the publication in the **Federal Register**.

[2] 15 U.S.C. § 78s(b)(1).

[3] 17 CFR 240.19b–4.

[4] Securities Exchange Act Release No. 35801 (June 2, 1995).

[5] 60 FR 30618 (June 9, 1995).

[6] Letter from Craig S. Tyle, Vice President & Senior Counsel, Securities and Financial Regulation, Investment Company Institute, to Jonathan G. Katz, Secretary, SEC (June 30, 1995).

approved internally prior to filing with the NASD should be revised to state that the material is submitted on a voluntary basis. The ICI is concerned that the use of the term ''accountable'' in the Commission's release could be construed as an attempt to impose liability on members based on filing materials with the NASD.

Lastly, the ICI is concerned that the application of the rules to electronic communications would be inconsistent with the application of the rules with respect to other forms of communications. For example, the ICI claims that if a member sponsors an electronic bulletin board, the NASD proposal would not distinguish between member advertising and other material posted by the public. The ICI recommends that the definition of ''advertisement'' be revised to clarify that messages posted by the public on member sponsored bulletin boards are not included in the definition. Further, the ICI believes that the definition of ''sales literature'' is overbroad. The ICI is concerned that the definition would include a personalized message to a particular individual and, instead, recommends limiting the definition to form letters sent to individuals or targeted groups.

The second commenter strongly endorsed the comments made by the ICI.[7] In particular, this commenter was concerned about the proposed requirement relating to registered principal approval of advertising and sales literature and the proposed inclusion of the word ''electronic'' in the definitions of ''advertisement'' and ''sales literature.''[8]

The NASD responded to these comments in a letter dated July 24, 1995.[9] In response to the requirement that only registered principals will be able to approve advertising and sales literature, the NASD notes that while some unregistered legal or compliance officers perform the review function very well, the expertise and skill among the reviewers are inconsistent on an industry-wide basis and can result in inferior submissions to the NASD. The NASD believes that any burden imposed by the rule will be minimal. The NASD states that a significant number of firms have legal and compliance personnel that are already registered principals. Additionally, the NASD states that under the rule as proposed, such personnel do not need to be registered to continue to review materials, as long as a registered principal approved the material prior to submission. Moreover, the NASD argues that the steps necessary to register such personnel, which includes a one-time examination, are not overly burdensome. The NASD believes the requirement that a registered principal assume final approval responsibility will help ensure a satisfactory level of review is conducted by all reviewers. The NASD concludes that the improvement of the efficiency and quality of the review process, and the resulting benefits to the investing public, far outweigh the burdens discussed by the commenters.

The NASD also responded to the commenters' concern that the requirement regarding internal approval by members prior to filing submissions with the NASD could be interpreted as an attempt to establish a standard of culpability. In its letter, the NASD states that the rule is not intended to attach liability to, or establish a standard of culpability for, prefiled material. Instead, the rule will ensure that member firms' communications are in reasonable compliance with relevant SEC and NASD rules prior to submission to the NASD for review. The NASD states that this requirement is consistent with SEC recommendations made pursuant to the Commission's inspection of the NASD's program for reviewing member communications with the public. Under the rule, deficient filings will be returned and, if a pattern of deficiency is discovered, an internal review of member procedures may be appropriate.

Finally, the NASD responded to the commenters concerns regarding the inclusion of the term ''electronic'' in the definitions of ''advertisement'' and ''sales literature.'' The NASD states that the definition of advertisement in the proposed rule is not intended to apply to communications posted by members of the public on electronic bulletin boards sponsored by NASD members. The NASD claims that the definition of advertisement has never applied to communications by members of the general public. The NASD argues, therefore, that there is no need to amend the definition to clarify that it does not apply communications by the general public.

The NASD also claims that the definition of sales literature in the proposed rule is not intended to apply to a personalized message sent to a particular individual via electronic mail. The NASD states that such messages are not treated as sales literature but generally are treated as correspondence under Article III, Section 27(d) of the Rules of Fair Practice. The NASD stresses, however, that the definition of sales literature does apply to messages sent directly to targeted individuals or groups.

IV. Discussion

The Commission has determined to approve the NASD's proposal. The Commission finds that the rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, including the requirements of Section 15A(b)(6) of the Act.[10] Section 15A(b)(6) requires, in part, that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices; to promote just and equitable principles of trade; and to protect the public and the public interest.

The proposed rule change applies to member communication with the public. It will act to clarify issues regarding advertising and sales literature, as well as to codify existing rule interpretations regarding the scope of rules applicable to member recommendations.

The changes to the definitions of ''advertisement'' and ''sales literature'' will update those terms in an effort to alert members of their responsibilities when contacting the public via electronic means or by way of telemarketing scripts. The result should be reduced confusion among members and a more consistent application of NASD rules.

The proposed changes to the internal approval procedures will ensure an adequate degree of expertise and uniformity in the execution of such procedures. Further, the requirement that material be approved internally prior to filing with the NASD will ensure that members satisfy their existing compliance duties. The proposed amendment also will require members to include the actual or anticipated date that a particular communication will be published which will enable the NASD to enforce the existing rules regarding time tables for filing certain communications more effectively.

Lastly, the proposal will reduce member confusion by clarifying an existing interpretation with respect to recommendations made by members. The rules will be consistent with the existing practice of requiring the price at the time a recommendation is made to

[7] Letter from Laura Chasney, T. Rowe Price Associates, Inc., to Jonathan G. Katz, Secretary, SEC (July 5, 1995).

[8] *Id.* These concerns already have been summarized in the context of the ICI letter above.

[9] Letter from Suzanne E. Rothwell, Associate General Counsel, NASD, to Mark P. Barracca, Branch Chief, SEC (July 24, 1995).

[10] 15 U.S.C. § 78*o*–3(b)(6).

apply only to recommendations for corporate equity securities.

All of the changes noted above will promote fairness and protect investors and the public. The changes will provide members with a greater understanding of their responsibilities when communicating with the public. This, in turn, should result in an improved level of compliance by members. Additionally, the NASD will be in a better position to monitor such compliance.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, the proposed rule change SR–NASD–95–12 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–20152 Filed 8–14–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36075; File No. SR–PTC–95–05]

Self-Regulatory Organizations; Participants Trust Company; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Establishing a New Category for Participant Eligibility

August 9, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 1, 1995, the Participants Trust Company (''PTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–PTC–95–05) as described in Items I and II below, which Items have been prepared primarily by PTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change establishes a new category for participant eligibility for federally chartered corporations engaged in the purchase and/or securitization of mortgage-related assets.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Summaries of the most significant aspects of such statements are set forth in sections A, B, and C below.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Background

PTC was established as a depository to facilitate the prompt and accurate clearance and settlement of transactions in mortgage-backed securities. Participation criteria was established in accordance with the requirements of the Act and to allow appropriate eligible institutions to become participants. Article IV, Rule 1, Section 1 of PTC's rules lists the entities that are eligible to become participants and includes ''firms in such other categories as the Corporation [PTC] from time to time may determine.'' These entities must satisfy the financial criteria set forth in Article IV, Rule 1, Section 3 which states that entities in categories established by PTC ''shall maintain equity capital or regulatory capital in at least equivalent amounts * * *'' as other established categories of participants.

Proposed Category of Eligibility

The Federal National Mortgage Association (''FNMA'') is currently a limited purpose participant and holds a face amount of $100 billion of securities in its limited purpose account at PTC. A limited purpose participant, however, cannot receive deliveries against payment through PTC. FNMA therefore has sought to become a full purpose participant in PTC.

To facilitate the addition of FNMA and similar entities, such as the Federal Home Loan Mortgage Corporation (''FHLMC'') and the Federal Agricultural Mortgage Corporation (''Farmer Mac''), as full purpose participants, PTC is seeking to establish a new category of participants.[3] The new category designation would be ''federally chartered corporations engaged in the purchase and/or securitization of mortgage-related assets.''

PTC proposes that applicants in the new category be required to have equity capital of at least $100 million. This amount is equivalent to the most stringent equity and regulatory capital standards required by PTC in other established participant categories.[4]

PTC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[5] and the rules and regulations thereunder in that it facilitates the prompt and accurate clearance and settlement of securities transactions and provides for the safeguarding of securities and funds in PTC's custody or control or for which PTC is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition

PTC does not believe that the proposed rule change imposes any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

PTC has neither solicited nor received comments on this proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act[6] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible. The Commission believes that the addition of FNMA and similar entities as full purpose participants is consistent with these obligations. As full purpose participants these entities will be able to receive deliveries against payment through PTC, which as limited purpose participants they cannot do. This should allow entities such as FNMA and other federally chartered corporations whose transactions represent a substantial portion of the mortgage-backed securities market to conduct their purchase and

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[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] The Commission has modified the text of the summaries prepared by PTC.

[3] FHLMC and Farmer Mac are not currently seeking to become full purpose participants in PTC.

[4] Article IV, Rule 1, Section 3 of PTC's rules requires that bank applicants for full purpose participation shall maintain equity capital, determined in accordance with generally acceptable accounting principles, of at least $100 million.

[5] 15 U.S.C. § 78q–1(b)(3)(F) (1988).

[6] 15 U.S.C. § 78q–1(b)(3)(F) (1988).

securitization processes more efficiently.

In addition, applicants in the new category must satisfy financial criteria equivalent to the most stringent equity and regulatory capital standards required by PTC in other established participant categories. By requiring substantial capitalization, PTC protects itself and other participants from additional risk.

PTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds such good cause because FNMA and other similar entities are substantially similar to other PTC full purpose participants. They are financial institutions engaged in activities which are similar or comparable to the activities of other participants. Because FNMA and similar entities are institutions whose transactions represent a substantial portion of the mortgage-backed securities market, it is in the public interest to provide the most efficient method of processing for these products as expediently as possible. The staff of the Board of Governors of the Federal Reserve System has concurred with the Commission's granting of accelerated approval.[7]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PTC. All submissions should refer to file number SR–PTC–95–05 and should be submitted by September 5, 1995.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–PTC–95–05) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–20153 Filed 8–14–95; 8:45 am]

BILLING CODE 8010–01–M

[7] Telephone conversation between William R. Stanley, Board of Governors of the Federal Reserve System, and Ari Burstein, Division of market Regulation, Commission (August 7, 1995).

[8] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36066; File Nos. SR–MCC–94–01 and SR–MSTC–95–04]

Self-Regulatory Organizations; Midwest Clearing Corporation and Midwest Securities Trust Company; Order Approving Proposed Rule Changes Relating to Indemnification of Committee Members

August 7, 1995.

On February 8, 1995, and on February 14, 1995, the Midwest Clearing Corporation (''MCC'') and the Midwest Securities Trust Company (''MSTC''), respectively, filed proposed rule changes (File Nos. SR–MCC–95–01 and SR–MSTC–95–04) with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposed rule changes appeared in the **Federal Register** on April 13, 1995.[2] No comments on the proposals have been received by the Commission.

I. Description of the Proposals

The rule changes amended MCC's and MSTC's mandatory indemnifications requirements, which are forth in Article 6, Section 6.1 of MCC's By-Laws and in Article VI, Section 1 of MSTC's By-Laws. Pursuant to the amendments, MCC and MSTC shall indemnify to the fullest extent permitted by the General Corporation Law of Delaware[3] and the Business Corporation Act of the State of Illinois,[4] respectfully, any person who was or who is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative by reason of the fact that the person is or was a member of a committee of MCC or MSTC or is or was serving at MCC's or MSTC's request as a member of a committee of another corporation, partnership, joint venture, trust, or other enterprise. The rule changes provide members of MCC's and MSTC's committees, including members of their Risk Assessment Committees,[5] with the same indemnification that previously has been provided only to MCC's and MSTC's officers and directors.

II. Discussion

The Commission believes that the proposals are consistent with the Act and particularly with Section 17A of the Act.[6] Section 17A(b)(3)(H) of the Act[7] requires that the rules of a clearing agency provide fair disciplinary procedures with respect to the disciplining of participants, the denial of participation, and the prohibition or limitation by the clearing agency of any person regarding access to its services. Under the rules of MCC and MSTC, much of the determinations involved in such decisions has been delegated to committees, especially to the two Risk Management Committees.

The Commission believes that by affording appropriate protections to committee members, MCC and MSTC will remove impediments to attracting competent persons to serve on their committees, including the two Risk Assessment Committees. Accordingly, the Commission believes that these rule changes will, among other things, help MCC and MSTC to provide fair procedures, as required under the Act, with respect to the disciplining of their participants, the denial of participation to persons seeking participation in MCC or MSTC, and the prohibition or limitation of services to persons seeking access to MCC or MSTC.

III. Conclusion

For the reasons discussed above, the Commission believes that the proposals are consistent with the requirements of the Act, and particularly with Section 17A of the Act and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[8] that the

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 35569 (April 5, 1995), 60 FR 18864.

[3] MCC is incorporated under the laws of the State of Delaware.

[4] MSTC is incorporated under the laws of the State of Illinois.

[5] Under MCC's and MSTC's rules, their Risk Assessment Committees have substantial authority. This includes, among other things, the authority to determine: (1) whether a participant that has failed to make timely payment to MCC or MSTC should continue as a participant, (2) whether a participant has been responsible for fraudulent or dishonest conduct, and (3) whether a participant poses a financial risk to MCC or MSTC.

[6] 15 U.S.C. § 78q–1 (1988).

[7] 15 U.S.C. § 78q–1(b)(3)(H) (1988).

[8] 15 U.S.C. § 78s(b)(2) (1988).

above-mentioned proposed rule changes (File Nos. SR–MCC–95–01 and SR–MSTC–95–04) be, and hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–20154 Filed 8–14–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36077; File No. SR–NASD–95–28]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by National Association of Securities Dealers, Inc., Regarding Trading in Anticipation of the Issuance of a Research Report

August 9, 1995.

On May 25, 1995, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed a proposed rule change with the Securities and Exchange Commission (''SEC'' or ''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The proposed rule change amends Article III, Section 1 of the NASD Rules of Fair Practice[3] by adding a new Interpretation prohibiting purposeful trading that affects a member firm's inventory position in a given security prior to the firm's issuance of a research report in that same security (''Interpretation'').

Notice of the proposed rule change, together with the substance of the proposal as initially filed, was provided by issuance of a Commission release (Securities Exchange Release No. 35877, June 21, 1995) and by publication in the **Federal Register** (60 FR 33444, June 28, 1995). Two comment letters were received.[4] This order approves the proposed rule change.

I. Introduction

Certain broker-dealers that have research departments may prepare research reports for customers with respect to certain identified securities. A research report may advise customers to buy or sell the security that is the subject of that report.

Certain of these broker-dealers may intentionally establish a proprietary position in the security that is to be the subject of a report in anticipation of meeting expected customer demand in response to the research report. A broker-dealer that intends to issue a positive research report may accumulate stock before issuing the research report. Once it issues the research report, it would then commence solicitation of orders, expecting to fill customers orders from the inventory position it has accumulated.

In 1991, the New York Stock Exchange (''NYSE''), in NYSE Information Memo 91–8, issued a policy statement regarding stock accumulations by a NYSE member organization in advance of that member's issuance of research reports. NYSE Information Memo 91–8 stated that an NYSE member organization would engage in conduct inconsistent with just and equitable principles of trade if it purposefully acquired a position in an NYSE-listed security in contemplation of its issuance of a favorable research report.

II. Description and Scope of the Proposed Rule Change

In 1994 the NASD solicited member comment on developing a formal policy deeming trading in anticipation of a research report to be a violation of Article III, Section 1 of the NASD Rules of Fair Practice. Purposeful inventory adjustments made in anticipation of customer trading activity as a result of the firm's research report could appear to, and at times would, conflict with the firm's fiduciary duties toward its customers. Therefore, the Interpretation approved today provides that an NASD member will violate just and equitable principles of trade if it purposefully adjusts its inventory position in a Nasdaq security, in an exchange listed security that is traded in the third market, or in a derivative product of any such security in anticipation of the issuance of a research report in that security. Such purposeful activity can create an appearance of impropriety that harms the perception of the marketplace and could cause a loss of investor confidence.

The Interpretation approved today is intended to enhance the overall perception of Nasdaq and the third market and encourage investors to participate in those markets, thereby promoting liquidity. The Interpretation also is intended to be consistent with the policy found in NYSE Information Memo 91–8, thereby promoting consistency among self-regulatory organizations and helping to alleviate compliance burdens for member firms that operate in multiple markets. However, unlike NYSE Information Memo 91–8, the Interpretation also provides that a member firm will violate just and equitable principles of trade if it purposefully decreases or liquidates its position in a security because it was about to issue a negative research report.

The Interpretation applies to third market trading in listed securities that are the subject of a firm's research report as well as to Nasdaq securities. The Interpretation covers third market trading because there could be a significant gap in customer protection rules on exchange-listed securities traded in the third market absent the inclusion of those securities.

Finally, the Interpretation prohibits a member firm from attempting to do indirectly what it is not permitted to do directly. For example, a member firm may trade in options on an underlying security that is to be the subject of a research report in order to do by means of an economically equivalent transaction that which it would otherwise be prohibited from doing.

Therefore, the Interpretation prohibits a member firm from purposefully establishing, increasing, decreasing or liquidating a derivative security position in anticipation of the firm's issuance of a research report on the security underlying the derivative position.

The Interpretation specifically notes that it is intended to apply to situations in which the member firm ''purposefully'' alters its inventory position in anticipation of the issuance of a favorable or unfavorable research report in anticipation of meeting expected customer demand in response to the research report. The Interpretation is not intended to halt all of a firm's trading activity in that security. Even if the trading desk knows of a forthcoming research report on a particular security, it may continue to trade with its retail customers or with other broker-dealers if such trading arises from unsolicited order flow. The Interpretation also does not apply to situations where the firm conducts research solely for in-house use and such research is not made available for external distribution.

In addition, the Interpretation encourages but does not require firms to establish information barriers (also known as Chinese Wall procedures or Chinese Walls) to control the flow of information between their research and trading departments. Information barriers are risk management controls

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[9] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *NASD Manual*, Rules of Fair Practice, Art. III, Sec. 1 (CCH) ¶ 2151.

[4] *See* Letter from Brian C. Underwood, Vice President-Director of Compliance, A.G. Edwards & Sons, Inc. (''A.G. Edwards''), to Jonathan G. Katz, Secretary, SEC, dated July 18, 1995 (''A.G. Edwards Letter''); and Letter from Joseph McLaughlin Esq. , Brown & Wood, to Jonathan G. Katz, Secretary, SEC, dated July 21, 1995 (''Brown & Wood Letter'').

adopted by securities firms between different departments of firms to enhance the likelihood that knowledge of upcoming events will be isolated within a single group and not disclosed to other groups that might trade on or otherwise benefit from the information. Because many firms today already use information barriers between the research and trading departments of their firms, the Interpretation encourages the use of information barriers as the preferred method of complying with the Interpretation. If a member determines not to implement information barriers, it would carry the significantly greater burden of proving that stock accumulations or liquidations prior to the issuance of a research report had not been purposeful if an NASD investigation into the firm's buying or selling activity were initiated.

III. Summary of Comments

Two commenters objected to the Interpretation. A.G. Edwards stated that the Interpretation would adversely affect retail customers of a firm with an active research department. A.G. Edwards suggested that the Interpretation would prevent a firm from accumulating stock to satisfy expected customer demand once it issued a favorable research report. The A.G. Edwards Letter stated that a firm would need to use outside dealers in order to meet client demand for the security once the research report was issued. This, in turn, would cause the price of the security to rise, which would mean that retail orders would go unfilled or would be executed only at a price above the price at which the security was trading before the report was issued.

A.G. Edwards claimed that the Interpretation would discourage small issuers from issuing their securities because the Interpretation, if adopted, would discourage firms from initiating coverage of their securities. It also claimed that the Interpretation is flawed because it does not similarly prohibit firms from adjusting their inventory when conducting research not available for external distribution. A.G. Edwards suggested prohibiting firms from accumulating securities for a specified period in advance of the issuance of a favorable research report concerning the issuer of those securities, or requiring firms to sell accumulated securities to customers at a price based on the firm's average cost.

Brown & Wood also objected to the Interpretation. The Brown & Wood Letter stated that the Interpretation could not be intended to protect customers because it would apply not only to trading with a firm's own customers but to any trading with any person. The Brown & Wood Letter stated that the Interpretation would discourage firms from maintaining research staffs, would encourage firms not to distribute research to their customers, would encourage other firms not to maintain research staffs and would cause firms to transfer the value of their research without compensation.

The Commission does not believe that the objections raised by these commenters warrant disapproval of the Interpretation. The Commission notes that trading ahead of research reports raises questions about the motivation of the firm in issuing the research report and about the quality of information within the research report. In this regard, the Commission notes that a firm preparing a research report concerning a security solely for ''in-house'' use cannot expect the repot to affect public demand for the security; hence, such reports do not raise the same ''trading ahead'' concerns as do reports prepared for public investors.

Furthermore, the Commission does not believe that the prior accumulation of a security that is to be the subject of a favorable research report affects the level of investor demand for that security; therefore, the Commission does not believe that the Interpretation will cause firm customers to pay higher prices for the securities that are the subject of research reports than they would pay if firms could trade ahead of research reports.

The Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act in that the proposed rule change will increase investor confidence in the integrity of research reports, thereby protecting investors and the public interest.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change SR–NASD–95–28 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–20155 Filed 8–14–95; 8:45 am]

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[Release No. 34–36070; International Series Release No. 837 File Nos. SR–Amex–94–55 and SR–CBOE–95–01]

Self-Regulatory Organizations; American Stock Exchange, Inc., and Chicago Board Options Exchange, Inc., Order Approving Proposed Rule Changes Relating to the Listing and Trading of Warrants on the Deutscher Aktienindex (''DAX Index'')

August 9, 1995.

I. Introduction

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] on December 5, 1994, the American Stock Exchange, Inc. (''Amex'') filed with the Securities and Exchange Commission (''Commission''), and on January 5, 1995, the Chicago Board Options Exchange, Inc. (''CBOE'') filed with the Commission, proposed rule changes to list and trade warrants on the Deutscher Aktienindex (''DAX Index'' or ''Index''). The Amex and the CBOE are collectively referred to herein as the ''Exchanges.'' Notices of the proposals appeared in the **Federal Register** on January 26, 1994.[3] The Commission received three comment letters concerning the proposed rule changes.[4] This order approves the Amex and the CBOE proposals.

II. Description of the Proposals

The Amex and the CBOE propose to list index warrants based on the DAX Index.

A. Composition and Maintenance of the Index

The DAX Index is a capitalization-weighted index of 30 German equity securities listed on the Frankfurt Stock Exchange (''FSE''). The capitalization of a particular stock in the Index is

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] *See* Securities Exchange Act Release Nos. 35249 (January 19, 1995), 60 FR 5236 (notice of File No. SR–Amex–94–55), and 35247 (January 16, 1995), 60 FR 5233 (notice of File No. SR–CBOE–95–01).

[4] All three letters were submitted on behalf of the Deutsche Börse AG, the Frankfurt Stock Exchange (''FSE''), and the Deutsche Terminbörse (''DTB''). The Deutsche Börse AG is a holding company formed in 1993 for the purpose of, among other things, assuming ownership and control of the FSE and the DTB. *See* Letter from Lawrence Hunt, Jr., Sidley & Austin, to Margaret McFarland, Deputy Security, Commission, dated March 21, 1995 (commenting on File No. SR–Amex–94–55), and letter from Lawrence Hunt, Jr., Sidley & Austin, to Margaret McFarland, Deputy Secretary, Commission, dated March 21, 1995, (collectively, ''Comment Letters''). The commenters subsequently submitted a follow-up statement to the Comment Letters. *See* Letter from Lawrence Hunt, Jr., Sidley & Austin, to Margaret McFarland, Deputy Secretary, Commission, dated July 19, 1995 (''July 19 Letter'').

calculated by multiplying its listed capital[5] by the price of the common stock (or if the common stock is not listed, the preferred stock) and a multiplier determined by the FSE. The stocks included in the DAX Index are among the largest German corporations, whose shares are among the most actively traded of German issuers. The Index is composed of securities representing more than ten broad industry groups, including chemicals, automobile manufacturers, banks, and insurance companies.[6]

The Index had a closing value of 2,184.33 on July 20, 1995. As of December 2, 1994, the 30 stocks comprising the Index ranged in individual market capitalizations from a low of approximately DM 1.17 billion (US. $841.73 million)[7] to a high of approximately DM 50.59 billion (U.S. $36.40 billion) with a mean capitalization of DM 13.88 billion (U.S. $9.99 billion). Also as of that date, the five largest stocks in the Index accounted for approximately 43.69% of the total weight of the Index with no single security accounting for more than 12.15% of the weight of the Index. Average daily trading volume in the components of the Index for the period from June 1, 1994, through November 30, 1994, ranged from a low of 59,408 shares to a high of 1,042,280 shares, with an average daily trading volume for an Index component during that period of 338,449 shares.

B. Calculation and Dissemination of the Index Value

The value of the DAX Index is calculated every minute by the FSE from 10:30 a.m. to 1:30 p.m., Frankfurt time (4:30 a.m. to 7:30 a.m. Eastern time), based on last sale prices of the component stocks. The value of the Index is disseminated over Reuters News Service, among others. The value of the Index, however, is not disseminated by the FSE until opening prices are available for at least 15 components of the Index representing at least 70% of the capitalization of the Index. Thereafter, with respect to any stock that has not yet opened for trading, the Index value is calculated using the previous day's closing price for those components.

In order to maintain continuity of the value of the Index, the FSE adjusts the Index to reflect certain events relating to the component stocks. For example, the FSE adjusts the Index value to reflect cash dividends paid on the component securities.[8] An adjustment is also applied by the FSE whenever a company issues new shares for which the shareholders have preemptive rights, or when other intra-year events, such as mergers and spinoffs, occur.

The number of listed shares of each stock used in the calculation of the value of the Index is updated by the FSE annually in September. At that time, the adjustment factors mentioned above, which reflect the dividend payments and/or intra-year adjustments, are re-scaled to one, with an additional adjustment made to maintain continuity in the value of the Index.

In addition, the composition of the Index is reviewed periodically by the FSE. It is the FSE's policy not to alter the composition of the DAX Index unless a stock ceases to meet the criteria that initially were the basis for including the stock in the Index. Replacements are usually made from a list of substitute stocks. If it is not possible to substitute a stock from the same industry group, a stock from another industry may be substituted.

C. Index Warrant Trading

The Amex proposes to list DAX Index warrants pursuant to Section 106 of the Amex Company Guide (''Guide''). Under Amex's rules, the Amex may approve for listing warrants on established foreign and domestic market indexes. The CBOE has similar authority to list warrants on foreign indexes pursuant to CBOE Rule 31.5(E).

The Amex and the CBOE represent that Index warrant issues will conform to the index listing guidelines contained in Section 106 of the Guide and CBOE Rule 31.5(E), respectively. Specifically, the listing guidelines of the Exchanges require that: (1) issuers of DAX Index warrants will be have assets in excess of $100,000,000 and otherwise substantially exceed the Exchanges' size and earnings requirements;[9] (2) the term of warrants will be for a period ranging from one to five years from the date of issuance; and (3) the minimum public distribution of such issues will be 1,000,000 warrants, with as minimum of 400 public holders, and a minimum aggregate market value of $4,000,000.

The Exchanges will apply the same margin treatment for the purchase of Index warrants as they require for listed options.[10]

The proposed Index warrants will be direct obligations of their issuers subject to cash-settlement in U.S. dollars, and either exercisable throughout their life (*i.e.*, American-style) or exercisable only immediately prior to their expiration date (*i.e.*, Europe-style). Upon exercise, the holder of an Index warrant structured as a ''put'' will receive payment in U.S. dollars to the extent that the DAX Index has declined below a cash settlement value specified at the time of issuance. Conversely, upon exercise, holders of an Index warrant structured as a ''call'' will receive payment in U.S. dollars to the extent that the DAX Index has increased above a cash settlement value specified at the time of issuance. Index warrants that are ''out-of-the-money'' at the time of expiration will expire worthless.

Because index warrants are derivative in nature and closely resemble index options, the Exchanges will also require that DAX Index warrants be sold only to customers whose accounts have been approved for options trading.[11] Second, the Exchanges' options suitability standards will apply to recommendations in Index warrants.[12] Third, the exchanges' rules regarding discretionary orders will also apply to transactions in Index warrants.[13]

Prior to the commencement of trading of Index warrants, the Exchanges will distribute circulars to their members calling attention to certain compliance responsibilities when handling transactions in Index warrants.

[5] Listed capital for a component security is determined based on an issuer's preferred and common shares registered for trading on the FSE. This is different from domestic capitalization-weighted indexes, such as the S&P 500 Index, the values of which are calculated based only on the shares of the issuer's common stock.

[6] The components of the Index are: Allianz AG Holdings; BASF AG; Bayer AG; Bayer Hypo/Wech; BMW; Bayer Vereinsbank AG; Commerzbank AG; Continental AG; Daimler-Benz AG; Deutsche Babcock AG; Deutsche Bank AG; Degussa AG; Dresdner Bank AG; Henkel KGAA-Pfd; Hoechst AG; Karstadt AG; Kaufhof Holdings AG; Lufthansa AG; Linde AG; Man AG; Metallgesellschaft; Mannesmann AG; Preussag AG; RWE AG; Schering AG; Siemens AG; Thyssen AG; Veba AG; Viag AG; and Volkswagen AG.

[7] Based on a current German mark/U.S. dollar exchange rate of approximately DM 1.39/U.S. $1.

[8] The FSE makes this adjustment because German companies usually pay their dividends only once per year (generally in June or July). If not adjusted, the annual dividend payment would result in a significant drop in the value of the Index at the time when the dividends are paid. As a result, the FSE calculates the dividend adjustment such that share prices reflect full dividend reinvestment.

[9] *See* Amex Guide Section 101 and CBOE Rule 31.5A.

[10] Telephone conversation between Claire McGrath, Managing Director and Special Counsel, Derivative Securities, Amex, and Brad Ritter, Senior Counsel, Office of Market Supervision, Division of Market Regulation, Commission, on July 21, 1995. *See* Amex Rule 462 and CBOE Rule 12.3.

[11] *See* Amex Rule 921 and CBOE Rule 9.7.

[12] *See* Amex Rule 411, Commentary .02 and CBOE Rule 9.9.

[13] *See* Amex Rule 421, Commentary .02 and CBOE Rule 30.50, Interpretation .04 (requiring that the standards of Rule 9.10 be applied to index warrant transactions).

D. Surveillance

The Exchanges will use their existing surveillance procedures to monitor trading in Index warrants. The Exchanges represent that they are currently negotiating to enter into separate surveillance sharing agreements with the FSE.

Both the Amex and the CBOE have submitted to Commission approval a proposed rule change governing, among other things, customer protection and margin requirements for stock index warrants, currency index warrants, and currency warrants.[14] DAX Index warrants issued subsequent to approval of those proposals will be subject to these new rules.

III. Comment Letters

Three comment letters were received by the Commission—one discussing the CBOE proposal, one discussing the Amex proposal, and one follow-up letter discussing both proposals. All three comment letters were submitted on behalf of the Deutsche Börse AG, DTB, and FSE. The first two letters received raised the same issues concerning the respective proposals.[15] The commenters assert that the FSE has a proprietary interest in the DAX Index which vests the FSE with the exclusive right to license its use for trading index products based on the DAX Index. According to the commenters, even if the Amex and CBOE had any rights to use the DAX Index or the ''DAX'' name, those rights either lapsed or were terminated by the Deutsche Börse AG.[16] As a result, the commenters argue that the proposals raise issues concerning intellectual property rights which should be resolved prior to Commission approval of the proposals.

Similarly, the commenters also assert that all surveillance agreements between the FSE and each of the Exchanges have either lapsed or been terminated by the Deutsche Börse AG.[17] As a result, the commenters conclude that it would be impossible for the Commission to find that the proposed DAX Index warrants would not be susceptible to manipulation. The commenters, however, have informed the Commission that the Deutsche Börse AG is currently negotiating with the CBOE and the Amex for purposes of entering into market surveillance agreements with each Exchange.[18]

Based on these arguments, the commenters conclude that it would be inappropriate for the Commission to approve the proposed rule changes until these issues are resolved.[19]

IV. Commission Findings

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act.[20] Specifically, the Commission believes that the trading of warrants based on the DAX Index will serve to protect investors, promote the public interest, and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with the German equity market and provide a surrogate instrument for trading in the German securities market.[21] The trading of warrants based on the DAX Index should provide investors with a valuable hedging vehicle that should reflect accurately the overall movement of the German equity market.

In addition, the Commission believes, for the reasons discussed below, that the Amex and the CBOE have adequately addressed issues related to customer protection, index design, surveillance, and market impact of DAX Index warrants.

A. Customer Protection

Due to the derivative nature of index warrants, the Commission believes that DAX Index warrants should only be sold to investors capable of evaluating and bearing the risks associated with trading in such instruments and that adequate risk disclosure be made to investors. In this regard, the Commission notes that the rules and procedures of the Exchanges that address the special concerns attendant to the secondary market trading of index warrants will be applicable to DAX Index warrants. In particular, by imposing the special suitability, account approval, disclosure, and compliance requirements noted above, the Amex and the CBOE have adequately addressed potential public customer problems that could arise from the derivative nature of DAX Index warrants. Moreover, the Amex and the CBOE plan to distribute circulars to their members identifying the specific risks associated with warrants on the DAX Index. Finally, pursuant to the Exchanges' listing guidelines, only substantial companies capable of meeting their warrant obligations will be eligible to issue DAX Index warrants.

B. Index Design and Structure

The Commission finds that it is appropriate and consistent with the Act to classify the Index as a broad-based index. Specifically, the Commission believes the Index is broad-based because it reflects a substantial segment of the German equity market. First, the Index consists of 30 actively traded stocks listed by the FSE. Second, the market capitalizations of the stocks comprising the Index are very large. Specifically, the total capitalization of the Index, as of December 2, 1994, was approximately U.S. $299.55 billion, with the market capitalizations of the individual stocks in the Index ranging from a high of $36.40 billion to a low of $841.73 million, with a mean value of $9.99 billion.[22] Third, no one particular stock or group of stocks dominates the weight of the Index. Specifically, as of December 2, 1994, no single stock accounted for more than 12.15% of the Index's total value, and the percentage weighting of the five largest issues in the Index accounted for 43.69% of the Index's value. Accordingly, the Commission believes it is appropriate to classify the Index as broad-based.

C. Surveillance

As a general matter, the Commission believes that comprehensive surveillance sharing agreements between the relevant foreign and domestic exchanges are important where an index derivative product based on foreign securities is to be traded in the United States.[23] In most

[14] *See* Securities Exchange Act Release Nos. 35086 (December 12, 1994), 59 FR 65561 (December 20, 1994) (notice of File No. SR–Amex–94–38), and 35178 (December 29, 1994), 60 FR 2409 (January 9, 1994) (notice of File No. SR–CBOE–94–34).

[15] *See* Comment Letters, *supra* note 4.

[16] *Id.* The commenters, however, have informed the Commission that the Deutsche Börse AG is currently negotiating with the CBOE and the Amex for purposes of licensing the DAX Index and the DAX name to the Exchanges for purposes of listing DAX Index warrants. *See* July 19 Letter, *supra* note 4.

[17] *See* Comment Letters, *supra* note 4.

[18] *See* July 19 Letter, *supra* note 4.

[19] *See* Comment Letters, *supra* note 4.

[20] 15 U.S.C. § 78f(b)(5) (1988).

[21] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new securities product upon a finding that the introduction of such product is in the public interest. Such a finding would be difficult with respect to a warrant that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[22] These figures are based on the German mark values as of December 2, 1994, but converted to dollars using the current exchange rate of approximately DM 1.39/U.S. $1.00.

[23] A comprehensive surveillance sharing agreement would allow the parties to the agreement to obtain relevant surveillance information,

Continued

cases, in the absence of such a comprehensive surveillance sharing agreement, the Commission believes that it would be difficult to conclude that an exchange listing a derivative product, such as a DAX Index warrant, would be able to monitor effectively trading involving the derivative product. Indeed, in commenting on the DTB's application to offer and sell DAX Index futures to U.S. persons, the Commission relied, in part, on the existence of a surveillance sharing agreement between the FSE and the DTB.[24]

With regard to the Amex and CBOE proposals, the Commission would prefer that comprehensive surveillance agreements be in place, and believes that such agreements play a particularly important role in ensuring the integrity of global securities markets. The Deutsche Börse AG, however, terminated license and market surveillance agreements between the FSE and the Exchanges as part of a now completed strategic review relating to competitive concerns surrounding the trading of the DAX Index products by the Exchanges.[25] Since completion of the strategic review, the Deutsche Börse AG has decided to commence active negotiations with the Exchanges regarding their listing and trading of DAX Index warrants and for the purpose of entering into new market surveillance sharing agreements.[26] The Commission views these new efforts favorably, and believes that a major market such as the FSE should readily enter into comprehensive surveillance sharing agreements.[27] Even in the absence of such agreements, however, the Commission does not believe that the Exchanges' proposals should continue to be detained pending the conclusion of these negotiations when an alternative with respect to obtaining surveillance information exists for the DAX Index products. Specifically, the U.S. Department of State and the German Foreign Office have exchanged Diplomatic Notes that provide a framework for mutual assistance in investigatory and regulatory matters (''Diplomatic Notes'').[28] The Diplomatic Notes confirm that the Commission is qualified to obtain assistance through the German Ministry of Justice under German law. Based on the existence of the Diplomatic Notes, the Commission believes that the German governmental authorities are committed to assistance in addressing cross-border fraud. In addition, the Commission could obtain from the German Ministry of Justice (and vice versa) information similar to that which would be available in the event that a comprehensive surveillance sharing agreement were executed between the FSE and the Amex and the CBOE with respect to transactions in FSE-traded stocks related to DAX Index warrant transactions on the Amex and the CBOE.[29] While this arrangement would certainly be enhanced by the existence of comprehensive surveillance sharing agreements, it is nonetheless consistent with other instances where the Commission has explored alternatives to direct exchange-to-exchange surveillance sharing agreements where the relevant foreign exchange was unwilling or unable to enter into a comprehensive surveillance sharing agreement.[30]

In addition, the Commission notes that there are factors relating to the computation of the DAX Index that further support reliance on arrangements other than direct exchange-to-exchange surveillance agreements. Specifically, the size of the market for the securities underlying the DAX Index makes it less likely that the proposed Index warrants are readily susceptible to manipulation.[31] For example, as of December 2, 1994, the market capitalization of the securities in the Index ranged from a low of approximately U.S. $841 million to a high of approximately U.S. $36 billion, and the average trading volume for individual Index component securities during the period from June 1, 1994, through November 30, 1994, ranged from a low of 59,408 shares per day to a high of over one million shares per day.

The Commission continues to believe strongly that the existence of comprehensive surveillance sharing agreements between the appropriate German entity(ies)[32] and each of the Exchanges would be important measures to deter and detect potential manipulations or other improper or illegal trading involving DAX Index warrants. Accordingly, the Commission urges the German parties and the Exchanges to continue in their present negotiations with the goal of finalizing formal comprehensive surveillance sharing agreements covering DAX Index warrants and the securities contained in the DAX Index as soon as practicable.[33]

D. Commission Response to Comment Letters

The comment letters received by the Commission in response to the proposed rule changes raise two issues—one concerning the potential for manipulation as a result of the lack of surveillance sharing agreements between the American and German exchanges, and the other concerning the FSE's intellectual property rights in the DAX Index and the DAX name.[34]

As stated above, the Commission believes that, even though new surveillance sharing agreements between the Deutsche Börse AG and the Exchanges have not yet been finalized, the Diplomatic Notes provide, in the interim, both the Commission and the German Ministry of Justice with the ability to obtain and share information necessary, among other things, to investigate suspected attempts at manipulation of the trading of DAX

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including, among other things, the identity of the ultimate purchasers and sellers of securities.

[24] *See* Letter to Elisse B. Walter, General Counsel, Commodity Futures Trading Commission (''CFTC''), from Brandon Becker, Director, Division of Market Regulation (''Division''), Commission, dated November 21, 1994.

[25] *See* July 19 Letter, *supra* note 4. The commenters stated that ''[b]ecause of the amount of work and discretion involved in maintaining the DAX Index, under both federal and state law, [the FSE] has a proprietary interest in its Index, which vests it with the exclusive right to license its use for trading in stock index products.'' *See* Comment Letters, *supra* note 4.

[26] *See* July 19 Letter, *supra* note 4.

[27] Ideally, such agreements should be broad in nature rather than designed to cover a specific product, such as DAX Index warrants. The absence of broad surveillance agreements slows down the introduction of new international products by forcing the relevant exchanges to amend product-specific surveillance sharing agreements every time a new product is introduced.

[28] *See* International Series Release No. 691, 1994 SEC LEXIS 2324 (July 22, 1994).

[29] It is the Commission's expectation that this information would include transaction, clearing, and customer information necessary to conduct an investigation relating to trading in DAX Index warrants or components of the DAX Index.

[30] *See, e.g.*, Letter to David R. Merrill, Deputy General Counsel, CFTC, from Brandon Becker, Director, Division, Commission, dated April 20, 1994 (Commission comment letter to the CFTC regarding the offer by the Osaka Securities Exchange of futures contracts based on the Nikkei 300 Index to U.S. persons), and letter to Joanne T. Medero, General Counsel, CFTC, from William H. Heyman, Director, Division, Commission, dated January 16, 1992 (Commission comment letter to the CFTC regarding the offers by the Osaka Stock Exchange and the Tokyo Stock Exchange of futures contracts based on the Nikkei 225 and TOPIX Indexes to U.S. persons).

[31] In evaluating the manipulative potential of a proposed index derivative product, as it relates to the securities that comprise the index and the index product itself, the Commission has considered several factors, including, among others, (1) the number of securities contained in the index or group, (2) the capitalizations of those securities, (3) the depth and liquidity of the group or index, (4) the diversification of the group or index, (5) the manner in which the index or group is weighted, and (6) the ability to conduct surveillance on the product. *See* Securities Exchange Act Release No. 31016 (August 11, 1992), 57 FR 37012 (August 17, 1992).

[32] This would probably be the FSE and/or the Deutsche Börse AG. *See* July 19 Letter, *supra* note 4.

[33] *See supra* notes 23 and 27.

[34] *See* Section III, *supra*.

Index warrants at the Exchanges and of the securities of which the DAX Index is composed. As a result, the Commission believes that the trading of DAX Index warrants by the Exchanges in the absence of comprehensive surveillance sharing agreements between the Exchanges and the relevant German entity(ies) does not raise any significant regulatory concerns.

Similarly, the Commission believes that the commenters' concerns over the FSE's proprietary interest in the DAX Index and the DAX name do not preclude the Commission from approving the proposed rule changes. Specifically, to the extent that the commenters' argument raises a claim of misappropriation or infringement of a protected property right, the Commission believes it is inappropriate for the Commission to attempt to resolve these issues in a proceeding involving the approval of an exchange's proposed rule change under the federal securities laws. To take such delaying action whenever a third party claim is asserted could stifle Commission review of new products proposed by self-regulatory organizations. The plain language of the U.S. securities laws does not suggest that Congress intended that the Commission attempt, in the context of an approval proceeding for a securities product, to resolve intellectual property right claims that can be pursued elsewhere.[35] Accordingly, the commenters' assertions do not form a basis for the Commission to either disapprove or delay approval of the Exchanges' proposals.[36]

V. Conclusion

For the reasons described above, the Commission finds that the proposed rule changes by the Exchanges are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[37] Specifically, the Commission finds that the listing and trading of warrants based on the DAX Index will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with the German equity market and provide a surrogate instrument for trading in the German securities market.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[38] that the proposed rule changes (File Nos. SR–Amex–94–55 and SR–CBOE–95–01), are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[39]

Jonathan, G. Katz,

Secretary.

[FR Doc. 95–20157 Filed 8–14–95; 8:45 am]

BILLING CODE 8010–01–M

[35] Congress has enacted an elaborate statutory framework for the establishment, preservation, and protection of intellectual property rights and has established specific federal agencies to administer these laws. Separate state causes of action also may be available to the holders of these proprietary rights, as well as possible recourse to German laws.

[36] *See* Securities Exchange Act Release Nos. 26709 (April 11, 1989), 54 FR 15280 (April 17, 1989) (order approving the listing of index participations by the Amex, CBOE, and Philadelphia Stock Exchange), and 28475 (September 27, 1990), 55 FR 40492 (October 3, 1990) (order approving the trading by the Amex of options on the Japan Index).

[37] 15 U.S.C. § 78f(b)(5) (1988).

[38] 15 U.S.C. § 78s(b)(2) (1984).

[39] 17 CFR 200.30–3(a)(12) (1994).

[Release No. 34–36092; File No. SR–CSE–95–03, Amendment No. 1]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by The Cincinnati Stock Exchange, Inc. Relating to Customer Order Executions

August 11, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. § 78s(b)(1), notice is hereby given that on August 11, 1995, the Cincinnati Stock Exchange, Inc. (''CSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CSE hereby proposes to adopt certain order exposure and limit order protection policies for Exchange Rules 11.9(u) and 12.10.

The text of the proposed rule change is as follows, where additions are *italicized* and deleations are [bracketed].

Rule 11.9(u)

No Change

Interpretations and Policies:

.01 Price Improvement Opportunity

Consistent with his or her agency responsibility to exercise due diligence, a member must comply with the following procedures which provide the opportunity for public agency buy/sell orders to receive a price lower/higher than the disseminated national best offer/bid.

(a) Market Order Exposure—Except under unusual market conditions or if it is not in the best interest of the customer, when the spread between the national best bid and offer is greater than the minimum price variation, a member must either immediately execute the order at an improved price or expose the order on the Exchange for a minimum of thirty seconds in an attempt to improve the price.

.02 Limit Order Protection

Public agency limit orders shall be filled if one of the following conditions occur:

(a) the bid or offering at the limit price has been exhausted in the primary market (NOTE: orders will be executed in whole or in part, based on the rules of priority and precedence, on a share for share basis with trades executed at the limit price in the primary market);

(b) there has been a price penetration of the limit in the primary market; or

(c) the issue is trading at the limit price on the primary market unless it can be demonstrated that such order would not have been executed if it had been transmitted to the primary market or the customer and the Designated Dealer agree to a specific volume related or other criteria for requiring a fill.

In unusual trading situations, a Designated Dealer may seek relief from the above requirements from two Trading Practices Committee members or a designated member of the Exchange staff who would have the authority to set execution prices.

Rule 12.10 Best Execution

No Change

Interpretations and Policies

.01 As part of a member's fiduciary obligation to provide best execution for its customer orders, the member shall expose *on the Exchange* [to the national market system] all or a representative portion of any public agency limit order which is priced either on or between the national best bid and offer, unless:

(i) such order is immediately executed; or

(ii) the customer expressly requests that the order not be exposed.

If a representative portion of his or her limit order is executed, a member must treat the remainder of the order as a new order for the purpose of compliance with the Exchange's limit order exposure policy.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to continue the efforts of The Cincinnati Stock Exchange to improve the quality of its market. Specifically, the Exchange is proposing to codify certain requirements with respect to order exposure and limit order protection. These requirements will ensure that customer orders receive (1) an opportunity to obtain an improved price, and (2) at a minimum, as good an execution as that which is provided by the primary markets.

Exception language to specific exposure requirements has been included in order to assure the public that a broker-dealer will always act in a manner consistent with his or her fiduciary responsibility as agent. For example, it may not be in the best interest of the customer to always expose an order for thirty seconds in a fast market or to expose all of an order if such order is for a large size.

2. Statutory Basis

The CSE believes that the proposed rule change is consistent with Section 6(b) of the act in general and furthers the objectives of Section 6(b)(5) in particular in that it will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system.

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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

On August 3, 1995, the Exchange solicited comments from the participants of the Intermarket Trading System. No comments were received prior to filing the proposed rule change with the Commission.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to File No. SR–CSE–95–03, Amendment No. # 1 and should be submitted by September 5, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–20251 Filed 8–14–95; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 02/72–0555]

RFE Investment Partners V, L.P.; Notice of Increase in Private Partnership Capital

On July 17, 1995, RFE Investment Partners V, L.P., a Delaware limited partnership and SBIC Licensee number 02/72–0555 notified the SBA pursuant to Section 107.102(b) of the Regulations governing small business investment companies (13 C.F.R. 107.102(b) (1995)) of an increase in its private partnership capital. Effective June 23, 1995, the Licensee admitted the following entity as an additional limited partner with an ownership interest in limited partnership in excess 10.0%:

Name of entity: Bank of New York as Trustee for the Pacificorp Retirement Plan

Percent of *ownership interest*: 20.6

Pursuant to Section 107.103 (134 C.F.R. 107.103 (1995)), notice is hereby given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the admission of this entity into the SBIC to the Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW, Washington, DC 20416.

A copy of this Notice will be published in a newspaper of general circulation in New Canaan, Connecticut.

(Catalog of Federal Domestic Assistance Programs No. 59.011, Small Business Investment Companies)

Dated: August 10, 1995.

Robert D. Stillman,

Associate Administrator for Investment.

[FR Doc. 95–20107 Filed 8–14–95; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 2234]

Shipping Coordinating Committee, Subcommittee for the Prevention of Marine Pollution; Notice of Meeting

The Subcommittee for the Prevention of Marine Pollution (SPMP), a subcommittee of the Shipping Coordinating Committee, will conduct an open meeting on September 6, 1995, at 9:30 AM in Room 2415 of U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C.

The purpose of this meeting will be to review the agenda items to be considered at the thirty-seventh session of the Marine Environment Protection Committee (MEPC 37) of the International Maritime Organization

(IMO) to be held from September 11–15, 1995. Proposed U.S. positions on the agenda items for MEPC 37 will be discussed.

The major items for discussion will be the following:

1. Prevention of oil pollution. Work will continue on guidelines for implementation of Regulations 13F and 13G to Annex I of The International Convention for the Prevention of Pollution from Ships (MARPOL 73/78). This will include considering finalization of interim guidelines for structural and operational requirements for existing ships, equivalences for double-hulls for new ships, and guidelines for enhanced inspections.

2. Implementation of the International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC). An IMO working group will address topics such as development of model pollution response courses, expansion of the OPRC Convention to include hazardous and noxious substances, and work to update IMO guidelines on salvage.

3. Follow-up action to the United Nations Conference on Environment and Development (UNCED). An MEPC working group will examine IMO's role in implementation of UNCED, which will include the development of ''Precautionary Approach Guidelines.''

4. Unwanted aquatic organisms in ballast water. A working group will discuss a possible technical annex to MARPOL 73/78 to prevent the introduction of exotic species through discharge of ballast water.

5. Enforcement of Pollution Conventions. A working group will consider for adoption refuse record keeping amendments to Annex V of MARPOL 73/78 proposed by the United States.

6. Development of a draft MARPOL Annex VI (Air Pollution) regulations.

7. The future work program of the MEPC.

Members of the public may attend these meetings up to the seating capacity of the room.

For further information or documentation pertaining to the SPMP meeting, contact Lieutenant Commander Ray Perry, U.S. Coast Guard Headquarters (G–MEP–3), 2100 Second Street, S.W., Washington, D.C. 20593–0001, Telephone: (202) 267–0423.

Dated: August 2, 1995.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 95–20075 Filed 8–14–95; 8:45 am]

BILLING CODE 4710–70–M

[Public Notice 2236]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Working Group on Safety of Navigation; Notice of Meeting

The Working Group on Safety of Navigation of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an opening meeting at 9:30 a.m. on Thursday, September 7, 1995, in room 6319, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, DC.

The purpose of the meeting is to prepare for the 41st session of the Subcommittee on Safety of Navigation (NAV) of the International Maritime Organization (IMO) which is tentatively scheduled for September 18–22, 1995, at the IMO Headquarters in London.

Items of principal interest on the agenda are:

—Role of the human element in maritime casualties
—Routing of ships and related matters
—Vessel Traffic Services (VTS) and ship reporting
—Navigational aids and related matters
—Revision of SOLAS chapter V
—Bridge procedures and standardization of essential bridge and engine room instrumentation
—Ergonomic criteria for bridge equipment
—International Code of Signals
—Special signals for use by ships under attack or threat of attack by pirates and armed robbers
—Review of World Meteorological Organization (WMO) handbooks on navigation in areas affected by sea-ice
—Standard marine communication phrases
—Removal of wrecks and towage of offshore installations, structures, and platforms
—Review of the Code for the Safe Carriage of Irradiated Nuclear Fuel (INF Code)
—Operational aspects of Wing in Ground (WIG) craft
—Safety of passenger submersible craft
—Code for safe navigation and watchkeeping
—Review of reporting requirements in IMO instruments

Members of the public may attend these meetings up to the seating capacity of the room. Interested persons may seek information by writing: Mr. Edward J. LaRue, Jr., U.S. Coast Guard (G–NVT–3), Room 1409, 2100 Second Street SW., Washington, DC 20593–0001 or by calling: (202) 267–0416.

Dated: August 3, 1995.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 95–20076 Filed 8–14–95; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice 2235]

Defense Trade Advisory Group; Partially Closed Meeting

The Defense Trade Advisory Group (DTAG) will meet beginning at 10:00 A.M. on Wednesday, September 20, 1995 in the Loy Henderson Conference Room, U.S. Department of State, 2201 C Street NW., Washington, DC 20520. This advisory committee consists of private sector defense trade specialists who advise the Department on policies, regulations, and technical issues affecting defense trade.

The DTAG will first meet in open session. The open session will include speakers from the Bureau of Political-Military Affairs and reports on DTAG Working Group progress, accomplishments, and future projects. Members of the public may attend the open session as seating capacity allows, and will be permitted to participate in the discussion in accordance with the Chairman's instructions.

As access to the Department of State is controlled, persons wishing to attend the meeting must notify the DTAG Executive Secretariat by Friday, September 8, 1995. Each person should provide his or her name, company or organizational affiliation, date of birth, and social security number to the DTAG Secretariat at telephone number (202) 647–4231 or fax number (202) 647–4232 (Attention: Unita Williams). A list will be made up for Diplomatic Security and the Reception Desk at the C-Street diplomatic entrance. Attendees must carry a valid photo ID with them. They should enter the building through the C-Street diplomatic entrance (21st and C Streets, NW.), where Department personnel will direct them to the Loy Henderson auditorium.

Following the open portion of the meeting, briefings that the Department of State will arrange for DTAG members will involve discussions of classified information pursuant to Executive Order 12356. The disclosure of classified and/or proprietary information essential to formulating U.S. defense trade policies would substantially undermine U.S. defense trade relations with foreign competitors. Therefore, these segments of the meeting will be closed to the public, pursuant to section 10(d) of the Federal Advisory Committee Act (FACA), 5

U.S.C. 552b(c)(1) and 5 U.S.C. 552b(c)(9)(B).

For further information, contact Linda Lum of the DTAG Secretariat, U.S. Department of State, Office of Export Control Policy (PM/EXP), Room 2422 Main State, Washington, DC, 20520–2422. She may be reached at telephone number (202) 647–0137 or fax number (202) 647–4232.

Dated: July 25, 1995.

Martha C. Harris,

Deputy Assistant Secretary for Export Controls, Bureau of Political-Military Affairs.

[FR Doc. 95–20077 Filed 8–14–95; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Maintenance Issues—New Task

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of new task assignment for the Aviation Rulemaking Advisory Committee (ARAC).

SUMMARY: Notice is given of a new task assigned to and accepted by the Aviation Rulemaking Advisory Committee (ARAC). This notice informs the public of the activities of ARAC.

FOR FURTHER INFORMATION CONTACT: Frederick J. Leonelli, Assistant Executive Director for Air Carrier/General Aviation Maintenance Issues, Flight Standards Service (AFS–300), 800 Independence Avenue SW., Washington, DC 20591, telephone: (202) 267–3546; fax: (202) 267–5230.

SUPPLEMENTARY INFORMATION:

Background

The FAA has established an Aviation Rulemaking Advisory Committee to provide advice and recommendations to the FAA Administrator, through the Associate Administrator for Regulation and Certification, on the full range of the FAA's rulemaking activities with respect to aviation-related issues. This includes obtaining advice and recommendations on the FAA's commitment to harmonize its Federal Aviation Regulations (FAR) and practices with its trading partners in Europe and Canada.

One area ARAC deals with is air carrier/general aviation maintenance issues. These issues involve mechanic certification and approved training schools outlined in parts 65 and 147 and the maintenance standards for parts 23, 25, 27, 29, 31, 33, and 35 aircraft, engines, propellers, and their component parts and parallel provisions in parts 21, 43, 91, 121, 125, 127, 129, 133, 135, and 137 of the Federal Aviation Regulations, which are the responsibility of the FAA Director, Flight Standards Service.

The Task

This notice is to inform the public that the FAA has asked ARAC to provide advice and recommendation on the following task:

Review Title 14 of the Code of Federal Regulations, Chapter I: Federal Aviation Administration, Department of Transportation, and supporting policy and guidance material for the purpose of determining the course of action to be taken for rulemaking and/or policy relative to the issue of requirements for maintenance and preventive maintenance training programs, specifically as they pertain to Sections 121.375 and 135.433 of the Federal Aviation Regulations.

The FAA also has asked that ARAC determine if rulemaking action (e.g., NPRM) should be taken, or advisory material should be issued. If so, ARAC has been asked to prepare the necessary documents, including economic analysis, to justify and carry out its recommendation(s).

ARAC Acceptance of Task

ARAC has accepted the task and has chosen to establish a new Maintenance Training Program Working Group. The working group will serve as staff to ARAC to assist the ARAC in the analysis of the assigned task. Working group recommendations must be reviewed and approved by ARAC. If ARAC accepts the working group's recommendations, it forwards them to the FAA as ARAC recommendations.

Working Group Activity

The Maintenance Training Program Working Group is expected to comply with the procedures adopted by ARAC. As part of the procedures, the working group is expected to:

1. Recommend a work plan for completion of the task, including the rationale supporting such a plan, for consideration at the meeting of ARAC to consider air carrier/general aviation maintenance issues held following publication of this notice.

2. Give a detailed conceptual presentation of the proposed recommendations, prior to proceeding with the work stated in item 3 below.

3. For each task, draft appropriate regulatory documents with supporting economic and other required analyses, and/or any other related guidance material or collateral documents the working group determines to be appropriate; or, if new or revised requirements or compliance methods are not recommended, a draft report stating the rationale for not making such recommendations.

4. Provide a status report at each meeting of ARAC held to consider air carrier/general aviation maintenance issues.

Participation in the Working Group

The Maintenance Training Program Working Group will be composed of experts having an interest in the assigned task. A working group member need not be a representative of a member of the full committee.

An individual who has expertise in the subject matter and wishes to become a member of the working group should write to the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire, describing his or her interest in the task, and stating the expertise he or she would bring to the working group. The request will be reviewed by the assistant chair, the assistant executive director, and the working group chair, and the individual will be advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the formation and use of ARAC are necessary and in the public interest in connection with the performance of duties imposed on the FAA by law.

Meetings of ARAC will be open to the public, except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the Maintenance Training Program Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on August 9, 1995.

Frederick J. Leonelli,

Assistant Executive Director for Air Carrier/General Aviation Maintenance Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–20129 Filed 8–14–95; 8:45 am]

BILLING CODE 4910–13–M

International Civil Aviation Organization (ICAO), Committee On Aviation Environmental Protection (CAEP)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise interested parties of a briefing to be given by The Office of Environment and Energy on the status of the ICAO/CAEP process to be held on September 15, 1995. The ICAO/CAEP is a group of aviation experts from government and industry responsible for recommending international noise and emissions standards for civil aircraft and engines. The current status of the ICAO/CAEP process including formulation of a U.S. position for the forthcoming CAEP 3 meeting in December 1995 will be discussed.

DATES: The meeting will be held on September 15, 1995.

TIME: 10:00 am to 12:00 pm.

ADDRESSES: The meeting will be held at Federal Aviation Administration, Washington, D.C., in room 5AB.

FOR FURTHER INFORMATION CONTACT: Mr. James Littleton, Analysis and Evaluation Branch (AEE–120), Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, fax (202) 267–5594.

In 1992, four working groups were established under the CAEP to pursue the work of the committee. Terms of reference were developed to undertake specific studies related to the control of aircraft noise and gaseous emissions from aircraft engines. The working groups efforts also took into account the following;

- Effectiveness and reliability of certification schemes from the viewpoint of technical feasibility, economic reasonableness and environmental benefit to be achieved.
- Development in other associated fields, e.g. land-use planning, noise abatement, operating procedures, emission control through operational practices, etc.; and
- International and national programs of research into control of aircraft noise and control of gaseous emissions from aircraft engines.

The working groups have completed their studies and the findings were presented in Bonn, Germany June, 1995.

The agenda for the September meeting will include:

- Status report on the noise and emission position.
- ICAO/CAEP process
- Question and answer period.

Attendance is open to the public, but will be limited to the space available. Arrangements can be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. Sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting.

James R. Littleton Jr.,

Analysis and Evaluation Branch, Office of Environment and Energy.

[FR Doc. 95–20130 Filed 8–14–95; 8:45 am]

BILLING CODE 4910–13–M

Intent To Rule on Application To Impose, a Passenger Facility Charge (PFC) at Cyril E. King Airport, St. Thomas, Virgin Islands for Future Use at the Alexander Hamilton Airport, in St. Croix, Virgin Islands

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at Cyril E. King Airport, St. Thomas, Virgin Islands for future use at the Alexander Hamilton Airport, St. Croix, Virgin Islands under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before September 14, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827–5397.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Gordon Finch, Executive Director of the Virgin Islands Port Authority at the following address: Administrative Offices C/O Cyril E. King Airport, Virgin Islands Port Authority, St. Thomas, Virgin Islands 00802.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Virgin Islands Port Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ilia A. Quinones, Airports Plans & Programs Manager, Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827–5397 telephone number (407) 648–6583. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at the Cyril E. King Airport, St. Thomas, Virgin Islands for future use at the Alexander Hamilton Airport, St. Croix, Virgin Islands under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation regulations (14 CFR Part 158).

On July 28, 1995, the FAA determined that the application to impose a PFC submitted by the Virgin Islands Port Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 14, 1995.

The following is a brief overview of the application. Level of the proposed PFC: $3.00, Proposed charge effective date: January 1, 1996, Proposed charge expiration date: August 31, 1996, Total estimated PFC revenue: $3,342,000, Brief description of proposed project(s): Terminal Building Expansion and Renovation at the Alexander Hamilton Airport, St. Croix, Virgin Islands.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Cyril E. King Airport, Virgin Islands Port Authority, Administrative Offices, St. Thomas, Virgin Islands.

Issued in Orlando, Florida on August 3, 1995.

Charles E. Blair,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 95–20132 Filed 8–14–95; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Alternate Designs for Bridges

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of policy statement.

SUMMARY: This notice provides a revised statement of FHWA policy on the development of alternate designs for major bridges to be constructed with Federal-aid highway funds. State highway agencies (SHAs) have experienced success in following the existing policy statement and are now in a better position to determine which bridge type will be most economical in

the face of ever-shrinking bridge funds. This notice changes prior FHWA policy to the extent that it gives SHAs the option to choose whether it is in their best interest to require alternate bridge designs.

DATES: This policy is effective on August 15, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Benjamin M. Tang, Review and Design Branch, Bridge Division, (202) 366–4592, or Mr. Wilbert Baccus, Office of the Chief Counsel, (202) 366–0780, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

On December 4, 1979, the FHWA issued a Technical Advisory (TA) entitled ''Alternate Bridge Designs.'' This TA was intended to simultaneously stimulate competition in the design of safe and economical bridge structures and, through the competitive bidding process, take advantage of the prevailing economic conditions which would provide a finished structure at the lowest possible cost without sacrificing safety, quality, or aesthetics.

A memorandum was issued to all Regional Federal Highway Administrators on April 22, 1981, to strengthen the FHWA's effort to promote the use of alternate bridge designs among all State and local governments. On September 23, 1981, a second memorandum requested each division office to review and revise its administrative procedures to ensure that alternate bridge designs would be incorporated in all major bridge projects. Guidelines were presented in a third memorandum, dated June 16, 1982, so that FHWA field offices could take appropriate measures to assure themselves that the spirit and intent of the alternate bridge design requirements were being followed. On May 12, 1983, the FHWA published a Notice of Policy Statement [48 FR 21409], which replaced the existing TA with a consolidated, formal FHWA policy on alternate bridge designs.

On June 9, 1988, the FHWA published a Notice of Policy Statement [53 FR 21637] which revised the FHWA policy to include modifications based on an analysis of data considered over an 8-year period concerning alternate designs. The in-depth review of the results of the FHWA policy over that 8-year period concluded that the policy resulted in more cost-effective designs and better use of the highway tax dollar.

Discussion

In the late 1970's, when the cost of bridge construction was very unpredictable, the FHWA established a policy requiring the development of alternate bridge designs for the construction of major bridges using Federal-aid highway funds. The FHWA policy was established in an effort to get the best possible value out of an unstable market by requiring alternate designs for bridges to be considered. The analysis of cost data from 1979 through 1987 indicated that the alternate bridge design policy resulted in an average savings of $2 million for each major bridge project. Structures were successfully completed at the lowest possible cost without sacrificing safety, quality, or aesthetics. The program was effective in promoting not only competition among the various bridge types and materials but also innovative design concepts and construction methods in an unsettled economic atmosphere. As a result of its effectiveness, the FHWA reissued the policy of Alternate Designs for Bridges on June 9, 1988 [53 FR 21637], making only slight modifications to the policy then in existence.

The various SHAs which have implemented the policy of Alternate Designs for Bridges have, for the most part, experienced a great deal of success with the program in stretching their bridge dollars. Through participation in the alternate design program, the SHAs are now in a better position to judge whether alternate designs are needed. As of the date of this notice, the new policy will make the use of alternate bridge designs optional. Alternate designs may be used by the SHAs at their discretion.

(23 U.S.C. 109, 144, 151, 315, and 319; 23 CFR 1.32; 49 CFR 1.48)

Issued on: August 8, 1995.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 95–20137 Filed 8–14–95; 8:45 am]

BILLING CODE 4910–22–P

Federal Railroad Administration

[FRA Docket No. RSOR 13, Notice No.5]

RIN 2130–AA86

Roadway Worker Protection

AGENCY: Federal Railroad Administration (FRA); DOT.

ACTION: Notice; Schedule of Advisory Committee Review Meeting.

SUMMARY: The Federal Railroad Administration is announcing a meeting of the Roadway Worker Protection Advisory Committee (Committee) to review the draft Notice of Proposed Rulemaking for Roadway Worker Protection.

DATES: The Committee will convene at 8:30 a.m. on the following dates:

1. Wednesday, August 30, 1995.
2. Thursday, August 31, 1995.

ADDRESSES: The meeting will be held at the Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, Va. 22202.

FOR FURTHER INFORMATION CONTACT: Cynthia B. Walters, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, SW., Room 8201, Washington, DC 20590 (Telephone: 202–366–0621).

SUPPLEMENTARY INFORMATION: On August 17, 1994 FRA published a notice of intent to establish an Advisory Committee. (59 FR 42200). FRA also published a notice establishing this Advisory Committee on January 5, 1995 (60 FR 1761). The Committee held seven multiple day negotiation sessions over the course of five months. On May 17th, 1995, the Committee submitted their Report of Findings, identifying consensus on 11 specific recommendations and nine general recommendations, to the Secretary of Transportation and the Federal Railroad Administrator. The Advisory Committee reached consensus that this report would serve as the basis for a Notice of Proposed Rulemaking (NPRM). The Advisory Committee concluded that a meeting to determine whether the draft NPRM captured the consensus items in the Committee Report would be necessary. FRA welcomes the public to observe this meeting, in accordance with the Federal Advisory Committee Act (Pub. L. 92–463).

Issued this 9th day of August, 1995.

S. Mark Lindsey,

Chief Counsel, Federal Railroad Administration.

[FR Doc. 95–20138 Filed 8–14–95; 8:45 am]

BILLING CODE 4910–06–P

National Highway Traffic Safety Administration

[NHTSA Docket No. 94–004; Notice 4]

Highway Safety Programs; Conforming Products List of Screening Devices to Measure Alcohol in Bodily Fluids

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Ntoice.

SUMMARY: This notice amends the Conforming Products List (CPL) of devices that conform to the Model

Specifications for Screening Devices that measure alcohol in bodily fluids (59 FR 39382).

EFFECTIVE DATE: August 15, 1995.

FOR FURTHER INFORMATION CONTACT: Dr. James F. Frank, Office of Alcohol and State Programs, NTS–21, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590; Telephone: (202) 366–9581.

SUPPLEMENTARY INFORMATION: On August 2, 1994, Model Specifications for Screening Devices to Measure Alcohol in Bodily Fluids were published in the **Federal Register** (59 FR 39382). In these model specifications, NHTSA recognized industry efforts to develop new technologies. These specifications establish performance criteria and methods for testing alcohol screening devices using either breath or other bodily fluids to measure alcohol content. NHTSA established these specifications to support State laws that target youthful offenders (i.e., ''zero tolerance'' laws) and the Department of Transportation's initiative to prevent alcohol misuse. NHTSA published its first CPL for screening devices on December 2, 1994 (59 FR 61923; with a correction in 59 FR 65128). Five devices were on that first list.

Since the publication of that list, two additional disposable, single-use saliva-alcohol screening devices have been evaluated at the Volpe National Transportation System Center in Cambridge, MA and found to conform to the model specifications for screening devices: Chematics' ''Alco-Screen 02™'' and Roche Diagnostic Systems' ''On-Site Alcohol''.

It should be noted, however, that while the ALCO-SCREEN 02™ saliva-alcohol screening device manufactured by Chematics, Inc. passed the requirements of the model specifications when tested at 40°C (104°F), the manufacturer has indicated that the device cannot exceed storage temperatures of 27°C (80°F). (Instructions to this effect are stated on all packaging accompanying the device.) Accordingly, the device should not be stored at temperatures above 27°C (80°F) and, if the device is stored at or below 27°C (80°F) and used at higher temperatures, the test should be completed immediately. When these devices were stored at or below 27°C (80°F) and tested at 40°C (104°F) immediately (i.e., within a minute), the devices met the model specifications and the results persisted for 10–15 minutes. When these devices were stored at or below 27°C (80°F) and were equilibrated at 40°C (104°F) for an hour prior to sample application, the devices failed to meet the model specifications. Storage at temperatures above 27°C (80°F), for even brief periods of time, may result in false negative readings.

It should be noted also that while the ON-SITE ALCOHOL saliva-alcohol screening device manufactured by Roche Diagnostics Systems passed all of the requirements of the model specifications, readings should be taken only after the time specified by the manufacturer. For valid readings, the user should follow the manufacturer's instructions. Readings should be taken one (1) minute after a sample is introduced at or above 30°C (86°F); readings should be taken after two (2) minutes at 18–29°C (64°F–84°F); and readings should be taken after five (5) minutes when the sample is introduced at temperatures at or below 17°C (63°F). If the reading is taken before five minutes have elapsed under the cold conditions, the user is likely to obtain a reading that underestimates the actual saliva-alcohol level.

The Conforming Products List is therefore amended as follows:

CONFORMING PRODUCTS LIST OF ALCOHOL SCREENING DEVICES

Manufacturer	Devices(s)
(1) Alco Check International* Hudsonville, MI	•Alco Check 3000 D.O.T. •Alco Screen 3000.
(2) Chematics, Inc., North Webster, IN	•ALCO–SCREEN 02™.[1]
(3) Guth Laboratories, Inc.*, Harrisburg, PA	•Alco Tector Mark X. •Mark X Alcohol Checker.
(4) Repco Marketing, Inc., Raleigh, NC	•Alco Tec III.
(5) Roche Diagnostic Systems, Branchburg, NJ	•On-Site Alcohol.[2]
(6) Sound Off, Inc.,* Hudsonville, MI	•Digitox D.O.T. •Alco Screen 1000.
(7) STC Diagnostics, Inc., Bethlehem, PA	•Q.E.D. A150 Saliva Alcohol Test.

*The devices listed by this manufacturer are the same device sold under tow different names.

[1] It should be noted, however, that while the ALCO–SCREEN 02™ saliva-alcohol screening device manufactured by Chematics, Inc. passed the requirements of the model specifications when tested at 40° C (104° F), the manufacturer has indicated that the device cannot exceed storage temperatures of 27° C (80° F). (Instructions to this effect are stated on all packaging accompanying the device.) Accordingly, the device should not be stored at temperatures above 27° C (80° F) and, if the device is stored at or below 27° C (80° F) and used at higher temperatures, the test should be completed immediately. When these devices were stored at or below 27° C (80° F) and tested at 40° C (104° F) immediately (i.e., within a minute), the devices met the model specifications and the results persisted for 10–15 minutes. When these devices were stored at or below 27° C (80° F) and were equilibrated at 40° C (104° F) for an hour prior to sample application, the devices failed to meet the model specifications. Storage at temperatures above 27° C (80° F), for even brief periods of time, may result in false negative readings.

[2] While this device passed all of the requirements of the model specifications, readings should be taken only after the time specified by the manufacturer. For valid readings, the user should follow the manufacturer's instructions. Readings should be taken one (1) minute after a sample is introduced at or above 30° C (86° F); readings should be taken after two (2) minutes at 18° C–29° C (64.4° F–84.2° F); and readings should be taken after five (5) minutes when testing at temperatures at or below 17° C (62.6° F). If the reading is taken before five (5) minutes has elapsed under the cold conditions, the user is likely to obtain a reading that underestimates the actual saliva-alcohol level.

Note that devices 1, 3, 4 and 6 are breath alcohol testers that use semiconductor type sensors. Devices 2, 5, and 7 are saliva alcohol testers that use enzymatic techniques to measure the alcohol concentration in a saliva sample.

Issued on: August 10, 1995.

James Hudlund,

Acting Associate Administrator for Traffic Safety Programs.

[FR Doc. 95–20179 Filed 8–14–95; 8:45 am]

BILLING CODE 4910–59–M

Denial of Motor Vehicle Defect Petition from Victor A. Fleming

This notice sets forth the reasons for the denial of a petition submitted to the NHTSA under 49 U.S.C. 30162(a)(2) (formerly section 124 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended).

In March 1995, Mr. Victor A. Fleming, an attorney associated with the Gill Law Firm of Little Rock, Arkansas, petitioned the National Highway Traffic Safety Administration (NHTSA) to order a safety recall of certain motor vehicles produced by the Chrysler Corporation (Chrysler) for remedy of an alleged defect in the park lock system of the automatic transmissions installed in those vehicles. Specifically, Mr. Fleming requested that Chrysler be ordered to conduct a safety recall of its 1984 through 1991 model year vehicles equipped with console-mounted transmission shift lever assemblies, in order to adequately notify owner/operators that the shift lever can be moved out of the ''Park'' position after the ignition key has been removed. The petitioner proposed that, as a remedy for the alleged defect, a readily visible warning should be installed in the subject vehicles.

The safety defect alleged in this matter does not refer to the failure or malfunction of any component or operating system of the vehicle. Rather, the petition requests that the manufacturer be ordered to undertake a safety recall ''* * * for the purpose of adequately notifying * * *'' owners of the subject vehicles of certain design and operating features of the automatic transmission park lock system. The petitioner argues that such notification is necessary to provide a proper warning that the transmission park lock system permits removal of the engine ignition key when the transmission is not in the ''Park'' position. For the reasons set forth below, Mr. Fleming's petition is denied.

The petitioner presented as a documentary account of this design characteristic, the experience of a client severely injured when struck by her 1990 Dodge LeBaron convertible equipped with a console mounted gear shift lever. According to the petition, the vehicle had been parked on a slight incline with the engine ignition turned off and the ignition key removed, when it began an unpowered rollaway and struck the driver while she was walking away from the vehicle. The petitioner also stated that the driver believed that the transmission had been shifted into, or toward, the ''Park'' position, as was the driver's stated habit to do so. The petition is silent as to whether the parking brake was applied or failed to function properly. The petitioner's client filed suit against Chrysler in January 1994, and a jury subsequently ruled for Chrysler. Reportedly, a motion for a new trial is pending.

This petitioner's allegations are limited to 1984 through 1991 Chrysler vehicles equipped with automatic transmissions and a center floor console shifter. Petitioner argues that the design of the transmission park lock system is defective in that even though the system performs as it was intended, the design itself represents a safety defect. The petitioner presents a detailed discussion of the relevant technical issues, reflecting extensive research in support of the litigation against Chrysler on behalf of his client. Included as an attachment to the petition is a copy of the NHTSA closing report for Engineering Analysis, EA91–010, which concerned the park lock system installed in 1981–1990 Chrysler Corporation vehicles with steering column-mounted gear selector levers.

In EA91–010, the issue of concern was defined broadly as failure of the transmission to properly engage or lock in the ''Park'' position when properly shifted to that position by the vehicle operator. It was established through engineering tests and design analyses that when properly shifted to the ''gated Park'' position, the transmission would effectively prevent self mobility or unpowered vehicle rollaway incidents, and that the design of the shift mechanism disclosed no mechanical or hydraulic defect that would cause the subject transmissions to shift from ''Park'' to ''Reverse'' without external input.

The vehicle operated by the petitioner's client was a Chrysler LeBaron convertible equipped with Chrysler's type A–413 or A–460 automatic transmission. These two transmission models were the subject of EA91–010. In the Le Baron convertible model, the shift lever was center console mounted, as opposed to being mounted on the steering column in the sedan. The petition argues that the characteristics of the design of the floor mounted shift linkage present a safety defect in that the key can be removed from the vehicle without the shift lever being placed in the ''Park'' position. This, according to petitioner, increases the likelihood of injury from an unintended rollaway in that the operator may leave the vehicle without placing the transmission in ''Park'' or applying the parking brake.

It should be noted that Federal Motor Vehicle Safety Standard (FMVSS) No. 114, ''Theft Protection,'' sets minimum performance requirements for the transmission park lock system of vehicles with a GVWR of 10,000 pounds or less. At the time the subject vehicles were manufactured, the purpose of FMVSS No. 114 was ''theft protection to reduce the incidence of accidents resulting from unauthorized use.'' In 1990 FMVSS No. 114 was amended (effective September 1, 1992) to specify ''requirements to reduce the incidence of crashes resulting from rollaway of parked vehicles.'' For vehicles manufactured prior to September 1, 1992, FMVSS No. 114 required that vehicles must have a key locking system that prevents vehicle steering or self-mobility, or both, when the key is removed. The public docket detailing promulgation of FMVSS No. 114 is complete in its presentation and analyses of relevant technical issues.

To meet the requirements of FMVSS No. 114 as they existed prior to September 1, 1992, manufacturers typically installed a steering column lock to prevent steering with the ignition key removed. Alternatively, the requirement to prevent vehicle self-mobility with the key removed was usually addressed by installation of a transmission shift lever lock. The designs of such shift lever locks required that an automatic transmission be shifted into the ''Park'' position in order to enable removal of the ignition key, and after the key was removed, shifting the transmission from the ''Park'' position to any other gear was prevented. Many vehicle manufacturers installed both types of locks even though not required to do so by FMVSS No. 114. Chrysler chose to use only the steering column lock to prevent steering of the subject vehicles.

On April 5, 1988, NHTSA issued a notice of proposed rulemaking (NPRM) to address the problems of inadvertent steering column lock-up and inadvertent shifting of the transmission. Following the normal procedures associated with the issuance of a rulemaking action, NHTSA issued on May 22, 1990, an amendment to FMVSS No. 114 which required that each vehicle be equipped with a key locking system that, whenever the key is removed:

a. Prevents normal activation of the vehicle's engine or motor, and

b. Prevents either steering or forward self-mobility of the vehicle or both. For a vehicle equipped with an automatic transmission with a Park position, the key locking system must prevent removal of the key unless the transmission or transmission shift lever is locked in ''Park,'' or becomes locked in Park as a result of removing the key.

The purpose of the amendment, applicable to certain vehicles manufactured after September 1, 1992, was to preclude operation of the shift lever by children, thus preventing child injuries associated with vehicle rollaway incidents.

The petitioner notes that many manufacturers had installed such key-locking systems in vehicles with automatic transmissions prior to the September 1, 1992, effective date of the amendment. The petitioner argued that for reasons of cost and possibly other considerations, Chrysler elected to limit the installation of such key locking systems to vehicles in which the transmission shift lever was mounted on the steering column. Chrysler-manufactured vehicles with the gear selector lever installed in a center-floor console were not equipped with such a key lock system prior to model year 1993.

The petitioner contends that Chrysler failed to adequately warn owners of the subject vehicles with floor-mounted transmission shift levers that removal of the ignition key from the ignition switch did not indicate that the transmission had been locked in the ''Park'' position. Because of this alleged failure to provide ''adequate warning'' of this design characteristic, the petitioner claims that operators of the subject vehicles were led to believe in error that self-mobility of the vehicle was impossible once the key had been removed from the ignition switch. The petitioner also alleges that incidents of unpowered vehicle rollaway had resulted in accidents and injuries.

While the petitioner presented examples of incidents where unintended rollaways had occurred in 1984–1991 Chrysler vehicles equipped with automatic transmissions and floor mounted shifters, the petition does not set forth any facts establishing that Chrysler vehicles differed either in design or performance from other vehicles that allowed removal of the ignition key without placing the transmission in the ''Park'' position. Also, as noted above, the petition does not allege that the involved vehicles presented a safety hazard stemming from a component or system failure.

The petitioner asks that Chrysler be ordered, under the notification and remedy provisions of the Act, to provide notification together with a readily visible warning that the subject vehicles can, in fact, roll away when unattended if the transmission is not properly shifted into the ''Park'' position, even though the ignition key has been removed.

The petitioner recognized that such an advisory appears in the LeBaron owner's manual:

Note: A console mounted shift lever can be moved out of PARK after the ignition key has been removed. Therefore, it is very important that children left in the vehicle be cautioned against touching the shift lever. Also, the parking brake should be fully applied before leaving the vehicle, especially when parked on an incline.

A principal point of the petitioner's request is that the ''Note'' as stated above, does not provide ''adequate warning.'' The petitioner cited testimony during the trial in which a human factors expert stated that the ''Note'' does not constitute a warning, and that it makes no mention of the fact that the key can be removed from the ignition even if the transmission is not in the ''Park'' position. The petition also cites the presence of a larger number of warnings contained in the owner's manual for 1990 Ford Mustang vehicle equipped with a floor mounted shifter allowing removal of the key without the transmission placed in ''Park.'' Petitioner alleges that these warnings are more effective in that they provide more specific advice about the characteristics of the shift lock and the potential for unintended rollaway. Petitioner does not, however, present any data suggesting that these warnings are more effective than those contained in the Chrysler owner's manual.

The petitioner has submitted a detailed presentation of his request, as well as the reasons therefor. Notwithstanding this presentation, however, NHTSA does not believe that it would be appropriate to grant the petition. The park lock system found on the Chrysler vehicles that are the subject of this petition was not unique. Manufacturers other than Chrysler also produced vehicles during this time period in which the key could be removed without locking the transmission in ''Park.'' Petitioner has not produced any evidence or information suggesting that the Chrysler vehicles created a higher risk to safety than these similar vehicles. While it is the agency's position that existing Federal motor vehicle safety standards are minimum performance benchmarks and that compliance with these standards does not preclude the agency from deciding that a safety-related defect exists, the vehicles in question complied with the requirements of FMVSS No. 114 as they existed at the time they were manufactured. The later promulgation of an amendment to this Standard to address the hazard of unintended rollaways caused by failure to place the transmission in ''Park'' or movement of the shift lever in an unattended parked vehicle does not establish that earlier designs were defective, but reflects the conclusion that existing designs can be improved. The evidence presented by the petitioner does not indicate that the design presents a safety-related defect under the Act. Thus, after considering all of the issues raised by this petition; and recognizing the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the agency has decided to deny the petition.

Authority: 49 U.S.C. *30162(a)*; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: August 3, 1995.

Michael B. Brownlee,

Associate Administrator for Safety Assurance.

[FR Doc. 95–20174 Filed 8–14–95; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF VETERANS AFFAIRS

Voluntary Service National Advisory Committee, Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 that the annual meeting of the Department of Veterans Affairs Voluntary Service National Advisory Committee will be held at the Holiday Inn—Mart Plaza, 350 North Orleans Street, Chicago, Illinois, October 25 through 28, 1995. The meeting begins with participant registration at 8 a.m. on October 25 and concludes at 12 Noon on October 28. The meeting is open to the public.

The committee, comprised of fifty-five national voluntary organizations, advises the Under Secretary for Health and other members of the Department of Veterans Affairs Central Office staff on how to coordinate and promote volunteer activities within VA facilities. The primary purposes of this meeting are: to provide for committee review of volunteer policies and procedures; to accommodate full and open communications between the organizations, representatives and the Voluntary Service Central Office and field staff; to provide educational opportunities geared towards improving volunteer programs with special emphasis on methods to recruit, retain, motivate and recognize volunteers; and to approve committee recommendations.

For further information, contact the Director, Voluntary Service Office (167), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC, 20420, (202) 565–7405.

Dated: August 13, 1995.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–20049 Filed 8–14–95; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register

Vol. 60, No. 157

Tuesday, August 15, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL HOUSING FINANCE BOARD

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT: 60 FR 39487, August 2, 1995.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., Wednesday, August 9, 1995.

CHANGE IN THE MEETING: The following topic was withdrawn from the open portion of the meeting.

- Federal Home Loan Bank of San Francisco's Request for Additional AHP Funds for Neighborhood Housing Services.

The Board determined that agency business required its consideration of this matter on less than seven days notice to the public and that no earlier notice of this change in the subject matter of the meeting was practicable.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

Rita Fair,

Managing Director.

[FR Doc. 95–20217 Filed 8–11–95; 9:51 am]

BILLING CODE 6725–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of August 14, 21, 28, and September 4, 1995.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

MATTERS TO BE CONSIDERED:

Week of August 14

There are no meetings scheduled for the Week of August 14.

Week of August 21—Tentative

Tuesday, August 22

10:00 a.m.
Briefing on Changes to the Performance Indicator Program (Public Meeting)
(Contact: Steve Mays, 301–415–7496)

11:30 a.m.
Affirmation Session (Public Meeting)
(Please Note: These items will be affirmed immediately following the conclusion of the preceding meeting.)
a. Final Amendment to 10 CFR Part 50, Appendix J, ''Containment Leakage Testing,'' to Adopt Performance-Oriented and Risk-Based Approaches (Tentative)
b. Curators of the University of Missouri Licensee's Petition for Reconsideration (Tentative)
(Contact: Andrew Bates, 301–415–1963)

Week of August 28—Tentative

Wednesday, August 30

11:30 a.m.
Affirmation Session (PUBLIC MEETING)
a. Revisions to Regulatory Requirements for Reactor Pressure Vessel Integrity in 10 CFR Part 50 (Tentative)
(Contact: Andrew Bates, 301–415–1963)

Week of September 4—Tentative

There are no meetings scheduled for the Week of September 4.

Note: The Nuclear Regulatory Commission is operating under a delegation of authority to Chairman Shirley A. Jackson, because with three vacancies on the Commission, it is temporarily without a quorum. As a legal matter, therefore, the Sunshine Act does not apply; but in the interest of openness and public accountability, the Commission will conduct business as though the Sunshine Act were applicable.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1963).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

Dated: August 10, 1995.

William M. Hill, Jr.

SECY Tracking Officer, Office of the Secretary.

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federal register

Tuesday
August 15, 1995

Part II

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 888

Fair Market Rents for Section 8 Existing Housing; Amendments to Method of Calculating; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 888

[Docket No. FR–3694–F–02]

RIN 2501–AB76

Fair Market Rents for Section 8 Existing Housing; Amendments to Method of Calculating

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends the Department's regulations at 24 CFR part 888 governing the method of calculating Fair Market Rents (FMRs) for Section 8 Existing housing programs including the Section 8 Rental Certificate program (including space rentals by owners of manufactured homes under that program); the Moderate Rehabilitation Single Room Occupancy program; the Loan Management and Property Disposition programs; payment standards for the Rental Voucher program; and any other programs which use the Section 8 FMRs.

HUD is changing the definition from the 45th percentile of the rental distribution of standard quality rental housing units to the 40th percentile as a cost saving measure. On average, FMRs will be 3.3 percent less than if they were set at the 45th percentile level. This change will not significantly affect September 8 program operations. Families will continue to have an adequate choice of good housing and neighborhoods at the 40th percentile FMR.

EFFECTIVE DATE: September 14, 1995.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Rental Assistance Division, Office of Public and Indian Housing; telephone (202) 708–0477 or (202) 708–0850 (TDD for speech- or hearing-impaired), for questions relating to the Section 8 Rental Certificate, Rental Voucher, and Moderate Rehabilitation programs;

Barbara Hunter, Program Planning Division, Office of Multifamily Housing Management; telephone (202) 708–3944 or (202) 708–4594 (TDD for speech- or hearing-impaired), for questions relating to all other Section 8 programs.

David Pollack, Office of Community Planning and Development; telephone (202) 708–1234 or (202) 708–2565 (TDD for speech- or hearing-impaired), for questions relating to Moderate Rehabilitation, Single Room Occupancy (SRO).

Michael Allard, Office of Policy Development and Research, (202) 708–0577 or 708–1455 (TDD for speech- or hearing-impaired), for questions relating to measurement of rent levels.

Mailing address for above persons: Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. (Telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Background

Section 8 of the U. S. Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes housing assistance to aid low-income families in renting decent, safe, and sanitary housing. Assistance payments are limited by Fair Market Rents (FMRs) established by HUD, or by payment standards based on the FMRs established by public housing agencies for the Rental Voucher program. In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately-owned, decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities.

Under section 8(c) of the Act, the Secretary of HUD is directed to establish FMRs periodically, but not less frequently than annually. HUD publishes proposed FMRs each year, and after a period of public comment, publishes the final FMRs. The method used to calculate FMRs is described in 24 CFR part 888, subpart A. This rule amends the regulations:

(1) To change the FMR rent standard from the 45th to 40th percentile rent of the rent distribution of rental housing units;

(2) To authorize the Secretary to establish FMR areas that differ from the OMB definitions of metropolitan areas where the OMB definitions are determined by HUD to be larger than housing market areas;

(3) To identify Random Digit Dialing (RDD) telephone surveys as a data source used to establish FMRs for selected individual areas and to develop rent-change factors for updating FMRs;

(4) To state the requirement that, in order to be considered as a basis for revising the FMRs, public comments on proposed FMRs must contain statistically valid rental housing survey data justifying the requested changes; and

(5) To provide that the FMR for a manufactured home space in the tenant-based certificate program is 30 percent of the FMR for a two-bedroom housing unit.

The amendments to the method of calculating FMRs in this final rule apply to the following Section 8 Housing Assistance Payments programs: the Rental Certificate program, including space rentals by owners of manufactured homes; the Moderate Rehabilitation SRO Program; the loan management program for projects with HUD-insured or HUD-held mortgages, as well as the Property Disposition program; and any other HUD programs which use these FMRs (*e.g.*, programs to assist the homeless). In addition, the rule amends the regulations to reflect use of FMRs to establish payment standards for the Rental Voucher program. The rule applies to public housing agencies (PHAs) and Indian Housing Authorities (IHAs), which are collectively referred to as housing authorities (HAs).

II. Public Comments on Proposed Rule

On March 2, 1995 (60 FR 11626), HUD published its proposed rule that would amend the Department's regulations at 24 CFR part 888 governing the method of calculating FMRs for the Section 8 Rental Certificate Programs discussed above. The Department received 628 comments on the proposed regulation.

The following presents the major issues raised in the public comments and HUD's responses to these issues.

1. *Comment:* Many commenters contended that the reduction to the 40th percentile rent standard would result in a shortage of units available to the Section 8 program and that participants would be limited in their housing choices and, therefore, trapped in poor neighborhoods where units are of marginal quality. Some HAs are claiming that the reduction will kill the program in rural areas.

Response: The proposed rule would have HUD set the FMR standard at the 40th percentile rent level of the distribution of standard quality rental housing units occupied by recent movers. Because the rents of recent movers are almost always higher than the rents of stayers, more than 40 percent of the standard quality rental housing units in each FMR area have rents that would make them available to program participants.

A HUD analysis of Census data shows that, contrary to the perception of most of the commenters, rent-eligible units are actually widely dispersed throughout FMR areas. An analysis of a representative sample of 13 metropolitan areas revealed that, on average, 85 percent of census tract neighborhoods with 10 or more two-bedroom rental units had at least 30 percent of the two-bedroom units below the FMRs. The variation among these areas was not great. All areas had high

percentages of neighborhoods with rent eligible units, ranging from 71 to 95 percent of the census tracts with 30 percent or more of the units below the FMR. This is strongly suggestive that families will continue to have an adequate choice of good housing and neighborhoods at the 40th percentile FMR.

A similar analysis was conducted and similar results found for a number of nonmetropolitan counties, supporting the conclusion that rural areas also will have an ample proportion of rental housing that families with housing certificates can afford at the 40th percentile FMR standard.

2. *Comment:* Many commenters were concerned that lower FMRs would result in landlords dropping out of the Section 8 Existing program.

Response: Lowering the standard from the 45th to the 40th percentile rent will reduce FMRs by a small amount, 3.3 percent on average. While some participating landlords with units renting very close to the current FMRs may choose to drop out of the program, the vast majority of units now in the program will continue to be eligible under the new 40th percentile standard. In addition, HUD will be able to use the FMR exception authority available for submarkets of FMR areas to mitigate this situation.

3. *Comment:* The proposed rule was viewed by commenters as an attempt by OMB and HUD to reduce budgets at the expense of low-income Americans.

Response: The reduction in the FMR standard is a cost savings measure. The streamlined Section 8 program will save taxpayers money while still assuring that low-income families participating in the program will be able to improve their housing situations. HUD is confident that providing Section 8 families access to 40 percent of the standard quality rental housing stock in a housing market offers them the opportunity to afford decent, safe, and sanitary housing. Further, a lower FMR standard permits assistance for more families with available funding.

4. *Comment:* Commenters thought that lower FMRs would result in more program vacancies and therefore lower administrative fees to HAs increasing their financial burden and impacting their ability to operate the program.

Response: The fact that FMRs are lower does not mean there will be a lower lease-up rate in the program. Lower FMRs are an issue only for new families entering the program or for families that move. Families in need of housing will find units that rent below the lower FMR rather than give up their rental assistance. Current program participants desiring to move will be less likely to move if they have difficulty finding a unit.

HUD is in the process of decoupling the HA ongoing administrative fees from the current FMR to the extent allowed by law. Under the notice on administrative fees for the Section 8 Rental Voucher and Rental Certificate Programs that was published in the **Federal Register** on January 24, 1995 (59 FR 32492), the HA ongoing administrative fees for the rental vouchers and certificates funded from pre-FY 1989 appropriations, representing more than one-half of the program units, were decoupled from the current FMRs. HUD is seeking legislation to decouple fees from the FMRs for rental vouchers and certificates funded from FY 1989 and subsequent appropriations. Changes in the monthly per unit fee amount would be based on changes in wage data or other objectively measurable data, as determined by HUD, that reflect the costs of administering the program.

5. *Comment:* Commenters objected that the proposed rule encourages HAs to conduct RDD surveys which are too costly and are not as reliable as local surveys of real estate agents, renters, and visual inspections of rental units. RDD surveys do not account for substandard housing, and households with telephones are not necessarily standard quality units, especially in rural areas. HUD requires HAs to use statistically valid surveys, implying the required use of the RDD approach. HUD should allow a common sense, inexpensive approach to rental housing surveys.

Response: HUD encourages HAs that believe their FMRs are too low to conduct statistically valid surveys to test these numbers. HUD recommends the use of RDD-type surveys, but these surveys are not mandatory. Both the RDD and the traditional methods that HUD recommends emphasize the need to obtain a complete list of the rental universe and conduct the survey in an unbiased way. Very small samples, if carefully drawn and surveyed, are more accurate than large samples drawn from biased sources or surveyed in a biased manner. Regardless of how the survey itself is conducted, the universe list must reflect the entire rent distribution of the FMR area. HAs may continue to submit traditional rental housing surveys and HUD will continue to evaluate them in terms of their sample validity.

HUD provides extensive step-by-step guidance on how to conduct statistically valid surveys, including sample selection (using either the RDD or traditional method), questionnaire wording, follow-ups of nonrespondents, and data processing. HUD is also willing to help HAs that want to conduct their own surveys.

HUD's past analysis indicates that RDD surveys appropriately reflect the rent levels of the standard quality housing stock. The impact of substandard housing is offset by the use of samples of rental housing units with telephones. The upward rent bias from surveying only units with telephones is offset by the high proportion of non-telephone units that would not meet quality standards.

HUD has always required the use of statistically valid housing surveys in FMR comments and has stated the requirements for such surveys in the preambles to the notices of proposed FMRs. In recent years, HUD has also publicized the availability of its rental housing survey guides and has conducted an outreach program to help HAs conduct statistically valid surveys. These surveys need not be conducted by professionals, and are cheap enough that most HAs can afford to conduct them. Even very small HAs have been able to use these surveys by joining their resources and conducting combined surveys.

6. *Comment:* The proposed change was particularly perplexing to several commenters in view of the Section 8 NOFA selection criteria—Efforts of HA to Provide Area-Wide Housing Opportunities for Families.

Response: Prior to issuing the proposed regulation, HUD considered the impact of this change on efforts to encourage families to move from high poverty neighborhoods. As discussed in the response to the first comment, HUD is confident that rental housing units meeting the program standards are available throughout FMR areas, and will favorably consider requests for submarket exception rents in order to maintain opportunities for families to rent units in non-poverty neighborhoods.

7. *Comment:* The reduction in the FMR standard would make it more difficult to administer a program that mandates Family Self-Sufficiency (FSS).

Response: HUD provided special funding in FY 1994 for HAs to hire a service coordinator under the FSS program. The Notice of Funding Availability for FY 1995 provides additional funding for HAs to hire FSS service coordinators.

8. *Comment:* Several commenters stated that reduced FMRs were insufficient to support new construction programs like the Low Income Housing Tax Credit (LIHTC) or HOME program.

Response: The FMRs, set at the 40th percentile level of standard quality recent mover rental units, would include approximately the bottom half of an area's standard quality rental stock. It is not HUD's intention to set the FMRs at a level high enough to support new construction and only in very unusual situations would this occur. Over the years, some production programs, such as the HOME and LIHTC programs, have had program rents tied to the FMRs to ensure that the end result was affordable housing. HOME participants can use the grant money in a variety of ways ranging from leveraging production costs to directly paying for them. Many of the HOME and LIHTC participants have used other sources of funds to write down rents on these projects.

9. *Comment:* Commenters objected to the 30-day comment period as being too short a time period to comment on the proposed changes.

As stated in the preamble to the proposed rule and repeated here, HUD's position in providing a 30-day comment period, rather than 60 days, is that the public had already had ample notice that HUD was considering this change. On June 23, 1994 (59 FR 32492), HUD published a notice in the **Federal Register** containing two separate sets of FMRs—one based on the 45th percentile rent levels and the other based on the 40th percentile rent levels. The notice explained that HUD was considering a 40th percentile FMR standard. A reduction in the FMR standard was also announced as a proposed cost savings measure in HUD's FY 1995 budget presentation. The June 23, 1994 notice requested public comment on the proposed FMRs at both the 40th and 45th percentiles. Since the public had already had the opportunity to consider the proposed change in the FMR standard and to comment on the actual proposed FMRs at the 40th percentile level, HUD believes that a 60-day comment period was unnecessary since the abbreviated comment period did not adversely impact the public's ability to participate in this rule making. In fact, HUD received and evaluated all comments received after the 30-day comment period had ended.

10. *Comment:* Commenters contended that HUD's proposal to provide for a 30-day comment period for the annual notice of proposed FMRs is not enough time for HAs to do rental housing surveys. Some commenters requested a comment period longer than the 60 days currently allowed.

Response: The regulation requires the Department to provide a comment period of at least 30 days to identify areas where the FMRs are believed to be too high or too low. HUD's practice has been, and will continue to be, to allow interested parties 60 days to prepare their comments. The 60-day comment period was adopted in recognition that the additional time was needed for HAs to conduct rental housing surveys. HUD reserves the right, however, to abbreviate the comment period in the event that special circumstances should warrant such an action.

HUD cannot provide for a comment period longer than 60 days and still be able to publish final FMRs on October 1 of each year. Because of the time required to obtain the year-end data used to update and process the FMR schedules each year, the earliest these estimates can be published is in mid-April. The 60-day comment period, therefore, ends in mid-June, and the remainder of that month is required to process and distribute the comments to the respective HUD Field offices. HUD reviews the comments for the next month and a half, through mid-August. The remainder of the time is spent preparing the revised FMRs for publication, clearing the publication, and submitting them to the **Federal Register**.

11. *Comment:* Commenters objected to the proposal to give the Secretary the discretion to make modifications to the FMR area definitions of large metropolitan areas.

Response: HUD generally uses the OMB definitions of metropolitan areas as FMR definitions because they are good approximations of housing market area definitions—the criterion that HUD uses to define FMR areas. OMB in its publication establishing these definitions (OMB Bulletin NO. 93–17), however, directs agencies who use the definitions for nonstatistical purposes to ensure that they are appropriate for the specific program use. OMB recommends that the agency in such a circumstance seek public comment on their appropriateness. The OMB bulletin further states that an agency may deviate from the definitions, but should identify the deviations and specify the program for which they will apply. In establishing the FMR area definitions, HUD followed the OMB procedures. First, HUD conducted an evaluation of the revised OMB metropolitan area definitions and determined there were seven metropolitan areas for which the OMB definitions were too large to represent housing market area definitions. HUD then invited public comment in the notice of proposed FMRs published on May 6, 1993 (58 FR 27062). HUD received only one public comment on this issue. After reviewing the comment, HUD decided to make the modified definitions effective, which it did in the October 1, 1993, **Federal Register** publication of final FMRs (58 FR 51410). This rule merely codifies HUD's existing policy of making exceptions to FMR definitions, as warranted, in accordance with OMB's instructions.

12. *Comment:* Several commenters objected to HUD's rule to set manufactured home space rents at the 30 percent of the FMRs for a two-bedroom unit.

Response: HUD first announced in the May 6, 1993, notice of proposed FMRs that it was considering other alternatives for establishing manufactured home space FMRs. It was explained in the notice that the data base used to estimate the FMRs for manufactured home space rents was quite old, from a 1978 survey, and that no new data sources were available. HUD did not consider the existing data sufficiently accurate to continue using these estimates. Because there is very limited use of the manufactured home space rents in the tenant-based rental assistance programs, the expected cost of obtaining new survey data was not justified.

HUD did not receive any comments on this proposal and, therefore, on June 23, 1994, proposed that the manufactured home space FMR would be 30 percent of the Section 8 two-bedroom FMR. The 30-percent ratio was selected on the basis of an analysis which showed that the vast majority of the manufactured home space FMRs were within a 20 to 30 percent range of the regular two-bedroom FMR. Recognizing that there would be valid exceptions to this relationship, HUD informed the public that it would accept local surveys of space rentals in manufactured home parks as a basis for modifying the FMRs where the proposed new standard was not adequate to operate the program. HUD also announced that it was retaining all local surveys that had been accepted since 1990 as the basis for modifying the manufactured home space FMRs. On September 28, 1994 (59 FR 49494), HUD published separately in Schedule D, the manufactured home space FMRs for 13 areas that had recent local surveys and established the FMRs for all other areas at 30 percent of the two-bedroom FMR.

13. *Comment*: A commenter requested that HUD publish a contract rent and a utility amount rather than a gross rent FMR estimate. The basis for this request is the concern that the amount HUD is using for the utility component is less than what is used at the local level.

Response: HUD FMRs are gross rent estimates, which means that they include the cost of all utilities. HUD prefers using gross rent as a basis because it accounts for the total costs to tenants and it provides a consistent basis for comparison. There is no one contract rent for an FMR area. Contract arrangements vary with regard to the types of utilities paid by the landlord and those paid by the tenant. HUD actually uses two methods to develop gross rent estimates. For the base-year estimates of FMR areas using the 1990 Census and post-1990 American Housing Surveys, a series of detailed questions are asked to determine what utilities the tenants pay and how much they pay. The contract rent and tenant paid utilities are then combined on an individual unit basis to derive the gross rent of each unit. For those areas based on RDD surveys, the gross rents are determined by asking the tenant to identify the utilities they pay themselves. HUD then uses the approved HA utility allowances to determine the appropriate amount of tenant paid utilities, which are added to the contract rent amount to determine a gross rent. HUD has found no evidence to suggest there is a downward bias introduced into the estimates using either method. The RDD procedure uses the most current HA estimates of utilities, while the Census surveys use tenant estimates of utilities. If anything, the latter source may be somewhat overstated.

14. *Comment:* A commenter stated that HUD should not implement this change without specific Congressional approval. They also stated that Congressional opposition last year should have convinced HUD not to take this action unless Congress specifically directs it to do so.

Response: The law does not specify the percentile standard used to establish the FMRs and permits HUD to change the FMR standard from the 45th to the 40th percentile standard. Accordingly, HUD has the authority to implement this change.

15. *Comment:* A commenter claimed that HUD's FMR calculations are flawed because they do not include newly constructed units which would allow for greater choice of locations and increase the number of units passing HQS.

Response: HUD is authorized to provide assistance for existing housing units and to determine FMRs for such units. Newly constructed units—units built within the past 2 years—are excluded from the FMR calculations. An objective of the Section 8 Housing Assistance Payments program is to serve as many low-income families as possible by making available standard quality rental housing units of modest (nonluxury) quality. Newly constructed units generally have much higher initial rent levels than other units. HUD, therefore, considers that such units should be deleted from the data base used to calculate the Existing Housing FMRs. Deletion of new units from the data base does not significantly affect the number of units that would pass HQS. HUD also calculates the FMRs by deleting substandard units from the Census distributions of rental housing and making an additional adjustment to factor out the affects of substandard housing on rents using the more refined housing quality data available in the American Housing Survey distributions.

16. *Comment:* A commenter, concerned that FMRs in nonmetropolitan areas were too low, suggested HUD consider establishing minimum FMRs based on State averages.

Response: HUD's use of the 1990 Census to re-benchmark the FMRs significantly improved the accuracy of these estimates in nonmetropolitan counties. For the first time, rent data were available for all counties individually rather than for county groups as had been the situation with previous Censuses. To protect against unrealistically low FMRs being set as the result of insufficient sample sizes, exceptions were made to the use of county level FMRs. The exceptions involved the use of State-wide minimum rent estimates that were applied to all FMR areas with fewer than 100 two-bedroom rental unit cases in the Census and with FMRs below the State minimum comparable rent of areas with 100 or more such cases. The base year FMR estimates for these counties were set at the lower of the State-wide minimum or the upper end of the confidence interval of the Census-based rent. HUD is concerned about the continued number of inquiries on this issue, however, and is currently reviewing its exception procedure to determine if a further adjustment may be warranted for nonmetropolitan counties with extremely low rents.

17. *Comment:* A commenter objected that comments should not be restricted in any way. Requiring smaller housing authorities to submit exhaustive statistics (from rental housing surveys) violated the spirit, if not the letter of the law. The comment stated that nearly all HAs have complete data for rental properties to establish rent reasonableness and comparability and that the results of RDD surveys pale to insignificance when compared to the actual day to day experience of a local housing authority.

Response: As explained in the response to comment number 5, HUD does not mandate the use of RDD surveys and continues to accept the traditional type rental housing surveys as a basis for revising the FMRs as long as the survey samples are not biased and are representative of the rental housing stock of the entire FMR area. HUD disagrees with the contention that local rent reasonableness data are a better, or even an acceptable alternative, to an RDD survey or a traditional survey conducted in accordance with HUD survey guidelines. The rent reasonableness data base is a restricted source of information that is collected for specific units being considered for participation in the program, for limited parts of FMR areas, and at various points in time. As such, the data are not likely to constitute a representative sample. For many areas these data were collected for units that entered the program prior to the re-benchmarking of the FMRs and, therefore, include concentrations of units above the current FMRs.

18. *Comment:* Commenters suggested that if HUD insists on going to the 40th percentile rent level, it should allow Certificate holders the same flexibility to exceed the FMR as Voucher Holders.

Response: HUD is preparing the last part of the final rule to implement the provisions of the National Affordable Housing Act of 1990, that would allow certificate holders to pay more than 30 percent of their income toward rent. Under the provisions of law, up to 10 percent of the families renting units with assistance under the rental certificate program could pay more than 30 percent of their income toward rent. Similarly, under HUD's proposed Housing Certificate Fund, 90 percent of the participants would be allowed to pay up to 35 percent of their income toward rent and 10 percent of the families could pay more than 35 percent of their income for rent.

19. *Comment:* A commenter disputed the General Counsel's findings on executive orders 12606, Family and 12611, Federalism.

Response: This rule will not restrict families to spatial concentrations of poverty. HUD is still committed to providing affordable housing to as many families as possible in today's market. The establishment of FMRs at the 40th percentile level does not have any substantial direct impact on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibility among the various levels of government.

20. *Comment:* One commenter stated that the change from the 45th to the 40th percentile FMR standard will cause still more families to be unsuccessful in finding decent, safe, and sanitary housing. The comment cited the nationwide success rate of 81 percent as evidence supporting this claim.

Response: A recent HUD study found just the opposite situation. The study, completed in 1994, found 80 percent of recipients in large cities were successful in finding housing that qualified for the program. Excluding New York City from the sample, the nationwide success rate was even higher, 87 percent. The success rates in the Section 8 program have been increasing over time, rising from about 50 percent in the late-1970's, to 65 percent in the mid-1980's, to the current 80 percent rate. As pointed out in the response to comment number 1, there is a more than adequate supply of housing in good condition and in good neighborhoods available to program participants. The Census data for the 13 selected metropolitan areas show that at the 40th percentile standard at least 40 percent of the two-bedroom rental housing stock had rents at or below the FMRs. Five of these areas had more than half of all two-bedroom units at or below the FMR, and most of the other areas had from 45 to 50 percent of the two-bedroom units at or below the FMR.

III. Other Matters

Executive Order 12866, Regulatory Planning and Review

This final rule was reviewed and approved by the Office of Management and Budget as a significant rule, as that term is defined in Executive Order 12866, which was signed by the President on September 30, 1993. Any changes to the final rule as a result of that review are contained in the public file of the rule in the office of the Department's Rules Docket Clerk.

Environmental Assessment

A Finding of No Significant Impact with respect to the environment required by the National Environmental Policy Act (42 U.S.C. 4321–4374) is unnecessary, since the establishment and review of fair market rents is categorically excluded from the Department's regulations implementing the National Environmental Policy Act at 24 CFR 50.20(*l*).

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this document before publication and by approving it certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities, because FMRs reflect the rents for similar quality units in the area. Therefore, FMRs do not change the rent from that which would be charged if the unit were not in the Section 8 program.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family,* has determined that this proposed rule would not have a significant impact on family formation, maintenance, or well-being. The proposed rule would amend the method for calculating Fair Market Rent for various Section 8 assisted housing programs, and would not affect the amount of rent a family receiving rental assistance pays, which is based on a percentage of the family's income.

Executive Order 12611, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12611, *Federalism,* has determined that this proposal would not involve the preemption of State law by Federal statute or regulation and would not have Federalism implications. The establishment of FMRs does not have any substantial direct impact on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibility among the various levels of government.

Semiannual Regulatory Agenda

This rule was listed as sequence number 1727 in the Department's Semiannual Regulatory Agenda published on May 8, 1995 (60 FR 23368, 23377) under Executive Order 12866 and the Regulatory Flexibility Act.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number is 14.156, Lower-Income Housing Assistance Program (Section 8).

List of Subjects in 24 CFR Part 888

Grant programs—housing and community development, Rent subsidies.

Accordingly, part 888 of title 24 of the Code of Federal Regulations would be amended as follows:

PART 888—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—FAIR MARKET RENTS AND CONTRACT RENT ANNUAL ADJUSTMENT FACTORS

1. The authority citation for part 888 is revised to read as follows:

Authority: 42 U.S.C. 1437c, 1437f, and 3535(d).

2. Sections 888.101 and 888.105 are removed and § 888.111 is revised to read as follows:

§ 888.111 Fair market rents for existing housing: Applicability.

The Fair Market Rents (FMRs) for existing housing (see definition in § 882.102 of this chapter) are determined by the Department of Housing and Urban Development (HUD) and apply to the Section 8 Certificate Program, including space rentals by owners of manufactured homes under the Section 8 Certificate Program, the Section 8 Moderate Rehabilitation Program, Section 8 existing housing project-based assistance, and Section 8 existing housing assisted under part 886 of this chapter. FMRs are also used to determine payment standard schedules in the Rental Voucher program.

3. Section 888.113 is revised to read as follows:

§ 888.113 Fair market rents for existing housing: Methodology.

(a) *Basis for setting fair market rents.* Fair Market Rents (FMRs) are estimates of rent plus the cost of utilities, except telephone. They are housing market-wide estimates of rents that provide opportunities to rent standard quality housing throughout the geographic area in which rental housing units are in competition. The level at which FMRs are set is expressed as a percentile point within the rent distribution of standard quality rental housing units in the FMR area. FMRs are set at the 40th percentile rent—the dollar amount below which 40 percent of standard quality rental housing units rent. The 40th percentile rent is drawn from the distribution of rents of all units that are occupied by recent movers. Adjustments are made to exclude public housing units, newly built units and substandard units.

(b) *FMR Areas.* FMR areas are metropolitan areas and nonmetropolitan counties (nonmetropolitan parts of counties in the New England States). With several exceptions, the most current Office of Management and Budget (OMB) metropolitan area definitions of Metropolitan Statistical Areas (MSAs) and Primary Metropolitan Statistical Areas (PMSAs) are used because of their generally close correspondence with housing market area definitions. HUD may make exceptions to OMB definitions if the MSAs or PMSAs encompass areas that are larger than housing market areas. The counties deleted from the HUD-defined FMR areas in those cases are established as separate metropolitan county FMR areas. FMRs are established for all areas in the United States, the

District of Columbia, Puerto Rico, the Virgin Islands, and the Pacific Islands.

(c) *Data sources.* (1) HUD uses the most accurate and current data available to develop the FMR estimates and may add other data sources as they are discovered and determined to be statistically valid. The following sources of survey data are used to develop the base-year FMR estimates:

(i) The most recent decennial Census, which provides statistically reliable rent data.

(ii) The American Housing Survey (AHS) data, conducted by the Bureau of the Census for HUD. AHS's have comparable accuracy to the decennial Census, and are used to develop between-census revisions for the largest metropolitan areas on a four-year revolving schedule.

(iii) Random Digit Dialing (RDD) telephone survey data, based on a sampling procedure that uses computers to select statistically random samples of rental housing.

(iv) Statistically valid information, as determined by HUD, presented to HUD during the public comment and review period.

(2) Base-year FMRs are updated and trended to the midpoint of the program year they are to be effective using Consumer Price Index (CPI) data for rents and for utilities or using rent-change factors obtained from the RDD regional surveys. The RDD rent-change factors are developed annually for the metropolitan and nonmetropolitan parts of the HUD-specified geographic regions not covered by CPI surveys, and are used to update the base-year FMR estimates within these regions.

(d) *Bedroom size adjustments.* (1) For most areas the ratios developed from the most recent decennial Census are applied to the two-bedroom FMR estimates to derive FMRs for other bedroom sizes. Exceptions to this procedure may be made for areas with local bedroom intervals below an acceptable range. To help the largest most difficult to house families find units, higher ratios than the actual market ratios may be used for three-bedroom and larger-size units.

(2) The FMR for single room occupancy housing is 75 percent of the FMR for a zero bedroom unit.

(e) *Manufactured home space.* The FMR for a manufactured home space is 30 percent of the FMR for a two-bedroom unit, or, where approved by HUD on the basis of survey data submitted in public comments, the 40th percentile of the rental distribution of manufactured home spaces for the FMR area. HUD accepts public comments requesting revision of the proposed manufactured home space FMRs for areas where space rentals are thought to differ from the 30 percent standard. To be considered for approval, the comments must contain statistically-valid survey data that show the 40th percentile manufactured home space rent (excluding the cost of utilities) for the FMR area. Once approved, the revised manufactured home space FMRs establish new base-year estimates that will be updated annually using the same data used to update the Rental Certificate program FMRs.

4. Section 888.115 is revised to read as follows:

§ 888.115 Fair market rents for existing housing: Manner of publication.

FMRs will be published at least annually in the **Federal Register**. The Department will propose FMRs and provide a comment period of at least 30 days for the purpose of identifying areas where the FMRs are believed to be too high or too low. To be considered for FMR revisions, public comments must include statistically valid rental housing survey data that justify the requested changes. After the comments have been considered, the Department will publish a final notice announcing FMRs to be effective on October 1 each year.

Dated: August 4, 1995.

Henry G. Cisneros,

Secretary.

[FR Doc. 95–19834 Filed 8–14–95; 8:45 am]

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federal register

Tuesday
August 15, 1995

Part III

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 888

Section 8 Housing Assistance Payments Program, Fair Market Rent Schedules; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 888

[Docket No. FR–3699–N–04]

Section 8 Housing Assistance Payments Program; Fair Market Rent Schedules for Use in the Rental Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Single Room Occupancy Program and Rental Voucher Program

AGENCY: Office of the Secretary, HUD.

ACTION: Final fiscal year (FY) 1995 fair market rents.

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to publish Fair Market Rents (FMRs) annually to be effective on October 1 of each year. FMRs are used for the Section 8 Rental Certificate program (part 882, subparts A and B), including space rentals by owners of manufactured homes under the Section 8 Rental Certificate program (part 882, subpart F) and project-based Certificate assistance (part 882, subpart G); the Section 8 Moderate Rehabilitation program (part 882, subparts D and E); Section 8 housing assisted under part 886, subparts A and C (Section 8 Loan Management and Property Disposition programs); and to determine payment standard schedules in the Rental Voucher program (part 887).

There have been several **Federal Register** publications leading to this final publication of the FY 1995 FMRs at the 40th percentile rent level. On June 23, 1994, HUD published separate sets of proposed FMRs at the 45th and the 40th percentile rent levels. The proposed 40th percentile FMRs were included in that publication to alert the public that the Administration was considering lowering the FMR standard as a cost saving measure. On July 13, the FMR comment period was extended to October 14 to give small PHAs in nonmetropolitan areas the opportunity to use HUD's recently issued rental housing survey guide. Because of the extended comment period, HUD could not review the comments in time to meet the October 1 deadline for publishing the final FMRs. On September 28, therefore, HUD published final 45th percentile FMRs for all areas at the proposed FMR levels and announced that there would be a later publication that would include revised FMRs for the areas whose rental housing surveys were still being evaluated.

On March 2, 1995, HUD published the proposed rule to revise 24 CFR part 888 to change the FMR rent standard from the 45th to 40th percentile rent level. The comment period ended on April 3, 1995, and, in a separate **Federal Register** publication on August 15, 1995, the changes were published.

This document concludes the process by providing final FY 1995 FMRs at the 40th percentile level. Included in this publication are increased FMRs for 131 areas that submitted rental housing surveys that HUD determined provided a sufficient basis for revising the FMRs. Five areas also are being added to Schedule D on the basis of surveys submitted on manufactured home space rentals in these areas. In addition, HUD has increased the FMRs for 325 nonmetropolitan counties after discovering that the original analysis of 1990 Census data comparing low rent nonmetropolitan counties with minimum rent values computed for States had led to an unintended result. HUD is continuing to study this issue, and is considering a further change in the way the State minimums are determined in the FY 1996 proposed FMRs.

EFFECTIVE DATE: The FMRs published in this document are effective on September 14, 1995.

FOR FURTHER INFORMATION CONTACT: Gerald Benoit, Rental Assistance Division, Office of Elderly and Assisted Housing, telephone (202) 708–0477 or TDD: (202) 708–0850. For technical information on the development of schedules for specific areas or the method used for the rent calculations, contact Michael R. Allard, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 708–0577 or TDD: (202) 708–0770. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Section 8 of the United States Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes housing assistance to aid lower income families in renting decent, safe, and sanitary housing. Assistance payments are limited by FMRs established by HUD for different areas. In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities.

Method Used to Develop FMRs

FMR Standard

The FMRs are gross rent estimates; they include shelter rent and the cost of utilities, except telephone. HUD sets FMRs to assure that a sufficient supply of rental housing is available to program participants. To accomplish this objective, FMRs must be both high enough to permit a selection of units and neighborhoods and low enough to serve as many families as possible. The level at which FMRs are set is expressed as a percentile point within the rent distribution of standard quality rental housing units. The current definition used is the 40th percentile rent, the dollar amount below which 40 percent of the standard quality rental housing units rent. The 40th percentile rent is drawn from the distribution of rents of units which are occupied by recent movers (renter households who moved into their unit within the past 15 months). Public housing units and newly built units less than two years old are excluded.

Data Sources

HUD used the most accurate and current data available to develop the FMR estimates. Three sources of survey data were used for the base-year estimates. They are: (1) the 1990 Census; (2) RDD telephone surveys conducted of individual FMR areas since the 1990 Census; and (3) the post-1990 Census American Housing Surveys (AHSs) available at the time the FMR estimates were prepared. The base-year FMRs were then updated using Consumer Price Index (CPI) data for rents and utilities or the HUD regional rent change factors developed from RDD surveys. Annual average CPI data are available individually for 103 metropolitan FMR areas. RDD regional rent change factors are developed annually for the metropolitan and nonmetropolitan parts of each of the 10 HUD geographic regions (a total of 20 separate factors). The RDD factors are used to update the base year estimates for all FMR areas that do not have their own local CPI survey.

The decennial Census provides statistically reliable rent data for use in establishing base-year FMRs. AHSs are conducted by the Bureau of the Census for HUD and have accuracy comparable to the decennial Census. These surveys enable HUD to develop between-census revisions for the largest metropolitan areas on a revolving schedule. The RDD telephone survey technique is based on a sampling procedure that uses computers to select random samples of rental housing, dial and keep track of the telephone numbers and tabulate the responses.

Manufactured Home Space FMRs

Manufactured home space FMRs are established at 30 percent of the

applicable Section 8 Rental Certificate program two-bedroom FMR. HUD accepts public comments requesting modifications of manufactured home space FMRs. To be accepted for approval, such comments must contain statistically valid survey data that show the 40th percentile space rent (excluding the cost of utilities) for the FMR area. This program uses the same FMR area definitions as the Section 8 Rental Certificate program. Manufactured home space FMR revisions are published as final FMRs in Schedule D. Once approved, the revised manufactured home space FMRs establish new base year estimates that are updated annually using the same data used to update the Rental Certificate program FMRs.

Public Comments

In response to the June 23 proposed FMRs, HUD received 175 comments covering 267 FMR areas, for which rental housing survey information was included for 188 areas. HUD carefully evaluated all information submitted and, based on this review, revised the FMRs for 131 areas. The information submitted for the 57 other areas was not considered sufficient to provide a basis for revising the FMRs.

The 131 FMR areas with approved FMR revisions included 87 areas for which RDD surveys were conducted either by the Public Housing Agency or by a professional survey firm. Successful surveys were submitted for 18 areas using the more traditional landlord/owner type surveys. FMR increases were also approved for 26 other areas that submitted incomplete survey information but for which HUD was able to make adjustments using available information on assisted housing.

AHS and HUD Sponsored RDD Surveys

HUD received public comments with survey data from two of the eight areas identified in the September 28 FMR publication with RDD or AHS surveys indicating FMR reductions. Based on the rental housing survey conducted for Gage County, NE, the FMRs have been increased. The survey data provided for the Memphis metropolitan area was not sufficient to provide a basis for revising the FMRs.

Based on RDD survey results obtained since the last publication of final FMRs on September 28, 1994, the FMRs for the following 14 additional areas are being increased in today's notice:

Allentown-Bethlehem-Easton, PA
Corpus Christi, TX
Davenport-Moline-Rock Island, IA-IL
Greensboro-Winston Salem-Highpoint, NC
Greenville-Spartanburg-Anderson, SC
Louisville, KY-IN
Medford-Ashland, OR
Olympia, WA
Pensacola, FL
Salem, OR
Shreveport-Bossier City, LA
Syracuse, NY
Utica-Rome, NY
Columbus County, NC

HUD Rental Housing Survey Guides

HUD recommends use of professionally-conducted Random Digit Dialing (RDD) telephone surveys to test the accuracy of FMRs for areas where there is a sufficient number of Section 8 units to justify the survey cost of $10,000–$15,000. Areas with 500 or more program units usually meet this criterion, and areas with fewer units may meet it if the actual two-bedroom FMR rent standard is significantly different than that proposed by HUD. In addition, HUD has developed a simplified version of the RDD survey methodology for smaller, nonmetropolitan PHAs. This methodology is designed to be simple enough to be done by the PHA itself, rather than by professional survey organizations, at a cost of around $6,000. In addition, PHAs in nonmetropolitan areas may, in certain circumstances, do surveys of clusters of counties. All clustered surveys must be approved in advance by HUD. PHAs are cautioned that the resultant FMRs will not be identical within the cluster: each individual FMR area will have a separate FMR based on its relationship to the combined rent of the cluster of FMR areas. HUD does not mandate the use of either the RDD telephone survey or the modified RDD telephone survey methodology. Other survey methodologies are acceptable as long as they provide statistically reliable unbiased estimates of the 40th percentile gross rent. All survey results must be fully documented.

Because it takes two months to obtain survey estimates, interested organizations concerned about FMR accuracy may wish to begin their FMR surveys in the next few months to assure that the results will be available in time to be incorporated into the FY 1996 FMRs. The starting point is to carefully review one of the two following publications, both obtainable from HUD USER at 1–800–245–2691. Larger PHAs should obtain ''Random Digit Dialing Surveys; A Guide to Assist Larger Public Housing Agencies in Preparing Fair Market Rent Comments.'' Smaller PHAs should obtain ''Rental Housing Surveys; A Guide to Assist Smaller Public Housing Agencies in Preparing Fair Market Rent Comments.''

FMRs for Flood Damaged Areas in the Southeast and Midwest

Under the authority granted in 24 CFR part 899, the Secretary will continue to waive the regulatory requirements that govern requests for geographic area FMR exceptions for the flood-impacted areas in the midwest and southeast. The flood-related FMR exceptions will be approved by the HUD field office with jurisdiction for: (1) Single-county FMR areas and for individual county parts of multi-county FMR areas that qualify as disaster areas under the Robert T. Stafford Disaster Relief and Emergency Assistance Act; if (2) the PHA certifies that damage to the rental housing stock is so substantial that it has increased the prevailing rent levels. Such exceptions must be requested in writing by the responsible PHAs. Once approved by HUD, they will remain in effect until superseded by final FY 1996 FMRs.

Other Matters

A Finding of No Significant Impact with respect to the environment as required by the National Environmental Policy Act (42 U.S.C. 4321–4374) is unnecessary, since the Section 8 Rental Certificate program is categorically excluded from the Department's National Environmental Policy Act procedures under 24 CFR 50.20(d).

The undersigned, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), hereby certifies that this notice does not have a significant economic impact on a substantial number of small entities, because FMRs do not change the rent from that which would be charged if the unit were not in the Section 8 program.

The General Counsel, as the Designated Official under Executive Order No. 12606, *The Family*, has determined that this notice will not have a significant impact on family formation, maintenance, or well-being. The notice amends Fair Market Rent schedules for various Section 8 assisted housing programs, and does not affect the amount of rent a family receiving rental assistance pays, which is based on a percentage of the family's income.

The General Counsel, as the Designated Official under section 6(a) of Executive Order No. 12611, *Federalism*, has determined that this notice will not involve the preemption of State law by Federal statute or regulation and does not have Federalism implications. The Fair Market Rent schedules do not have any substantial direct impact on States, on the relationship between the Federal

government and the States, or on the distribution of power and responsibility among the various levels of government.

The Catalog of Federal Domestic Assistance program number is 14.156, Lower-Income Housing Assistance Program (section 8).

Accordingly, the Fair Market Rent Schedules, which will not be codified in 24 CFR part 888, are amended as follows:

Dated: August 4, 1995.

Henry G. Cisneros,

Secretary.

Section 8 Housing Assistance Payments Program; Fair Market Rent Schedules for Use in the Rental Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Program and Rental Voucher Program

Schedules B and D—General Explanatory Notes

1. Geographic Coverage

a. The FMRs shown in Schedule B incorporate the Office of Management and Budget's (OMB) most current definitions of metropolitan areas (with the exceptions discussed in paragraph b). HUD uses the OMB Metropolitan Statistical Area (MSA) and Primary Metropolitan Statistical Area (PMSA) definitions for FMR areas because they closely correspond to housing market area definitions. FMRs are housing market-wide rent estimates that are intended to provide housing opportunities throughout the geographic area in which rental housing units are in direct competition.

b. The exceptions are counties deleted from seven large metropolitan areas whose revised OMB definitions were determined by HUD to be larger than the housing market areas. The FMRs for the following counties (shown by the metropolitan area) are calculated separately and are shown in Schedule B within their respective States under the ''Metropolitan FMR Areas'' listing:

Metropolitan Area and Counties Deleted

Atlanta, GA—Carroll, Pickens, and Walton Counties.
Chicago, IL—DeKalb, Grundy and Kendall Counties.
Cincinnati-Hamilton, OH–KY–IN–Brown County, Ohio; Gallatin, Grant and Pendleton Counties in Kentucky; and Ohio County, Indiana.
Dallas, TX—Henderson County.
Lafayette, LA—St. Landry and Acadia Parishes.
New Orleans, LA—St. James Parish.
Washington, DC—Berkeley and Jefferson Counties in West Virginia; and Clarke, Culpeper, King George and Warren counties in Virginia.

c. FMRs also are established for nonmetropolitan counties and for county equivalents in the United States, for nonmetropolitan parts of counties in the New England states and for FMR areas in Puerto Rico, the Virgin Islands and the Pacific Islands.

d. FMRs for the areas in Virginia shown in the table below were established by combining the Census data for the nonmetropolitan counties with the data for the independent cities that are located within the county borders. Because of space limitations, the FMR listing in Schedule B includes only the name of the nonmetropolitan County. The full definitions of these areas including the independent cities are as follows:

VIRGINIA NONMETROPOLITAN COUNTY FMR AREA AND VIRGINIA INDEPENDENT CITIES INCLUDED WITH COUNTY

County	Cities
Allegheny	Clifton Forge and Covington.
Augusta	Staunton and Waynesboro.
Carroll	Galax.
Frederick	Winchester.
Greensville	Emporia.
Halifax	South Boston.
Henry	Martinsville.
Montgomery	Radford.
Rockbridge	Buena Vista and Lexington.
Rockingham	Harrisonburg.

VIRGINIA NONMETROPOLITAN COUNTY FMR AREA AND VIRGINIA INDEPENDENT CITIES INCLUDED WITH COUNTY—Continued

County	Cities
Southhampton	Franklin.
Wise	Norton.

e. FMRs for Section 8 manufactured home spaces are established at 30 percent of the two-bedroom Section 8 Rental Certificate program FMRs, with the exception of the areas listed in Schedule D whose FMRs have been revised on the basis of public comments. Once approved, the revised manufactured home space FMRs establish new base-year estimates that will be updated annually using the same data used to estimate the Rental Certificate program FMRs. The FMR area definitions used for manufactured home spaces are the same as for the Section 8 Certificate program.

2. Arrangement of FMR Areas and Identification of Constituent Parts

a. The FMR areas in Schedule B are listed alphabetically by metropolitan FMR area and by nonmetropolitan county within each State. The exception FMRs for manufactured home spaces in Schedule D are listed alphabetically by State.

b. The constituent counties (and New England towns and cities) included in each metropolitan FMR area are listed immediately following the listings of the FMR dollar amounts. All constituent parts of a metropolitan FMR area that are in more than one State can be identified by consulting the listings for each applicable State.

c. Two nonmetropolitan counties are listed alphabetically on each line of the nonmetropolitan county listings.

d. The New England towns and cities included in a nonmetropolitan part of a county are listed immediately following the county name.

e. The FMRs are listed by dollar amount on the first line beginning with the FMR area name.

BILLING CODE 4210–32–P

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

A L A B A M A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anniston, AL MSA	202	271	342	478	541	Calhoun
Birmingham, AL MSA	329	372	433	586	651	Blount, Jefferson, St. Clair, Shelby
Columbus, GA-AL MSA	312	348	416	545	591	Russell
Decatur, AL MSA	307	310	392	506	605	Lawrence, Morgan
Dothan, AL MSA	278	285	353	487	494	Dale, Houston
Florence, AL MSA	260	300	385	480	538	Colbert, Lauderdale
Gadsden, AL MSA	224	283	318	415	522	Etowah
Huntsville, AL MSA	322	378	466	621	738	Limestone, Madison
Mobile, AL MSA	311	347	398	535	628	Baldwin, Mobile
Montgomery, AL MSA	352	377	444	606	729	Autauga, Elmore, Montgomery
Tuscaloosa, AL MSA	304	326	434	595	630	Tuscaloosa

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Barbour	154	220	282	390	462
Bullock	204	223	258	324	424
Chambers	162	261	295	376	486
Chilton	239	242	311	389	436
Clarke	217	219	288	380	473
Cleburne	158	218	291	389	408
Conecuh	142	194	258	322	362
Covington	213	242	272	375	443
Cullman	228	272	321	434	527
Dekalb	161	236	293	366	470
Fayette	207	229	281	361	392
Geneva	203	205	258	359	423
Hale	142	229	258	322	362
Jackson	249	263	316	395	520
Lee	243	340	436	567	717
Macon	251	283	377	472	528
Marion	142	194	258	359	362
Monroe	156	214	285	396	399
Pickens	221	224	298	374	419
Randolph	201	204	273	341	447
Talladega	209	233	303	422	425
Walker	184	285	335	433	552
Wilcox	148	194	258	359	362

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bibb	176	241	321	441	528
Butler	175	219	289	374	406
Cherokee	155	237	283	388	436
Choctaw	159	219	258	328	362
Clay	192	195	258	336	426
Coffee	230	324	421	585	657
Coosa	157	217	288	389	404
Crenshaw	194	217	258	322	362
Dallas	220	232	310	415	434
Escambia	218	226	276	384	387
Franklin	216	248	292	365	409
Greene	203	229	258	360	365
Henry	222	225	299	375	421
Lamar	142	194	258	359	362
Lowndes	153	247	279	349	393
Marengo	203	229	258	359	414
Marshall	264	270	333	462	547
Perry	168	229	258	359	379
Pike	236	273	319	400	493
Sumter	216	218	287	359	403
Tallapoosa	232	246	305	383	428
Washington	142	229	258	359	362
Winston	166	226	302	378	424

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

A L A S K A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anchorage, AK MSA	461	542	721	1002	1183	Anchorage

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aleutian East	478	538	606	757	992
Bethel	616	771	976	1222	1368
Dillingham	595	605	805	1008	1128
Haines	444	550	627	852	878
Kenai Peninsula	358	456	550	764	902
Kodiak Island	635	698	906	1132	1469
Matanuska-Susitna	347	471	529	719	849
North Slope	712	730	902	1255	1462
Pr.Wales-Outer Ketchikan	333	529	608	844	893
Skagway-Yakutat-Angoon	408	414	537	672	754
Valdez-Cordova	498	610	678	866	1031
Wrangell-Petersburg	363	535	650	828	909

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aleutian West	410	462	519	650	728
Bristol Bay	494	570	642	892	970
Fairbanks North Star	376	511	670	921	1087
Juneau	663	766	975	1298	1348
Ketchikan Gateway	488	596	799	1112	1168
Lake & Peninsula	381	617	694	866	971
Nome	628	776	872	1213	1369
Northwest Arctic	754	849	953	1326	1564
Sitka	525	624	700	973	1149
Southeast Fairbanks	418	439	529	662	743
Wade Hampton	356	537	605	756	847
Yukon-Koyukuk	476	536	604	755	875

A R I Z O N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Las Vegas, NV-AZ MSA	450	534	636	884	1044	Mohave
Phoenix-Mesa, AZ MSA	362	437	549	763	900	Maricopa, Pinal
Tucson, AZ MSA	335	407	541	753	888	Pima
Yuma, AZ MSA	329	392	522	727	732	Yuma

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Apache	276	310	348	475	572
Coconino	390	423	549	736	884
Graham	257	284	350	487	536
La Paz	287	323	364	506	596
Santa Cruz	314	374	462	578	698
Cochise	301	333	413	567	676
Gila	243	315	419	525	687
Greenlee	190	260	348	438	515
Navajo	247	291	348	483	515
Yavapai	358	374	498	695	765

A R K A N S A S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Fayetteville-Springdale-Rogers, AR MSA	256	320	421	570	590	Benton, Washington
Fort Smith, AR-OK MSA	276	280	368	494	517	Crawford, Sebastian
Little Rock-North Little Rock, AR MSA	345	382	455	628	733	Faulkner, Lonoke, Pulaski, Saline
Memphis, TN-AR-MS MSA	311	362	426	592	622	Crittenden
Pine Bluff, AR MSA	263	312	411	518	674	Jefferson
Texarkana, TX-Texarkana, AR MSA	280	343	418	552	585	Miller

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

A R K A N S A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Arkansas	243	246	330	460	482
Baxter	206	282	374	480	585
Bradley	207	219	293	408	481
Carroll	259	284	328	427	531
Clark	243	255	340	425	537
Cleburne	250	253	316	440	505
Columbia	184	250	334	422	467
Craighead	286	311	366	505	533
Dallas	165	225	301	401	422
Drew	208	286	382	528	536
Fulton	228	231	293	366	479
Grant	229	273	306	426	503
Hempstead	176	242	322	429	478
Howard	180	246	330	414	462
Izard	164	219	293	389	412
Johnson	218	237	296	411	433
Lawrence	167	253	303	379	497
Lincoln	239	256	341	457	478
Logan	231	243	293	366	412
Marion	166	227	303	422	498
Monroe	224	227	303	379	498
Nevada	205	248	331	461	463
Ouachita	257	261	333	463	547
Phillips	190	224	300	400	462
Poinsett	178	243	325	408	456
Pope	207	289	365	507	584
Randolph	161	252	293	375	476
Scott	161	256	293	369	482
Sevier	242	244	327	409	458
Stone	217	221	293	407	482
Van Buren	184	250	334	431	550
Woodruff	212	219	293	366	412

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ashley	178	241	320	415	527
Boone	261	266	353	492	580
Calhoun	161	262	293	408	482
Chicot	163	221	296	377	415
Clay	200	228	293	366	482
Cleveland	160	219	293	366	480
Conway	200	273	365	456	511
Cross	229	290	325	452	532
Desha	191	238	316	440	444
Franklin	231	258	293	373	476
Garland	207	282	377	525	620
Greene	237	241	312	410	470
Hot Spring	184	250	334	418	467
Independence	232	269	303	422	498
Jackson	228	231	309	418	433
Lafayette	231	262	293	408	426
Lee	244	248	331	414	463
Little River	188	255	341	473	558
Madison	252	256	341	426	478
Mississippi	251	273	365	481	539
Montgomery	161	219	293	408	482
Newton	161	262	293	366	412
Perry	161	219	293	366	482
Pike	161	219	293	366	482
Polk	194	244	298	406	417
Prairie	160	219	293	407	432
St. Francis	178	268	327	455	534
Searcy	160	222	293	407	410
Sharp	168	229	306	423	429
Union	277	291	351	470	576
White	185	248	331	461	463
Yell	229	261	324	407	455

C A L I F O R N I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bakersfield, CA MSA	369	416	520	723	801	Kern
Chico-Paradise, CA MSA	307	393	523	718	859	Butte
Fresno, CA MSA	378	423	505	701	808	Fresno, Madera

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

C A L I F O R N I A continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Los Angeles-Long Beach, CA PMSA	562	674	853	1151	1373	Los Angeles
Merced, CA MSA	366	412	500	691	815	Merced
Modesto, CA MSA	422	455	555	774	911	Stanislaus
Oakland, CA PMSA	530	642	804	1102	1319	Alameda, Contra Costa
Orange County, CA PMSA	635	694	858	1194	1329	Orange
Redding, CA MSA	347	385	482	670	790	Shasta
Riverside-San Bernardino, CA PMSA	454	505	616	856	1011	Riverside, San Bernardino
Sacramento, CA PMSA	434	490	612	851	1003	El Dorado, Placer, Sacramento
Salinas, CA MSA	534	625	754	1048	1099	Monterey
San Diego, CA MSA	473	541	677	940	1109	San Diego
San Francisco, CA PMSA	605	784	991	1358	1437	Marin, San Francisco, San Mateo
San Jose, CA PMSA	674	768	949	1301	1461	Santa Clara
San Luis Obispo-Atascadero-Paso Robles, CA PMSA	471	532	675	938	1107	San Luis Obispo
Santa Barbara-Santa Maria-Lompoc, CA MSA	572	636	806	1122	1266	Santa Barbara
Santa Cruz-Watsonville, CA PMSA	586	697	931	1294	1517	Santa Cruz
Santa Rosa, CA PMSA	541	613	795	1105	1306	Sonoma
Stockton-Lodi, CA MSA	406	460	589	819	967	San Joaquin
Vallejo-Fairfield-Napa, CA PMSA	509	580	707	983	1160	Napa, Solano
Ventura, CA PMSA	609	698	885	1177	1371	Ventura
Visalia-Tulare-Porterville, CA MSA	339	361	470	656	749	Tulare
Yolo, CA PMSA	437	499	616	856	1011	Yolo
Yuba City, CA MSA	302	347	446	621	625	Sutter, Yuba

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alpine	266	429	484	673	677
Calaveras	346	400	533	741	874
Del Norte	293	401	533	742	876
Humboldt	295	409	536	747	883
Inyo	296	400	513	672	719
Lake	322	410	547	689	896
Mariposa	308	392	505	661	780
Modoc	312	317	423	527	591
Nevada	358	489	652	907	1051
San Benito	429	505	632	880	1031
Siskiyou	300	328	436	567	717
Trinity	321	325	423	541	693

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Amador	394	435	580	807	900
Colusa	312	317	423	558	694
Glenn	284	349	430	553	603
Imperial	323	404	497	693	698
Kings	332	384	481	668	788
Lassen	350	354	460	619	664
Mendocino	395	476	585	814	820
Mono	437	523	696	967	1143
Plumas	315	338	450	618	630
Sierra	261	382	472	656	774
Tehama	299	317	423	588	694
Tuolumne	316	432	576	801	945

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

C O L O R A D O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boulder-Longmont, CO PMSA	412	494	634	882	1040	Boulder
Colorado Springs, CO MSA	322	372	496	690	816	El Paso
Denver, CO PMSA	336	413	550	764	902	Adams, Arapahoe, Denver, Douglas, Jefferson
Fort Collins-Loveland, CO MSA	359	443	546	758	896	Larimer
Greeley, CO PMSA	308	383	482	669	791	Weld
Pueblo, CO MSA	249	312	415	537	657	Pueblo

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alamosa	249	327	368	474	603
Baca	273	276	368	514	606
Chaffee	282	286	381	523	577
Clear Creek	339	404	458	638	752
Costilla	202	327	368	513	557
Custer	202	324	368	508	603
Dolores	203	328	368	460	516
Elbert	383	426	485	606	796
Garfield	403	432	546	681	893
Grand	412	416	527	659	798
Hinsdale	325	367	412	574	577
Jackson	202	275	368	461	516
Kit Carson	209	285	380	477	532
La Plata	387	427	563	784	925
Lincoln	290	325	391	489	641
Mesa	244	348	443	602	710
Moffat	202	316	368	512	603
Montrose	308	349	455	631	745
Otero	231	275	368	461	554
Park	274	384	500	695	790
Pitkin	521	712	949	1252	1423
Rio Blanco	272	275	368	513	563
Routt	325	420	554	770	908
San Juan	210	339	381	530	547
Sedgwick	202	275	368	459	578
Teller	301	411	549	762	768
Yuma	203	275	368	510	514

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Archuleta	267	381	427	590	697
Bent	202	276	368	468	515
Cheyenne	202	276	368	459	605
Conejos	202	328	368	462	574
Crowley	202	317	368	491	605
Delta	272	275	368	494	516
Eagle	467	508	678	944	1113
Fremont	225	295	393	549	647
Gilpin	322	461	586	773	856
Gunnison	308	324	416	580	683
Huerfano	216	275	368	476	603
Kiowa	202	326	368	467	525
Lake	322	327	436	545	680
Las Animas	292	370	417	581	685
Logan	202	275	368	494	516
Mineral	290	327	368	465	604
Montezuma	268	353	426	592	651
Morgan	284	295	385	522	631
Ouray	249	342	455	578	737
Phillips	272	277	368	491	539
Prowers	271	275	368	498	602
Rio Grande	202	275	368	491	516
Saguache	203	298	368	461	535
San Miguel	639	922	1014	1267	1634
Summit	447	536	686	955	1176
Washington	257	302	368	461	603

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

C O N N E C T I C U T

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bridgeport, CT PMSA	525	682	821	1027	1282	Fairfield county towns of Bridgeport town, Easton town Fairfield town, Monroe town, Shelton town Stratford town, Trumbull town New Haven county towns of Ansonia town, Beacon Falls town Derby town, Milford town, Oxford town, Seymour town
Danbury, CT PMSA	621	743	928	1226	1412	Fairfield county towns of Bethel town, Brookfield town Danbury town, New Fairfield town, Newtown town Redding town, Ridgefield town, Sherman town Litchfield county towns of Bridgewater town New Milford town, Roxbury town, Washington town
Hartford, CT PMSA	438	545	697	873	1061	Hartford county towns of Avon town, Berlin town Bloomfield town, Bristol town, Burlington town Canton town, East Granby town, East Hartford town East Windsor town, Enfield town, Farmington town Glastonbury town, Granby town, Hartford town Manchester town, Marlborough town, New Britain town Newington town, Plainville town, Rocky Hill town Simsbury town, Southington town, South Windsor town Suffield town, West Hartford town, Wethersfield town Windsor town, Windsor Locks town Litchfield county towns of Barkhamsted town Harwinton town, New Hartford town, Plymouth town Winchester town Middlesex county towns of Cromwell town, Durham town East Haddam town, East Hampton town, Haddam town Middlefield town, Middletown town, Portland town New London county towns of Colchester town, Lebanon town Tolland county towns of Andover town, Bolton town Columbia town, Coventry town, Ellington town Hebron town, Mansfield town, Somers town, Stafford town Tolland town, Vernon town, Willington town Windham county towns of Ashford town, Chaplin town Windham town
New Haven-Meriden, CT PMSA	516	633	783	1002	1161	Middlesex county towns of Clinton town, Killingworth town New Haven county towns of Bethany town, Branford town Cheshire town, East Haven town, Guilford town Hamden town, Madison town, Meriden town, New Haven town North Branford tow, North Haven town, Orange town Wallingford town, West Haven town, Woodbridge town
New London-Norwich, CT-RI MSA	473	571	695	871	995	Middlesex county towns of Old Saybrook town New London county towns of Bozrah town, East Lyme town Franklin town, Griswold town, Groton town, Ledyard town Lisbon town, Montville town, New London town North Stonington t, Norwich town, Old Lyme town Preston town, Salem town, Sprague town, Stonington town Waterford town Windham county towns of Canterbury town, Plainfield town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

C O N N E C T I C U T continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Stamford-Norwalk, CT PMSA	772	905	1103	1479	1633	Fairfield county towns of Darien town, Greenwich town New Canaan town, Norwalk town, Stamford town Weston town, Westport town, Wilton town
Waterbury, CT MSA	394	532	658	822	920	Litchfield county towns of Bethlehem town, Thomaston town Watertown town, Woodbury town New Haven county towns of Middlebury town, Naugatuck town Prospect town, Southbury town, Waterbury town Wolcott town
Worcester, MA-CT	451	546	683	852	955	Windham county towns of Thompson town

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Hartford	339	547	617	857	1011	Hartland town
Litchfield	393	535	714	892	1015	Canaan town, Colebrook town, Cornwall town, Goshen town Kent town, Litchfield town, Morris town, Norfolk town North Canaan town, Salisbury town, Sharon town Torrington town, Warren town
Middlesex	582	659	881	1225	1444	Chester town, Deep River town, Essex town Westbrook town
New London	493	604	686	886	1125	Lyme town, Voluntown town
Tolland	339	547	617	857	863	Union town
Windham	389	476	617	772	969	Brooklyn town, Eastford town, Hampton town Killingly town, Pomfret town, Putnam town, Scotland town Sterling town, Woodstock town

D E L A W A R E

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Dover, DE MSA	402	446	509	660	750	Kent
Wilmington-Newark, DE-MD PMSA	404	534	622	845	1019	New Castle

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Sussex	354	375	480	629	672

D I S T . O F C O L U M B I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Washington, DC-MD-VA	625	710	834	1135	1368	District of Columbia

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

F L O R I D A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Daytona Beach, FL MSA	341	424	543	721	765	Flagler, Volusia
Fort Lauderdale, FL PMSA	483	568	702	977	1152	Broward
Fort Myers-Cape Coral, FL MSA	404	466	562	783	818	Lee
Fort Pierce-Port Lucie, FL MSA	414	455	590	767	827	Martin, St. Lucie
Fort Walton Beach, FL MSA	345	385	437	609	718	Okaloosa
Gainesville, FL MSA	309	371	481	659	778	Alachua
Jacksonville, FL MSA	379	424	511	676	751	Clay, Duval, Nassau, St. Johns
Lakeland-Winter Haven, FL MSA	324	364	445	569	653	Polk
Melbourne-Titusville-Palm Bay, FL MSA	344	431	539	722	842	Brevard
Miami, FL PMSA	474	594	742	1018	1181	Dade
Naples, FL MSA	388	547	657	914	1020	Collier
Ocala, FL MSA	308	365	429	590	692	Marion
Orlando, FL MSA	449	511	609	800	976	Lake, Orange, Osceola, Seminole
Panama City, FL MSA	313	337	412	573	615	Bay
Pensacola, FL MSA	341	388	436	600	709	Escambia, Santa Rosa
Punta Gorda, FL MSA	343	415	553	768	906	Charlotte
Sarasota-Bradenton, FL MSA	364	462	587	756	822	Manatee, Sarasota
Tallahassee, FL MSA	372	410	541	708	853	Gadsden, Leon
Tampa-St. Petersburg-Clearwater, FL MSA	367	437	541	720	872	Hernando, Hillsborough, Pasco, Pinellas
West Palm Beach-Boca Raton, FL MSA	480	563	696	926	1143	Palm Beach

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Baker	205	333	375	469	556
Calhoun	156	213	285	392	466
Columbia	256	283	324	450	531
Dixie	228	256	288	401	473
Gilchrist	192	265	349	437	573
Gulf	201	275	367	459	514
Hardee	230	375	421	525	589
Highlands	301	335	445	558	624
Indian River	337	453	582	728	815
Jefferson	180	241	322	441	528
Levy	256	260	324	405	525
Madison	225	252	285	394	441
Okeechobee	239	388	436	546	611
Sumter	294	321	373	466	523
Taylor	283	286	381	477	606
Wakulla	182	275	331	460	542
Washington	154	244	282	353	395

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bradford	193	308	350	474	523
Citrus	292	315	419	531	585
Desoto	304	308	407	532	569
Franklin	213	342	389	540	545
Glades	334	377	424	529	591
Hamilton	204	213	285	356	466
Hendry	305	392	462	579	649
Holmes	207	210	282	390	462
Jackson	154	249	282	375	462
Lafayette	234	237	317	394	520
Liberty	165	271	302	379	426
Monroe	519	585	752	1037	1233
Putnam	264	295	333	448	511
Suwannee	268	272	340	426	476
Union	242	246	329	430	460
Walton	245	388	439	577	721

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

G E O R G I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany, GA MSA	270	286	381	529	532	Dougherty, Lee
Athens, GA MSA	334	359	465	633	763	Clarke, Madison, Oconee
Atlanta, GA	453	504	588	782	947	Barrow, Bartow, Cherokee, Clayton, Cobb, Coweta, Dekalb Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry Newton, Paulding, Rockdale, Spalding
Augusta-Aiken, GA-SC MSA	320	383	451	614	726	Columbia, Mcduffie, Richmond
Carroll County, GA	302	306	409	569	672	Carroll
Chattanooga, TN-GA MSA	308	361	433	559	637	Catoosa, Dade, Walker
Columbus, GA-AL MSA	312	348	416	545	591	Chattahoochee, Harris, Muscogee
Macon, GA MSA	324	362	420	580	596	Bibb, Houston, Jones, Peach, Twiggs
Pickens County, GA	215	292	391	544	548	Pickens
Savannah, GA MSA	326	405	471	634	660	Bryan, Chatham, Effingham
Walton County, GA	336	362	466	648	765	Walton

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Appling	193	299	352	441	494
Bacon	193	299	352	441	494
Baldwin	226	337	411	526	575
Ben Hill	196	274	352	441	579
Bleckley	171	233	312	402	479
Brooks	250	253	339	437	558
Burke	229	233	312	434	437
Calhoun	234	255	312	392	437
Candler	245	278	312	433	437
Chattooga	180	270	329	412	520
Clinch	171	235	312	436	439
Colquitt	250	253	339	437	558
Crawford	260	263	329	418	460
Dawson	250	342	456	570	704
Dodge	232	235	316	438	462
Early	252	255	342	448	503
Elbert	253	287	321	403	528
Evans	245	260	312	421	437
Floyd	251	298	388	513	542
Gilmer	252	255	341	427	479
Glynn	368	411	466	625	766
Grady	268	290	342	444	562
Habersham	283	311	358	498	576
Hancock	196	288	356	445	521
Hart	189	297	343	428	481
Irwin	171	233	312	390	437

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Atkinson	246	277	312	416	438
Baker	204	252	312	432	444
Banks	179	288	328	456	536
Berrien	193	263	352	489	494
Brantley	185	252	337	423	473
Bulloch	317	322	414	533	677
Butts	253	348	463	619	649
Camden	369	417	467	649	767
Charlton	249	252	337	423	503
Clay	171	233	312	410	436
Coffee	193	281	352	446	579
Cook	185	302	339	471	558
Crisp	266	302	339	471	558
Decatur	187	304	342	433	479
Dooly	198	233	312	433	437
Echols	245	278	312	433	437
Emanuel	255	289	322	446	454
Fannin	175	235	316	438	442
Franklin	189	243	325	424	533
Glascock	171	233	312	390	511
Gordon	312	316	395	511	651
Greene	212	289	385	483	540
Hall	279	424	498	624	697
Haralson	251	255	341	466	494
Heard	252	256	342	427	479
Jackson	294	299	398	499	655

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

G E O R G I A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Jasper	216	294	392	533	549
Jefferson	193	314	352	489	579
Johnson	174	233	312	390	437
Lanier	193	314	352	489	494
Liberty	328	366	416	578	582
Long	211	342	384	482	537
Lumpkin	219	355	399	534	655
Macon	247	253	313	392	438
Meriwether	189	294	345	438	482
Mitchell	230	234	312	434	513
Montgomery	232	234	312	390	437
Murray	203	304	371	467	521
Pierce	230	252	312	405	437
Polk	206	286	377	524	528
Putnam	211	265	353	491	579
Rabun	186	297	338	424	534
Schley	171	233	312	433	437
Seminole	187	285	342	475	479
Stewart	171	233	312	433	513
Talbot	171	234	312	435	514
Tattnall	244	247	331	460	494
Telfair	208	275	312	390	437
Thomas	203	327	368	475	516
Toombs	250	253	339	422	556
Treutlen	171	234	312	421	513
Turner	183	249	333	424	466
Upson	272	275	366	457	512
Warren	245	278	312	390	437
Wayne	272	308	346	483	568
Wheeler	206	279	312	392	451
Whitfield	241	345	416	531	627
Wilkes	171	278	312	402	488
Worth	212	292	385	481	539

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Jeff Davis	247	277	312	435	513
Jenkins	171	278	312	433	513
Lamar	216	326	375	477	615
Laurens	269	295	344	430	557
Lincoln	171	278	312	433	437
Lowndes	296	357	432	606	669
Mcintosh	172	280	315	393	441
Marion	171	234	312	391	512
Miller	187	304	342	475	479
Monroe	203	295	369	512	517
Morgan	219	301	402	503	562
Oglethorpe	215	278	312	433	485
Pike	306	332	420	584	588
Pulaski	247	278	312	436	513
Quitman	170	278	312	434	437
Randolph	232	236	312	436	514
Screven	219	280	350	439	490
Stephens	260	263	350	485	523
Sumter	213	322	386	488	541
Taliaferro	171	276	312	389	512
Taylor	246	276	312	433	437
Terrell	180	277	329	425	541
Tift	236	285	365	488	570
Towns	173	237	317	440	520
Troup	237	359	404	505	565
Union	224	304	405	508	568
Ware	292	327	368	461	604
Washington	245	278	312	409	513
Webster	245	278	312	433	513
White	196	317	356	495	584
Wilcox	171	276	312	393	512
Wilkinson	174	283	318	396	506

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

H A W A I I

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Honolulu, HI MSA	756	904	1064	1438	1556	Honolulu

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hawaii	447	582	668	889	1095
Maui	721	894	1091	1409	1595
Kauai	570	852	1038	1372	1484

I D A H O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boise City, ID MSA	355	406	493	685	809	Ada, Canyon

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	161	260	293	380	408
Bear Lake	172	236	315	438	518
Bingham	272	287	344	479	565
Boise	205	331	372	465	522
Bonneville	261	329	450	606	740
Butte	161	219	293	406	408
Caribou	159	219	292	406	477
Clark	165	265	302	419	424
Custer	178	244	325	439	533
Franklin	165	244	302	416	495
Gem	220	222	297	391	468
Idaho	236	286	318	398	446
Jerome	170	243	309	414	489
Latah	219	288	371	503	608
Lewis	220	223	297	371	476
Madison	252	256	336	466	508
Nez Perce	261	290	369	477	518
Owyhee	230	257	292	392	449
Power	174	278	320	399	447
Teton	279	283	372	519	613
Valley	267	271	362	502	535
Bannock	214	292	377	524	618
Benewah	161	256	294	379	410
Blaine	396	436	581	809	954
Bonner	294	365	450	626	720
Boundary	193	279	341	427	477
Camas	161	236	293	364	408
Cassia	187	251	319	428	500
Clearwater	219	255	299	402	424
Elmore	238	241	306	427	502
Fremont	165	261	294	384	481
Gooding	188	223	295	395	483
Jefferson	264	297	332	462	523
Kootenai	326	383	501	698	824
Lemhi	173	253	314	394	498
Lincoln	180	222	297	370	472
Minidoka	225	242	298	414	489
Oneida	257	260	346	436	547
Payette	220	222	297	411	486
Shoshone	185	248	302	379	478
Twin Falls	240	296	388	511	544
Washington	231	260	292	392	408

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I L L I N O I S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington-Normal, IL MSA	294	360	482	669	707	Mclean
Champaign-Urbana, IL MSA	317	388	503	689	825	Champaign
Chicago, IL	481	577	688	860	962	Cook, Dupage, Kane, Lake, Mchenry, Will
Davenport-Moline-Rock Island, IA-IL MSA	256	355	438	567	614	Henry, Rock Island
Decatur, IL MSA	246	319	410	553	574	Macon
De Kalb County, IL	373	435	551	765	887	Dekalb
Grundy County, IL	327	377	502	663	705	Grundy
Kankakee, IL PMSA	297	360	480	613	672	Kankakee
Kendall County, Il	450	513	619	861	866	Kendall
Peoria-Pekin, IL MSA	303	335	449	597	733	Peoria, Tazewell, Woodford
Rockford, IL MSA	294	377	460	578	674	Boone, Ogle, Winnebago
St. Louis, MO-IL MSA	288	352	457	594	658	Clinton, Jersey, Madison, Monroe, St. Clair
Springfield, IL MSA	285	351	468	623	708	Menard, Sangamon

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	187	253	339	425	557
Bond	237	241	320	402	449
Bureau	230	305	359	453	503
Carroll	168	236	308	393	431
Christian	261	264	352	461	495
Clay	231	233	308	391	505
Crawford	171	241	312	435	438
De Witt	246	249	334	463	474
Edgar	179	242	310	388	435
Effingham	209	281	347	438	514
Ford	171	239	311	434	437
Fulton	184	273	334	421	501
Greene	221	245	308	393	505
Hancock	226	230	308	384	432
Henderson	168	231	308	385	434
Jackson	294	295	372	529	591
Jefferson	243	286	357	487	500
Johnson	219	231	308	430	506
La Salle	209	284	379	512	574
Lee	271	279	371	464	522
Logan	272	289	384	481	603
Macoupin	215	272	348	446	488
Marshall	187	249	316	394	443
Massac	243	273	308	427	431
Montgomery	190	240	321	411	449

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alexander	168	231	308	385	505
Brown	171	234	312	389	512
Calhoun	168	272	308	426	430
Cass	243	247	331	414	462
Clark	168	231	308	422	431
Coles	256	304	406	539	637
Cumberland	178	248	308	429	463
Douglas	259	266	328	455	459
Edwards	227	231	308	385	505
Fayette	203	248	308	429	431
Franklin	177	246	323	431	452
Gallatin	169	253	308	427	449
Hamilton	168	274	308	385	431
Hardin	168	231	308	400	431
Iroquois	211	261	325	424	456
Jasper	168	275	308	429	494
Jo Daviess	269	291	341	430	478
Knox	186	252	337	442	533
Lawrence	168	249	308	423	431
Livingston	219	299	399	514	560
Mcdonough	215	278	336	438	552
Marion	247	265	322	442	452
Mason	174	238	318	435	523
Mercer	185	250	336	420	490
Morgan	236	306	409	544	573

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I L L I N O I S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Moultrie	201	256	341	472	478
Piatt	211	295	383	523	537
Pope	169	233	308	386	506
Putnam	185	273	308	429	432
Richland	237	240	308	384	431
Schuyler	178	273	308	405	453
Shelby	183	247	331	414	476
Stephenson	256	293	370	463	520
Vermilion	219	308	386	483	540
Warren	256	259	345	436	490
Wayne	169	240	308	394	506
Whiteside	256	292	388	486	546

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Perry	243	263	308	417	486
Pike	225	232	308	408	446
Pulaski	169	231	308	386	458
Randolph	231	264	331	454	463
Saline	227	236	315	411	442
Scott	176	241	320	402	449
Stark	168	230	308	429	432
Union	181	233	308	429	433
Wabash	183	259	332	441	545
Washington	213	291	387	485	629
White	174	261	308	401	433
Williamson	194	265	352	490	497

I N D I A N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington, IN MSA	295	382	509	707	835	Monroe
Cincinnati, OH-KY-IN	282	363	485	650	702	Dearborn
Elkhart-Goshen, IN MSA	338	386	489	626	718	Elkhart
Evansville-Henderson, IN-KY MSA	264	323	420	526	588	Posey, Vanderburgh, Warrick
Fort Wayne, IN MSA	290	371	460	593	644	Adams, Allen, De Kalb, Huntington, Wells, Whitley
Gary, IN PMSA	308	405	505	633	708	Lake, Porter
Indianapolis, IN MSA	331	416	500	626	701	Boone, Hamilton, Hancock, Hendricks, Johnson, Madison Marion, Morgan, Shelby
Kokomo, IN MSA	272	322	419	540	587	Howard, Tipton
Lafayette, IN MSA	290	368	491	683	806	Clinton, Tippecanoe
Louisville, KY-IN MSA	284	365	446	618	652	Clark, Floyd, Harrison, Scott
Muncie, IN MSA	270	336	398	540	638	Delaware
Ohio County, IN	180	261	328	455	473	Ohio
South Bend, IN MSA	291	387	510	637	714	St. Joseph
Terre Haute, IN MSA	233	307	391	489	546	Clay, Vermillion, Vigo

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bartholomew	371	400	483	603	793
Blackford	214	293	389	487	545
Carroll	235	258	343	462	480
Crawford	175	238	318	396	496
Decatur	225	319	409	529	575
Fayette	208	283	378	473	572
Franklin	200	273	363	456	597

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Benton	182	291	331	446	463
Brown	250	347	457	636	659
Cass	220	277	343	445	533
Daviess	215	270	360	451	504
Dubois	233	277	365	479	550
Fountain	250	253	327	409	457
Fulton	289	302	365	507	512

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I N D I A N A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Gibson	199	259	328	442	458
Greene	242	255	324	406	454
Jackson	321	336	416	549	590
Jay	250	258	318	442	445
Jennings	274	278	361	485	506
Kosciusko	245	346	418	542	585
La Porte	267	322	431	552	604
Marshall	309	314	418	527	585
Miami	218	268	335	419	483
Newton	274	277	370	463	520
Orange	244	247	318	420	450
Parke	196	281	356	454	557
Pike	175	261	318	420	445
Putnam	285	331	408	546	551
Ripley	234	267	356	494	558
Spencer	176	250	322	448	495
Steuben	320	362	432	540	604
Switzerland	177	268	323	449	468
Wabash	215	286	337	468	513
Washington	188	257	342	455	482
White	262	280	359	448	589

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Grant	277	281	375	488	526
Henry	220	265	329	457	459
Jasper	210	317	356	484	497
Jefferson	262	293	332	460	464
Knox	267	288	382	479	535
Lagrange	267	306	392	509	592
Lawrence	233	277	370	490	520
Martin	178	240	318	442	469
Montgomery	305	321	401	508	562
Noble	302	307	383	495	546
Owen	251	256	341	440	558
Perry	175	240	318	442	499
Pulaski	210	290	333	417	466
Randolph	240	283	329	434	460
Rush	270	273	343	477	558
Starke	229	287	363	456	509
Sullivan	189	258	344	430	516
Union	175	244	318	442	448
Warren	175	277	318	443	523
Wayne	240	282	366	458	531

I O W A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cedar Rapids, IA MSA	251	354	454	633	679	Linn
Davenport-Moline-Rock Island, IA-IL MSA	256	355	438	567	614	Scott
Des Moines, IA MSA	341	433	531	689	724	Dallas, Polk, Warren
Dubuque, IA MSA	266	325	419	535	652	Dubuque
Iowa City, IA MSA	303	391	502	697	823	Johnson
Omaha, NE-IA MSA	283	387	490	642	720	Pottawattamie
Sioux City, IA-NE MSA	283	339	423	528	602	Woodbury
Waterloo-Cedar Falls, IA MSA	227	317	396	527	619	Black Hawk

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I O W A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	195	277	356	445	498
Allamakee	222	303	344	492	564
Audubon	189	286	344	431	506
Boone	247	325	381	492	583
Buchanan	262	298	370	463	519
Butler	264	288	344	444	482
Carroll	205	288	374	476	524
Cedar	193	310	352	439	493
Cherokee	237	274	344	448	484
Clarke	255	277	363	479	511
Clayton	229	287	344	432	527
Crawford	244	261	344	448	482
Decatur	197	260	345	431	484
Des Moines	224	315	406	508	568
Emmet	224	283	344	462	568
Floyd	269	296	378	473	529
Fremont	272	275	362	452	566
Grundy	242	281	344	465	552
Hamilton	282	320	388	485	544
Hardin	203	266	345	442	487
Henry	219	313	398	498	564
Humboldt	189	294	344	438	482
Iowa	197	296	362	462	507
Jasper	219	313	397	496	556
Jones	257	260	344	454	487
Kossuth	198	272	363	456	509
Louisa	197	304	360	479	503
Lyon	190	276	344	470	482
Mahaska	221	289	368	479	516
Marshall	245	291	369	461	516
Mitchell	189	270	344	429	482
Monroe	210	322	381	477	566
Muscatine	238	305	406	540	568
Osceola	202	277	368	461	516
Palo Alto	188	278	344	437	502
Pocahontas	229	258	344	431	482
Ringgold	189	258	344	430	481
Shelby	191	275	347	448	486
Story	322	391	461	640	732
Taylor	201	275	367	460	539

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	200	293	365	457	512
Appanoose	243	290	346	452	541
Benton	255	260	345	432	487
Bremer	205	284	359	465	572
Buena Vista	263	296	381	476	533
Calhoun	244	257	344	430	482
Cass	194	279	354	442	495
Cerro Gordo	225	324	401	535	561
Chickasaw	189	257	344	435	481
Clay	198	284	363	454	507
Clinton	224	292	389	486	545
Davis	190	260	345	432	484
Delaware	190	275	345	432	491
Dickinson	203	278	370	463	519
Fayette	189	278	344	453	483
Franklin	255	286	358	447	500
Greene	188	257	344	479	482
Guthrie	188	272	344	469	565
Hancock	220	289	364	461	510
Harrison	198	288	363	459	508
Howard	195	292	355	428	561
Ida	255	293	351	438	492
Jackson	213	301	386	483	541
Jefferson	229	312	416	542	685
Keokuk	188	258	344	440	482
Lee	218	296	396	495	555
Lucas	203	269	344	479	536
Madison	220	298	399	511	560
Marion	229	339	416	520	583
Mills	234	331	390	489	547
Monona	194	296	353	440	494
Montgomery	272	307	362	479	506
O'Brien	190	292	344	432	484
Page	219	267	344	442	481
Plymouth	221	301	401	501	561
Poweshiek	263	325	416	520	583
Sac	234	266	344	480	528
Sioux	236	274	344	454	506
Tama	232	278	370	462	520
Union	198	295	363	462	566

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I O W A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Van Buren	209	260	344	479	482
Washington	214	266	345	442	566
Webster	215	292	389	489	546
Winneshiek	199	280	363	455	509
Wright	195	295	356	445	498
Wapello	225	306	387	484	542
Wayne	190	259	344	470	494
Winnebago	199	311	367	460	515
Worth	198	292	363	454	546

K A N S A S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Kansas City, MO-KS MSA	313	395	474	656	727	Johnson, Leavenworth, Miami, Wyandotte
Lawrence, KS MSA	323	387	497	692	796	Douglas
Topeka, KS MSA	304	350	454	614	693	Shawnee
Wichita, KS MSA	298	359	480	648	700	Butler, Harvey, Sedgwick

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	249	254	319	445	525
Atchison	188	259	344	433	564
Barton	179	249	326	422	460
Brown	175	238	319	399	524
Chautauqua	175	283	319	444	524
Cheyenne	245	249	319	440	445
Clay	175	238	319	399	447
Coffey	262	274	335	419	550
Cowley	269	272	363	484	521
Decatur	175	238	319	399	447
Doniphan	177	241	322	402	451
Elk	176	260	319	434	497
Ellsworth	236	238	319	443	446
Ford	270	319	398	501	565
Geary	310	326	407	526	571
Graham	252	278	319	445	525
Gray	175	255	319	399	447
Greenwood	175	238	319	444	447
Harper	175	245	319	444	495
Hodgeman	175	238	319	399	447
Jefferson	205	280	373	495	524
Kearny	280	283	377	507	557
Kiowa	235	238	319	436	524
Lane	174	285	319	445	448
Linn	204	238	319	444	447
Lyon	208	267	355	466	561
Anderson	175	238	319	444	447
Barber	175	240	319	442	447
Bourbon	210	238	319	439	482
Chase	175	283	319	411	447
Cherokee	174	252	319	417	447
Clark	190	273	346	433	485
Cloud	252	284	319	400	448
Comanche	174	259	319	411	446
Crawford	210	280	373	468	524
Dickinson	234	253	336	421	471
Edwards	175	238	319	444	485
Ellis	235	274	366	444	524
Finney	311	333	426	554	700
Franklin	273	278	370	462	578
Gove	176	285	319	445	448
Grant	231	320	362	502	547
Greeley	175	283	319	444	447
Hamilton	175	238	319	399	524
Haskell	184	292	335	429	483
Jackson	175	280	319	433	447
Jewell	175	239	319	399	455
Kingman	178	251	323	430	453
Labette	237	255	340	425	476
Lincoln	176	240	319	400	448
Logan	253	284	319	426	502
Mcpherson	255	260	345	473	484

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

K A N S A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Marion	238	241	319	399	447
Meade	235	238	319	427	524
Montgomery	205	253	336	458	504
Morton	188	307	344	430	482
Neosho	175	273	319	439	450
Norton	175	273	319	399	447
Osborne	177	252	319	446	527
Pawnee	175	238	319	444	524
Pottawatomie	180	269	329	414	539
Rawlins	185	273	319	400	459
Republic	174	240	319	398	519
Riley	312	344	458	573	694
Rush	176	240	319	414	465
Saline	276	283	377	521	528
Seward	283	309	411	515	576
Sherman	175	241	319	428	447
Stafford	177	240	319	410	449
Stevens	181	286	330	459	541
Thomas	175	238	319	436	524
Wabaunsee	235	238	319	444	447
Washington	174	239	319	443	448
Wilson	175	245	319	443	524

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Marshall	193	239	319	415	523
Mitchell	177	240	319	400	458
Morris	175	238	319	401	447
Nemaha	175	247	319	398	447
Ness	235	238	319	444	447
Osage	235	238	319	425	447
Ottawa	195	271	319	398	446
Phillips	175	251	319	399	524
Pratt	199	273	364	482	511
Reno	192	262	349	471	572
Rice	251	271	319	443	448
Rooks	174	237	319	423	523
Russell	182	267	325	452	456
Scott	204	275	346	482	554
Sheridan	175	275	319	444	522
Smith	175	240	319	435	447
Stanton	175	257	320	445	486
Sumner	195	266	356	495	497
Trego	175	238	319	444	447
Wallace	175	283	319	443	522
Wichita	207	283	377	473	587
Woodson	187	238	319	399	447

K E N T U C K Y

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cincinnati, OH-KY-IN	282	363	485	650	702	Boone, Campbell, Kenton
Clarksville-Hopkinsville, TN-KY MSA	303	340	398	543	558	Christian
Evansville-Henderson, IN-KY MSA	264	323	420	526	588	Henderson
Gallatin County, KY	215	321	393	492	644	Gallatin
Grant County, KY	203	279	370	517	610	Grant
Huntington-Ashland, WV-KY-OH MSA	253	297	366	466	513	Boyd, Carter, Greenup
Lexington, KY MSA	299	370	456	622	703	Bourbon, Clark, Fayette, Jessamine, Madison, Scott Woodford
Louisville, KY-IN MSA	284	365	446	618	652	Bullitt, Jefferson, Oldham
Owensboro, KY MSA	267	277	365	490	512	Daviess
Pendleton County, KY	237	274	365	458	513	Pendleton

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

K E N T U C K Y continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	176	287	321	447	450
Anderson	258	265	354	442	496
Barren	235	284	327	409	457
Bell	188	255	341	425	477
Bracken	157	216	287	399	403
Breckinridge	182	245	330	412	403
Caldwell	143	213	260	356	415
Carlisle	223	226	286	358	433
Casey	150	243	274	343	384
Clinton	145	234	264	330	368
Cumberland	150	236	266	356	371
Elliott	190	192	256	319	420
Fleming	159	219	292	365	410
Franklin	232	344	423	546	690
Garrard	217	255	287	381	449
Grayson	147	237	269	359	426
Hancock	175	240	319	441	523
Harlan	224	356	406	529	625
Hart	156	244	286	356	399
Hickman	142	195	259	352	416
Jackson	150	214	273	341	382
Knott	141	227	256	356	405
Larue	148	203	271	340	379
Lawrence	195	238	277	383	388
Leslie	190	192	256	319	358
Lewis	142	194	258	343	423
Livingston	270	273	365	507	511
Lyon	170	232	309	386	433
Mccreary	139	197	254	354	356
Magoffin	141	212	256	319	420
Marshall	178	279	324	408	525
Mason	223	258	318	437	446
Menifee	141	199	256	356	358
Metcalfe	141	220	256	319	358
Montgomery	234	237	316	413	443
Muhlenberg	209	235	265	367	434
Nicholas	180	246	330	413	468
Owen	169	229	306	426	504
Perry	262	265	352	440	493
Powell	155	244	284	369	479

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	163	252	297	388	418
Ballard	141	193	257	357	389
Bath	156	252	284	355	397
Boyle	279	283	377	472	528
Breathitt	164	223	300	373	431
Butler	141	205	256	319	358
Calloway	180	247	330	434	457
Carroll	229	259	291	364	478
Clay	153	223	280	350	391
Crittenden	141	192	256	356	358
Edmonson	145	233	271	329	367
Estill	176	243	321	403	450
Floyd	247	300	337	469	539
Fulton	233	245	329	412	480
Graves	177	242	322	405	459
Green	180	246	329	412	460
Hardin	292	299	375	504	597
Harrison	191	274	346	433	535
Henry	211	215	286	397	469
Hopkins	205	244	301	381	496
Johnson	177	261	322	415	452
Knox	235	324	415	520	638
Laurel	306	345	410	553	573
Lee	141	228	257	320	361
Letcher	210	212	276	345	387
Lincoln	173	237	322	396	443
Logan	186	251	338	445	472
Mccracken	265	286	357	457	586
Mclean	141	192	256	356	365
Marion	144	232	262	364	428
Martin	158	217	289	385	476
Meade	242	301	346	458	570
Mercer	176	268	320	445	448
Monroe	201	227	254	324	375
Morgan	176	241	320	402	449
Nelson	257	261	348	435	487
Ohio	226	229	305	397	489
Owsley	147	202	270	338	378
Pike	251	288	348	436	516
Pulaski	257	267	346	438	462

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

K E N T U C K Y continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Robertson	141	192	256	339	358
Rowan	230	243	318	428	511
Shelby	236	309	346	483	486
Spencer	182	279	332	432	464
Todd	154	211	282	390	462
Trimble	150	242	273	379	383
Warren	222	303	405	506	584
Wayne	152	208	277	363	388
Whitley	173	272	316	421	442

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Rockcastle	195	217	289	364	405
Russell	158	243	289	361	405
Simpson	189	294	342	438	480
Taylor	283	334	375	501	566
Trigg	156	252	285	396	467
Union	229	233	310	432	434
Washington	205	277	312	389	437
Webster	223	226	302	378	424
Wolfe	141	220	256	356	358

L O U I S I A N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Alexandria, LA MSA	255	318	401	555	564	Rapides
Acadia Parishes, LA	207	278	312	391	455	Acadia
Baton Rouge, LA MSA	276	344	426	592	699	Ascension, East Baton Rouge, Livingston, West Baton Rouge
Houma, LA MSA	241	295	377	524	620	Lafourche, Terrebonne
Lafayette, LA MSA	285	329	393	540	639	Lafayette, St. Martin
Lake Charles, LA MSA	280	326	414	542	678	Calcasieu
Monroe, LA MSA	275	309	412	556	577	Ouachita
New Orleans, LA	334	382	477	650	785	Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles St. John the Baptist, St. Tammany
St. James Parish, LA	210	287	382	477	535	St. James
St. Landry Parish, LA	167	237	302	379	460	St. Landry
Shreveport-Bossier City, LA MSA	311	353	444	594	728	Bossier, Caddo, Webster

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	221	223	298	416	430
Avoyelles	221	222	298	414	489
Bienville	234	239	318	442	523
Cameron	163	266	298	416	419
Claiborne	170	232	311	390	436
De Soto	163	263	298	416	491
East Feliciana	177	243	323	406	454
Franklin	175	266	298	416	491
Iberia	263	275	340	424	476
Jackson	164	224	298	373	419
La Salle	163	232	298	416	491
Madison	164	265	298	414	421
Natchitoches	266	273	352	488	491
Red River	163	223	298	416	491

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Assumption	273	292	347	433	486
Beauregard	303	330	392	512	563
Caldwell	163	266	298	416	419
Catahoula	169	223	298	416	419
Concordia	229	232	311	390	436
East Carroll	164	243	298	413	426
Evangeline	217	265	298	373	432
Grant	223	227	298	416	458
Iberville	241	249	305	391	502
Jefferson Davis	239	264	308	385	495
Lincoln	292	294	368	505	604
Morehouse	219	245	328	409	458
Pointe Coupee	196	242	322	404	529
Richland	163	223	298	391	491

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

L O U I S I A N A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Sabine	170	278	312	434	513
St. Mary	273	291	367	500	521
Tensas	220	223	298	415	417
Vermilion	234	250	301	389	423
Washington	164	223	298	414	417
West Feliciana	238	324	433	542	608

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
St. Helena	164	267	298	402	420
Tangipahoa	267	278	357	467	498
Union	221	223	298	373	491
Vernon	286	319	363	469	555
West Carroll	164	224	299	374	420
Winn	163	223	298	416	419

M A I N E

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bangor, ME MSA	334	408	523	681	732	Penobscot county towns of Bangor city, Brewer city Eddington town, Glenburn town, Hampden town, Hermon town Holden town, Kenduskeag town, Milford town Old Town city, Orono town, Orrington town Penobscot Indian I, Veazie town Waldo county towns of Winterport town
Lewiston-Auburn, ME MSA	262	371	477	596	668	Androscoggin county towns of Auburn city, Greene town Lewiston city, Lisbon town, Mechanic Falls tow Poland town, Sabattus town, Turner town, Wales town
Portland, ME MSA	396	511	672	840	942	Cumberland county towns of Cape Elizabeth tow, Casco town Cumberland town, Falmouth town, Freeport town Gorham town, Gray town, North Yarmouth tow Portland city, Raymond town, Scarborough town South Portland cit, Standish town, Westbrook city Windham town, Yarmouth town York county towns of Buxton town, Hollis town Limington town, Old Orchard Beach
Portsmouth-Rochester, NH-ME PMSA	429	516	662	848	1040	York county towns of Berwick town, Eliot town Kittery town, South Berwick town, York town

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Androscoggin	285	369	491	615	688	Durham town, Leeds town, Livermore town Livermore Falls to, Minot town
Aroostook	261	310	414	518	581	
Cumberland	439	447	595	810	929	Baldwin town, Bridgton town, Brunswick town Harpswell town, Harrison town, Naples town New Gloucester tow, Pownal town, Sebago town
Franklin	306	349	425	568	598	
Hancock	323	396	489	617	685	
Kennebec	312	389	468	586	655	
Knox	275	386	501	667	703	
Lincoln	390	434	493	686	810	
Oxford	248	348	435	545	611	

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M A I N E continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Penobscot	283	326	435	549	611	Alton town, Argyle unorg., Bradford town, Bradley town Burlington town, Carmel town, Carroll plantation Charleston town, Chester town, Clifton town Corinna town, Corinth town, Dexter town, Dixmont town Drew plantation, East Central Penob, East Millinocket t Edinburg town, Enfield town, Etna town, Exeter town Garland town, Greenbush town, Greenfield town Howland town, Hudson town, Kingman unorg., Lagrange town Lakeville town, Lee town, Levant town, Lincoln town Lowell town, Mattawamkeag town, Maxfield town Medway town, Millinocket town, Mount Chase town Newburgh town, Newport town, North Penobscot un Passadumkeag town, Patten town, Plymouth town Prentiss plantatio, Seboeis plantation, Springfield town Stacyville town, Stetson town, Twombly unorg. Webster plantation, Whitney unorg., Winn town Woodville town
Piscataquis	230	344	420	524	588	
Sagadahoc	422	483	595	792	977	
Somerset	314	358	424	531	677	
Waldo	244	351	445	555	631	Belfast city, Belmont town, Brooks town, Burnham town Frankfort town, Freedom town, Islesboro town Jackson town, Knox town, Liberty town, Lincolnville town Monroe town, Montville town, Morrill town Northport town, Palermo town, Prospect town Searsmont town, Searsport town, Stockton Springs t Swanville town, Thorndike town, Troy town, Unity town Waldo town
Washington	236	324	431	539	605	
York	369	424	568	710	794	Acton town, Alfred town, Arundel town, Biddeford city Cornish town, Dayton town, Kennebunk town Kennebunkport town, Lebanon town, Limerick town Lyman town, Newfield town, North Berwick town Ogunquit town, Parsonsfield town, Saco city Sanford town, Shapleigh town, Waterboro town, Wells town

M A R Y L A N D

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Baltimore, MD	396	485	592	782	895	Anne Arundel, Baltimore, Carroll, Harford, Howard Queen Anne's, Baltimore city
Columbia, MD	516	693	807	1067	1333	Columbia
Cumberland, MD-WV MSA	222	280	365	482	528	Allegany
Hagerstown, MD PMSA	246	340	448	561	664	Washington
Washington, DC-MD-VA	625	710	834	1135	1368	Calvert, Charles, Frederick, Montgomery, Prince George's

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M A R Y L A N D continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Wilmington-Newark, DE-MD PMSA	404	534	622	845	1019	Cecil

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Caroline	340	358	459	602	645
Garrett	298	409	459	574	754
St. Mary's	465	552	636	886	1014
Talbot	403	426	569	712	933
Worcester	252	367	460	639	643
Dorchester	294	394	459	573	641
Kent	308	379	506	632	763
Somerset	362	408	459	637	753
Wicomico	342	397	511	650	715

M A S S A C H U S E T T S

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Barnstable-Yarmouth, MA MSA	447	599	800	1001	1121	Barnstable county towns of Barnstable town, Brewster town Chatham town, Dennis town, Eastham town, Harwich town Mashpee town, Orleans town, Sandwich town, Yarmouth town
Boston, MA-NH PMSA	550	619	775	969	1137	Bristol county towns of Berkley town, Dighton town Mansfield town, Norton town, Taunton city Essex county towns of Amesbury town, Beverly city Danvers town, Essex town, Gloucester city, Hamilton town Ipswich town, Lynn city, Lynnfield town, Manchester town Marblehead town, Middleton town, Nahant town Newbury town, Newburyport city, Peabody city Rockport town, Rowley town, Salem city, Salisbury town Saugus town, Swampscott town, Topsfield town Wenham town Middlesex county towns of Acton town, Arlington town Ashland town, Ayer town, Bedford town, Belmont town Boxborough town, Burlington town, Cambridge city Carlisle town, Concord town, Everett city Framingham town, Holliston town, Hopkinton town Hudson town, Lexington town, Lincoln town Littleton town, Malden city, Marlborough city Maynard town, Medford city, Melrose city, Natick town Newton city, North Reading town, Reading town Sherborn town, Shirley town, Somerville city Stoneham town, Stow town, Sudbury town, Townsend town Wakefield town, Waltham city, Watertown town Wayland town, Weston town, Wilmington town Winchester town, Woburn city Norfolk county towns of Bellingham town, Braintree town Brookline town, Canton town, Cohasset town, Dedham town Dover town, Foxborough town, Franklin town Holbrook town, Medfield town, Medway town, Millis town Milton town, Needham town, Norfolk town, Norwood town Plainville town, Quincy city, Randolph town, Sharon town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 23

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Stoughton town, Walpole town, Wellesley town Westwood town, Weymouth town, Wrentham town Plymouth county towns of Carver town, Duxbury town Hanover town, Hingham town, Hull town, Kingston town Marshfield town, Norwell town, Pembroke town Plymouth town, Rockland town, Scituate town Wareham town Suffolk county towns of Boston city, Chelsea city Revere city, Winthrop town Worcester county towns of Berlin town, Blackstone town Bolton town, Harvard town, Hopedale town, Lancaster town Mendon town, Milford town, Millville town Southborough town, Upton town
Brockton, MA PMSA	416	549	673	839	955	Bristol county towns of Easton town, Raynham town Norfolk county towns of Avon town Plymouth county towns of Abington town, Bridgewater town Brockton city, East Bridgewater t, Halifax town Hanson town, Lakeville town, Middleborough town Plympton town, West Bridgewater t, Whitman town
Fitchburg-Leominster, MA MSA	364	511	663	855	928	Middlesex county towns of Ashby town Worcester county towns of Ashburnham town, Fitchburg city Gardner city, Leominster city, Lunenburg town Templeton town, Westminster town, Winchendon town
Lawrence, MA-NH PMSA	429	518	650	813	1001	Essex county towns of Andover town, Boxford town Georgetown town, Groveland town, Haverhill city Lawrence city, Merrimac town, Methuen town North Andover town, West Newbury town
Lowell, MA-NH PMSA	421	544	658	824	922	Middlesex county towns of Billerica town, Chelmsford town Dracut town, Dunstable town, Groton town, Lowell city Pepperell town, Tewksbury town, Tyngsborough town Westford town
New Bedford, MA MSA	404	494	561	701	786	Bristol county towns of Acushnet town, Dartmouth town Fairhaven town, Freetown town, New Bedford city Plymouth county towns of Marion town, Mattapoisett town Rochester town
Pittsfield, MA MSA	325	461	569	713	884	Berkshire county towns of Adams town, Cheshire town Dalton town, Hinsdale town, Lanesborough town, Lee town Lenox town, Pittsfield city, Richmond town Stockbridge town
Providence-Fall River-Warwick, RI-MA PMSA	390	530	638	800	985	Bristol county towns of Attleboro city, Fall River city North Attleborough, Rehoboth town, Seekonk town Somerset town, Swansea town, Westport town
Springfield, MA MSA	383	473	598	747	917	Franklin county towns of Sunderland town Hampden county towns of Agawam town, Chicopee city East Longmeadow to, Hampden town, Holyoke city Longmeadow town, Ludlow town, Monson town Montgomery town, Palmer town, Russell town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Southwick town, Springfield city, Westfield city West Springfield t, Wilbraham town Hampshire county towns of Amherst town, Belchertown town Easthampton town, Granby town, Hadley town Hatfield town, Huntington town, Northampton city Southampton town, South Hadley town, Ware town Williamsburg town
Worcester, MA-CT	451	546	683	852	955	Hampden county towns of Holland town Worcester county towns of Auburn town, Barre town Boylston town, Brookfield town, Charlton town Clinton town, Douglas town, Dudley town East Brookfield to, Grafton town, Holden town Leicester town, Millbury town, Northborough town Northbridge town, North Brookfield t, Oakham town Oxford town, Paxton town, Princeton town, Rutland town Shrewsbury town, Southbridge town, Spencer town Sterling town, Sturbridge town, Sutton town Uxbridge town, Webster town, Westborough town West Boylston town, West Brookfield to, Worcester city

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Barnstable	422	579	771	964	1079	Bourne town, Falmouth town, Provincetown town Truro town, Wellfleet town
Berkshire	355	432	509	699	837	Alford town, Becket town, Clarksburg town, Egremont town Florida town, Great Barrington t, Hancock town Monterey town, Mount Washington t, New Ashford town New Marlborough to, North Adams city, Otis town Peru town, Sandisfield town, Savoy town, Sheffield town Tyringham town, Washington town, West Stockbridge t Williamstown town, Windsor town
Dukes	571	580	772	965	1082	
Franklin	383	475	608	760	918	Ashfield town, Bernardston town, Buckland town Charlemont town, Colrain town, Conway town Deerfield town, Erving town, Gill town, Greenfield town Hawley town, Heath town, Leverett town, Leyden town Monroe town, Montague town, New Salem town Northfield town, Orange town, Rowe town, Shelburne town Shutesbury town, Warwick town, Wendell town Whately town
Hampden	387	527	703	936	1154	Blandford town, Brimfield town, Chester town Granville town, Tolland town, Wales town
Hampshire	542	548	734	917	1028	Chesterfield town, Cummington town, Goshen town Middlefield town, Pelham town, Plainfield town Westhampton town, Worthington town
Nantucket	685	917	1224	1530	1714	
Worcester	431	449	599	749	839	Athol town, Hardwick town, Hubbardston town

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M A S S A C H U S E T T S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
						New Braintree town, Petersham town, Phillipston town Royalston town, Warren town

M I C H I G A N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Ann Arbor, MI PMSA	427	517	638	837	938	Lenawee, Livingston, Washtenaw
Benton Harbor, MI MSA	343	347	456	570	640	Berrien
Detroit, MI PMSA	335	456	550	688	771	Lapeer, Macomb, Monroe, Oakland, St. Clair, Wayne
Flint, MI PMSA	323	368	460	589	644	Genesee
Grand Rapids-Muskegon-Holland, MI MSA	360	420	513	643	719	Allegan, Kent, Muskegon, Ottawa
Jackson, MI MSA	253	364	461	576	646	Jackson
Kalamazoo-Battle Creek, MI MSA	320	385	486	608	680	Calhoun, Kalamazoo, Van Buren
Lansing-East Lansing, MI MSA	341	401	517	676	781	Clinton, Eaton, Ingham
Saginaw-Bay City-Midland, MI MSA	314	346	461	576	646	Bay, Midland, Saginaw

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alcona	259	281	374	499	525
Alpena	196	301	355	451	582
Arenac	247	293	360	451	529
Barry	265	333	444	556	623
Branch	312	320	394	538	555
Charlevoix	328	332	421	572	592
Chippewa	228	288	367	460	564
Crawford	296	299	399	545	568
Dickinson	225	332	410	512	574
Gladwin	271	275	366	481	536
Grand Traverse	358	383	511	640	716
Hillsdale	205	294	367	490	514
Huron	187	297	338	440	475
Iosco	258	305	373	496	612
Isabella	302	322	431	582	707
Keweenaw	182	253	331	424	463
Leelanau	366	397	463	606	760
Mackinac	257	289	357	446	499
Marquette	262	297	381	492	577
Mecosta	251	298	380	529	627
Missaukee	285	299	360	458	505
Montmorency	207	282	375	469	551
Oceana	289	307	365	464	512

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alger	271	274	366	458	513
Antrim	208	323	365	492	539
Baraga	180	265	331	414	489
Benzie	283	286	377	525	528
Cass	268	296	393	536	553
Cheboygan	285	300	361	498	593
Clare	281	289	357	459	506
Delta	234	293	345	478	516
Emmet	302	362	427	560	597
Gogebic	240	258	331	415	473
Gratiot	283	288	378	474	531
Houghton	208	277	331	415	542
Ionia	331	335	420	524	588
Iron	182	247	331	421	463
Kalkaska	259	298	392	509	644
Lake	274	277	360	502	516
Luce	271	274	366	458	513
Manistee	187	273	338	436	475
Mason	232	281	347	434	569
Menominee	256	259	341	475	478
Montcalm	275	295	378	474	531
Newaygo	310	333	392	491	551
Ogemaw	282	308	358	496	501

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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M I C H I G A N continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ontonagon	231	270	331	460	483
Oscoda	256	299	336	433	528
Presque Isle	262	268	335	432	468
St. Joseph	240	314	389	509	545
Schoolcraft	240	247	331	440	463
Tuscola	294	320	427	534	597

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Osceola	198	280	360	460	503
Otsego	278	335	423	587	681
Roscommon	299	302	383	480	537
Sanilac	215	317	377	509	566
Shiawassee	269	339	409	568	609
Wexford	267	311	405	530	627

M I N N E S O T A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Duluth-Superior, MN-WI MSA	244	328	421	561	654	St. Louis
Fargo-Moorhead, ND-MN MSA	275	380	458	636	681	Clay
Grand Forks, ND-MN MSA	285	340	446	616	687	Polk
La Crosse, WI-MN MSA	241	332	423	565	685	Houston
Minneapolis-St. Paul, MN-WI MSA	364	467	596	808	914	Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey Scott, Sherburne, Washington, Wright
Rochester, MN MSA	286	399	521	723	811	Olmsted
St. Cloud, MN MSA	310	400	472	598	762	Benton, Stearns

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aitkin	251	325	434	544	608
Beltrami	241	317	424	556	594
Blue Earth	304	368	458	587	746
Carlton	240	290	371	464	521
Chippewa	163	224	298	409	422
Cook	294	297	395	539	560
Crow Wing	222	302	403	504	633
Douglas	223	283	346	469	538
Fillmore	176	240	321	427	450
Goodhue	241	319	426	544	597
Hubbard	253	282	358	458	501
Jackson	214	252	298	399	419
Kandiyohi	233	314	380	476	577
Koochiching	300	305	407	507	666
Lake	175	264	319	397	524
Le Sueur	210	302	381	477	591
Lyon	214	259	347	457	568
Mahnomen	191	262	348	435	488
Martin	179	244	327	409	536
Mille Lacs	264	289	384	535	630
Mower	211	293	349	439	489

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Becker	224	356	400	500	560
Big Stone	179	265	328	411	459
Brown	198	320	360	450	504
Cass	203	276	369	462	517
Clearwater	203	277	369	461	517
Cottonwood	177	241	323	405	453
Dodge	231	297	344	430	524
Faribault	175	247	302	392	427
Freeborn	215	294	391	514	550
Grant	193	264	353	441	525
Itasca	317	321	419	524	586
Kanabec	222	311	405	505	566
Kittson	171	275	312	426	429
Lac qui Parle	166	228	305	381	427
Lake of the Woods	188	256	341	426	477
Lincoln	156	215	285	357	470
Mcleod	234	320	426	531	595
Marshall	174	230	307	383	431
Meeker	257	271	352	440	492
Morrison	276	285	380	475	532
Murray	164	226	301	401	423

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M I N N E S O T A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Nicollet	310	332	443	586	621
Norman	192	299	349	436	489
Pennington	203	276	368	512	518
Pipestone	165	227	302	409	496
Red Lake	196	312	356	445	498
Renville	231	267	325	406	455
Rock	163	224	298	372	465
Sibley	224	227	291	405	420
Stevens	283	357	403	504	564
Todd	187	252	306	407	429
Wabasha	196	268	357	470	499
Waseca	275	280	372	466	522
Wilkin	163	225	300	379	422
Yellow Medicine	163	224	298	382	419

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Nobles	205	274	360	450	504
Otter Tail	203	273	370	462	518
Pine	275	278	362	483	541
Pope	163	224	298	372	419
Redwood	178	227	302	378	424
Rice	260	355	473	591	663
Roseau	300	305	401	517	562
Steele	268	309	413	516	578
Swift	221	262	298	384	419
Traverse	163	252	299	374	420
Wadena	205	240	298	391	445
Watonwan	163	247	298	416	430
Winona	253	329	418	522	585

M I S S I S S I P P I

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Biloxi-Gulfport-Pascagpula, MS MSA	319	374	431	599	708	Hancock, Harrison, Jackson
Hattiesburg, MS MSA	229	288	352	474	565	Forrest, Lamar
Jackson, MS MSA	347	397	484	644	679	Hinds, Madison, Rankin
Memphis, TN-AR-MS MSA	311	362	426	592	622	Desoto

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	206	269	344	441	562
Amite	199	269	300	389	494
Benton	165	269	300	418	422
Calhoun	165	243	300	377	422
Chickasaw	221	266	300	418	421
Claiborne	172	268	315	392	440
Clay	189	259	304	391	501
Copiah	186	264	325	408	456
Franklin	237	269	300	418	422
Greene	165	225	300	404	422
Holmes	165	225	300	377	422
Issaquena	245	337	447	560	628
Jasper	164	266	300	415	453
Jefferson Davis	201	225	300	377	455
Kemper	236	267	300	415	427
Lauderdale	221	301	379	491	531

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alcorn	170	237	309	424	433
Attala	233	250	300	418	475
Bolivar	265	268	357	445	510
Carroll	164	225	300	374	441
Choctaw	170	233	311	389	436
Clarke	165	237	300	389	494
Coahoma	271	275	366	459	513
Covington	165	269	300	400	422
George	180	252	330	413	485
Grenada	187	278	340	468	495
Humphreys	171	225	300	396	421
Itawamba	228	231	300	417	422
Jefferson	165	269	300	418	455
Jones	224	226	300	419	423
Lafayette	237	324	432	541	605
Lawrence	165	260	300	414	486

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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M I S S I S S I P P I continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Leake	165	252	300	418	445
Leflore	231	248	323	442	530
Lowndes	289	310	369	462	521
Marshall	226	229	306	426	504
Montgomery	165	225	300	377	494
Newton	224	267	300	419	424
Oktibbeha	287	298	365	507	598
Pearl River	245	248	329	443	460
Pike	238	269	302	418	496
Prentiss	237	265	300	390	465
Scott	165	269	300	380	422
Simpson	237	246	300	418	459
Stone	165	269	300	377	494
Tallahatchie	220	224	300	374	467
Tippah	174	267	300	376	421
Tunica	165	225	300	418	452
Walthall	180	246	300	418	422
Washington	252	300	401	518	570
Webster	236	266	300	389	419
Winston	223	226	300	420	494
Yazoo	238	255	329	412	460

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Lee	293	314	379	474	531
Lincoln	165	269	300	418	422
Marion	217	228	300	411	494
Monroe	168	272	305	396	428
Neshoba	218	226	300	401	419
Noxubee	238	269	300	404	491
Panola	241	246	305	425	428
Perry	165	252	300	418	494
Pontotoc	193	243	300	418	422
Quitman	165	225	300	418	445
Sharkey	238	268	300	382	495
Smith	223	268	300	377	494
Sunflower	258	281	327	412	526
Tate	200	315	365	457	600
Tishomingo	165	266	300	400	420
Union	165	269	300	377	422
Warren	211	305	381	525	630
Wayne	220	225	300	377	422
Wilkinson	223	225	300	385	494
Yalobusha	236	244	300	375	421

M I S S O U R I

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Columbia, MO MSA	239	335	436	607	716	Boone
Joplin, MO MSA	233	269	358	471	506	Jasper, Newton
Kansas City, MO-KS MSA	313	395	474	656	727	Cass, Clay, Clinton, Jackson, Lafayette, Platte, Ray
St. Joseph, MO MSA	202	271	362	456	507	Andrew, Buchanan
St. Louis, MO-IL MSA	288	352	457	594	658	Crawford-Sullivan (part), Franklin, Jefferson, Lincoln St. Charles, St. Louis, Warren, St. Louis city
Springfield, MO MSA	245	310	400	552	576	Christian, Greene, Webster

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	216	278	370	465	558
Audrain	238	241	321	447	516
Barton	164	211	280	352	460
Benton	252	255	341	426	477
Butler	180	233	312	399	437
Callaway	264	267	356	452	584

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Atchison	204	246	277	349	382
Barry	178	265	326	413	453
Bates	169	229	306	426	502
Bollinger	151	230	275	343	385
Caldwell	192	260	348	436	487
Camden	293	296	396	550	646

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 29

M I S S O U R I continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Cape Girardeau	230	282	375	500	613
Carter	208	235	265	369	371
Chariton	193	198	265	366	403
Cole	216	294	392	523	549
Crawford	245	294	332	437	489
Dallas	208	240	298	373	487
Dekalb	231	234	314	435	439
Douglas	217	219	280	391	392
Gasconade	175	249	320	428	446
Grundy	205	243	307	415	479
Henry	255	260	345	433	568
Holt	159	215	290	366	404
Howell	207	251	298	379	418
Johnson	268	299	390	517	611
Laclede	189	252	318	433	445
Lewis	203	222	275	353	442
Livingston	206	249	332	430	465
Macon	180	245	327	409	458
Maries	154	223	281	362	393
Mercer	195	236	265	369	435
Mississippi	152	210	279	389	392
Monroe	158	218	290	403	405
Morgan	189	250	306	426	456
Nodaway	235	284	351	446	538
Osage	152	210	279	389	392
Pemiscot	205	208	267	372	374
Pettis	239	280	375	472	565
Pike	205	236	316	394	518
Pulaski	218	312	351	464	518
Ralls	157	228	285	398	401
Reynolds	195	197	265	357	434
St. Clair	152	208	278	362	390
St. Francois	235	296	375	471	617
Schuyler	202	207	277	385	403
Scott	268	270	361	487	561
Shelby	145	196	265	368	378
Stone	260	275	342	437	479
Taney	253	278	365	492	580
Vernon	191	248	319	440	446
Wayne	201	204	271	352	446

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Carroll	146	200	267	370	437
Cedar	177	211	281	392	462
Clark	147	201	269	336	394
Cooper	167	229	303	420	466
Dade	146	235	265	353	435
Daviess	162	223	298	403	474
Dent	212	235	294	394	469
Dunklin	181	200	265	364	390
Gentry	156	222	283	354	394
Harrison	196	221	268	335	373
Hickory	169	230	307	384	430
Howard	204	226	301	386	494
Iron	161	242	293	389	447
Knox	146	201	268	371	373
Lawrence	236	264	315	428	431
Linn	164	244	296	412	487
Mcdonald	214	216	276	384	406
Madison	178	248	305	381	435
Marion	189	228	305	423	460
Miller	245	294	330	433	511
Moniteau	203	216	286	391	405
Montgomery	176	240	320	405	449
New Madrid	207	225	301	377	422
Oregon	207	231	265	347	372
Ozark	146	198	265	369	371
Perry	260	264	352	468	492
Phelps	231	276	355	481	522
Polk	179	259	325	417	516
Putnam	156	210	282	352	395
Randolph	176	246	320	402	479
Ripley	149	204	272	343	448
Ste. Genevieve	187	265	341	437	553
Saline	185	253	339	430	491
Scotland	157	215	285	398	409
Shannon	146	198	265	347	371
Stoddard	205	218	289	362	455
Sullivan	193	200	266	343	367
Texas	175	208	278	359	390
Washington	262	315	354	442	495
Worth	146	236	265	369	435

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

M I S S O U R I continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Wright	175	197	266	368	435

M O N T A N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Billings, MT MSA	255	312	417	560	680	Yellowstone
Great Falls, MT MSA	223	305	407	519	634	Cascade

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Beaverhead	255	289	370	511	608
Blaine	222	278	370	463	518
Carbon	237	314	370	483	517
Chouteau	203	278	370	486	548
Daniels	203	330	370	489	608
Deer Lodge	202	276	370	470	557
Fergus	204	278	370	463	608
Gallatin	250	313	420	540	690
Glacier	212	290	386	483	541
Granite	205	292	370	464	519
Jefferson	283	287	383	505	536
Lake	292	306	370	512	554
Liberty	203	276	370	515	609
Mccone	203	328	370	514	518
Meagher	203	330	370	515	518
Missoula	293	344	458	591	751
Park	217	287	382	479	628
Phillips	207	277	370	462	608
Powder River	203	314	370	461	525
Prairie	204	285	370	516	536
Richland	189	336	370	509	517
Rosebud	264	285	370	462	608
Sheridan	276	277	370	491	609
Stillwater	274	277	370	515	608
Teton	204	283	370	516	520
Treasure	203	296	370	515	518
Wheatland	202	281	370	497	518

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Big Horn	203	277	370	463	607
Broadwater	222	303	405	518	663
Carter	203	330	370	515	608
Custer	221	283	370	476	515
Dawson	204	279	370	485	578
Fallon	203	277	370	507	593
Flathead	258	311	416	579	682
Garfield	204	277	370	464	608
Golden Valley	202	329	370	464	518
Hill	277	281	370	512	526
Judith Basin	203	330	370	462	518
Lewis and Clark	299	350	465	648	766
Lincoln	292	306	370	507	518
Madison	274	277	370	489	518
Mineral	212	291	387	485	635
Musselshell	273	277	370	465	517
Petroleum	203	277	370	462	517
Pondera	204	329	370	514	608
Powell	273	279	370	464	608
Ravalli	203	277	370	515	575
Roosevelt	281	284	370	504	519
Sanders	203	277	370	462	518
Silver Bow	203	277	370	465	518
Sweet Grass	289	303	370	515	542
Toole	274	277	370	515	518
Valley	203	310	370	515	519
Wibaux	243	330	370	515	608

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E B R A S K A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Lincoln, NE MSA	270	344	456	605	706	Lancaster
Omaha, NE-IA MSA	283	387	490	642	720	Cass, Douglas, Sarpy, Washington
Sioux City, IA-NE MSA	283	339	423	528	602	Dakota

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	218	298	394	494	592
Arthur	199	273	364	457	511
Blaine	183	251	337	421	472
Box Butte	241	266	337	467	551
Brown	185	277	337	421	542
Burt	186	254	337	440	521
Cedar	209	251	337	442	471
Cherry	185	300	337	469	552
Clay	186	252	337	451	472
Cuming	185	301	337	442	471
Dawes	237	254	337	470	554
Deuel	186	253	337	462	517
Dodge	206	282	376	495	526
Fillmore	195	254	337	426	472
Frontier	250	254	337	447	474
Gage	208	286	371	473	519
Garfield	184	252	337	445	517
Grant	185	254	337	422	472
Hall	214	292	389	512	575
Harlan	185	261	337	467	472
Hitchcock	186	252	337	423	473
Hooker	185	299	337	467	472
Jefferson	186	253	337	422	472
Kearney	185	280	337	449	554
Keya Paha	185	254	337	422	472
Knox	184	296	337	425	500
Logan	185	254	337	423	555
Mcpherson	185	254	337	467	472
Merrick	185	277	337	423	472
Nance	186	282	337	422	474
Nuckolls	184	252	337	420	471
Pawnee	184	282	337	470	473
Phelps	249	254	337	467	554
Platte	204	274	365	509	524
Red Willow	186	255	339	464	540

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Antelope	184	300	337	469	473
Banner	185	254	337	467	472
Boone	185	279	337	421	552
Boyd	184	298	337	421	472
Buffalo	226	327	410	512	618
Butler	186	253	337	422	472
Chase	186	301	337	422	556
Cheyenne	249	254	337	446	472
Colfax	242	297	337	464	471
Custer	249	287	337	421	551
Dawson	244	297	365	470	513
Dixon	248	252	337	429	529
Dundy	185	254	337	422	472
Franklin	183	260	337	471	473
Furnas	214	252	337	431	552
Garden	184	297	337	469	554
Gosper	187	255	340	456	538
Greeley	185	282	337	422	540
Hamilton	186	282	337	470	473
Hayes	183	299	337	466	552
Holt	196	269	337	434	466
Howard	185	252	337	424	473
Johnson	185	289	337	422	472
Keith	186	282	338	444	529
Kimball	185	276	337	467	554
Lincoln	228	297	353	456	518
Loup	185	253	337	420	553
Madison	228	299	396	512	625
Morrill	204	287	337	451	552
Nemaha	185	254	337	422	490
Otoe	206	273	338	439	555
Perkins	205	252	337	447	517
Pierce	185	252	337	428	471
Polk	185	255	337	422	492
Richardson	184	251	337	421	473

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E B R A S K A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Rock	185	292	337	459	491
Saunders	188	259	344	448	517
Seward	275	279	372	465	523
Sherman	186	287	337	423	555
Stanton	185	254	337	441	472
Thomas	185	258	337	422	472
Valley	185	254	337	422	472
Webster	185	253	337	422	506
York	203	278	370	462	520

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Saline	222	298	357	466	499
Scotts Bluff	226	296	376	463	552
Sheridan	186	253	337	422	532
Sioux	185	254	337	449	554
Thayer	185	300	337	419	471
Thurston	185	277	337	423	529
Wayne	255	259	337	466	552
Wheeler	185	254	337	467	472

N E V A D A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Las Vegas, NV-AZ MSA	450	534	636	884	1044	Clark, Nye
Reno, NV MSA	438	509	653	908	1073	Washoe

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Churchill	411	416	556	768	912
Elko	374	426	568	750	933
Eureka	303	493	555	692	774
Lander	305	473	555	695	911
Lyon	362	433	555	773	912
Pershing	420	426	568	711	812
White Pine	304	417	555	750	788

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Douglas	369	538	673	935	1042
Esmeralda	395	493	555	693	777
Humboldt	445	466	562	737	789
Lincoln	304	455	555	696	778
Mineral	306	419	558	732	916
Storey	426	432	568	791	933
Carson City	319	437	583	810	957

N E W H A M P S H I R E

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Boston, MA-NH PMSA	550	619	775	969	1137	Rockingham county towns of Seabrook town South Hampton town
Lawrence, MA-NH PMSA	429	518	650	813	1001	Rockingham county towns of Atkinson town, Chester town Danville town, Derry town, Fremont town, Hampstead town Kingston town, Newton town, Plaistow town, Raymond town Salem town, Sandown town, Windham town
Lowell, MA-NH PMSA	421	544	658	824	922	Hillsborough county towns of Pelham town
Manchester, NH PMSA	339	484	604	755	846	Hillsborough county towns of Bedford town, Goffstown town Manchester city, Weare town Merrimack county towns of Allenstown town, Hooksett town Rockingham county towns of Auburn town, Candia town Londonderry town
Nashua, NH PMSA	400	557	691	940	1119	Hillsborough county towns of Amherst town, Brookline town Greenville town, Hollis town, Hudson town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E W H A M P S H I R E continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Portsmouth-Rochester, NH-ME PMSA	429	516	662	848	1040	Litchfield town, Mason town, Merrimack town Milford town, Mont Vernon town, Nashua city New Ipswich town, Wilton town Rockingham county towns of Brentwood town East Kingston town, Epping town, Exeter town Greenland town, Hampton town, Hampton Falls town Kensington town, New Castle town, Newfields town Newington town, Newmarket town, North Hampton town Portsmouth city, Rye town, Stratham town Strafford county towns of Barrington town, Dover city Durham town, Farmington town, Lee town, Madbury town Milton town, Rochester city, Rollinsford town Somersworth city

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Belknap	403	465	612	826	1004	
Carroll	337	461	615	769	960	
Cheshire	417	495	634	825	977	
Coos	269	351	407	555	668	
Grafton	369	447	595	769	972	
Hillsborough	395	493	658	870	1046	Antrim town, Bennington town, Deering town Francestown town, Greenfield town, Hancock town Hillsborough town, Lyndeborough town, New Boston town Peterborough town, Sharon town, Temple town Windsor town
Merrimack	415	496	619	793	886	Andover town, Boscawen town, Bow town, Bradford town Canterbury town, Chichester town, Concord city Danbury town, Dunbarton town, Epsom town, Franklin city Henniker town, Hill town, Hopkinton town, Loudon town Newbury town, New London town, Northfield town Pembroke town, Pittsfield town, Salisbury town Sutton town, Warner town, Webster town, Wilmot town
Rockingham	431	505	675	937	1081	Deerfield town, Northwood town, Nottingham town
Strafford	381	518	691	866	970	Middleton town, New Durham town, Strafford town
Sullivan	402	408	529	695	742	

N E W J E R S E Y

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Atlantic-Cape May, NJ PMSA	500	568	758	948	1084	Atlantic, Cape May
Bergen-Passaic, NJ PMSA	621	756	888	1183	1459	Bergen, Passaic
Jersey City, NJ PMSA	580	684	796	1011	1114	Hudson
Middlesex-Somerset-Hunterdon, NJ PMSA	681	746	931	1266	1462	Hunterdon, Middlesex, Somerset

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E W J E R S E Y continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Monmouth-Ocean, NJ PMSA	566	677	859	1141	1339	Monmouth, Ocean
Newark, NJ PMSA	538	687	828	1043	1317	Essex, Morris, Sussex, Union, Warren
Philadelphia, PA-NJ PMSA	440	542	669	837	1049	Burlington, Camden, Gloucester, Salem
Trenton, NJ PMSA	453	631	769	1040	1256	Mercer
Vineland-Millville-Bridgeton, NJ PMSA	436	531	640	799	897	Cumberland

N E W M E X I C O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albuquerque, NM MSA	358	426	533	735	867	Bernalillo, Sandoval, Valencia
Las Cruces, NM MSA	267	335	399	546	644	Dona Ana
Santa Fe, NM MSA	385	547	676	906	1027	Los Alamos, Santa Fe

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Catron	186	294	336	468	553
Cibola	262	287	335	465	549
Curry	228	292	384	481	538
Eddy	258	261	348	466	571
Guadalupe	194	265	352	440	558
Hidalgo	186	260	336	422	472
Lincoln	286	292	387	509	636
Mckinley	248	317	402	502	562
Otero	219	282	366	510	514
Rio Arriba	294	301	371	465	521
San Juan	285	305	381	529	626
Sierra	208	253	336	468	472
Taos	345	350	466	583	767
Union	194	307	353	441	553

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Chaves	246	287	379	520	531
Colfax	233	292	335	467	549
Debaca	186	287	337	468	472
Grant	227	258	340	445	536
Harding	184	251	335	462	469
Lea	230	252	335	466	524
Luna	260	263	336	468	553
Mora	183	251	335	420	469
Quay	248	365	411	514	575
Roosevelt	247	267	339	462	546
San Miguel	280	283	378	473	529
Socorro	191	284	347	482	569
Torrance	277	298	352	439	520

N E W Y O R K

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany-Schenectady-Troy, NY MSA	375	459	567	710	794	Albany, Montgomery, Rensselaer, Saratoga, Schenectady Schoharie
Binghamton, NY MSA	291	366	469	597	657	Broome, Tioga
Buffalo-Niagara Falls, NY PMSA	328	407	489	612	685	Erie, Niagara
Dutchess County, NY PMSA	501	636	785	1020	1193	Dutchess
Elmira, NY MSA	286	369	461	582	697	Chemung
Glens Falls, NY MSA	324	437	532	666	746	Warren, Washington
Jamestown, NY MSA	220	322	387	499	542	Chautauqua

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E W Y O R K continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Nassau-Suffolk, NY PMSA	674	812	990	1377	1476	Nassau, Suffolk
New York, NY PMSA	630	702	798	998	1117	Bronx, Kings, New York, Putnam, Queens, Richmond Rockland
Westchester County, NY	605	788	960	1250	1490	Westchester
Newburgh, NY-PA PMSA	493	642	784	995	1136	Orange
Rochester, NY MSA	361	469	572	732	800	Genesee, Livingston, Monroe, Ontario, Orleans, Wayne
Syracuse, NY MSA	359	433	536	685	760	Cayuga, Madison, Onondaga, Oswego
Utica-Rome, NY MSA	328	369	460	576	645	Herkimer, Oneida

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allegany	237	293	360	454	504
Chenango	355	360	427	547	605
Columbia	417	438	562	737	788
Delaware	322	371	436	577	716
Franklin	284	346	416	525	589
Greene	327	432	519	671	817
Jefferson	359	424	499	625	698
Otsego	312	395	454	587	746
Schuyler	361	386	457	636	750
Steuben	345	393	436	590	664
Tompkins	435	470	603	840	991
Wyoming	246	344	404	506	566

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Cattaraugus	237	291	377	471	582
Clinton	274	364	485	607	680
Cortland	274	399	500	625	739
Essex	262	381	476	597	667
Fulton	240	344	436	546	611
Hamilton	331	401	462	577	646
Lewis	286	365	440	551	615
St. Lawrence	264	338	441	551	634
Seneca	356	384	463	598	649
Sullivan	432	485	592	817	829
Ulster	410	569	686	892	1125
Yates	323	366	443	555	601

N O R T H C A R O L I N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Asheville, NC MSA	269	333	434	564	609	Buncombe, Madison
Charlotte-Gastonia-Rock Hill, NC-SC MSA	390	440	495	653	781	Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union
Fayetteville, NC MSA	337	381	428	592	704	Cumberland
Goldsboro, NC MSA	194	293	353	490	579	Wayne
Greensboro--Winston-Salem--High Point, NC MSA	346	394	470	648	658	Alamance, Davidson, Davie, Forsyth, Guilford, Randolph Stokes, Yadkin
Greenville, NC MSA	332	336	437	587	718	Pitt
Hickory-Morganton, NC MSA	347	378	439	552	656	Alexander, Burke, Caldwell, Catawba
Jacksonville, NC MSA	313	366	412	573	678	Onslow
Norfolk-Virginia Beach-Newport News, VA-NC MSA	395	443	526	733	860	Currituck
Raleigh-Durham-Chapel Hill, NC MSA	371	450	529	709	836	Chatham, Durham, Franklin, Johnston, Orange, Wake
Rocky Mount, NC MSA	293	306	372	510	562	Edgecombe, Nash
Wilmington, NC MSA	357	393	481	658	785	Brunswick, New Hanover

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

NORTH CAROLINA continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alleghany	265	322	376	469	587
Ashe	180	294	330	446	478
Beaufort	255	309	364	466	510
Bladen	229	276	310	388	435
Carteret	311	341	416	578	643
Cherokee	233	264	296	370	478
Clay	158	258	289	402	406
Columbus	247	282	316	411	443
Dare	286	452	521	714	729
Gates	158	218	289	402	406
Granville	291	312	367	511	577
Halifax	266	299	337	423	473
Haywood	279	285	371	517	520
Hertford	251	256	341	427	479
Hyde	190	283	344	432	483
Jackson	271	277	368	539	705
Lee	228	351	416	539	583
Mcdowell	221	335	402	550	650
Martin	185	283	336	419	469
Montgomery	275	279	358	447	502
Northampton	158	257	289	402	405
Pasquotank	317	339	423	587	593
Perquimans	187	294	340	472	476
Polk	266	348	390	489	549
Robeson	236	324	365	462	511
Rutherford	278	287	360	450	504
Scotland	198	298	362	484	506
Surry	237	285	331	458	499
Transylvania	305	325	412	547	584
Vance	292	330	370	466	519
Washington	234	237	316	437	443
Wilkes	312	352	396	549	616
Yancey	199	323	362	494	581

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Anson	195	316	356	481	498
Avery	307	345	421	527	589
Bertie	185	248	289	362	412
Camden	258	351	468	585	657
Caswell	170	234	312	389	437
Chowan	188	302	341	473	478
Cleveland	208	323	380	511	538
Craven	227	343	414	542	580
Duplin	229	259	290	385	407
Graham	159	256	289	360	472
Greene	205	313	374	407	551
Harnett	273	277	369	498	547
Henderson	319	329	407	542	625
Hoke	193	292	351	454	492
Iredell	331	340	448	560	628
Jones	170	276	311	389	436
Lenoir	185	299	336	420	470
Macon	259	329	369	472	517
Mitchell	228	360	413	564	589
Moore	273	332	395	541	649
Pamlico	183	295	333	430	466
Pender	235	333	374	467	607
Person	226	314	413	539	631
Richmond	235	270	359	449	502
Rockingham	267	289	376	470	525
Sampson	247	250	330	413	461
Stanly	234	292	390	527	546
Swain	228	251	289	384	415
Tyrrell	168	229	305	383	428
Warren	170	233	310	388	434
Watauga	359	431	545	741	893
Wilson	288	292	389	488	548

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N O R T H D A K O T A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bismarck, ND MSA	281	315	419	584	689	Burleigh, Morton
Fargo-Moorhead, ND-MN MSA	275	380	458	636	681	Cass
Grand Forks, ND-MN MSA	285	340	446	616	687	Grand Forks

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	159	229	290	383	477
Benson	235	239	318	399	491
Bottineau	163	225	300	418	420
Burke	225	253	285	365	468
Dickey	225	244	285	379	400
Dunn	158	255	286	358	401
Emmons	155	249	280	389	458
Golden Valley	195	265	354	442	494
Griggs	158	257	288	360	468
Kidder	157	213	285	363	400
Logan	152	210	280	390	454
Mcintosh	160	229	292	364	409
Mclean	219	229	285	385	468
Mountrail	229	246	291	402	457
Oliver	157	222	285	357	466
Pierce	176	241	322	448	493
Ransom	210	234	313	391	439
Richland	217	256	341	427	504
Sargent	158	215	287	365	404
Sioux	155	250	280	351	393
Stark	168	230	306	426	502
Stutsman	248	252	339	472	555
Traill	217	276	324	412	458
Ward	207	284	379	512	610
Williams	183	224	290	404	478

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Barnes	191	260	346	452	494
Billings	225	253	285	396	400
Bowman	157	236	285	396	417
Cavalier	195	266	355	443	547
Divide	186	217	290	383	407
Eddy	158	256	287	400	415
Foster	186	252	337	422	472
Grant	154	230	280	392	406
Hettinger	162	213	285	372	461
Lamoure	225	253	285	357	400
Mchenry	157	213	285	396	446
Mckenzie	153	227	280	390	444
Mercer	167	234	305	425	502
Nelson	157	213	285	357	468
Pembina	180	252	329	441	525
Ramsey	212	284	379	475	620
Renville	239	241	314	438	517
Rolette	224	285	344	429	482
Sheridan	157	253	285	365	468
Slope	157	253	285	377	400
Steele	153	210	280	381	446
Towner	236	265	354	442	581
Walsh	275	294	365	457	511
Wells	220	223	294	368	483

O H I O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Akron, OH PMSA	320	390	500	625	701	Portage, Summit
Brown County, OH	261	285	372	496	522	Brown
Canton-Massillon, OH MSA	247	338	433	542	607	Carroll, Stark
Cincinnati, OH-KY-IN	282	363	485	650	702	Clermont, Hamilton, Warren
Cleveland-Lorain-Elyria, OH PMSA	321	405	501	637	718	Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina
Columbus, OH MSA	311	369	472	600	690	Delaware, Fairfield, Franklin, Licking, Madison, Pickaway

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

O H I O continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Dayton-Springfield, OH MSA	346	387	495	638	717	Clark, Greene, Miami, Montgomery
Hamilton-Middletown, OH PMSA	284	403	517	647	725	Butler
Huntington-Ashland, WV-KY-OH MSA	253	297	366	466	513	Lawrence
Lima, OH MSA	250	312	411	523	575	Allen, Auglaize
Mansfield, OH MSA	217	312	397	496	555	Crawford, Richland
Parkersburg-Marietta, WV-OH MSA	278	332	380	493	507	Washington
Steubenville-Weirton, OH-WV MSA	192	284	352	445	494	Jefferson
Toledo, OH MSA	326	396	484	624	677	Fulton, Lucas, Wood
Wheeling, WV-OH MSA	286	311	376	469	527	Belmont
Youngstown-Warren, OH MSA	273	322	402	507	576	Columbiana, Mahoning, Trumbull

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	178	259	322	403	451
Athens	306	347	409	535	658
Clinton	221	333	401	557	562
Darke	286	291	387	485	544
Erie	237	346	432	583	707
Gallia	186	252	337	422	472
Hancock	329	333	422	539	589
Harrison	171	241	312	430	491
Highland	256	259	345	445	483
Holmes	228	275	336	421	481
Jackson	180	269	329	434	459
Logan	304	308	399	537	558
Meigs	195	245	308	400	506
Monroe	171	234	313	397	439
Morrow	202	295	368	460	520
Noble	226	253	338	424	556
Paulding	245	251	319	422	524
Pike	184	297	334	439	467
Putnam	270	273	365	459	512
Sandusky	237	337	432	545	603
Seneca	261	279	358	495	501
Tuscarawas	221	306	403	504	564
Van Wert	205	311	374	468	525
Wayne	245	344	423	537	591
Wyandot	236	265	355	443	496

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ashland	229	304	406	506	567
Champaign	226	316	412	514	576
Coshocton	251	259	319	397	446
Defiance	272	305	407	512	569
Fayette	283	304	363	481	509
Guernsey	202	275	366	488	542
Hardin	178	289	324	428	454
Henry	281	310	388	500	569
Hocking	257	291	360	460	520
Huron	301	327	409	539	573
Knox	285	312	401	518	573
Marion	235	305	373	486	542
Mercer	202	276	368	491	564
Morgan	191	312	348	454	507
Muskingum	248	278	352	440	492
Ottawa	243	384	442	601	642
Perry	247	283	334	463	518
Preble	276	280	355	479	542
Ross	301	313	382	478	535
Scioto	190	282	341	427	478
Shelby	231	316	423	528	591
Union	260	360	474	593	687
Vinton	213	274	338	423	474
Williams	277	289	352	474	493

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

O K L A H O M A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Enid, OK MSA	270	274	364	507	578	Garfield
Fort Smith, AR-OK MSA	276	280	368	494	517	Sequoyah
Lawton, OK MSA	334	336	428	595	651	Comanche
Oklahoma City, OK MSA	287	313	406	565	632	Canadian, Cleveland, Logan, Mcclain, Oklahoma Pottawatomie
Tulsa, OK MSA	303	363	474	661	780	Creek, Osage, Rogers, Tulsa, Wagoner

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	212	215	286	398	413
Atoka	158	244	286	378	442
Beckham	234	242	322	404	453
Bryan	229	250	313	437	484
Carter	193	266	332	462	503
Choctaw	157	220	286	399	401
Coal	225	236	286	397	470
Craig	177	243	323	450	531
Delaware	218	232	311	433	512
Ellis	171	258	314	392	440
Grady	252	257	341	464	560
Greer	179	259	301	376	460
Harper	158	256	286	378	401
Hughes	212	215	286	359	401
Jefferson	166	214	286	357	460
Kay	255	270	355	495	579
Kiowa	158	215	286	378	401
Le Flore	211	227	303	422	425
Love	183	249	333	418	467
Mcintosh	166	228	304	380	462
Marshall	177	243	324	410	456
Murray	158	215	286	359	401
Noble	224	228	304	423	426
Okfuskee	212	215	286	359	401
Ottawa	248	260	322	435	484
Payne	266	314	401	555	622
Pontotoc	179	253	316	397	474
Roger Mills	157	214	286	398	401
Stephens	234	261	318	430	523
Tillman	226	255	286	398	470
Washita	227	234	286	398	470
Woodward	167	264	306	426	429

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alfalfa	158	215	286	359	413
Beaver	165	268	302	420	495
Blaine	158	215	286	398	470
Caddo	161	228	293	373	412
Cherokee	242	273	310	402	510
Cimarron	156	255	286	381	471
Cotton	220	223	297	415	456
Custer	222	251	337	469	542
Dewey	156	253	286	396	400
Garvin	168	230	308	402	507
Grant	158	256	286	398	470
Harmon	164	224	299	374	420
Haskell	227	229	286	392	470
Jackson	199	298	364	478	539
Johnston	157	254	286	397	469
Kingfisher	186	272	336	441	472
Latimer	163	223	297	395	488
Lincoln	247	257	312	429	480
Mccurtain	227	231	286	398	470
Major	180	277	329	458	460
Mayes	196	268	357	450	501
Muskogee	249	281	328	456	460
Nowata	166	228	304	380	465
Okmulgee	234	237	315	395	443
Pawnee	259	263	341	439	478
Pittsburg	210	227	303	422	498
Pushmataha	208	229	306	383	429
Seminole	212	221	286	398	436
Texas	194	274	316	439	442
Washington	212	316	385	510	597
Woods	218	221	295	395	415

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

O R E G O N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Eugene-Springfield, OR MSA	304	417	545	760	879	Lane
Medford-Ashland, OR MSA	313	411	548	762	850	Jackson
Portland-Vancouver, OR-WA PMSA	370	455	561	781	848	Clackamas, Columbia, Multnomah, Washington, Yamhill
Salem, OR PMSA	341	401	514	708	743	Marion, Polk

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Baker	260	293	390	542	545
Clatsop	260	339	444	599	679
Crook	218	297	396	495	555
Deschutes	353	407	544	757	877
Gilliam	231	361	419	525	587
Harney	181	294	330	454	505
Jefferson	233	320	427	571	640
Klamath	279	327	436	601	716
Lincoln	347	352	470	654	710
Malheur	260	319	390	501	565
Sherman	182	297	332	462	465
Umatilla	256	265	350	486	514
Wallowa	211	323	360	500	543
Wheeler	176	243	323	405	454

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Benton	302	391	496	747	793
Coos	269	349	463	646	651
Curry	284	389	517	661	813
Douglas	274	311	401	552	721
Grant	219	300	400	500	632
Hood River	315	354	483	627	740
Josephine	246	347	447	602	705
Lake	230	313	352	471	577
Linn	253	321	421	574	625
Morrow	218	285	356	492	524
Tillamook	221	327	406	549	597
Union	283	293	383	531	628
Wasco	348	431	484	658	738

P E N N S Y L V A N I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Allentown-Bethlehem-Easton, PA MSA	378	512	610	794	892	Carbon, Lehigh, Northampton
Altoona, PA MSA	263	325	371	464	538	Blair
Erie, PA MSA	245	340	401	502	562	Erie
Harrisburg-Lebanon-Carlisle, PA MSA	320	409	525	662	736	Cumberland, Dauphin, Lebanon, Perry
Johnstown, PA MSA	232	291	342	427	478	Cambria, Somerset
Lancaster, PA MSA	343	422	526	686	738	Lancaster
Newburgh, NY-PA PMSA	493	642	784	995	1136	Pike
Philadelphia, PA-NJ PMSA	440	542	669	837	1049	Bucks, Chester, Delaware, Montgomery, Philadelphia
Pittsburgh, PA PMSA	307	377	455	569	636	Allegheny, Beaver, Butler, Fayette, Washington Westmoreland
Reading, PA MSA	272	401	495	620	699	Berks
Scranton--Wilkes-Barre--Hazleton, PA MSA	248	366	437	546	660	Columbia, Lackawanna, Luzerne, Wyoming
Sharon, PA MSA	286	312	362	454	529	Mercer
State College, PA MSA	376	460	569	746	798	Centre
Williamsport, PA MSA	221	334	401	502	562	Lycoming
York, PA MSA	291	399	495	619	692	York

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

P E N N S Y L V A N I A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	256	351	467	604	766
Bedford	174	279	318	413	459
Cameron	235	274	322	403	452
Clearfield	217	298	344	438	490
Crawford	246	295	354	481	495
Forest	199	259	338	423	473
Fulton	222	304	358	447	501
Huntingdon	180	275	328	409	460
Jefferson	188	290	331	427	478
Lawrence	207	315	378	500	529
Mifflin	290	309	364	465	510
Montour	309	318	417	581	686
Potter	210	264	339	423	512
Snyder	315	331	400	517	521
Susquehanna	313	325	396	497	616
Union	316	418	523	655	731
Warren	240	302	368	461	516

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Armstrong	266	350	398	504	654
Bradford	227	324	406	529	570
Clarion	262	312	354	442	503
Clinton	191	280	334	465	468
Elk	218	317	389	486	544
Franklin	226	328	404	555	566
Greene	201	256	289	401	450
Indiana	300	334	380	476	532
Juniata	196	280	338	422	472
Mc Kean	240	334	367	460	514
Monroe	417	498	615	841	940
Northumberland	276	349	426	567	630
Schuylkill	227	326	413	516	578
Sullivan	198	271	362	455	508
Tioga	213	332	382	505	533
Venango	242	324	371	464	520
Wayne	263	406	478	608	781

R H O D E I S L A N D

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
New London-Norwich, CT-RI MSA	473	571	695	871	995	Washington county towns of Hopkinton town, Westerly towr
Providence-Fall River-Warwick, RI-MA PMSA	390	530	638	800	985	Bristol county towns of Barrington town, Bristol town Warren town Kent county towns of Coventry town, East Greenwich tow Warwick city, West Greenwich tow, West Warwick town Newport county towns of Jamestown town Little Compton tow, Tiverton town Providence county towns of Burrillville town Central Falls city, Cranston city, Cumberland town East Providence ci, Foster town, Glocester town Johnston town, Lincoln town, North Providence t North Smithfield t, Pawtucket city, Providence city Scituate town, Smithfield town, Woonsocket city Washington county towns of Charlestown town, Exeter towr Narragansett town, North Kingstown to, Richmond town South Kingstown to

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

R H O D E I S L A N D continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Newport	521	607	779	974	1090	Middletown town, Newport city, Portsmouth town
Washington	616	692	778	1004	1106	New Shoreham town

S O U T H C A R O L I N A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Augusta-Aiken, GA-SC MSA	320	383	451	614	726	Aiken, Edgefield
Charleston-North Charleston, SC MSA	360	417	479	637	743	Berkeley, Charleston, Dorchester
Charlotte-Gastonia-Rock Hill, NC-SC MSA	390	440	495	653	781	York
Columbia, SC MSA	386	425	489	646	743	Lexington, Richland
Florence, SC MSA	292	325	422	528	591	Florence
Greenville-Spartanburg-Anderson, SC MSA	318	384	435	547	643	Anderson, Cherokee, Greenville, Pickens, Spartanburg
Myrtle Beach, SC MSA	379	385	493	617	691	Horry
Sumter, SC MSA	308	342	389	533	631	Sumter

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Abbeville	183	249	332	442	545
Bamberg	183	249	332	415	465
Beaufort	386	474	546	681	763
Chester	183	248	333	416	473
Clarendon	204	312	371	464	520
Darlington	197	269	358	447	502
Fairfield	226	363	413	515	577
Greenwood	271	275	366	459	513
Jasper	246	249	334	418	549
Lancaster	284	316	361	472	542
Lee	245	248	333	416	547
Marion	246	249	332	462	546
Newberry	183	295	333	416	466
Orangeburg	217	289	333	416	519
Union	182	291	332	438	464

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allendale	182	296	332	416	466
Barnwell	285	288	385	482	538
Calhoun	211	248	332	460	463
Chesterfield	183	264	333	438	547
Colleton	188	303	341	426	477
Dillon	262	296	332	435	466
Georgetown	212	343	386	483	586
Hampton	183	295	333	426	486
Kershaw	200	273	365	456	511
Laurens	191	288	346	472	486
Mccormick	200	274	365	457	600
Marlboro	246	287	339	423	474
Oconee	263	305	343	467	481
Saluda	183	250	332	417	473
Williamsburg	245	298	351	438	491

S O U T H D A K O T A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Rapid City, SD MSA	290	345	460	626	756	Pennington
Sioux Falls, SD MSA	281	388	492	623	715	Lincoln, Minnehaha

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

S O U T H D A K O T A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aurora	189	306	346	480	519
Bennett	206	298	350	487	529
Brookings	246	389	431	582	687
Brule	188	285	346	462	567
Butte	263	360	479	625	738
Charles Mix	200	301	346	432	483
Clay	209	285	381	480	626
Corson	191	259	346	445	484
Davison	240	286	381	511	553
Deuel	188	256	346	433	482
Douglas	255	259	346	474	483
Fall River	260	263	350	441	575
Grant	193	263	350	480	489
Haakon	193	311	350	487	575
Hand	197	260	346	456	489
Harding	193	311	350	438	489
Hutchinson	197	280	346	439	567
Jackson	189	308	346	450	502
Jones	190	257	346	465	484
Lake	228	308	346	482	533
Lyman	188	257	346	431	484
Mcpherson	216	259	346	482	486
Meade	322	363	484	634	749
Miner	189	308	346	462	550
Perkins	191	260	346	482	569
Roberts	191	291	346	433	484
Shannon	191	308	346	482	485
Stanley	193	311	350	487	508
Todd	254	261	346	435	486
Turner	190	278	346	454	486
Walworth	227	311	350	484	575
Ziebach	193	263	350	438	575

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Beadle	223	293	350	480	575
Bon Homme	255	259	346	482	568
Brown	206	281	374	493	569
Buffalo	198	270	361	450	590
Campbell	188	256	346	445	527
Clark	190	260	346	434	487
Codington	194	265	352	484	493
Custer	194	265	353	491	580
Day	256	260	346	483	541
Dewey	195	298	355	443	505
Edmunds	193	263	350	487	489
Faulk	219	301	402	503	563
Gregory	231	263	346	433	486
Hamlin	190	259	346	432	489
Hanson	233	318	425	533	597
Hughes	253	301	402	530	626
Hyde	190	309	346	458	559
Jerauld	189	306	346	477	565
Kingsbury	251	290	346	433	531
Lawrence	261	378	476	652	737
Mccook	188	270	346	482	567
Marshall	270	290	346	442	491
Mellette	273	308	346	455	484
Moody	212	287	346	461	569
Potter	191	302	346	467	486
Sanborn	193	280	350	438	489
Spink	250	291	388	485	542
Sully	190	293	346	447	486
Tripp	190	258	346	444	486
Union	241	257	346	433	483
Yankton	193	301	350	477	575

T E N N E S S E E

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Chattanooga, TN-GA MSA	308	361	433	559	637	Hamilton, Marion
Clarksville-Hopkinsville, TN-KY MSA	303	340	398	543	558	Montgomery
Jackson, TN MSA	235	309	414	574	578	Madison

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

T E N N E S S E E continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Johnson City-Kingsport-Bristol, TN-VA MSA.....	240	278	354	460	523	Carter, Hawkins, Sullivan, Unicoi, Washington
Knoxville, TN MSA.....	272	336	420	561	674	Anderson, Blount, Knox, Loudon, Sevier, Union
Memphis, TN-AR-MS MSA.....	311	362	426	592	622	Fayette, Shelby, Tipton
Nashville, TN MSA.....	346	412	509	694	780	Cheatham, Davidson, Dickson, Robertson, Rutherford Sumner, Williamson, Wilson

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bedford.....	194	289	352	444	493	Benton.....	241	275	308	416	453
Bledsoe.....	158	217	289	363	407	Bradley.....	206	283	377	511	620
Campbell.....	226	229	291	405	408	Cannon.....	160	220	292	366	411
Carroll.....	168	272	306	383	429	Chester.....	162	246	294	368	476
Claiborne.....	170	250	289	403	476	Clay.....	228	250	289	363	476
Cocke.....	168	232	289	388	476	Coffee.....	193	312	351	488	556
Crockett.....	158	242	289	363	432	Cumberland.....	237	258	343	479	482
Decatur.....	204	220	292	366	481	Dekalb.....	175	239	319	400	481
Dyer.....	280	284	378	473	589	Fentress.....	211	227	302	397	401
Franklin.....	235	256	328	456	536	Gibson.....	174	255	317	397	445
Giles.....	194	286	353	442	494	Grainger.....	228	258	289	371	476
Greene.....	179	258	327	409	457	Grundy.....	156	252	284	395	436
Hamblen.....	203	263	345	460	485	Hancock.....	158	233	284	397	469
Hardeman.....	178	247	312	411	437	Hardin.....	158	258	289	389	423
Haywood.....	236	273	365	456	511	Henderson.....	164	233	298	374	419
Henry.....	176	234	295	411	479	Hickman.....	264	268	356	469	498
Houston.....	215	217	289	371	407	Humphreys.....	209	273	321	403	451
Jackson.....	158	217	289	363	407	Jefferson.....	244	255	340	424	541
Johnson.....	156	212	284	384	419	Lake.....	220	248	290	403	414
Lauderdale.....	183	249	334	421	467	Lawrence.....	216	219	292	365	410
Lewis.....	156	255	286	397	401	Lincoln.....	184	250	335	419	469
Mcminn.....	201	245	316	438	441	Mcnairy.....	187	216	284	395	430
Macon.....	166	246	301	377	422	Marshall.....	263	288	375	473	525
Maury.....	321	328	436	547	610	Meigs.....	160	220	292	408	481
Monroe.....	158	217	289	389	407	Moore.....	223	226	302	421	424
Morgan.....	164	257	298	374	419	Obion.....	259	263	337	446	470
Overton.....	158	234	289	363	476	Perry.....	162	264	295	407	486
Pickett.....	156	253	284	355	398	Polk.....	178	243	325	408	456
Putnam.....	272	275	353	485	523	Rhea.....	174	280	317	441	447
Roane.....	241	245	328	445	536	Scott.....	158	217	289	363	407
Sequatchie.....	158	258	289	371	407	Smith.....	170	239	311	389	436
Stewart.....	215	253	289	379	476	Trousdale.....	201	275	366	459	601
Van Buren.....	156	212	284	390	397	Warren.....	249	252	339	423	474

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

T E N N E S S E E continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Wayne	157	257	288	377	404
White	228	261	292	392	476
Weakley	242	250	311	426	455

T E X A S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Abilene, TX MSA	268	289	385	519	631	Taylor
Amarillo, TX MSA	255	325	405	565	666	Potter, Randall
Austin-San Marcos, TX MSA	387	467	623	865	1022	Bastrop, Caldwell, Hays, Travis, Williamson
Beaumont-Port Arthur, TX MSA	294	355	433	573	608	Hardin, Jefferson, Orange
Brazoria, TX PMSA	409	456	570	794	935	Brazoria
Brownsville-Harlingen-San Benito, TX MSA	309	389	486	609	758	Cameron
Bryan-College Station, TX MSA	344	400	506	705	830	Brazos
Corpus Christi, TX MSA	321	395	505	686	811	Nueces, San Patricio
Dallas, TX	383	440	565	782	924	Collin, Dallas, Denton, Ellis, Hunt, Kaufman, Rockwall
El Paso, TX MSA	363	406	481	667	789	El Paso
Fort Worth-Arlington, TX PMSA	366	398	518	720	850	Hood, Johnson, Parker, Tarrant
Galveston-Texas City, TX PMSA	402	413	518	720	849	Galveston
Henderson County, TX	267	317	387	529	635	Henderson
Houston, TX PMSA	380	426	553	768	906	Chambers, Fort Bend, Harris, Liberty, Montgomery, Waller
Killeen-Temple, TX MSA	362	376	476	663	728	Bell, Coryell
Laredo, TX MSA	293	337	443	554	622	Webb
Longview-Marshall, TX MSA	290	327	402	547	598	Gregg, Harrison, Upshur
Lubbock, TX MSA	277	351	457	635	704	Lubbock
Mc Allen-Edinburg-Mission, TX MSA	247	352	403	504	565	Hidalgo
Odessa-Midland, TX MSA	277	320	428	596	690	Ector, Midland
San Angelo, TX MSA	228	329	400	548	647	Tom Green
San Antonio, TX MSA	339	391	507	705	832	Bexar, Comal, Guadalupe, Wilson
Sherman-Denison, TX MSA	250	352	425	543	650	Grayson
Texarkana, TX-Texarkana, AR MSA	280	343	418	552	585	Bowie
Tyler, TX MSA	322	356	435	604	638	Smith
Victoria, TX MSA	318	322	407	566	638	Victoria
Waco, TX MSA	280	344	453	603	634	Mclennan
Wichita Falls, TX MSA	309	346	416	555	654	Archer, Wichita

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Anderson	307	346	389	540	546
Angelina	280	324	365	507	598
Armstrong	213	291	387	485	541
Austin	204	264	352	489	546
Bandera	275	295	349	485	488
Bee	199	261	343	477	531
Borden	166	271	304	423	426
Brewster	249	264	352	482	577
Brooks	206	271	304	424	427
Burleson	206	289	375	507	617
Calhoun	274	292	356	494	584
Camp	346	351	438	549	613
Cass	223	283	318	422	497
Cherokee	286	296	363	475	508
Clay	187	301	339	472	557
Coke	168	230	307	385	505
Collingsworth	167	228	305	381	455
Comanche	223	227	304	405	444
Cooke	278	282	376	510	565
Crane	200	264	352	439	492
Crosby	240	271	304	413	499
Dallam	187	253	339	444	475
Deaf Smith	225	276	338	468	555
Dewitt	232	243	307	385	430
Dimmit	215	262	304	424	426
Duval	242	257	306	426	462
Edwards	170	270	312	389	437
Falls	209	230	308	386	432
Fayette	243	246	330	416	540
Floyd	229	232	311	388	461
Franklin	196	266	356	494	497
Frio	225	229	306	426	493
Garza	166	253	304	381	426
Glasscock	166	271	304	380	426
Gonzales	219	227	304	385	486
Grimes	195	265	353	482	568
Hall	167	226	304	422	498
Hansford	256	273	341	475	560
Hartley	168	230	307	428	430
Hemphill	203	329	369	514	518

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Andrews	219	292	327	455	536
Aransas	230	315	420	584	588
Atascosa	174	240	318	444	524
Bailey	166	271	304	423	426
Baylor	166	258	304	380	426
Blanco	208	283	378	526	554
Bosque	194	284	352	464	528
Briscoe	187	253	339	448	475
Brown	240	292	358	480	587
Burnet	200	273	364	506	592
Callahan	231	236	309	427	433
Carson	192	290	349	436	488
Castro	257	280	325	442	535
Childress	240	271	304	380	498
Cochran	237	270	304	424	501
Coleman	178	227	304	421	497
Colorado	200	227	304	423	499
Concho	170	233	313	435	438
Cottle	167	229	304	423	500
Crockett	240	252	304	423	426
Culberson	169	271	304	400	426
Dawson	166	271	304	423	499
Delta	190	306	345	430	483
Dickens	182	229	304	402	500
Donley	180	248	331	461	463
Eastland	240	271	304	380	499
Erath	265	300	389	503	546
Fannin	259	268	345	480	546
Fisher	239	270	304	423	426
Foard	167	259	304	379	426
Freestone	204	240	318	444	477
Gaines	261	267	333	447	466
Gillespie	250	322	418	574	586
Goliad	173	264	316	407	521
Gray	281	286	380	477	564
Hale	231	264	348	473	487
Hamilton	240	271	304	423	496
Hardeman	166	227	304	423	499
Haskell	166	260	304	422	425
Hill	233	258	344	458	482

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hockley	261	305	348	483	531
Houston	176	258	322	449	452
Hudspeth	308	348	389	488	640
Irion	204	293	330	414	462
Jackson	243	296	334	445	526
Jeff Davis	193	288	351	438	490
Jim Wells	185	273	337	467	553
Karnes	198	252	304	423	498
Kenedy	166	271	304	380	426
Kerr	243	331	414	576	679
King	184	250	334	418	467
Kleberg	311	322	393	549	646
Lamar	251	318	374	522	617
Lampasas	192	275	349	485	572
Lavaca	166	228	304	417	460
Leon	202	328	368	466	605
Lipscomb	174	239	317	441	445
Llano	241	329	438	550	721
Lynn	166	248	304	420	499
Mcmullen	166	271	304	380	426
Marion	190	275	344	454	565
Mason	166	227	304	379	498
Maverick	239	256	341	426	478
Menard	223	227	304	423	426
Mills	170	276	310	388	480
Montague	223	227	304	423	499
Morris	180	292	328	410	458
Nacogdoches	270	325	423	528	623
Newton	175	241	320	413	527
Ochiltree	169	275	309	430	508
Palo Pinto	193	268	350	464	567
Parmer	179	264	329	431	461
Polk	286	312	363	489	594
Rains	219	331	400	556	560
Real	167	248	304	422	425
Reeves	166	271	304	411	426
Roberts	184	298	334	418	467
Runnels	240	248	304	423	484
Sabine	225	228	305	381	494
San Jacinto	268	302	341	462	558

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hopkins	298	321	378	526	565
Howard	273	277	346	482	486
Hutchinson	228	292	369	514	607
Jack	167	227	304	425	501
Jasper	250	288	364	485	596
Jim Hogg	166	227	304	411	499
Jones	167	228	305	385	428
Kendall	230	374	420	584	690
Kent	167	270	304	423	479
Kimble	214	292	389	487	546
Kinney	166	227	304	423	496
Knox	166	249	304	406	426
Lamb	240	258	304	408	462
La Salle	168	247	304	424	500
Lee	290	325	366	511	573
Limestone	243	290	324	452	455
Live Oak	166	271	304	423	496
Loving	166	227	304	380	426
Mcculloch	263	267	354	443	497
Madison	188	304	342	476	562
Martin	166	271	304	423	426
Matagorda	295	323	400	556	560
Medina	232	276	324	436	532
Milam	180	292	329	450	531
Mitchell	166	271	304	423	499
Moore	219	300	338	468	555
Motley	166	271	304	413	499
Navarro	306	322	388	492	542
Nolan	263	267	355	451	529
Oldham	213	291	387	485	566
Panola	229	301	339	457	512
Pecos	197	261	346	482	568
Presidio	239	271	304	382	425
Reagan	325	331	440	553	724
Red River	203	329	369	461	517
Refugio	236	267	314	417	515
Robertson	227	338	379	474	530
Rusk	267	269	338	468	513
San Augustine	177	243	324	407	455
San Saba	167	258	304	424	502

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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T E X A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Schleicher	166	269	304	423	426
Shackelford	166	227	304	423	499
Sherman	242	273	306	426	429
Starr	231	272	304	380	426
Sterling	169	231	309	406	433
Sutton	168	274	307	428	430
Terrell	166	271	304	400	499
Throckmorton	227	270	304	423	425
Trinity	266	300	337	467	541
Upton	223	227	304	380	499
Val Verde	243	339	399	499	589
Walker	345	367	449	597	629
Washington	318	324	432	540	710
Wheeler	240	271	304	423	435
Willacy	167	249	304	423	429
Wise	197	298	359	500	521
Yoakum	227	336	414	517	679
Zapata	166	252	304	380	499

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Scurry	204	278	370	516	609
Shelby	241	271	304	379	425
Somervell	292	329	369	507	518
Stephens	173	246	316	440	521
Stonewall	166	230	304	423	499
Swisher	166	271	304	423	499
Terry	174	282	317	441	485
Titus	272	337	383	529	536
Tyler	209	286	381	478	627
Uvalde	177	274	308	429	432
Van Zandt	274	278	370	505	609
Ward	240	271	304	423	499
Wharton	243	292	353	477	493
Wilbarger	253	257	343	477	563
Winkler	223	227	304	395	498
Wood	237	277	369	514	607
Young	249	252	337	467	553
Zavala	220	240	315	371	457

U T A H

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Provo-Orem, UT MSA	352	372	460	639	754	Utah
Salt Lake City-Ogden, UT MSA	306	355	450	626	734	Davis, Salt Lake, Weber

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Beaver	180	246	331	414	542
Cache	261	293	371	515	596
Daggett	292	399	531	665	746
Emery	257	294	331	446	528
Grand	212	290	355	443	574
Juab	245	248	330	460	544
Millard	244	247	330	413	542
Piute	181	294	330	413	541
San Juan	262	294	331	414	542
Sevier	272	275	353	441	493
Tooele	243	342	388	504	626
Wasatch	211	342	384	534	631
Wayne	205	281	374	468	524

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Box Elder	297	324	388	539	605
Carbon	288	294	364	507	597
Duchesne	181	278	330	457	541
Garfield	240	262	349	437	490
Iron	268	365	455	569	669
Kane	211	287	384	481	538
Morgan	210	286	381	530	626
Rich	180	246	331	424	461
Sanpete	180	287	331	432	498
Summit	397	490	612	825	1004
Uintah	213	299	389	539	638
Washington	331	407	541	722	885

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

V E R M O N T

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Burlington, VT MSA	387	475	633	863	1040	Chittenden county towns of Burlington city Charlotte town, Colchester town, Essex town Hinesburg town, Jericho town, Milton town, Richmond town St. George town, Shelburne town, South Burlington c Williston town, Winooski city Franklin county towns of Fairfax town, Georgia town St. Albans city, St. Albans town, Swanton town Grand Isle county towns of Grand Isle town South Hero town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Addison	365	443	515	717	804	
Bennington	341	428	551	701	816	
Caledonia	309	368	413	528	580	
Chittenden	316	512	576	800	943	Bolton town, Buels gore, Huntington town, Underhill town Westford town
Essex	301	344	409	512	574	
Franklin	325	366	411	573	658	Bakersfield town, Berkshire town, Enosburg town Fairfield town, Fletcher town, Franklin town Highgate town, Montgomery town, Richford town Sheldon town
Grand Isle	232	349	422	527	603	Alburg town, Isle La Motte town, North Hero town
Lamoille	302	419	500	687	787	
Orange	267	397	488	645	723	
Orleans	205	298	372	465	603	
Rutland	340	443	540	677	757	
Washington	325	406	544	680	762	
Windham	364	423	561	712	784	
Windsor	391	442	552	708	841	

V I R G I N I A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Charlottesville, VA MSA	375	443	567	754	846	Albemarle, Fluvanna, Greene, Charlottesville city
Clarke County, VA	285	400	519	712	727	Clarke
Culpeper County, VA	350	511	595	785	940	Culpeper
Danville, VA MSA	253	308	357	446	501	Pittsylvania, Danville city
Johnson City-Kingsport-Bristol, TN-VA MSA	240	278	354	460	523	Scott, Washington, Bristol city
King George County, VA	345	457	514	715	720	King George
Lynchburg, VA MSA	316	347	400	510	592	Amherst, Bedford, Campbell, Bedford city, Lynchburg city
Norfolk-Virginia Beach-Newport News, VA-NC MSA	395	443	526	733	860	Gloucester, Isle of Wight, James City, Mathews, York Chesapeake city, Hampton city, Newport News city Norfolk city, Poquoson city, Portsmouth city

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

V I R G I N I A continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Richmond-Petersburg, VA MSA	397	449	522	726	857	Suffolk city, Virginia Beach city, Williamsburg city Charles City, Chesterfield, Dinwiddie, Goochland, Hanover Henrico, New Kent, Powhatan, Prince George Colonial Heights city, Hopewell city, Petersburg city Richmond city
Roanoke, VA MSA	268	329	433	556	693	Botetourt, Roanoke, Roanoke city, Salem city
Warren County, VA	278	380	507	665	831	Warren
Washington, DC-MD-VA	625	710	834	1135	1368	Arlington, Fairfax, Loudoun, Prince William, Spotsylvania Stafford, Alexandria city, Fairfax city Falls Church city, Fauquier, Fredericksburg city Manassas city, Manassas Park city

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Accomack	315	339	398	498	558
Amelia	177	289	324	452	509
Augusta	237	343	416	549	668
Bland	170	276	310	388	434
Buchanan	198	276	310	391	435
Caroline	375	380	508	675	711
Charlotte	245	276	310	430	510
Cumberland	232	363	421	527	591
Essex	242	373	441	612	723
Franklin	257	269	325	407	456
Giles	210	252	328	411	461
Greensville	211	343	385	502	632
Henry	255	304	372	465	554
King and Queen	235	380	428	535	616
Lancaster	331	372	419	559	681
Louisa	234	345	425	591	597
Madison	267	396	445	557	730
Middlesex	259	336	376	523	527
Nelson	204	330	371	465	612
Northumberland	189	306	344	478	482
Orange	294	401	535	744	873
Patrick	242	244	310	389	434
Pulaski	192	275	348	470	488
Richmond	217	353	397	505	652
Rockingham	255	367	465	637	746
Shenandoah	349	358	442	611	694
Southampton	183	296	367	474	533
Sussex	192	279	349	438	573

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alleghany	276	311	350	476	491
Appomattox	255	258	326	428	457
Bath	204	330	371	480	521
Brunswick	204	276	311	433	437
Buckingham	253	279	320	401	450
Carroll	233	258	311	408	437
Craig	170	233	310	432	509
Dickenson	170	276	310	432	509
Floyd	227	231	310	430	481
Frederick	359	414	499	684	819
Grayson	169	276	310	404	507
Halifax	183	267	310	421	435
Highland	170	276	310	410	435
King William	223	363	408	510	629
Lee	233	235	310	389	509
Lunenburg	170	276	310	388	477
Mecklenburg	206	263	345	432	514
Montgomery	273	358	420	585	691
Northampton	191	261	347	445	487
Nottoway	265	268	348	436	488
Page	308	347	391	489	562
Prince Edward	297	336	376	523	527
Rappahannock	269	436	489	680	802
Rockbridge	206	298	377	525	528
Russell	172	236	316	440	517
Smyth	243	245	310	430	506
Surry	275	310	348	436	488
Tazewell	246	277	313	435	513

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

V I R G I N I A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Westmoreland	263	358	477	598	775
Wythe	277	289	351	441	493
Wise	245	275	367	461	588

W A S H I N G T O N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bellingham, WA MSA	360	467	622	859	1020	Whatcom
Bremerton, WA PMSA	373	429	557	752	914	Kitsap
Olympia, WA PMSA	383	470	587	809	953	Thurston
Portland-Vancouver, OR-WA PMSA	370	455	561	781	848	Clark
Richland-Kennewick-Pasco, WA MSA	449	515	616	858	1007	Benton, Franklin
Seattle-Bellevue-Everett, WA PMSA	429	522	661	919	1085	Island, King, Snohomish
Spokane, WA MSA	303	417	504	685	766	Spokane
Tacoma, WA PMSA	347	413	550	766	864	Pierce
Yakima, WA MSA	326	400	495	664	694	Yakima

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	252	271	335	436	486
Chelan	225	315	408	532	572
Columbia	175	285	321	445	448
Douglas	339	358	436	558	643
Garfield	175	240	321	400	448
Grays Harbor	296	342	455	615	709
Kittitas	207	282	374	514	609
Lewis	259	307	404	532	589
Mason	330	409	502	660	709
Pacific	231	284	379	507	529
San Juan	358	489	652	859	1023
Skamania	265	314	353	466	551
Wahkiakum	209	291	354	443	538
Whitman	312	355	474	658	778
Asotin	212	272	359	491	568
Clallam	338	418	532	684	748
Cowlitz	326	364	469	651	659
Ferry	215	332	391	488	546
Grant	311	345	403	548	660
Jefferson	253	375	460	625	644
Klickitat	236	297	383	478	535
Lincoln	182	240	321	430	510
Okanogan	245	336	414	548	580
Pend Oreille	242	338	439	579	794
Skagit	395	484	569	711	796
Stevens	230	317	421	549	592
Walla Walla	269	326	434	604	714

W E S T V I R G I N I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Berkeley County, WV	342	364	434	542	607	Berkeley
Charleston, WV MSA	221	318	402	553	605	Kanawha, Putnam
Cumberland, MD-WV MSA	222	280	365	482	528	Mineral
Huntington-Ashland, WV-KY-OH MSA	253	297	366	466	513	Cabell, Wayne
Jefferson County, WV	346	382	473	614	696	Jefferson

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W E S T V I R G I N I A continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Parkersburg-Marietta, WV-OH MSA	278	332	380	493	507	Wood
Steubenville-Weirton, OH-WV MSA	192	284	352	445	494	Brooke, Hancock
Wheeling, WV-OH MSA	286	311	376	469	527	Marshall, Ohio

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Barbour	180	299	329	411	461
Braxton	153	238	279	380	459
Clay	226	257	289	361	428
Fayette	157	253	286	397	429
Grant	170	246	309	387	433
Hampshire	184	251	336	443	470
Harrison	259	318	367	458	550
Lewis	180	315	328	411	460
Logan	240	265	311	433	512
Marion	219	297	366	470	541
Mercer	191	245	323	404	498
Monongalia	296	327	400	550	651
Morgan	290	326	367	460	514
Pendleton	158	223	289	371	403
Pocahontas	162	275	296	369	415
Raleigh	243	273	307	420	504
Ritchie	221	248	279	353	392
Summers	205	210	279	390	459
Tucker	153	210	279	390	422
Upshur	233	279	336	420	469
Wetzel	267	269	360	450	569
Wyoming	205	223	299	373	418

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Boone	210	238	310	389	435
Calhoun	153	210	279	350	392
Doddridge	243	260	308	386	431
Gilmer	259	272	327	410	460
Greenbrier	224	324	346	432	484
Hardy	170	253	309	387	433
Jackson	181	294	328	457	470
Lincoln	195	210	279	390	400
Mcdowell	162	210	279	351	392
Mason	174	265	319	399	514
Mingo	169	234	308	418	506
Monroe	160	267	299	373	443
Nicholas	203	243	323	404	453
Pleasants	242	251	327	409	513
Preston	232	302	326	408	457
Randolph	187	281	334	430	471
Roane	205	210	279	390	392
Taylor	288	311	339	422	473
Tyler	193	264	351	441	493
Webster	196	235	279	349	392
Wirt	163	222	298	414	417

W I S C O N S I N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Appleton-Oshkosh-Neenah, WI MSA	290	358	454	573	660	Calumet, Outagamie, Winnebago
Duluth-Superior, MN-WI MSA	244	328	421	561	654	Douglas
Eau Claire, WI MSA	313	340	447	574	647	Chippewa, Eau Claire
Green Bay, WI MSA	318	350	449	624	628	Brown
Janesville-Beloit, WI MSA	320	403	500	626	701	Rock
Kenosha, WI PMSA	332	412	507	696	782	Kenosha
La Crosse, WI-MN MSA	241	332	423	565	685	La Crosse
Madison, WI MSA	397	500	603	838	989	Dane

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

W I S C O N S I N continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Milwaukee-Waukesha, WI PMSA	334	437	549	687	767	Milwaukee, Ozaukee, Washington, Waukesha
Minneapolis-St. Paul, MN-WI MSA	364	467	596	808	914	Pierce, St. Croix
Racine, WI PMSA	297	368	486	627	686	Racine
Sheboygan, WI MSA	278	357	436	545	675	Sheboygan
Wausau, WI MSA	339	352	440	599	665	Marathon

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	186	280	337	468	547
Barron	198	270	360	457	515
Buffalo	202	253	338	424	475
Clark	164	235	298	403	460
Crawford	203	251	323	408	453
Door	229	318	396	508	617
Florence	235	257	342	476	479
Forest	171	236	312	391	438
Green	262	295	369	514	517
Iowa	267	282	371	502	521
Jackson	202	252	317	412	444
Juneau	263	273	334	444	467
Lafayette	262	265	355	447	496
Lincoln	237	253	339	472	540
Marinette	202	252	337	452	472
Menominee	225	228	304	380	426
Oconto	171	257	312	423	468
Pepin	169	232	310	426	508
Portage	312	330	428	535	663
Richland	241	275	332	448	464
Sauk	301	310	415	517	580
Shawano	262	270	360	451	504
Trempealeau	207	256	328	413	511
Vilas	239	287	363	456	525
Washburn	253	258	344	436	482
Waushara	205	286	337	425	472

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ashland	281	310	365	457	512
Bayfield	180	261	330	420	460
Burnett	248	295	356	445	497
Columbia	240	305	402	527	590
Dodge	325	330	434	544	608
Dunn	257	296	393	525	648
Fond du Lac	260	352	418	566	585
Grant	261	263	343	429	480
Green Lake	222	285	353	452	507
Iron	166	232	298	406	491
Jefferson	257	341	443	572	625
Kewaunee	174	237	318	396	445
Langlade	243	247	330	452	489
Manitowoc	260	282	329	418	503
Marquette	180	275	329	457	520
Monroe	257	294	371	509	521
Oneida	210	301	381	492	588
Polk	236	293	389	487	545
Price	184	262	333	420	540
Rusk	174	239	317	428	444
Sawyer	253	285	344	430	482
Taylor	229	268	328	429	458
Vernon	190	235	306	426	429
Walworth	269	377	491	639	716
Waupaca	205	281	374	488	578
Wood	280	319	397	497	557

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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W Y O M I N G

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Casper, WY MSA	219	305	384	535	632	Natrona
Cheyenne, WY MSA	298	373	498	637	773	Laramie

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Albany	278	348	464	646	762
Campbell	286	291	373	519	612
Converse	180	272	328	457	538
Fremont	187	253	339	451	551
Hot Springs	233	266	355	493	583
Lincoln	233	294	372	510	521
Park	201	274	366	510	600
Sheridan	241	274	366	491	600
Sweetwater	275	280	373	519	612
Uinta	277	285	380	518	625
Weston	249	252	337	435	536

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Big Horn	179	245	328	453	459
Carbon	213	250	334	462	549
Crook	263	296	334	418	478
Goshen	228	280	334	462	549
Johnson	246	250	334	462	511
Niobrara	182	248	332	415	534
Platte	183	252	334	418	467
Sublette	294	331	372	480	521
Teton	353	449	597	802	874
Washakie	196	267	356	446	585

P A C I F I C I S L A N D S

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Pacific Islands	637	766	907	1136	1278

P U E R T O R I C O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Aguadilla, PR MSA	218	266	315	392	441	Aguada Municipio, Aguadilla Municipio, Moca Municipio
Arecibo, PR PMSA	320	387	455	572	640	Arecibo Municipio, Camuy Municipio, Hatillo Municipio
Caguas, PR PMSA	266	320	378	475	528	Caguas Municipio, Cayey Municipio, Cidra Municipio Gurabo Municipio, San Lorenzo Municipio
Mayaguez, PR MSA	218	266	315	392	441	Anasco Municipio, Cabo Rojo Municipio Hormigueros Municipio, Mayaguez Municipio Sabana Grande Municipio, San German Municipio
Ponce, PR MSA	310	378	446	557	625	Guayanilla Municipio, Juana Diaz Municipio Penuelas Municipio, Ponce Municipio, Villalba Municipio Yauco Municipio
San Juan-Bayamon, PR PMSA	310	378	446	557	625	Aguas Buenas Municipio, Barceloneta Municipio Bayamon Municipio, Canovanas Municipio Carolina Municipio, Catano Municipio, Ceiba Municipio Comerio Municipio, Corozal Municipio, Dorado Municipio Fajardo Municipio, Florida Municipio, Guaynabo Municipio Humacao Municipio, Juncos Municipio Las Piedras Municipio, Loiza Municipio Luquillo Municipio, Manati Municipio, Morovis Municipio

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

P U E R T O R I C O continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
						Naguabo Municipio, Naranjito Municipio Rio Grande Municipio, San Juan Municipio Toa Alta Municipio, Toa Baja Municipio Trujillo Alto Municipio, Vega Alta Municipio Vega Baja Municipio, Yabucoa Municipio

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adjuntas Municipio.....	208	257	300	378	421
Arroyo Municipio.....	208	257	300	378	421
Ciales Municipio.....	208	257	300	378	421
Culebra Municipio.....	208	257	300	378	421
Guayama Municipio.....	208	257	300	378	421
Jayuya Municipio.....	208	257	300	378	421
Lares Municipio.....	208	257	300	378	421
Maricao Municipio.....	208	257	300	378	421
Orocovis Municipio.....	208	257	300	378	421
Quebradillas Municipio..	320	387	455	572	640
Salinas Municipio.....	208	257	300	378	421
Santa Isabel Municipio..	208	257	300	378	421
Vieques Municipio.....	208	257	300	378	421

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aibonito Municipio.....	208	257	300	378	421
Barranquitas Municipio..	208	257	300	378	421
Coamo Municipio.....	208	257	300	378	421
Guanica Municipio.....	208	257	300	378	421
Isabela Municipio.....	218	266	315	392	441
Lajas Municipio.....	208	257	300	378	421
Las Marias Municipio....	208	257	300	378	421
Maunabo Municipio.....	208	257	300	378	421
Patillas Municipio.....	208	257	300	378	421
Rincon Municipio.....	208	257	300	378	421
San Sebastian Municipio.	208	257	300	378	421
Utuado Municipio.....	208	257	300	378	421

V I R G I N I S L A N D S

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Virgin Islands.....	477	580	682	852	953

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

080895

SCHEDULE D - FY 1995 40th PERCENTILE FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES

STATE/FMR AREA	SPACE RENT
CALIFORNIA	
Orange County, CA PMSA	$439
San Diego, CA MSA	379
COLORADO	
Boulder-Longmont, CO PMSA	262
Denver, CO PMSA	249
DELAWARE	
Dover, DE MSA	158
Sussex County	112
MARYLAND	
Hagerstown, MD MSA	197
St. Marys County	245
MINNESOTA	
Minneapolis-St. Paul, MN-WI MSA	235
NEW YORK	
Dutchess, NY PMSA	318
Jamestown, NY MSA	166
Newburgh, NY MSA	299
Tompkins County, NY	193
OREGON	
Salem, OR PMSA	200
VERMONT	
Washington County	195
WEST VIRGINIA	
Berkeley County	129
Jefferson County	132
Morgan County	130

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Tuesday
August 15, 1995

Part IV

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 888

Fair Market Rents for the Section 8 Housing Assistance Payments Program, Fiscal Year 1996; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 888

[Docket No. FR–3933–N–01]

Fair Market Rents for the Section 8 Housing Assistance Payments Program—Fiscal Year 1996

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed Fiscal Year (FY) 1996 Fair Market Rents (FMRs).

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to publish FMRs annually to be effective on October 1 of each year. FMRs are used for the Section 8 Rental Certificate program (including space rentals by owners of manufactured homes under that program); the Moderate Rehabilitation Single Room Occupancy program; housing assisted under the Loan Management and Property Disposition programs; payment standards for the Rental Voucher program; and any other programs whose regulations specify their use.

This document provides the proposed FY 1996 FMRs at the 40th percentile level. On March 2, 1995, HUD published the proposed rule to revise 24 CFR part 888 to change the FMR rent standard from the 45th to 40th percentile rent level. That change was published in final on August 15, 1995 and made effective on September 14, 1995. The final FY 1995 FMRs at the 40th percentile level also were made effective on the same date in a separate document. That document included revised FMRs for 131 areas that had submitted public comments HUD determined provided a sufficient basis for such revision. In addition five areas were added to Schedule D on the basis of surveys submitted on manufactured home space rentals.

Because of the delay in publishing the proposed FY 1996 FMRs, the comment period will extend beyond the October 1 statutory date for publishing final FMRs. Therefore, there will be two final FY 1996 FMR publications. The first publication will make the FMRs contained in this document effective, except for the small number of areas with proposed FMR decreases, which will continue to use the FY 1995 FMRs until the Department has had the opportunity to assess any comments on these reductions. The second publication, to be issued early next year, will announce revised final FMRs for the areas for which HUD has made a determination that the rental housing surveys submitted provided a sufficient basis for such revision.

DATES: Comments due date: October 16, 1995.

ADDRESSES: Interested persons are invited to submit comments regarding HUD's estimates of the FMRs as published in this Notice to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410. Communications should refer to the above docket number and title and should contain the information specified in Section VI. To ensure that the information is fully considered by all of the reviewers, each commenter is requested to submit two copies of its comments, one to the Rules Docket Clerk and the other to the Economic and Market Analysis Staff in the appropriate HUD Field Office. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m.–5:30 p.m. Eastern Time) at the above address.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Rental Assistance Division, Office of Public and Indian Housing, telephone (202) 708–0477. (TDD: (202) 708–0850). For technical information on the development of schedules for specific areas or the method used for the rent calculations, contact Michael R. Allard, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 708–0577 (TDD: (202) 708–0770). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

I. Background

Section 8 of the United States Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes housing assistance to aid lower income families in renting decent, safe, and sanitary housing. Assistance payments are limited by FMRs established by HUD for different areas. In general, the FMR for an area is the amount that would be needed to pay the gross rent (shelter rent plus utilities) of privately owned, decent, safe, and sanitary rental housing of a modest (non-luxury) nature with suitable amenities.

II. Publication of FMRs

Section 8(c) of the Act requires the Secretary of HUD to publish FMRs periodically, but not less frequently than annually. The Department's regulations provide that HUD will develop FMRs by publishing proposed FMRs for public comment and after evaluating the public comments, publish the final FMRs (see 24 CFR 888.115). The proposed FY 1996 FMR schedules at the end of this document list the FMR levels for the Rental Certificate program (Schedule B), and for the areas where the manufactured home space FMRs have had modifications approved (Schedule D).

III. Method used to Develop FMRs

FMR Standard

The FMRs are gross rent estimates; they include shelter rent and the cost of utilities, except telephone. HUD sets FMRs to assure that a sufficient supply of rental housing is available to program participants. To accomplish this objective, FMRs must be both high enough to permit a selection of units and neighborhoods and low enough to serve as many families as possible. The level at which FMRs are set is expressed as a percentile point within the rent distribution of standard quality rental housing units. The current definition used is the 40th percentile rent, the dollar amount below which 40 percent of the standard quality rental housing units rent. The 40th percentile rent is drawn from the distribution of rents of units which are occupied by recent movers (renter households who moved into their unit within the past 15 months). Newly built units less than two years old are excluded, and adjustments have been made to correct for the below market rents of public housing units included in the data base.

Data Sources

HUD uses the most accurate and current data available to develop the FMR estimates. The sources of survey data used for the base-year estimates are:

(1) the 1990 Census, which provides statistically reliable rent data for all FMR areas;

(2) the Bureau of the Census' American Housing Surveys (AHSs), which are used to develop between-Census revisions for the largest metropolitan areas and which have accuracy comparable to the decennial Census; and

(3) the Random Digit Dialing (RDD) telephone surveys of individual FMR areas, which are based on a sampling procedure that uses computers to select statistically random samples of rental housing.

The base-year FMRs are updated using trending factors based on Consumer Price Index (CPI) data for rents and utilities or HUD regional rent change factors developed from RDD surveys. Annual average CPI data are available individually for 102

metropolitan FMR areas. RDD Regional rent change factors are developed annually for the metropolitan and nonmetropolitan parts of each of the 10 HUD geographical regions. The RDD factors are used to update the base year estimates for all FMR areas that do not have their own local CPI survey.

FY 1996 FMRs

This document proposes revised FMRs that reflect estimated 40th percentile rent levels trended to April 1, 1996. The FMRs have been calculated separately for each bedroom size category based on 1990 Census data. For most FMR areas, the ratios developed from the Census for that area were applied to the two-bedroom FMR estimate to derive the FMRs for the other bedroom size categories. Exceptions have been made for areas with local bedroom size rent intervals below an acceptable range. For those areas the bedroom size intervals selected were the minimums determined after outliers had been excluded from the distribution of bedroom ratios for all metropolitan areas. Higher ratios continue to be used for three-bedroom and larger size units than would result from using the actual market relationships. This is done to assist the largest, most difficult to house families in finding program-eligible units.

RDD Surveys

RDD surveys are used to obtain statistically-reliable FMR estimates for selected FMR areas. This survey technique involves drawing random samples of renter units occupied by recent movers. RDD surveys exclude public housing units, units built in the past two years, seasonal units, non-cash rental units, and those owned by relatives. A HUD analysis has shown that the slight downward RDD survey bias caused by including some rental units that are in substandard condition is almost exactly offset by the slight upward bias that results from surveying only units with telephones.

On average, about 8,000 telephone numbers need to be contacted to achieve the target survey sample level of at least 400 eligible responses. RDD surveys have a high degree of statistical accuracy; there is a 95 percent likelihood that the recent mover rent estimates developed using this approach are within 3 to 4 percent of the actual rent value. Virtually all of the estimates will be within 5 percent of the actual value.

Since last year's proposed FMRs were published (the FY 1995 proposed FMRs were published on June 23, 1994), HUD has conducted 39 additional RDD surveys. Based on the results of these surveys, increased FMRs were made effective for 14 FMR areas in the separate Notice announcing the final FY 1995 FMRs. Today's Notice proposes reduced FMRs for the other 25 areas listed as follows:

Atlantic-Cape May, NJ
Bergen-Passaic, NJ
Bridgeport, CT
Dayton-Springfield, OH
Evansville-Henderson, IN-KY
Fitchburg-Leominster, MA
Fort Lauderdale, FL
Hartford, CT
Honolulu, HI
Jackson, MS
Jersey City, NJ
Las Vegas, NV
Miami, FL
Middlesex-Somerset-Hunterdon, NJ
Modesto, CA
Monmouth-Ocean, NJ
Newark, NJ
Omaha, NE-IA
Salinas, CA
Santa Rosa, CA
Stamford, CT
Trenton, NJ
Vallejo-Fairfield-Napa, CA
Ventura, CA
West Palm Beach-Boca Raton, FL

AHS Areas

AHSs cover the largest metropolitan areas on a four-year cycle, encompassing nearly half of the nation's rental housing stock. The 40th percentile rents for these areas are calculated from the distributions of two-bedroom units occupied by recent movers. Public housing units, newly constructed units and units that fail a housing quality test are excluded from the rental housing distributions before the FMRs are calculated. The proposed FY 1996 FMRs incorporate the results of the 1993 AHSs. Based on the survey results, the FMRs for 6 of these areas are being proposed with decreases in today's Notice:

Boston, MA-NH
Oakland, CA
San Jose, CA
San Francisco, CA
Tampa-St. Petersburg-Clearwater, FL
Washington, DC-MD-VA-WV

The AHS results for Detroit, MI and Minneapolis-St. Paul, MN-WI, indicated that no change was warranted in the baseline FMRs. These two areas, therefore, had their FMRs updated in the normal manner.

New MSAs

This notice includes proposed FMRs for two new metropolitan FMR areas based on new metropolitan area definitions made effective by OMB on June 30, 1995:

—Grand Junction, CO MSA, which consists of Mesa County; and
—Flagstaff, AZ which consists of Coconino County AZ. The MSA consists of Coconino and Kane County, Utah. HUD has determined, however, that the Flagstaff FMR area shall consist only of Coconino County AZ. The Utah County of Kane is so far removed from the Flagstaff area that it is not considered to be part of the housing market area. Kane County therefore is identified as a separate metropolitan FMR area under the State of Utah listing.

IV. State Minimum FMRs

In response to numerous public inquiries expressing concern that the FMRs in rural areas are too low to operate the program successfully, HUD is proposing to implement a new minimum FMR policy. The new policy would establish the FMRs at the higher of the local FMR or the State-wide average FMR of nonmetropolitan counties, subject to a ceiling rent cap of $450 on the nonmetropolitan State averages. In proposing this change, HUD is recognizing the difficulty that small PHAs in lightly populated rural areas have in developing valid FMR appeals and the concern that their FMRs may be affected by small sample sizes and a higher incidence of substandard housing and assisted housing with below market rents.

The procedure for setting minimum FMRs now in effect has increased the FMRs for areas with fewer than 100 Census interview cases to the level of the county in the State with the lowest rent of all counties with 100 or more cases. The proposed new procedure to establish FMR minimums using the State nonmetropolitan averages would raise the minimums considerably above those currently in effect for many nonmetropolitan counties. A small number of metropolitan FMR areas also would have their FMRs increased. There is precedent for this procedure in that HUD already is required by law to use nonmetropolitan State median family income averages to set the income limits for the Department's assisted housing programs, including the Section 8 Existing program.

V. FMRs for Puerto Rico

HUD is in the process of re-benchmarking the FMRs for Puerto Rico. While the current FMRs are higher than indicated by the 1990 Census, there is concern that strict reliance on the Census data to establish the FMRs may

not be appropriate because the housing quality measures for Puerto Rico are inadequate. To obtain additional information on this matter, HUD conducted specially designed RDD surveys of the San Juan, Mayaguez and Caugas FMR areas. These surveys were modified by adding housing quality questions to account for the greater incidence of substandard rental housing in Puerto Rico. The surveys of San Juan and Caugas found FMR estimates higher than 1990 Census-based estimates, but lower than the current FMRs. The results of the Mayaguez survey suggested that the current FMRs were correct.

Based on the RDD survey results, HUD is proposing reduced FMRs for the San Juan and Caugas areas and a small increase reflecting the normal inflation adjustment for the Mayaguez area. Pending completion of the scheduled RDDs, the FMRs for the Arecibo, Aguadilla, and Ponce areas are being proposed with changes similar to those indicated by RDD results of the areas in Puerto Rico with comparable rents. The FMRs of the nonmetropolitan FMR areas are being held at the current levels, except for Isabella and Quebradillas Municipios, which, because they are no longer part of a metropolitan area, have their FMRs proposed at levels consistent with the other nonmetropolitan areas.

Because the surveys confirmed the concern about the accuracy of the FMRs for Puerto Rico, HUD has decided to conduct additional RDD surveys of the three other metropolitan FMR areas—Arecibo, Aguadilla, and Ponce—and of the nonmetropolitan areas. Results of these surveys will be available in time to be incorporated into the second final publication of the FY 1996 FMRs.

VI. Manufactured Home Space FMRs

Manufactured home space FMRs are 30 percent of the applicable Section 8 Rental Certificate program FMR for a two-bedroom unit. HUD accepts public comments requesting modifications of these FMRs where they are thought to be inadequate to run the program. In order to be accepted as a basis for revising the FMRs, such comments must contain statistically valid survey data that show the 40th percentile space rent (excluding the cost of utilities) for the entire FMR area. This program uses the same FMR area definitions as the Section 8 Rental Certificate program. Manufactured home space FMR revisions are published as final FMRs in Schedule D. Once approved, the revised manufactured home space FMRs establish new base year estimates that are updated annually using the same data used to update the Rental Certificate program FMRs.

VII. FMRs for Federal Disaster Areas

Under the authority granted in 24 CFR part 899, the Secretary finds good cause to waive the regulatory requirements that govern requests for geographic area FMR exceptions for areas that are declared disaster areas by the Federal Emergency Management Agency (FEMA) during FY 1996. HUD is prepared to grant disaster-related exceptions up to 10 percent above the applicable FMRs. HUD field offices are authorized to approve such exceptions for: (1) single-county FMR areas and for individual county parts of multi-county FMR areas that qualify as disaster areas under the Robert T. Stafford Disaster Relief and Emergency Assistance Act; if (2) the PHA certifies that damage to the rental housing stock as a result of the disaster is so substantial that it has increased the prevailing rent levels in the affected area. Such exceptions must be requested in writing by the responsible PHAs. Once approved by HUD, they will remain in effect until superseded by the publication of the final FY 1998 FMRs.

VIII. Request for Comments

HUD seeks public comments on FMR levels for specific areas. Comments on FMR levels must include sufficient information (including local data and a full description of the rental housing survey methodology used) to justify any proposed changes. Changes may be proposed in all or any one of the bedroom-size categories on the schedule. Recommendations and supporting data must reflect the rent levels that exist within the entire FMR area.

The Department also seeks comments on the proposal to establish State minimum FMRs at the State-wide average of FMRs for nonmetropolitan counties, subject to a maximum ceiling rent of $450. This proposal may be subject to change, based on further analysis and public comments.

HUD recommends use of professionally-conducted Random Digit Dialing (RDD) telephone surveys to test the accuracy of FMRs for areas where there is a sufficient number of Section 8 units to justify the survey cost of $10,000-$12,000. Areas with 500 or more program units usually meet this criterion, and areas with fewer units may meet it if the actual two-bedroom FMR rent standard is significantly different than that proposed by HUD. In addition, HUD has developed a version of the RDD survey methodology for smaller, nonmetropolitan PHAs. This methodology is designed to be simple enough to be done by the PHA itself, rather than by professional survey organizations, at a cost of $5,000 or less.

PHAs in nonmetropolitan areas may, in certain circumstances, do surveys of groups of counties. All grouped county surveys must be approved in advance by HUD. PHAs are cautioned that the resultant FMRs will not be identical for the counties surveyed; each individual FMR area will have a separate FMR based on its relationship to the combined rent of the cluster of FMR areas.

PHAs that plan to use the RDD survey technique may obtain a copy of the appropriate survey guide by calling HUD USER on 1–800–245–2691. Larger PHAs should request ''Random Digit Dialing Surveys; A Guide to Assist Larger Public Housing Agencies in Preparing Fair Market Rent Comments.'' Smaller PHAs should obtain ''Rental Housing Surveys; A Guide to Assist Smaller Public Housing Agencies in Preparing Fair Market Rent Comments.''

HUD prefers, but does not mandate, the use of RDD telephone surveys, or the more traditional method described in the small PHA survey guide. Other survey methodologies are acceptable as long as the surveys submitted provide statistically reliable, unbiased estimates of the 40th percentile gross rent. Survey samples should preferably be randomly drawn from a complete list of rental units for the FMR area. If this is not feasible, the selected sample must be drawn so as to be statistically representative of the entire rental housing stock of the FMR area. In particular, surveys must include units of all rent levels and be representative by structure type (including single-family, duplex and other small rental properties), age of housing unit, and geographic location. The decennial Census should be used as a starting point and means of verification for determining whether the sample is representative of the FMR area's rental housing stock.

Local rental housing surveys conducted with alternative methods must include the same type of documentation required of the RDD surveys. Specifically, PHA submissions must include:

—Identification of the 40th percentile gross rents (gross rent is rent including the cost of utilities) and the actual distribution (or distributions if more than one bedroom size is surveyed) of the surveyed units rank ordered by gross rent.

—An explanation of how the rental housing sample was drawn and a

copy of the survey questionnaire, transmittal letter, and any publicity materials.

—An explanation of how the contract rents of the individual units surveyed were converted to gross rents. (For RDD surveys HUD requires use of the Section 8 utility allowance schedule.)

—An explanation of how the survey excluded units built within two years prior to the survey date.

—The date the rent data were collected so that HUD can apply a trending factor to update the estimate to April 1, 1996. If the survey has already been trended to this date, the date the survey was conducted and a description of the trending factor used.

—Copies of all survey sheets.

Since FMRs are based on standard quality units and units occupied by recent movers, both of which are difficult to identify and survey, HUD will accept surveys of all rental units and apply appropriate adjustments.

Most surveys cover only two-bedroom units, in which case HUD will make the adjustments for other size units consistent with the differentials established on the basis of the 1990 Census data for the FMR area. When three- and four-bedroom units are surveyed separately to determine FMRs for these unit size categories, the commenter should multiply the 40th percentile survey rents by 1.087 and by 1.077, respectively, to determine the FMRs. The use of these factors will produce the same upward adjustments in the rent differentials as those used in the HUD methodology.

IX. Other Matters

A Finding of No Significant Impact with respect to the environment as required by the National Environmental Policy Act (42 U.S.C. 4321–4374) is unnecessary, since the Section 8 Rental Certificate program is categorically excluded from the Department's National Environmental Policy Act procedures under 24 CFR 50.20(d).

The undersigned, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), hereby certifies that this Notice does not have a significant economic impact on a substantial number of small entities, because FMRs do not change the rent from that which would be charged if the unit were not in the Section 8 program.

The General Counsel, as the Designated Official under Executive Order No. 12606, The Family, has determined that this Notice will not have a significant impact on family formation, maintenance, or well-being. The Notice amends Fair Market Rent schedules for various Section 8 assisted housing programs, and does not affect the amount of rent a family receiving rental assistance pays, which is based on a percentage of the family's income.

The General Counsel, as the Designated Official under section 6(a) of Executive Order No. 12611, Federalism, has determined that this Notice will not involve the preemption of State law by Federal statute or regulation and does not have Federalism implications. The Fair Market Rent schedules do not have any substantial direct impact on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibility among the various levels of government.

The Catalog of Federal Domestic Assistance program number is 14.156, Lower-Income Housing Assistance Program (section 8).

Accordingly, the Fair Market Rent Schedules, which will be codified in 24 CFR Part 888, are amended as follows:

Dated: August 4, 1995.

Henry G. Cisneros,

Secretary.

Fair Market Rents for the Section 8 Housing Assistance Payments Program

Schedules B and D—General Explanatory Notes

1. Geographic Coverage

a. The FMRs shown in Schedule B incorporate the Office of Management and Budget's (OMB) most current definitions of metropolitan areas (with the exceptions discussed in paragraph b). HUD uses the OMB Metropolitan Statistical Area (MSA) and Primary Metropolitan Statistical Area (PMSA) definitions for FMR areas because they closely correspond to housing market area definitions. FMRs are housing market-wide rent estimates that are intended to provide housing opportunities throughout the geographic area in which rental housing units are in direct competition.

b. The exceptions are counties deleted from seven large metropolitan areas whose revised OMB definitions were determined by HUD to be larger than the housing market areas. The FMRs for the following counties (shown by the metropolitan area) are calculated separately and are shown in Schedule B within their respective States under the ''Metropolitan FMR Areas'' listing:

Metropolitan Area and Counties Deleted

Atlanta, GA—Carroll, Pickens, and Walton Counties.

Chicago, IL—DeKalb, Grundy and Kendall Counties.

Cincinnati-Hamilton, OH-KY-IN—Brown County, Ohio; Gallatin, Grant and Pendleton Counties in Kentucky; and Ohio County, Indiana.

Dallas, TX—Henderson County.

Lafayette, LA—St. Landry and Acadia Parishes.

New Orleans, LA—St. James Parish.

Washington, DC—Berkeley and Jefferson Counties in West Virginia; and Clarke, Culpepper, King George and Warren counties in Virginia.

c. FMRs also are established for nonmetropolitan counties and for county equivalents in the United States, for nonmetropolitan parts of counties in the New England states and for FMR areas in Puerto Rico, the Virgin Islands, and the Pacific Islands.

d. FMRs for the areas in Virginia shown in the table below were established by combining the Census data for the nonmetropolitan counties with the data for the independent cities that are located within the county borders. Because of space limitations, the FMR listing in Schedule B includes only the name of the nonmetropolitan county. The complete definitions of these areas including the independent cities are as follows:

VIRGINIA NONMETROPOLITAN COUNTY FMR AREA AND INDEPENDENT CITIES INCLUDED

County	Cities
Allegheny	Clifton Forge and Covington
Augusta	Staunton and Waynesboro
Carroll	Galax
Frederick	Winchester
Greensville	Emporia
Halifax	South Boston
Henry	Martinsville
Montgomery	Radford
Rockbridge	Buena Vista and Lexington
Rockingham	Harrisonburg
Southhampton	Franklin
Wise	Norton

e. FMRs for Section 8 manufactured home spaces are 30 percent of the two-bedroom Section 8 Rental Certificate program FMRs, with the exception of the areas listed in Schedule D whose manufactured home space FMRs have been revised on the basis of public comments. Once approved, the revised manufactured home space FMRs establish new base-year estimates that are updated annually using the same data used to estimate the Rental Certificate program FMRs. The FMR area definitions used for manufactured home spaces are the same as for the Section 8 Certificate program.

2. Arrangement of FMR Areas and Identification of Constituent Parts

a. The FMR areas in Schedule B are listed alphabetically by metropolitan

FMR area and by nonmetropolitan county within each State. The exception FMRs for manufactured home spaces in Schedule D are listed alphabetically by State.

b. The constituent counties (and New England towns and cities) included in each metropolitan FMR area are listed immediately following the listings of the FMR dollar amounts. All constituent parts of a metropolitan FMR area that are in more than one State can be identified by consulting the listings for each applicable State.

c. Two nonmetropolitan counties are listed alphabetically on each line of the nonmetropolitan county listings.

d. The New England towns and cities included in a nonmetropolitan part of a county are listed immediately following the county name.

e. The FMRs are listed by dollar amount on the first line beginning with the FMR area name.

BILLING CODE 4210–32–P

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

A L A B A M A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anniston, AL MSA	239	283	353	494	559	Calhoun
Birmingham, AL MSA	340	384	447	605	672	Blount, Jefferson, St. Clair, Shelby
Columbus, GA-AL MSA	322	359	430	563	610	Russell
Decatur, AL MSA	317	320	405	523	625	Lawrence, Morgan
Dothan, AL MSA	287	294	365	503	510	Dale, Houston
Florence, AL MSA	269	310	398	496	556	Colbert, Lauderdale
Gadsden, AL MSA	239	292	338	438	539	Etowah
Huntsville, AL MSA	333	390	481	641	762	Limestone, Madison
Mobile, AL MSA	321	358	411	553	649	Baldwin, Mobile
Montgomery, AL MSA	364	389	459	626	753	Autauga, Elmore, Montgomery
Tuscaloosa, AL MSA	314	337	448	615	651	Tuscaloosa

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Barbour	234	278	332	430	492
Bullock	234	278	332	430	492
Chambers	234	278	332	430	493
Chilton	242	278	332	430	492
Clarke	234	278	332	430	492
Cleburne	234	278	332	430	492
Conecuh	234	278	332	430	492
Covington	234	278	332	430	492
Cullman	234	278	332	440	535
Dekalb	234	278	332	430	492
Fayette	234	278	332	430	492
Geneva	234	278	332	430	492
Hale	234	278	332	430	492
Jackson	253	278	332	430	528
Lee	247	345	442	575	727
Macon	255	287	383	479	536
Marion	234	278	332	430	492
Monroe	234	278	332	430	492
Pickens	234	278	332	430	492
Randolph	234	278	332	430	492
Talladega	234	278	332	430	492
Walker	234	289	340	439	560
Wilcox	234	278	332	430	492

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bibb	234	278	332	447	536
Butler	234	278	332	430	492
Cherokee	234	278	332	430	492
Choctaw	234	278	332	430	492
Clay	234	278	332	430	492
Coffee	234	329	427	594	667
Coosa	234	278	332	430	492
Crenshaw	234	278	332	430	492
Dallas	234	278	332	430	492
Escambia	234	278	332	430	492
Franklin	234	278	332	430	492
Greene	234	278	332	430	492
Henry	234	278	332	430	492
Lamar	234	278	332	430	492
Lowndes	234	278	332	430	492
Marengo	234	278	332	430	492
Marshall	268	278	338	469	555
Perry	234	278	332	430	492
Pike	239	278	332	430	500
Sumter	234	278	332	430	492
Tallapoosa	235	278	332	430	492
Washington	234	278	332	430	492
Winston	234	278	332	430	492

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

A L A S K A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anchorage, AK MSA	473	557	740	1029	1215	Anchorage

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aleutian East	491	553	623	778	1020
Bethel	633	792	1003	1256	1406
Dillingham	612	622	827	1036	1159
Haines	456	565	644	876	902
Kenai Peninsula	368	469	565	785	927
Kodiak Island	653	717	931	1164	1510
Matanuska-Susitna	357	484	544	739	873
North Slope	732	750	927	1290	1503
Pr.Wales-Outer Ketchikan	342	544	625	868	918
Skagway-Yakutat-Angoon	419	426	552	691	775
Valdez-Cordova	512	627	697	890	1060
Wrangell-Petersburg	373	550	668	851	934

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aleutian West	421	475	533	668	748
Bristol Bay	508	586	660	917	997
Fairbanks North Star	386	525	689	947	1117
Juneau	681	787	1002	1334	1386
Ketchikan Gateway	502	613	821	1143	1201
Lake & Peninsula	392	634	713	890	998
Nome	645	798	896	1247	1407
Northwest Arctic	775	873	980	1363	1608
Sitka	540	641	719	1000	1181
Southeast Fairbanks	430	451	544	680	764
Wade Hampton	366	552	622	777	871
Yukon-Koyukuk	489	551	621	776	899

A R I Z O N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Flagstaff, AZ	401	435	564	757	909	Coconino
Las Vegas, NV-AZ MSA	437	519	618	860	1015	Mohave
Phoenix-Mesa, AZ MSA	370	447	561	780	920	Maricopa, Pinal
Tucson, AZ MSA	345	416	553	770	908	Pima
Yuma, AZ MSA	345	401	534	743	748	Yuma

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Apache	347	364	463	604	718
Gila	347	364	463	604	718
Greenlee	347	364	463	604	718
Navajo	347	364	463	604	718
Yavapai	368	384	512	714	786

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Cochise	347	364	463	604	718
Graham	347	364	463	604	718
La Paz	347	364	463	604	718
Santa Cruz	347	384	475	604	718

A R K A N S A S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Fayetteville-Springdale-Rogers, AR MSA	261	327	430	582	602	Benton, Washington
Fort Smith, AR-OK MSA	282	286	376	504	528	Crawford, Sebastian
Little Rock-North Little Rock, AR MSA	352	390	464	641	748	Faulkner, Lonoke, Pulaski, Saline
Memphis, TN-AR-MS MSA	321	374	440	611	642	Crittenden
Pine Bluff, AR MSA	268	318	419	529	688	Jefferson

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

A R K A N S A S continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Texarkana, TX-Texarkana, AR MSA	286	350	427	563	597	Miller

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Arkansas	250	270	345	473	513
Baxter	227	290	385	494	602
Bradley	227	270	345	458	513
Carroll	267	292	345	458	547
Clark	250	270	350	458	553
Cleburne	257	270	345	458	520
Columbia	227	270	345	458	513
Craighead	294	320	377	520	549
Dallas	227	270	345	458	513
Drew	227	294	393	543	552
Fulton	235	270	345	458	513
Grant	236	281	345	458	518
Hempstead	227	270	345	458	513
Howard	227	270	345	458	513
Izard	227	270	345	458	513
Johnson	227	270	345	458	513
Lawrence	227	270	345	458	513
Lincoln	246	270	351	470	513
Logan	238	270	345	458	513
Marion	227	270	345	458	513
Monroe	231	270	345	458	513
Nevada	227	270	345	474	513
Ouachita	265	270	345	477	563
Phillips	227	270	345	458	513
Poinsett	227	270	345	458	513
Pope	227	297	376	522	601
Randolph	227	270	345	458	513
Scott	227	270	345	458	513
Sevier	249	270	345	458	513
Stone	227	270	345	458	513
Van Buren	227	270	345	458	566
Woodruff	227	270	345	458	513

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ashley	227	270	345	458	542
Boone	269	274	363	506	597
Calhoun	227	270	345	458	513
Chicot	227	270	345	458	513
Clay	227	270	345	458	513
Cleveland	227	270	345	458	513
Conway	227	281	376	469	526
Cross	236	298	345	465	548
Desha	227	270	345	458	513
Franklin	238	270	345	458	513
Garland	227	290	388	540	638
Greene	244	270	345	458	513
Hot Spring	227	270	345	458	513
Independence	239	277	345	458	513
Jackson	235	270	345	458	513
Lafayette	238	270	345	458	513
Lee	251	270	345	458	513
Little River	227	270	351	487	574
Madison	259	270	351	458	513
Mississippi	258	281	376	495	555
Montgomery	227	270	345	458	513
Newton	227	270	345	458	513
Perry	227	270	345	458	513
Pike	227	270	345	458	513
Polk	227	270	345	458	513
Prairie	227	270	345	458	513
St. Francis	227	276	345	468	550
Searcy	227	270	345	458	513
Sharp	227	270	345	458	513
Union	285	300	361	484	593
White	227	270	345	474	513
Yell	236	270	345	458	513

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

C A L I F O R N I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bakersfield, CA MSA	377	425	532	739	819	Kern
Chico-Paradise, CA MSA	314	402	535	734	878	Butte
Fresno, CA MSA	386	432	516	717	826	Fresno, Madera
Los Angeles-Long Beach, CA PMSA	564	676	855	1154	1377	Los Angeles
Merced, CA MSA	374	421	511	706	833	Merced
Modesto, CA MSA	413	445	543	757	891	Stanislaus
Oakland, CA PMSA	508	615	771	1057	1264	Alameda, Contra Costa
Orange County, CA PMSA	637	696	860	1197	1333	Orange
Redding, CA MSA	355	394	493	685	808	Shasta
Riverside-San Bernardino, CA PMSA	455	507	618	859	1014	Riverside, San Bernardino
Sacramento, CA PMSA	444	501	626	870	1025	El Dorado, Placer, Sacramento
Salinas, CA MSA	503	588	709	986	1034	Monterey
San Diego, CA MSA	473	541	677	940	1109	San Diego
San Francisco, CA PMSA	580	751	950	1302	1377	Marin, San Francisco, San Mateo
San Jose, CA PMSA	641	731	903	1238	1391	Santa Clara
San Luis Obispo-Atascadero-Paso Robles, CA PMSA	481	544	690	959	1132	San Luis Obispo
Santa Barbara-Santa Maria-Lompoc, CA MSA	585	650	824	1147	1294	Santa Barbara
Santa Cruz-Watsonville, CA PMSA	596	709	948	1317	1544	Santa Cruz
Santa Rosa, CA PMSA	497	563	730	1015	1199	Sonoma
Stockton-Lodi, CA MSA	415	470	602	837	988	San Joaquin
Vallejo-Fairfield-Napa, CA PMSA	493	561	684	950	1122	Napa, Solano
Ventura, CA PMSA	533	612	775	1031	1200	Ventura
Visalia-Tulare-Porterville, CA MSA	347	369	480	671	766	Tulare
Yolo, CA PMSA	447	510	630	875	1033	Yolo
Yuba City, CA MSA	309	358	460	642	742	Sutter, Yuba

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alpine	294	441	498	692	746
Calaveras	356	411	548	762	898
Del Norte	301	412	548	763	900
Humboldt	303	420	551	768	908
Inyo	304	411	527	691	746
Lake	331	421	562	708	921
Mariposa	317	403	519	679	802
Modoc	321	360	463	646	746
Nevada	368	503	670	932	1080
San Benito	441	519	650	905	1060
Siskiyou	308	360	463	646	746
Trinity	330	360	463	646	746

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Amador	405	447	596	830	925
Colusa	321	360	463	646	746
Glenn	294	360	463	646	746
Imperial	332	415	511	712	746
Kings	341	395	494	687	810
Lassen	360	364	473	646	746
Mendocino	406	489	601	837	843
Mono	449	538	715	994	1175
Plumas	324	360	463	646	746
Sierra	294	393	485	674	796
Tehama	307	360	463	646	746
Tuolumne	325	444	592	823	971

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 5

C O L O R A D O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boulder-Longmont, CO PMSA	434	520	667	929	1095	Boulder
Colorado Springs, CO MSA	372	398	531	739	874	El Paso
Denver, CO PMSA	365	435	579	804	949	Adams, Arapahoe, Denver, Douglas, Jefferson
Fort Collins-Loveland, CO MSA	384	474	585	812	960	Larimer
Grand Junction, CO MSA	354	367	459	618	736	Mesa
Greeley, CO PMSA	365	403	507	704	833	Weld
Pueblo, CO MSA	372	386	482	649	773	Pueblo

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alamosa	354	367	459	618	736
Baca	354	367	459	618	736
Chaffee	354	367	459	618	736
Clear Creek	354	412	467	650	766
Costilla	354	367	459	618	736
Custer	354	367	459	618	736
Dolores	354	367	459	618	736
Elbert	390	434	494	618	811
Garfield	411	440	556	694	910
Grand	420	424	537	672	813
Hinsdale	354	374	459	618	736
Jackson	354	367	459	618	736
Kit Carson	354	367	459	618	736
La Plata	394	435	574	799	943
Lincoln	354	367	459	618	736
Mineral	354	367	459	618	736
Montezuma	354	367	459	618	736
Morgan	354	367	459	618	736
Ouray	354	367	464	618	751
Phillips	354	367	459	618	736
Prowers	354	367	459	618	736
Rio Grande	354	367	459	618	736
Saguache	354	367	459	618	736
San Miguel	651	940	1033	1291	1665
Summit	456	546	699	973	1198
Washington	354	367	459	618	736

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Archuleta	354	388	459	618	736
Bent	354	367	459	618	736
Cheyenne	354	367	459	618	736
Conejos	354	367	459	618	736
Crowley	354	367	459	618	736
Delta	354	367	459	618	736
Eagle	476	518	691	962	1134
Fremont	354	367	459	618	736
Gilpin	354	470	597	788	872
Gunnison	354	367	459	618	736
Huerfano	354	367	459	618	736
Kiowa	354	367	459	618	736
Lake	354	367	459	618	736
Las Animas	354	377	459	618	736
Logan	354	367	459	618	736
Moffat	354	367	459	618	736
Montrose	354	367	464	643	759
Otero	354	367	459	618	736
Park	354	391	510	708	805
Pitkin	531	726	967	1276	1450
Rio Blanco	354	367	459	618	736
Routt	354	428	565	785	925
San Juan	354	367	459	618	736
Sedgwick	354	367	459	618	736
Teller	354	419	559	777	783
Yuma	354	367	459	618	736

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

C O N N E C T I C U T

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bridgeport, CT PMSA	444	577	695	869	1085	Fairfield county towns of Bridgeport town, Easton town Fairfield town, Monroe town, Shelton town Stratford town, Trumbull town New Haven county towns of Ansonia town, Beacon Falls town Derby town, Milford town, Oxford town, Seymour town
Danbury, CT PMSA	636	761	950	1255	1446	Fairfield county towns of Bethel town, Brookfield town Danbury town, New Fairfield town, Newtown town Redding town, Ridgefield town, Sherman town Litchfield county towns of Bridgewater town New Milford town, Roxbury town, Washington town
Hartford, CT PMSA	422	524	670	840	1021	Hartford county towns of Avon town, Berlin town Bloomfield town, Bristol town, Burlington town Canton town, East Granby town, East Hartford town East Windsor town, Enfield town, Farmington town Glastonbury town, Granby town, Hartford town Manchester town, Marlborough town, New Britain town Newington town, Plainville town, Rocky Hill town Simsbury town, Southington town, South Windsor town Suffield town, West Hartford town, Wethersfield town Windsor town, Windsor Locks town Litchfield county towns of Barkhamsted town Harwinton town, New Hartford town, Plymouth town Winchester town Middlesex county towns of Cromwell town, Durham town East Haddam town, East Hampton town, Haddam town Middlefield town, Middletown town, Portland town New London county towns of Colchester town, Lebanon town Tolland county towns of Andover town, Bolton town Columbia town, Coventry town, Ellington town Hebron town, Mansfield town, Somers town, Stafford town Tolland town, Vernon town, Willington town Windham county towns of Ashford town, Chaplin town Windham town
New Haven-Meriden, CT PMSA	528	648	802	1026	1189	Middlesex county towns of Clinton town, Killingworth town New Haven county towns of Bethany town, Branford town Cheshire town, East Haven town, Guilford town Hamden town, Madison town, Meriden town, New Haven town North Branford tow, North Haven town, Orange town Wallingford town, West Haven town, Woodbridge town
New London-Norwich, CT-RI MSA	476	575	700	877	1002	Middlesex county towns of Old Saybrook town New London county towns of Bozrah town, East Lyme town Franklin town, Griswold town, Groton town, Ledyard town Lisbon town, Montville town, New London town North Stonington t, Norwich town, Old Lyme town Preston town, Salem town, Sprague town, Stonington town Waterford town Windham county towns of Canterbury town, Plainfield town

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 7

C O N N E C T I C U T continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Stamford-Norwalk, CT PMSA	710	832	1014	1359	1501	Fairfield county towns of Darien town, Greenwich town New Canaan town, Norwalk town, Stamford town Weston town, Westport town, Wilton town
Waterbury, CT MSA	403	545	674	842	942	Litchfield county towns of Bethlehem town, Thomaston town Watertown town, Woodbury town New Haven county towns of Middlebury town, Naugatuck town Prospect town, Southbury town, Waterbury town Wolcott town
Worcester, MA-CT	455	551	689	859	963	Windham county towns of Thompson town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Hartford	342	552	623	866	1021	Hartland town
Litchfield	397	540	721	901	1025	Canaan town, Colebrook town, Cornwall town, Goshen town Kent town, Litchfield town, Morris town, Norfolk town North Canaan town, Salisbury town, Sharon town Torrington town, Warren town
Middlesex	588	666	890	1237	1459	Chester town, Deep River town, Essex town Westbrook town
New London	498	610	693	895	1136	Lyme town, Voluntown town
Tolland	342	552	623	866	872	Union town
Windham	393	481	623	780	979	Brooklyn town, Eastford town, Hampton town Killingly town, Pomfret town, Putnam town, Scotland town Sterling town, Woodstock town

D E L A W A R E

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Dover, DE MSA	415	460	525	681	773	Kent
Wilmington-Newark, DE-MD PMSA	409	541	630	856	1033	New Castle

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Sussex	364	386	493	647	691

D I S T . O F C O L U M B I A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Washington, DC-MD-VA	569	646	759	1033	1245	District of Columbia

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

F L O R I D A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Daytona Beach, FL MSA	375	438	561	745	790	Flagler, Volusia
Fort Lauderdale, FL PMSA	470	552	683	951	1121	Broward
Fort Myers-Cape Coral, FL MSA	417	481	580	809	845	Lee
Fort Pierce-Port Lucie, FL MSA	428	470	609	792	854	Martin, St. Lucie
Fort Walton Beach, FL MSA	375	409	463	629	742	Okaloosa
Gainesville, FL MSA	375	409	497	681	804	Alachua
Jacksonville, FL MSA	391	438	528	698	776	Clay, Duval, Nassau, St. Johns
Lakeland-Winter Haven, FL MSA	375	409	463	588	674	Polk
Melbourne-Titusville-Palm Bay, FL MSA	375	445	557	746	870	Brevard
Miami, FL PMSA	459	575	718	986	1143	Dade
Naples, FL MSA	401	565	679	944	1053	Collier
Ocala, FL MSA	375	409	463	609	715	Marion
Orlando, FL MSA	464	528	629	826	1008	Lake, Orange, Osceola, Seminole
Panama City, FL MSA	375	409	463	592	635	Bay
Pensacola, FL MSA	375	409	463	620	732	Escambia, Santa Rosa
Punta Gorda, FL MSA	375	429	571	793	936	Charlotte
Sarasota-Bradenton, FL MSA	376	477	606	781	849	Manatee, Sarasota
Tallahassee, FL MSA	384	423	559	731	881	Gadsden, Leon
Tampa-St. Petersburg-Clearwater, FL MSA	370	440	545	725	878	Hernando, Hillsborough, Pasco, Pinellas
West Palm Beach-Boca Raton, FL MSA	458	536	663	882	1089	Palm Beach

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Baker	368	402	455	564	614
Calhoun	368	402	455	564	614
Columbia	368	402	455	564	614
Dixie	368	402	455	564	614
Gilchrist	368	402	455	564	614
Gulf	368	402	455	564	614
Hardee	368	402	455	564	614
Highlands	368	402	455	566	633
Indian River	368	460	591	739	827
Jefferson	368	402	455	564	614
Levy	368	402	455	564	614
Madison	368	402	455	564	614
Okeechobee	368	402	455	564	620
Sumter	368	402	455	564	614
Taylor	368	402	455	564	615
Wakulla	368	402	455	564	614
Washington	368	402	455	564	614

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bradford	368	402	455	564	614
Citrus	368	402	455	564	614
Desoto	368	402	455	564	614
Franklin	368	402	455	564	614
Glades	368	402	455	564	614
Hamilton	368	402	455	564	614
Hendry	368	402	469	587	658
Holmes	368	402	455	564	614
Jackson	368	402	455	564	614
Lafayette	368	402	455	564	614
Liberty	368	402	455	564	614
Monroe	527	594	763	1052	1251
Putnam	368	402	455	564	614
Suwannee	368	402	455	564	614
Union	368	402	455	564	614
Walton	368	402	455	585	732

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

G E O R G I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany, GA MSA	279	327	400	546	590	Dougherty, Lee
Athens, GA MSA	345	371	480	654	788	Clarke, Madison, Oconee
Atlanta, GA	465	518	604	803	973	Barrow, Bartow, Cherokee, Clayton, Cobb, Coweta, Dekalb Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry Newton, Paulding, Rockdale, Spalding
Augusta-Aiken, GA-SC MSA	331	396	466	634	750	Columbia, Mcduffie, Richmond
Carroll County, GA	310	325	419	583	689	Carroll
Chattanooga, TN-GA MSA	318	373	447	577	658	Catoosa, Dade, Walker
Columbus, GA-AL MSA	322	359	430	563	610	Chattahoochee, Harris, Muscogee
Macon, GA MSA	335	374	434	599	616	Bibb, Houston, Jones, Peach, Twiggs
Pickens County, GA	270	325	401	557	585	Pickens
Savannah, GA MSA	337	418	486	655	682	Bryan, Chatham, Effingham
Walton County, GA	344	371	478	664	784	Walton

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Appling	267	322	393	510	579
Bacon	267	322	393	510	579
Baldwin	267	342	417	534	583
Ben Hill	267	322	393	510	587
Bleckley	267	322	393	510	579
Brooks	267	322	393	510	579
Burke	267	322	393	510	579
Calhoun	267	322	393	510	579
Candler	267	322	393	510	579
Chattooga	267	322	393	510	579
Clinch	267	322	393	510	579
Colquitt	267	322	393	510	579
Crawford	267	322	393	510	579
Dawson	267	347	463	578	714
Dodge	267	322	393	510	579
Early	267	322	393	510	579
Elbert	267	322	393	510	579
Evans	267	322	393	510	579
Floyd	267	322	394	521	579
Gilmer	267	322	393	510	579
Glynn	373	417	473	634	777
Grady	272	322	393	510	579
Habersham	287	322	393	510	584
Hancock	267	322	393	510	579
Hart	267	322	393	510	579
Irwin	267	322	393	510	579

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Atkinson	267	322	393	510	579
Baker	267	322	393	510	579
Banks	267	322	393	510	579
Berrien	267	322	393	510	579
Brantley	267	322	393	510	579
Bulloch	322	327	420	541	687
Butts	267	353	470	628	658
Camden	374	423	474	658	778
Charlton	267	322	393	510	579
Clay	267	322	393	510	579
Coffee	267	322	393	510	587
Cook	267	322	393	510	579
Crisp	270	322	393	510	579
Decatur	267	322	393	510	579
Dooly	267	322	393	510	579
Echols	267	322	393	510	579
Emanuel	267	322	393	510	579
Fannin	267	322	393	510	579
Franklin	267	322	393	510	579
Glascock	267	322	393	510	579
Gordon	317	322	401	518	661
Greene	267	322	393	510	579
Hall	283	430	505	633	707
Haralson	267	322	393	510	579
Heard	267	322	393	510	579
Jackson	298	322	404	510	665

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

G E O R G I A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Jasper	267	322	398	541	579
Jefferson	267	322	393	510	587
Johnson	267	322	393	510	579
Lanier	267	322	393	510	579
Liberty	333	371	422	586	591
Long	267	347	393	510	579
Lumpkin	267	360	405	542	665
Macon	267	322	393	510	579
Meriwether	267	322	393	510	579
Mitchell	267	322	393	510	579
Montgomery	267	322	393	510	579
Murray	267	322	393	510	579
Pierce	267	322	393	510	579
Polk	267	322	393	532	579
Putnam	267	322	393	510	587
Rabun	267	322	393	510	579
Schley	267	322	393	510	579
Seminole	267	322	393	510	579
Stewart	267	322	393	510	579
Talbot	267	322	393	510	579
Tattnall	267	322	393	510	579
Telfair	267	322	393	510	579
Thomas	267	332	393	510	579
Toombs	267	322	393	510	579
Treutlen	267	322	393	510	579
Turner	267	322	393	510	579
Upson	276	322	393	510	579
Warren	267	322	393	510	579
Wayne	276	322	393	510	579
Wheeler	267	322	393	510	579
Whitfield	267	350	422	539	636
Wilkes	267	322	393	510	579
Worth	267	322	393	510	579

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Jeff Davis	267	322	393	510	579
Jenkins	267	322	393	510	579
Lamar	267	331	393	510	624
Laurens	273	322	393	510	579
Lincoln	267	322	393	510	579
Lowndes	300	362	438	615	679
Mcintosh	267	322	393	510	579
Marion	267	322	393	510	579
Miller	267	322	393	510	579
Monroe	267	322	393	519	579
Morgan	267	322	408	510	579
Oglethorpe	267	322	393	510	579
Pike	310	337	426	593	597
Pulaski	267	322	393	510	579
Quitman	267	322	393	510	579
Randolph	267	322	393	510	579
Screven	267	322	393	510	579
Stephens	267	322	393	510	579
Sumter	267	327	393	510	579
Taliaferro	267	322	393	510	579
Taylor	267	322	393	510	579
Terrell	267	322	393	510	579
Tift	267	322	393	510	579
Towns	267	322	393	510	579
Troup	267	364	410	512	579
Union	267	322	411	515	579
Ware	296	332	393	510	613
Washington	267	322	393	510	579
Webster	267	322	393	510	579
White	267	322	393	510	593
Wilcox	267	322	393	510	579
Wilkinson	267	322	393	510	579

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

H A W A I I

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Honolulu, HI MSA	691	826	973	1315	1423	Honolulu

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hawaii	459	598	687	914	1126
Maui	741	919	1121	1448	1640
Kauai	586	876	1067	1410	1525

I D A H O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boise City, ID MSA	371	424	515	715	845	Ada, Canyon

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	263	305	394	521	617
Bear Lake	263	305	394	521	617
Bingham	280	305	394	521	617
Boise	263	340	394	521	617
Bonneville	268	338	463	623	761
Butte	263	305	394	521	617
Caribou	263	305	394	521	617
Clark	263	305	394	521	617
Custer	263	305	394	521	617
Franklin	263	305	394	521	617
Gem	263	305	394	521	617
Idaho	263	305	394	521	617
Jerome	263	305	394	521	617
Latah	263	305	394	521	625
Lewis	263	305	394	521	617
Madison	263	305	394	521	617
Nez Perce	268	305	394	521	617
Owyhee	263	305	394	521	617
Power	263	305	394	521	617
Teton	287	305	394	533	630
Valley	274	305	394	521	617
Bannock	263	305	394	539	635
Benewah	263	305	394	521	617
Blaine	407	448	597	832	981
Bonner	302	375	463	643	740
Boundary	263	305	394	521	617
Camas	263	305	394	521	617
Cassia	263	305	394	521	617
Clearwater	263	305	394	521	617
Elmore	263	305	394	521	617
Fremont	263	305	394	521	617
Gooding	263	305	394	521	617
Jefferson	271	305	394	521	617
Kootenai	335	394	515	717	847
Lemhi	263	305	394	521	617
Lincoln	263	305	394	521	617
Minidoka	263	305	394	521	617
Oneida	264	305	394	521	617
Payette	263	305	394	521	617
Shoshone	263	305	394	521	617
Twin Falls	263	305	399	525	617
Washington	263	305	394	521	617

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I L L I N O I S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington-Normal, IL MSA	301	368	493	684	723	Mclean
Champaign-Urbana, IL MSA	324	397	514	705	844	Champaign
Chicago, IL	492	591	704	881	985	Cook, Dupage, Kane, Lake, Mchenry, Will
Davenport-Moline-Rock Island, IA-IL MSA	263	364	450	582	630	Henry, Rock Island
Decatur, IL MSA	252	326	419	566	587	Macon
De Kalb County, IL	381	444	563	781	906	Dekalb
Grundy County, IL	333	384	511	675	717	Grundy
Kankakee, IL PMSA	302	366	488	623	683	Kankakee
Kendall County, Il	460	524	632	880	885	Kendall
Peoria-Pekin, IL MSA	310	343	459	611	750	Peoria, Tazewell, Woodford
Rockford, IL MSA	301	386	470	591	689	Boone, Ogle, Winnebago
St. Louis, MO-IL MSA	297	362	471	612	677	Clinton, Jersey, Madison, Monroe, St. Clair
Springfield, IL MSA	291	359	479	637	724	Menard, Sangamon

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	244	275	353	463	562	Alexander	244	275	353	463	520
Bond	244	275	353	463	520	Brown	244	275	353	463	520
Bureau	244	308	362	463	520	Calhoun	244	275	353	463	520
Carroll	244	275	353	463	520	Cass	245	275	353	463	520
Christian	263	275	355	465	520	Clark	244	275	353	463	520
Clay	244	275	353	463	520	Coles	258	307	409	543	642
Crawford	244	275	353	463	520	Cumberland	244	275	353	463	520
De Witt	248	275	353	467	520	Douglas	261	275	353	463	520
Edgar	244	275	353	463	520	Edwards	244	275	353	463	520
Effingham	244	283	353	463	520	Fayette	244	275	353	463	520
Ford	244	275	353	463	520	Franklin	244	275	353	463	520
Fulton	244	275	353	463	520	Gallatin	244	275	353	463	520
Greene	244	275	353	463	520	Hamilton	244	276	353	463	520
Hancock	244	275	353	463	520	Hardin	244	275	353	463	520
Henderson	244	275	353	463	520	Iroquois	244	275	353	463	520
Jackson	296	297	375	533	596	Jasper	244	277	353	463	520
Jefferson	245	288	360	491	520	Jo Daviess	271	293	353	463	520
Johnson	244	275	353	463	520	Knox	244	275	353	463	537
La Salle	244	286	382	516	579	Lawrence	244	275	353	463	520
Lee	273	281	374	468	526	Livingston	244	301	402	518	565
Logan	274	291	387	485	608	Mcdonough	244	280	353	463	557
Macoupin	244	275	353	463	520	Marion	249	275	353	463	520
Marshall	244	275	353	463	520	Mason	244	275	353	463	527
Massac	245	275	353	463	520	Mercer	244	275	353	463	520
Montgomery	244	275	353	463	520	Morgan	244	309	412	548	578

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I L L I N O I S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Moultrie	244	275	353	476	520
Piatt	244	297	386	527	541
Pope	244	275	353	463	520
Putnam	244	275	353	463	520
Richland	244	275	353	463	520
Schuyler	244	275	353	463	520
Shelby	244	275	353	463	520
Stephenson	258	295	373	467	524
Vermilion	244	311	389	487	544
Warren	258	275	353	463	520
Wayne	244	275	353	463	520
Whiteside	258	294	391	490	551

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Perry	245	275	353	463	520
Pike	244	275	353	463	520
Pulaski	244	275	353	463	520
Randolph	244	275	353	463	520
Saline	244	275	353	463	520
Scott	244	275	353	463	520
Stark	244	275	353	463	520
Union	244	275	353	463	520
Wabash	244	275	353	463	549
Washington	244	293	390	489	634
White	244	275	353	463	520
Williamson	244	275	355	494	520

I N D I A N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bloomington, IN MSA	302	391	521	723	854	Monroe
Cincinnati, OH-KY-IN	289	372	498	667	720	Dearborn
Elkhart-Goshen, IN MSA	346	395	500	640	734	Elkhart
Evansville-Henderson, IN-KY MSA	255	312	405	507	567	Posey, Vanderburgh, Warrick
Fort Wayne, IN MSA	297	379	470	606	659	Adams, Allen, De Kalb, Huntington, Wells, Whitley
Gary, IN PMSA	313	412	513	644	720	Lake, Porter
Indianapolis, IN MSA	339	425	511	640	717	Boone, Hamilton, Hancock, Hendricks, Johnson, Madison Marion, Morgan, Shelby
Kokomo, IN MSA	278	329	429	552	600	Howard, Tipton
Lafayette, IN MSA	297	376	502	698	824	Clinton, Tippecanoe
Louisville, KY-IN MSA	293	377	461	638	673	Clark, Floyd, Harrison, Scott
Muncie, IN MSA	276	344	407	552	652	Delaware
Ohio County, IN	269	303	387	499	549	Ohio
South Bend, IN MSA	298	396	522	651	730	St. Joseph
Terre Haute, IN MSA	268	314	400	500	558	Clay, Vermillion, Vigo

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bartholomew	374	403	487	608	800
Blackford	264	297	392	491	549
Carroll	264	297	380	490	538
Crawford	264	297	380	490	538
Decatur	264	322	412	533	580
Fayette	264	297	381	490	577
Franklin	264	297	380	490	602

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Benton	264	297	380	490	538
Brown	264	350	461	641	664
Cass	264	297	380	490	538
Daviess	264	297	380	490	538
Dubois	264	297	380	490	555
Fountain	264	297	380	490	538
Fulton	291	304	380	511	538

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 14

I N D I A N A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Gibson	264	297	380	490	538
Greene	264	297	380	490	538
Jackson	324	339	419	554	595
Jay	264	297	380	490	538
Jennings	276	297	380	490	538
Kosciusko	264	349	421	546	590
La Porte	269	325	435	557	609
Marshall	312	317	421	531	590
Miami	264	297	380	490	538
Newton	276	297	380	490	538
Orange	264	297	380	490	538
Parke	264	297	380	490	562
Pike	264	297	380	490	538
Putnam	287	334	411	551	556
Ripley	264	297	380	498	563
Spencer	264	297	380	490	538
Steuben	323	365	436	544	609
Switzerland	264	297	380	490	538
Wabash	264	297	380	490	538
Washington	264	297	380	490	538
White	264	297	380	490	594

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Grant	279	297	380	492	538
Henry	264	297	380	490	538
Jasper	264	320	380	490	538
Jefferson	264	297	380	490	538
Knox	269	297	385	490	539
Lagrange	269	309	395	513	597
Lawrence	264	297	380	494	538
Martin	264	297	380	490	538
Montgomery	308	324	404	512	567
Noble	304	310	386	499	551
Owen	264	297	380	490	563
Perry	264	297	380	490	538
Pulaski	264	297	380	490	538
Randolph	264	297	380	490	538
Rush	272	297	380	490	563
Starke	264	297	380	490	538
Sullivan	264	297	380	490	538
Union	264	297	380	490	538
Warren	264	297	380	490	538
Wayne	264	297	380	490	538

I O W A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cedar Rapids, IA MSA	258	363	466	650	697	Linn
Davenport-Moline-Rock Island, IA-IL MSA	263	364	450	582	630	Scott
Des Moines, IA MSA	350	444	545	707	743	Dallas, Polk, Warren
Dubuque, IA MSA	273	334	430	549	669	Dubuque
Iowa City, IA MSA	311	401	515	715	845	Johnson
Omaha, NE-IA MSA	279	382	483	633	710	Pottawattamie
Sioux City, IA-NE MSA	290	348	434	542	618	Woodbury
Waterloo-Cedar Falls, IA MSA	255	325	406	541	635	Black Hawk

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I O W A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	250	309	388	492	543
Allamakee	250	309	388	497	569
Audubon	250	309	388	492	543
Boone	250	328	388	497	589
Buchanan	264	309	388	492	543
Butler	266	309	388	492	543
Carroll	250	309	388	492	543
Cedar	250	313	388	492	543
Cherokee	250	309	388	492	543
Clarke	257	309	388	492	543
Clayton	250	309	388	492	543
Crawford	250	309	388	492	543
Decatur	250	309	388	492	543
Des Moines	250	318	410	513	573
Emmet	250	309	388	492	573
Floyd	272	309	388	492	543
Fremont	275	309	388	492	571
Grundy	250	309	388	492	557
Hamilton	285	323	392	492	549
Hardin	250	309	388	492	543
Henry	250	316	402	503	569
Humboldt	250	309	388	492	543
Iowa	250	309	388	492	543
Jasper	250	316	401	501	561
Jones	259	309	388	492	543
Kossuth	250	309	388	492	543
Louisa	250	309	388	492	543
Lyon	250	309	388	492	543
Mahaska	250	309	388	492	543
Marshall	250	309	388	492	543
Mitchell	250	309	388	492	543
Monroe	250	325	388	492	571
Muscatine	250	309	410	545	573
Osceola	250	309	388	492	543
Palo Alto	250	309	388	492	543
Pocahontas	250	309	388	492	543
Ringgold	250	309	388	492	543
Shelby	250	309	388	492	543
Story	325	395	465	646	739
Taylor	250	309	388	492	544

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	250	309	388	492	543
Appanoose	250	309	388	492	546
Benton	257	309	388	492	543
Bremer	250	309	388	492	577
Buena Vista	265	309	388	492	543
Calhoun	250	309	388	492	543
Cass	250	309	388	492	543
Cerro Gordo	250	327	405	540	566
Chickasaw	250	309	388	492	543
Clay	250	309	388	492	543
Clinton	250	309	393	492	550
Davis	250	309	388	492	543
Delaware	250	309	388	492	543
Dickinson	250	309	388	492	543
Fayette	250	309	388	492	543
Franklin	257	309	388	492	543
Greene	250	309	388	492	543
Guthrie	250	309	388	492	570
Hancock	250	309	388	492	543
Harrison	250	309	388	492	543
Howard	250	309	388	492	566
Ida	257	309	388	492	543
Jackson	250	309	390	492	546
Jefferson	250	315	420	547	691
Keokuk	250	309	388	492	543
Lee	250	309	400	500	560
Lucas	250	309	388	492	543
Madison	250	309	403	516	565
Marion	250	342	420	525	589
Mills	250	334	394	494	552
Monona	250	309	388	492	543
Montgomery	275	310	388	492	543
O'Brien	250	309	388	492	543
Page	250	309	388	492	543
Plymouth	250	309	405	506	566
Poweshiek	265	328	420	525	589
Sac	250	309	388	492	543
Sioux	250	309	388	492	543
Tama	250	309	388	492	543
Union	250	309	388	492	571

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

I O W A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Van Buren	250	309	388	492	543
Washington	250	309	388	492	571
Webster	250	309	393	494	551
Winneshiek	250	309	388	492	543
Wright	250	309	388	492	543
Wapello	250	309	391	492	547
Wayne	250	309	388	492	543
Winnebago	250	314	388	492	543
Worth	250	309	388	492	551

K A N S A S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Kansas City, MO-KS MSA	319	402	483	668	740	Johnson, Leavenworth, Miami, Wyandotte
Lawrence, KS MSA	332	397	510	710	817	Douglas
Topeka, KS MSA	312	359	466	630	711	Shawnee
Wichita, KS MSA	306	368	493	665	719	Butler, Harvey, Sedgwick

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	255	288	370	477	531
Atchison	255	288	370	477	569
Barton	255	288	370	477	531
Brown	255	288	370	477	531
Chautauqua	255	288	370	477	531
Cheyenne	255	288	370	477	531
Clay	255	288	370	477	531
Coffey	264	288	370	477	555
Cowley	272	288	370	489	531
Decatur	255	288	370	477	531
Doniphan	255	288	370	477	531
Elk	255	288	370	477	531
Ellsworth	255	288	370	477	531
Ford	273	322	402	506	570
Geary	313	329	411	531	576
Graham	255	288	370	477	531
Gray	255	288	370	477	531
Greenwood	255	288	370	477	531
Harper	255	288	370	477	531
Hodgeman	255	288	370	477	531
Jefferson	255	288	377	500	531
Kearny	283	288	381	512	562
Kiowa	255	288	370	477	531
Lane	255	288	370	477	531
Linn	255	288	370	477	531
Lyon	255	288	370	477	566
Anderson	255	288	370	477	531
Barber	255	288	370	477	531
Bourbon	255	288	370	477	531
Chase	255	288	370	477	531
Cherokee	255	288	370	477	531
Clark	255	288	370	477	531
Cloud	255	288	370	477	531
Comanche	255	288	370	477	531
Crawford	255	288	377	477	531
Dickinson	255	288	370	477	531
Edwards	255	288	370	477	531
Ellis	255	288	370	477	531
Finney	314	336	430	559	707
Franklin	276	288	373	477	583
Gove	255	288	370	477	531
Grant	255	323	370	507	552
Greeley	255	288	370	477	531
Hamilton	255	288	370	477	531
Haskell	255	295	370	477	531
Jackson	255	288	370	477	531
Jewell	255	288	370	477	531
Kingman	255	288	370	477	531
Labette	255	288	370	477	531
Lincoln	255	288	370	477	531
Logan	255	288	370	477	531
Mcpherson	257	288	370	477	531

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

K A N S A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Marion	255	288	370	477	531
Meade	255	288	370	477	531
Montgomery	255	288	370	477	531
Morton	255	310	370	477	531
Neosho	255	288	370	477	531
Norton	255	288	370	477	531
Osborne	255	288	370	477	532
Pawnee	255	288	370	477	531
Pottawatomie	255	288	370	477	544
Rawlins	255	288	370	477	531
Republic	255	288	370	477	531
Riley	315	347	462	578	701
Rush	255	288	370	477	531
Saline	279	288	381	526	533
Seward	286	312	415	520	581
Sherman	255	288	370	477	531
Stafford	255	288	370	477	531
Stevens	255	289	370	477	546
Thomas	255	288	370	477	531
Wabaunsee	255	288	370	477	531
Washington	255	288	370	477	531
Wilson	255	288	370	477	531

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Marshall	255	288	370	477	531
Mitchell	255	288	370	477	531
Morris	255	288	370	477	531
Nemaha	255	288	370	477	531
Ness	255	288	370	477	531
Osage	255	288	370	477	531
Ottawa	255	288	370	477	531
Phillips	255	288	370	477	531
Pratt	255	288	370	487	531
Reno	255	288	370	477	577
Rice	255	288	370	477	531
Rooks	255	288	370	477	531
Russell	255	288	370	477	531
Scott	255	288	370	487	559
Sheridan	255	288	370	477	531
Smith	255	288	370	477	531
Stanton	255	288	370	477	531
Sumner	255	288	370	500	531
Trego	255	288	370	477	531
Wallace	255	288	370	477	531
Wichita	255	288	381	477	593
Woodson	255	288	370	477	531

K E N T U C K Y

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Cincinnati, OH-KY-IN	289	372	498	667	720	Boone, Campbell, Kenton
Clarksville-Hopkinsville, TN-KY MSA	313	351	411	561	576	Christian
Evansville-Henderson, IN-KY MSA	255	312	405	507	567	Henderson
Gallatin County, KY	242	330	404	506	662	Gallatin
Grant County, KY	241	287	380	531	627	Grant
Huntington-Ashland, WV-KY-OH MSA	261	306	377	481	529	Boyd, Carter, Greenup
Lexington, KY MSA	309	382	471	642	726	Bourbon, Clark, Fayette, Jessamine, Madison, Scott Woodford
Louisville, KY-IN MSA	293	377	461	638	673	Bullitt, Jefferson, Oldham
Owensboro, KY MSA	276	286	377	506	529	Daviess
Pendleton County, KY	243	281	375	471	527	Pendleton

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

K E N T U C K Y continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	238	291	343	454	498
Anderson	262	277	359	448	503
Barren	238	288	343	443	498
Bell	238	277	346	443	498
Bracken	238	277	343	443	498
Breckinridge	238	277	343	443	498
Caldwell	238	277	343	443	498
Carlisle	238	277	343	443	498
Casey	238	277	343	443	498
Clinton	238	277	343	443	498
Cumberland	238	277	343	443	498
Elliott	238	277	343	443	498
Fleming	238	277	343	443	498
Franklin	238	349	429	554	700
Garrard	238	277	343	443	498
Grayson	238	277	343	443	498
Hancock	238	277	343	447	531
Harlan	238	361	412	537	634
Hart	238	277	343	443	498
Hickman	238	277	343	443	498
Jackson	238	277	343	443	498
Knott	238	277	343	443	498
Larue	238	277	343	443	498
Lawrence	238	277	343	443	498
Leslie	238	277	343	443	498
Lewis	238	277	343	443	498
Livingston	274	277	370	514	518
Lyon	238	277	343	443	498
Mccreary	238	277	343	443	498
Magoffin	238	277	343	443	498
Marshall	238	283	343	443	533
Mason	238	277	343	443	498
Menifee	238	277	343	443	498
Metcalfe	238	277	343	443	498
Montgomery	238	277	343	443	498
Muhlenberg	238	277	343	443	498
Nicholas	238	277	343	443	498
Owen	238	277	343	443	511
Perry	266	277	357	446	500
Powell	238	277	343	443	498

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	238	277	343	443	498
Ballard	238	277	343	443	498
Bath	238	277	343	443	498
Boyle	283	287	383	479	536
Breathitt	238	277	343	443	498
Butler	238	277	343	443	498
Calloway	238	277	343	443	498
Carroll	238	277	343	443	498
Clay	238	277	343	443	498
Crittenden	238	277	343	443	498
Edmonson	238	277	343	443	498
Estill	238	277	343	443	498
Floyd	251	304	343	476	547
Fulton	238	277	343	443	498
Graves	238	277	343	443	498
Green	238	277	343	443	498
Hardin	296	303	380	511	606
Harrison	238	278	351	443	543
Henry	238	277	343	443	498
Hopkins	238	277	343	443	503
Johnson	238	277	343	443	498
Knox	238	329	421	528	647
Laurel	310	350	416	561	581
Lee	238	277	343	443	498
Letcher	238	277	343	443	498
Lincoln	238	277	343	443	498
Logan	238	277	343	452	498
Mccracken	269	290	362	464	595
Mclean	238	277	343	443	498
Marion	238	277	343	443	498
Martin	238	277	343	443	498
Meade	246	305	351	465	578
Mercer	238	277	343	452	498
Monroe	238	277	343	443	498
Morgan	238	277	343	443	498
Nelson	261	277	353	443	498
Ohio	238	277	343	443	498
Owsley	238	277	343	443	498
Pike	255	292	353	443	524
Pulaski	261	277	351	444	498

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

K E N T U C K Y continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Robertson	238	277	343	443	498
Rowan	238	277	343	443	518
Shelby	239	314	351	490	498
Spencer	238	283	343	443	498
Todd	238	277	343	443	498
Trimble	238	277	343	443	498
Warren	238	307	411	513	593
Wayne	238	277	343	443	498
Whitley	238	277	343	443	498

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Rockcastle	238	277	343	443	498
Russell	238	277	343	443	498
Simpson	238	298	347	444	498
Taylor	287	339	380	508	574
Trigg	238	277	343	443	498
Union	238	277	343	443	498
Washington	238	281	343	443	498
Webster	238	277	343	443	498
Wolfe	238	277	343	443	498

L O U I S I A N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Alexandria, LA MSA	260	325	409	566	576	Rapides
Acadia Parishes, LA	254	284	340	445	497	Acadia
Baton Rouge, LA MSA	282	351	435	604	713	Ascension, East Baton Rouge, Livingston, West Baton Rouge
Houma, LA MSA	254	301	385	535	633	Lafourche, Terrebonne
Lafayette, LA MSA	291	336	401	551	652	Lafayette, St. Martin
Lake Charles, LA MSA	286	333	422	553	692	Calcasieu
Monroe, LA MSA	281	315	420	567	589	Ouachita
New Orleans, LA	337	386	482	656	793	Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles St. John the Baptist, St. Tammany
St. James Parish, LA	251	289	385	481	539	St. James
St. Landry Parish, LA	254	277	340	445	497	St. Landry
Shreveport-Bossier City, LA MSA	317	360	453	606	743	Bossier, Caddo, Webster

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	256	279	343	449	501
Avoyelles	256	279	343	449	503
Bienville	256	279	343	455	538
Cameron	256	279	343	449	501
Claiborne	256	279	343	449	501
De Soto	256	279	343	449	505
East Feliciana	256	279	343	449	501
Franklin	256	279	343	449	505
Iberia	271	283	350	449	501
Jackson	256	279	343	449	501
La Salle	256	279	343	449	505
Madison	256	279	343	449	501
Natchitoches	274	281	362	502	505
Red River	256	279	343	449	505

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Assumption	281	301	357	449	501
Beauregard	312	340	403	527	579
Caldwell	256	279	343	449	501
Catahoula	256	279	343	449	501
Concordia	256	279	343	449	501
East Carroll	256	279	343	449	501
Evangeline	256	279	343	449	501
Grant	256	279	343	449	501
Iberville	256	279	343	449	517
Jefferson Davis	256	279	343	449	509
Lincoln	301	303	379	520	622
Morehouse	256	279	343	449	501
Pointe Coupee	256	279	343	449	544
Richland	256	279	343	449	505

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

L O U I S I A N A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Sabine	256	286	343	449	528
St. Mary	281	300	378	515	536
Tensas	256	279	343	449	501
Vermilion	256	279	343	449	501
Washington	256	279	343	449	501
West Feliciana	256	333	446	558	626

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
St. Helena	256	279	343	449	501
Tangipahoa	275	286	367	481	513
Union	256	279	343	449	505
Vernon	294	328	374	483	571
West Carroll	256	279	343	449	501
Winn	256	279	343	449	501

M A I N E

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Bangor, ME MSA	336	411	526	686	737	Penobscot county towns of Bangor city, Brewer city Eddington town, Glenburn town, Hampden town, Hermon town Holden town, Kenduskeag town, Milford town Old Town city, Orono town, Orrington town Penobscot Indian I, Veazie town Waldo county towns of Winterport town
Lewiston-Auburn, ME MSA	302	373	480	600	672	Androscoggin county towns of Auburn city, Greene town Lewiston city, Lisbon town, Mechanic Falls tow Poland town, Sabattus town, Turner town, Wales town
Portland, ME MSA	399	514	676	846	948	Cumberland county towns of Cape Elizabeth tow, Casco town Cumberland town, Falmouth town, Freeport town Gorham town, Gray town, North Yarmouth tow Portland city, Raymond town, Scarborough town South Portland cit, Standish town, Westbrook city Windham town, Yarmouth town York county towns of Buxton town, Hollis town Limington town, Old Orchard Beach
Portsmouth-Rochester, NH-ME PMSA	433	520	668	855	1049	York county towns of Berwick town, Eliot town Kittery town, South Berwick town, York town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Androscoggin	303	373	496	621	695	Durham town, Leeds town, Livermore town Livermore Falls to, Minot town
Aroostook	303	355	455	580	667	
Cumberland	443	451	601	818	938	Baldwin town, Bridgton town, Brunswick town Harpswell town, Harrison town, Naples town New Gloucester tow, Pownal town, Sebago town
Franklin	309	355	455	580	667	
Hancock	326	400	494	623	692	
Kennebec	315	393	473	592	667	
Knox	303	390	506	674	710	
Lincoln	394	438	498	693	818	
Oxford	303	355	455	580	667	

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M A I N E continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Penobscot	303	355	455	580	667	Alton town, Argyle unorg., Bradford town, Bradley town Burlington town, Carmel town, Carroll plantation Charleston town, Chester town, Clifton town Corinna town, Corinth town, Dexter town, Dixmont town Drew plantation, East Central Penob, East Millinocket t Edinburg town, Enfield town, Etna town, Exeter town Garland town, Greenbush town, Greenfield town Howland town, Hudson town, Kingman unorg., Lagrange town Lakeville town, Lee town, Levant town, Lincoln town Lowell town, Mattawamkeag town, Maxfield town Medway town, Millinocket town, Mount Chase town Newburgh town, Newport town, North Penobscot un Passadumkeag town, Patten town, Plymouth town Prentiss plantatio, Seboeis plantation, Springfield town Stacyville town, Stetson town, Twombly unorg. Webster plantation, Whitney unorg., Winn town Woodville town
Piscataquis	303	355	455	580	667	
Sagadahoc	426	488	601	800	987	
Somerset	317	362	455	580	684	
Waldo	303	355	455	580	667	Belfast city, Belmont town, Brooks town, Burnham town Frankfort town, Freedom town, Islesboro town Jackson town, Knox town, Liberty town, Lincolnville town Monroe town, Montville town, Morrill town Northport town, Palermo town, Prospect town Searsmont town, Searsport town, Stockton Springs t Swanville town, Thorndike town, Troy town, Unity town Waldo town
Washington	303	355	455	580	667	
York	373	428	574	717	802	Acton town, Alfred town, Arundel town, Biddeford city Cornish town, Dayton town, Kennebunk town Kennebunkport town, Lebanon town, Limerick town Lyman town, Newfield town, North Berwick town Ogunquit town, Parsonsfield town, Saco city Sanford town, Shapleigh town, Waterboro town, Wells town

M A R Y L A N D

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Baltimore, MD	401	491	599	792	906	Anne Arundel, Baltimore, Carroll, Harford, Howard Queen Anne's, Baltimore city
Columbia, MD	532	715	832	1100	1375	Columbia
Cumberland, MD-WV MSA	314	378	464	617	705	Allegany
Hagerstown, MD PMSA	309	373	458	608	696	Washington
Washington, DC-MD-VA	569	646	759	1033	1245	Calvert, Charles, Frederick, Montgomery, Prince George's

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M A R Y L A N D continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Wilmington-Newark, DE-MD PMSA	409	541	630	856	1033	Cecil

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Caroline	350	377	472	619	703
Garrett	313	420	472	615	775
St. Mary's	478	567	654	911	1042
Talbot	414	438	585	732	959
Worcester	313	377	473	657	703
Dorchester	313	405	472	615	703
Kent	317	390	520	650	784
Somerset	372	419	472	655	774
Wicomico	352	408	525	668	735

M A S S A C H U S E T T S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Barnstable-Yarmouth, MA MSA	450	603	805	1008	1128	Barnstable county towns of Barnstable town, Brewster town Chatham town, Dennis town, Eastham town, Harwich town Mashpee town, Orleans town, Sandwich town, Yarmouth town
Boston, MA-NH PMSA	532	599	750	938	1101	Bristol county towns of Berkley town, Dighton town Mansfield town, Norton town, Taunton city Essex county towns of Amesbury town, Beverly city Danvers town, Essex town, Gloucester city, Hamilton town Ipswich town, Lynn city, Lynnfield town, Manchester town Marblehead town, Middleton town, Nahant town Newbury town, Newburyport city, Peabody city Rockport town, Rowley town, Salem city, Salisbury town Saugus town, Swampscott town, Topsfield town Wenham town Middlesex county towns of Acton town, Arlington town Ashland town, Ayer town, Bedford town, Belmont town Boxborough town, Burlington town, Cambridge city Carlisle town, Concord town, Everett city Framingham town, Holliston town, Hopkinton town Hudson town, Lexington town, Lincoln town Littleton town, Malden city, Marlborough city Maynard town, Medford city, Melrose city, Natick town Newton city, North Reading town, Reading town Sherborn town, Shirley town, Somerville city Stoneham town, Stow town, Sudbury town, Townsend town Wakefield town, Waltham city, Watertown town Wayland town, Weston town, Wilmington town Winchester town, Woburn city Norfolk county towns of Bellingham town, Braintree town Brookline town, Canton town, Cohasset town, Dedham town Dover town, Foxborough town, Franklin town Holbrook town, Medfield town, Medway town, Millis town Milton town, Needham town, Norfolk town, Norwood town Plainville town, Quincy city, Randolph town, Sharon town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Stoughton town, Walpole town, Wellesley town Westwood town, Weymouth town, Wrentham town Plymouth county towns of Carver town, Duxbury town Hanover town, Hingham town, Hull town, Kingston town Marshfield town, Norwell town, Pembroke town Plymouth town, Rockland town, Scituate town Wareham town Suffolk county towns of Boston city, Chelsea city Revere city, Winthrop town Worcester county towns of Berlin town, Blackstone town Bolton town, Harvard town, Hopedale town, Lancaster town Mendon town, Milford town, Millville town Southborough town, Upton town
Brockton, MA PMSA	420	554	679	846	963	Bristol county towns of Easton town, Raynham town Norfolk county towns of Avon town Plymouth county towns of Abington town, Bridgewater town Brockton city, East Bridgewater t, Halifax town Hanson town, Lakeville town, Middleborough town Plympton town, West Bridgewater t, Whitman town
Fitchburg-Leominster, MA MSA	303	426	552	711	773	Middlesex county towns of Ashby town Worcester county towns of Ashburnham town, Fitchburg city Gardner city, Leominster city, Lunenburg town Templeton town, Westminster town, Winchendon town
Lawrence, MA-NH PMSA	433	522	656	820	1010	Essex county towns of Andover town, Boxford town Georgetown town, Groveland town, Haverhill city Lawrence city, Merrimac town, Methuen town North Andover town, West Newbury town
Lowell, MA-NH PMSA	425	549	664	831	930	Middlesex county towns of Billerica town, Chelmsford town Dracut town, Dunstable town, Groton town, Lowell city Pepperell town, Tewksbury town, Tyngsborough town Westford town
New Bedford, MA MSA	407	498	566	707	793	Bristol county towns of Acushnet town, Dartmouth town Fairhaven town, Freetown town, New Bedford city Plymouth county towns of Marion town, Mattapoisett town Rochester town
Pittsfield, MA MSA	327	464	573	718	890	Berkshire county towns of Adams town, Cheshire town Dalton town, Hinsdale town, Lanesborough town, Lee town Lenox town, Pittsfield city, Richmond town Stockbridge town
Providence-Fall River-Warwick, RI-MA PMSA	393	534	642	805	992	Bristol county towns of Attleboro city, Fall River city North Attleborough, Rehoboth town, Seekonk town Somerset town, Swansea town, Westport town
Springfield, MA MSA	386	476	602	752	923	Franklin county towns of Sunderland town Hampden county towns of Agawam town, Chicopee city East Longmeadow to, Hampden town, Holyoke city Longmeadow town, Ludlow town, Monson town Montgomery town, Palmer town, Russell town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Southwick town, Springfield city, Westfield city West Springfield t, Wilbraham town Hampshire county towns of Amherst town, Belchertown town Easthampton town, Granby town, Hadley town Hatfield town, Huntington town, Northampton city Southampton town, South Hadley town, Ware town Williamsburg town
Worcester, MA-CT	455	551	689	859	963	Hampden county towns of Holland town Worcester county towns of Auburn town, Barre town Boylston town, Brookfield town, Charlton town Clinton town, Douglas town, Dudley town East Brookfield to, Grafton town, Holden town Leicester town, Millbury town, Northborough town Northbridge town, North Brookfield t, Oakham town Oxford town, Paxton town, Princeton town, Rutland town Shrewsbury town, Southbridge town, Spencer town Sterling town, Sturbridge town, Sutton town Uxbridge town, Webster town, Westborough town West Boylston town, West Brookfield to, Worcester city

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Barnstable	426	585	779	974	1090	Bourne town, Falmouth town, Provincetown town Truro town, Wellfleet town
Berkshire	359	436	514	706	845	Alford town, Becket town, Clarksburg town, Egremont town Florida town, Great Barrington t, Hancock town Monterey town, Mount Washington t, New Ashford town New Marlborough to, North Adams city, Otis town Peru town, Sandisfield town, Savoy town, Sheffield town Tyringham town, Washington town, West Stockbridge t Williamstown town, Windsor town
Dukes	577	586	780	975	1093	
Franklin	387	480	614	768	927	Ashfield town, Bernardston town, Buckland town Charlemont town, Colrain town, Conway town Deerfield town, Erving town, Gill town, Greenfield town Hawley town, Heath town, Leverett town, Leyden town Monroe town, Montague town, New Salem town Northfield town, Orange town, Rowe town, Shelburne town Shutesbury town, Warwick town, Wendell town Whately town
Hampden	391	532	710	945	1166	Blandford town, Brimfield town, Chester town Granville town, Tolland town, Wales town
Hampshire	547	554	741	926	1038	Chesterfield town, Cummington town, Goshen town Middlefield town, Pelham town, Plainfield town Westhampton town, Worthington town
Nantucket	692	926	1236	1545	1731	
Worcester	435	454	605	757	847	Athol town, Hardwick town, Hubbardston town

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M A S S A C H U S E T T S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
						New Braintree town, Petersham town, Phillipston town Royalston town, Warren town

M I C H I G A N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Ann Arbor, MI PMSA	434	526	649	851	954	Lenawee, Livingston, Washtenaw
Benton Harbor, MI MSA	351	355	466	583	655	Berrien
Detroit, MI PMSA	340	463	559	699	784	Lapeer, Macomb, Monroe, Oakland, St. Clair, Wayne
Flint, MI PMSA	328	374	467	598	654	Genesee
Grand Rapids-Muskegon-Holland, MI MSA	368	430	525	658	735	Allegan, Kent, Muskegon, Ottawa
Jackson, MI MSA	277	372	471	589	661	Jackson
Kalamazoo-Battle Creek, MI MSA	327	394	497	622	695	Calhoun, Kalamazoo, Van Buren
Lansing-East Lansing, MI MSA	349	410	529	691	799	Clinton, Eaton, Ingham
Saginaw-Bay City-Midland, MI MSA	321	354	471	589	661	Bay, Midland, Saginaw

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alcona	273	310	394	511	584
Alpena	273	310	394	511	587
Arenac	273	310	394	511	584
Barry	273	336	448	561	628
Branch	315	323	397	542	584
Charlevoix	331	335	424	577	597
Chippewa	273	310	394	511	584
Crawford	298	310	402	549	584
Dickinson	273	335	413	516	584
Gladwin	273	310	394	511	584
Grand Traverse	361	386	515	645	722
Hillsdale	273	310	394	511	584
Huron	273	310	394	511	584
Iosco	273	310	394	511	617
Isabella	304	325	435	587	713
Keweenaw	273	310	394	511	584
Leelanau	369	400	467	611	766
Mackinac	273	310	394	511	584
Marquette	273	310	394	511	584
Mecosta	273	310	394	533	632
Missaukee	287	310	394	511	584
Montmorency	273	310	394	511	584
Oceana	291	310	394	511	584

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alger	273	310	394	511	584
Antrim	273	326	394	511	584
Baraga	273	310	394	511	584
Benzie	285	310	394	529	584
Cass	273	310	396	540	584
Cheboygan	287	310	394	511	598
Clare	283	310	394	511	584
Delta	273	310	394	511	584
Emmet	304	365	431	565	602
Gogebic	273	310	394	511	584
Gratiot	285	310	394	511	584
Houghton	273	310	394	511	584
Ionia	334	338	423	528	593
Iron	273	310	394	511	584
Kalkaska	273	310	395	513	649
Lake	276	310	394	511	584
Luce	273	310	394	511	584
Manistee	273	310	394	511	584
Mason	273	310	394	511	584
Menominee	273	310	394	511	584
Montcalm	277	310	394	511	584
Newaygo	313	336	395	511	584
Ogemaw	284	311	394	511	584

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M I C H I G A N continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ontonagon	273	310	394	511	584
Oscoda	273	310	394	511	584
Presque Isle	273	310	394	511	584
St. Joseph	273	317	394	513	584
Schoolcraft	273	310	394	511	584
Tuscola	296	323	431	538	602

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Osceola	273	310	394	511	584
Otsego	280	338	426	592	687
Roscommon	301	310	394	511	584
Sanilac	273	320	394	513	584
Shiawassee	273	342	412	573	614
Wexford	273	314	408	534	632

M I N N E S O T A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Duluth-Superior, MN-WI MSA	254	335	431	574	669	St. Louis
Fargo-Moorhead, ND-MN MSA	295	407	491	681	729	Clay
Grand Forks, ND-MN MSA	305	364	478	660	736	Polk
La Crosse, WI-MN MSA	263	340	433	578	701	Houston
Minneapolis-St. Paul, MN-WI MSA	369	474	605	820	928	Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey Scott, Sherburne, Washington, Wright
Rochester, MN MSA	292	408	533	739	829	Olmsted
St. Cloud, MN MSA	317	409	483	612	779	Benton, Stearns

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aitkin	253	328	438	548	613
Beltrami	250	320	428	561	599
Blue Earth	307	371	462	592	752
Carlton	250	304	386	484	553
Chippewa	250	304	386	484	553
Cook	296	304	398	543	565
Crow Wing	250	304	406	508	638
Douglas	250	304	386	484	553
Fillmore	250	304	386	484	553
Goodhue	250	322	430	548	602
Hubbard	255	304	386	484	553
Jackson	250	304	386	484	553
Kandiyohi	250	317	386	484	582
Koochiching	302	308	410	511	671
Lake	250	304	386	484	553
Le Sueur	250	304	386	484	596
Lyon	250	304	386	484	573
Mahnomen	250	304	386	484	553
Martin	250	304	386	484	553
Mille Lacs	266	304	387	539	635
Mower	250	304	386	484	553

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Becker	250	359	403	504	565
Big Stone	250	304	386	484	553
Brown	250	323	386	484	553
Cass	250	304	386	484	553
Clearwater	250	304	386	484	553
Cottonwood	250	304	386	484	553
Dodge	250	304	386	484	553
Faribault	250	304	386	484	553
Freeborn	250	304	394	518	555
Grant	250	304	386	484	553
Itasca	320	324	422	528	591
Kanabec	250	314	408	509	571
Kittson	250	304	386	484	553
Lac qui Parle	250	304	386	484	553
Lake of the Woods	250	304	386	484	553
Lincoln	250	304	386	484	553
Mcleod	250	323	430	535	600
Marshall	250	304	386	484	553
Meeker	259	304	386	484	553
Morrison	278	304	386	484	553
Murray	250	304	386	484	553

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M I N N E S O T A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Nicollet	313	335	447	591	626
Norman	250	304	386	484	553
Pennington	250	304	386	516	553
Pipestone	250	304	386	484	553
Red Lake	250	315	386	484	553
Renville	250	304	386	484	553
Rock	250	304	386	484	553
Sibley	250	304	386	484	553
Stevens	285	360	406	508	569
Todd	250	304	386	484	553
Wabasha	250	304	386	484	553
Waseca	277	304	386	484	553
Wilkin	250	304	386	484	553
Yellow Medicine	250	304	386	484	553

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Nobles	250	304	386	484	553
Otter Tail	250	304	386	484	553
Pine	277	304	386	487	553
Pope	250	304	386	484	553
Redwood	250	304	386	484	553
Rice	262	358	477	596	668
Roseau	302	308	404	521	567
Steele	270	312	416	520	583
Swift	250	304	386	484	553
Traverse	250	304	386	484	553
Wadena	250	304	386	484	553
Watonwan	250	304	386	484	553
Winona	255	332	421	526	590

M I S S I S S I P P I

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Biloxi-Gulfport-Pascagpula, MS MSA	329	386	445	619	731	Hancock, Harrison, Jackson
Hattiesburg, MS MSA	243	299	365	492	586	Forrest, Lamar
Jackson, MS MSA	335	383	467	621	655	Hinds, Madison, Rankin
Memphis, TN-AR-MS MSA	321	374	440	611	642	Desoto

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	237	281	349	447	570
Amite	237	281	347	447	503
Benton	237	281	347	447	503
Calhoun	237	281	347	447	503
Chickasaw	237	281	347	447	503
Claiborne	237	281	347	447	503
Clay	237	281	347	447	508
Copiah	237	281	347	447	503
Franklin	240	281	347	447	503
Greene	237	281	347	447	503
Holmes	237	281	347	447	503
Issaquena	249	342	454	568	637
Jasper	237	281	347	447	503
Jefferson Davis	237	281	347	447	503
Kemper	239	281	347	447	503
Lauderdale	237	305	385	498	539

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alcorn	237	281	347	447	503
Attala	237	281	347	447	503
Bolivar	269	281	362	452	517
Carroll	237	281	347	447	503
Choctaw	237	281	347	447	503
Clarke	237	281	347	447	503
Coahoma	275	281	371	466	521
Covington	237	281	347	447	503
George	237	281	347	447	503
Grenada	237	282	347	475	503
Humphreys	237	281	347	447	503
Itawamba	237	281	347	447	503
Jefferson	237	281	347	447	503
Jones	237	281	347	447	503
Lafayette	240	329	438	549	614
Lawrence	237	281	347	447	503

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M I S S I S S I P P I continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Leake	237	281	347	447	503
Leflore	237	281	347	448	538
Lowndes	293	315	374	469	529
Marshall	237	281	347	447	511
Montgomery	237	281	347	447	503
Newton	237	281	347	447	503
Oktibbeha	291	302	370	514	607
Pearl River	249	281	347	449	503
Pike	241	281	347	447	503
Prentiss	240	281	347	447	503
Scott	237	281	347	447	503
Simpson	240	281	347	447	503
Stone	237	281	347	447	503
Tallahatchie	237	281	347	447	503
Tippah	237	281	347	447	503
Tunica	237	281	347	447	503
Walthall	237	281	347	447	503
Washington	256	304	407	526	578
Webster	239	281	347	447	503
Winston	237	281	347	447	503
Yazoo	241	281	347	447	503

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Lee	297	319	385	481	539
Lincoln	237	281	347	447	503
Marion	237	281	347	447	503
Monroe	237	281	347	447	503
Neshoba	237	281	347	447	503
Noxubee	241	281	347	447	503
Panola	245	281	347	447	503
Perry	237	281	347	447	503
Pontotoc	237	281	347	447	503
Quitman	237	281	347	447	503
Sharkey	241	281	347	447	503
Smith	237	281	347	447	503
Sunflower	262	285	347	447	534
Tate	237	320	370	464	609
Tishomingo	237	281	347	447	503
Union	237	281	347	447	503
Warren	237	309	387	533	639
Wayne	237	281	347	447	503
Wilkinson	237	281	347	447	503
Yalobusha	239	281	347	447	503

M I S S O U R I

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Columbia, MO MSA	245	344	448	623	735	Boone
Joplin, MO MSA	239	276	367	483	519	Jasper, Newton
Kansas City, MO-KS MSA	319	402	483	668	740	Cass, Clay, Clinton, Jackson, Lafayette, Platte, Ray
St. Joseph, MO MSA	229	278	372	468	520	Andrew, Buchanan
St. Louis, MO-IL MSA	297	362	471	612	677	Crawford-Sullivan (part), Franklin, Jefferson, Lincoln St. Charles, St. Louis, Warren, St. Louis city
Springfield, MO MSA	251	318	411	567	591	Christian, Greene, Webster

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	225	281	373	469	563
Audrain	240	260	334	451	521
Barton	225	260	334	434	497
Benton	254	260	344	434	497
Butler	225	260	334	434	497
Callaway	266	270	359	456	590

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Atchison	225	260	334	434	497
Barry	225	268	334	434	497
Bates	225	260	334	434	507
Bollinger	225	260	334	434	497
Caldwell	225	262	351	440	497
Camden	296	299	400	555	652

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M I S S O U R I continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Cape Girardeau	232	285	379	505	619
Carter	225	260	334	434	497
Chariton	225	260	334	434	497
Cole	225	297	396	528	554
Crawford	247	297	335	441	497
Dallas	225	260	334	434	497
Dekalb	233	260	334	439	497
Douglas	225	260	334	434	497
Gasconade	225	260	334	434	497
Grundy	225	260	334	434	497
Henry	257	262	348	437	573
Holt	225	260	334	434	497
Howell	225	260	334	434	497
Johnson	271	302	394	522	617
Laclede	225	260	334	437	497
Lewis	225	260	334	434	497
Livingston	225	260	335	434	497
Macon	225	260	334	434	497
Maries	225	260	334	434	497
Mercer	225	260	334	434	497
Mississippi	225	260	334	434	497
Monroe	225	260	334	434	497
Morgan	225	260	334	434	497
Nodaway	237	287	354	450	543
Osage	225	260	334	434	497
Pemiscot	225	260	334	434	497
Pettis	241	283	379	476	570
Pike	225	260	334	434	523
Pulaski	225	315	354	468	523
Ralls	225	260	334	434	497
Reynolds	225	260	334	434	497
St. Clair	225	260	334	434	497
St. Francois	237	299	379	475	623
Schuyler	225	260	334	434	497
Scott	271	273	364	492	566
Shelby	225	260	334	434	497
Stone	262	278	345	441	497
Taney	255	281	368	497	585
Vernon	225	260	334	444	497
Wayne	225	260	334	434	497

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Carroll	225	260	334	434	497
Cedar	225	260	334	434	497
Clark	225	260	334	434	497
Cooper	225	260	334	434	497
Dade	225	260	334	434	497
Daviess	225	260	334	434	497
Dent	225	260	334	434	497
Dunklin	225	260	334	434	497
Gentry	225	260	334	434	497
Harrison	225	260	334	434	497
Hickory	225	260	334	434	497
Howard	225	260	334	434	499
Iron	225	260	334	434	497
Knox	225	260	334	434	497
Lawrence	238	266	334	434	497
Linn	225	260	334	434	497
Mcdonald	225	260	334	434	497
Madison	225	260	334	434	497
Marion	225	260	334	434	497
Miller	247	297	334	437	516
Moniteau	225	260	334	434	497
Montgomery	225	260	334	434	497
New Madrid	225	260	334	434	497
Oregon	225	260	334	434	497
Ozark	225	260	334	434	497
Perry	262	266	355	472	497
Phelps	233	279	358	486	527
Polk	225	261	334	434	521
Putnam	225	260	334	434	497
Randolph	225	260	334	434	497
Ripley	225	260	334	434	497
Ste. Genevieve	225	268	344	441	558
Saline	225	260	342	434	497
Scotland	225	260	334	434	497
Shannon	225	260	334	434	497
Stoddard	225	260	334	434	497
Sullivan	225	260	334	434	497
Texas	225	260	334	434	497
Washington	264	318	357	446	500
Worth	225	260	334	434	497

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

M I S S O U R I continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Wright	225	260	334	434	497

M O N T A N A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Billings, MT MSA	287	334	447	600	728	Yellowstone
Great Falls, MT MSA	287	332	438	570	679	Cascade

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Beaverhead	273	316	417	542	634
Blaine	273	316	417	542	634
Carbon	273	320	417	542	634
Chouteau	273	316	417	542	634
Daniels	273	336	417	542	634
Deer Lodge	273	316	417	542	634
Fergus	273	316	417	542	634
Gallatin	273	319	428	550	703
Glacier	273	316	417	542	634
Granite	273	316	417	542	634
Jefferson	288	316	417	542	634
Lake	298	316	417	542	634
Liberty	273	316	417	542	634
Mccone	273	334	417	542	634
Meagher	273	336	417	542	634
Missoula	299	351	467	602	765
Park	273	316	417	542	640
Phillips	273	316	417	542	634
Powder River	273	320	417	542	634
Prairie	273	316	417	542	634
Richland	273	342	417	542	634
Rosebud	273	316	417	542	634
Sheridan	281	316	417	542	634
Stillwater	279	316	417	542	634
Teton	273	316	417	542	634
Treasure	273	316	417	542	634
Wheatland	273	316	417	542	634

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Big Horn	273	316	417	542	634
Broadwater	273	316	417	542	676
Carter	273	336	417	542	634
Custer	273	316	417	542	634
Dawson	273	316	417	542	634
Fallon	273	316	417	542	634
Flathead	273	317	424	590	695
Garfield	273	316	417	542	634
Golden Valley	273	335	417	542	634
Hill	282	316	417	542	634
Judith Basin	273	336	417	542	634
Lewis and Clark	305	357	474	660	781
Lincoln	298	316	417	542	634
Madison	279	316	417	542	634
Mineral	273	316	417	542	647
Musselshell	278	316	417	542	634
Petroleum	273	316	417	542	634
Pondera	273	335	417	542	634
Powell	278	316	417	542	634
Ravalli	273	316	417	542	634
Roosevelt	286	316	417	542	634
Sanders	273	316	417	542	634
Silver Bow	273	316	417	542	634
Sweet Grass	295	316	417	542	634
Toole	279	316	417	542	634
Valley	273	316	417	542	634
Wibaux	273	336	417	542	634

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E B R A S K A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Lincoln, NE MSA	277	353	468	621	725	Lancaster
Omaha, NE-IA MSA	279	382	483	633	710	Cass, Douglas, Sarpy, Washington
Sioux City, IA-NE MSA	290	348	434	542	618	Dakota

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	224	301	398	499	598
Arthur	224	288	368	470	536
Blaine	224	288	368	470	536
Box Butte	243	288	368	471	556
Brown	224	288	368	470	547
Burt	224	288	368	470	536
Cedar	224	288	368	470	536
Cherry	224	303	368	473	557
Clay	224	288	368	470	536
Cuming	224	304	368	470	536
Dawes	239	288	368	474	559
Deuel	224	288	368	470	536
Dodge	224	288	380	500	536
Fillmore	224	288	368	470	536
Frontier	252	288	368	470	536
Gage	224	289	375	477	536
Garfield	224	288	368	470	536
Grant	224	288	368	470	536
Hall	224	295	393	517	580
Harlan	224	288	368	471	536
Hitchcock	224	288	368	470	536
Hooker	224	302	368	471	536
Jefferson	224	288	368	470	536
Kearney	224	288	368	470	559
Keya Paha	224	288	368	470	536
Knox	224	299	368	470	536
Logan	224	288	368	470	560
Mcpherson	224	288	368	471	536
Merrick	224	288	368	470	536
Nance	224	288	368	470	536
Nuckolls	224	288	368	470	536
Pawnee	224	288	368	474	536
Phelps	251	288	368	471	559
Platte	224	288	368	514	536
Red Willow	224	288	368	470	545

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Antelope	224	303	368	473	536
Banner	224	288	368	471	536
Boone	224	288	368	470	557
Boyd	224	301	368	470	536
Buffalo	228	330	414	517	624
Butler	224	288	368	470	536
Chase	224	304	368	470	561
Cheyenne	251	288	368	470	536
Colfax	244	300	368	470	536
Custer	251	290	368	470	556
Dawson	246	300	368	474	536
Dixon	250	288	368	470	536
Dundy	224	288	368	470	536
Franklin	224	288	368	475	536
Furnas	224	288	368	470	557
Garden	224	300	368	473	559
Gosper	224	288	368	470	543
Greeley	224	288	368	470	545
Hamilton	224	288	368	474	536
Hayes	224	302	368	470	557
Holt	224	288	368	470	536
Howard	224	288	368	470	536
Johnson	224	292	368	470	536
Keith	224	288	368	470	536
Kimball	224	288	368	471	559
Lincoln	230	300	368	470	536
Loup	224	288	368	470	558
Madison	230	302	400	517	631
Morrill	224	290	368	470	557
Nemaha	224	288	368	470	536
Otoe	224	288	368	470	560
Perkins	224	288	368	470	536
Pierce	224	288	368	470	536
Polk	224	288	368	470	536
Richardson	224	288	368	470	536

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E B R A S K A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Rock	224	295	368	470	536
Saunders	224	288	368	470	536
Seward	278	288	376	470	536
Sherman	224	290	368	470	560
Stanton	224	288	368	470	536
Thomas	224	288	368	470	536
Valley	224	288	368	470	536
Webster	224	288	368	470	536
York	224	288	373	470	536

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Saline	224	301	368	470	536
Scotts Bluff	228	299	380	470	557
Sheridan	224	288	368	470	537
Sioux	224	288	368	470	559
Thayer	224	303	368	470	536
Thurston	224	288	368	470	536
Wayne	257	288	368	470	557
Wheeler	224	288	368	471	536

N E V A D A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Las Vegas, NV-AZ MSA	437	519	618	860	1015	Clark, Nye
Reno, NV MSA	448	520	667	928	1097	Washoe

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Churchill	422	428	572	789	937
Elko	384	438	584	771	959
Eureka	311	507	571	711	796
Lander	314	486	571	714	936
Lyon	372	445	571	795	937
Pershing	432	438	584	731	835
White Pine	312	429	571	771	810

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Douglas	379	553	692	961	1071
Esmeralda	406	507	571	712	799
Humboldt	457	479	578	758	811
Lincoln	312	468	571	715	800
Mineral	315	431	574	752	942
Storey	438	444	584	813	959
Carson City	328	449	599	833	984

N E W H A M P S H I R E

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Boston, MA-NH PMSA	532	599	750	938	1101	Rockingham county towns of Seabrook town South Hampton town
Lawrence, MA-NH PMSA	433	522	656	820	1010	Rockingham county towns of Atkinson town, Chester town Danville town, Derry town, Fremont town, Hampstead town Kingston town, Newton town, Plaistow town, Raymond town Salem town, Sandown town, Windham town
Lowell, MA-NH PMSA	425	549	664	831	930	Hillsborough county towns of Pelham town
Manchester, NH PMSA	342	488	609	761	853	Hillsborough county towns of Bedford town, Goffstown town Manchester city, Weare town Merrimack county towns of Allenstown town, Hooksett town Rockingham county towns of Auburn town, Candia town Londonderry town
Nashua, NH PMSA	403	562	697	948	1128	Hillsborough county towns of Amherst town, Brookline town Greenville town, Hollis town, Hudson town

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E W H A M P S H I R E continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Litchfield town, Mason town, Merrimack town Milford town, Mont Vernon town, Nashua city New Ipswich town, Wilton town
Portsmouth-Rochester, NH-ME PMSA	433	520	668	855	1049	Rockingham county towns of Brentwood town East Kingston town, Epping town, Exeter town Greenland town, Hampton town, Hampton Falls town Kensington town, New Castle town, Newfields town Newington town, Newmarket town, North Hampton town Portsmouth city, Rye town, Stratham town Strafford county towns of Barrington town, Dover city Durham town, Farmington town, Lee town, Madbury town Milton town, Rochester city, Rollinsford town Somersworth city

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Belknap	407	470	618	834	1014	
Carroll	340	466	621	777	970	
Cheshire	421	500	640	833	987	
Coos	290	355	455	593	703	
Grafton	373	451	601	777	982	
Hillsborough	399	498	665	879	1057	Antrim town, Bennington town, Deering town Francestown town, Greenfield town, Hancock town Hillsborough town, Lyndeborough town, New Boston town Peterborough town, Sharon town, Temple town Windsor town
Merrimack	419	501	625	801	895	Andover town, Boscawen town, Bow town, Bradford town Canterbury town, Chichester town, Concord city Danbury town, Dunbarton town, Epsom town, Franklin city Henniker town, Hill town, Hopkinton town, Loudon town Newbury town, New London town, Northfield town Pembroke town, Pittsfield town, Salisbury town Sutton town, Warner town, Webster town, Wilmot town
Rockingham	435	510	682	946	1092	Deerfield town, Northwood town, Nottingham town
Strafford	385	523	698	875	980	Middleton town, New Durham town, Strafford town
Sullivan	406	412	534	702	749	

N E W J E R S E Y

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Atlantic-Cape May, NJ PMSA	459	521	695	870	994	Atlantic, Cape May
Bergen-Passaic, NJ PMSA	604	735	863	1150	1418	Bergen, Passaic
Jersey City, NJ PMSA	552	651	758	963	1061	Hudson
Middlesex-Somerset-Hunterdon, NJ PMSA	643	705	880	1196	1381	Hunterdon, Middlesex, Somerset

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E W J E R S E Y continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Monmouth-Ocean, NJ PMSA	531	636	807	1072	1257	Monmouth, Ocean
Newark, NJ PMSA	511	652	786	990	1251	Essex, Morris, Sussex, Union, Warren
Philadelphia, PA-NJ PMSA	446	549	678	848	1063	Burlington, Camden, Gloucester, Salem
Trenton, NJ PMSA	438	610	743	1006	1215	Mercer
Vineland-Millville-Bridgeton, NJ PMSA	442	538	649	810	909	Cumberland

N E W M E X I C O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albuquerque, NM MSA	365	435	544	750	885	Bernalillo, Sandoval, Valencia
Las Cruces, NM MSA	272	342	407	557	657	Dona Ana
Santa Fe, NM MSA	393	558	690	925	1048	Los Alamos, Santa Fe

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Catron	259	303	377	506	571
Cibola	270	295	377	506	571
Curry	259	301	395	506	571
Eddy	266	294	377	506	588
Guadalupe	259	294	377	506	574
Hidalgo	259	294	377	506	571
Lincoln	294	301	398	524	655
Mckinley	259	326	414	517	578
Otero	259	294	377	525	571
Rio Arriba	303	310	382	506	571
San Juan	293	314	392	544	644
Sierra	259	294	377	506	571
Taos	355	360	480	600	789
Union	259	316	377	506	571

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Chaves	259	295	390	535	571
Colfax	259	301	377	506	571
Debaca	259	295	377	506	571
Grant	259	294	377	506	571
Harding	259	294	377	506	571
Lea	259	294	377	506	571
Luna	268	294	377	506	571
Mora	259	294	377	506	571
Quay	259	376	423	529	592
Roosevelt	259	294	377	506	571
San Miguel	288	294	389	506	571
Socorro	259	294	377	506	586
Torrance	285	307	377	506	571

N E W Y O R K

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Albany-Schenectady-Troy, NY MSA	386	473	584	731	818	Albany, Montgomery, Rensselaer, Saratoga, Schenectady Schoharie
Binghamton, NY MSA	343	387	483	615	687	Broome, Tioga
Buffalo-Niagara Falls, NY PMSA	340	415	499	624	698	Erie, Niagara
Dutchess County, NY PMSA	513	651	804	1045	1222	Dutchess
Elmira, NY MSA	343	387	475	600	718	Chemung
Glens Falls, NY MSA	343	450	548	686	768	Warren, Washington
Jamestown, NY MSA	343	387	463	600	687	Chautauqua

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E W Y O R K continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Nassau-Suffolk, NY PMSA	690	831	1014	1410	1511	Nassau, Suffolk
New York, NY PMSA	645	719	817	1022	1144	Bronx, Kings, New York, Putnam, Queens, Richmond Rockland
Westchester County, NY	620	807	983	1280	1526	Westchester
Newburgh, NY-PA PMSA	505	657	803	1019	1163	Orange
Rochester, NY MSA	372	483	589	754	824	Genesee, Livingston, Monroe, Ontario, Orleans, Wayne
Syracuse, NY MSA	370	446	552	705	783	Cayuga, Madison, Onondaga, Oswego
Utica-Rome, NY MSA	343	387	474	600	687	Herkimer, Oneida

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allegany	338	381	456	591	676
Chenango	360	381	456	591	676
Columbia	423	444	570	747	799
Delaware	338	381	456	591	726
Franklin	338	381	456	591	676
Greene	338	438	526	680	828
Jefferson	364	430	506	634	708
Otsego	338	400	460	595	756
Schuyler	366	391	463	645	760
Steuben	350	398	456	598	676
Tompkins	441	476	611	852	1005
Wyoming	338	381	456	591	676

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Cattaraugus	338	381	456	591	676
Clinton	338	381	492	615	689
Cortland	338	404	507	634	749
Essex	338	386	483	605	676
Fulton	338	381	456	591	676
Hamilton	338	407	468	591	676
Lewis	338	381	456	591	676
St. Lawrence	338	381	456	591	676
Seneca	361	389	469	606	676
Sullivan	438	492	600	828	840
Ulster	416	577	695	904	1140
Yates	338	381	456	591	676

N O R T H C A R O L I N A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Asheville, NC MSA	284	344	448	583	629	Buncombe, Madison
Charlotte-Gastonia-Rock Hill, NC-SC MSA	403	454	511	674	807	Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union
Fayetteville, NC MSA	348	394	442	611	727	Cumberland
Goldsboro, NC MSA	284	327	398	512	598	Wayne
Greensboro--Winston-Salem--High Point, NC MSA	357	407	485	669	680	Alamance, Davidson, Davie, Forsyth, Guilford, Randolph Stokes, Yadkin
Greenville, NC MSA	343	347	451	606	742	Pitt
Hickory-Morganton, NC MSA	358	390	453	570	678	Alexander, Burke, Caldwell, Catawba
Jacksonville, NC MSA	323	378	426	592	700	Onslow
Norfolk-Virginia Beach-Newport News, VA-NC MSA	407	457	542	756	887	Currituck
Raleigh-Durham-Chapel Hill, NC MSA	383	465	546	732	863	Chatham, Durham, Franklin, Johnston, Orange, Wake
Rocky Mount, NC MSA	303	327	398	527	581	Edgecombe, Nash
Wilmington, NC MSA	369	406	497	680	811	Brunswick, New Hanover

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N O R T H C A R O L I N A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alleghany	279	327	391	503	596
Ashe	279	322	391	503	571
Beaufort	279	322	391	503	571
Bladen	279	322	391	503	571
Carteret	316	346	422	586	652
Cherokee	279	322	391	503	571
Clay	279	322	391	503	571
Columbus	279	322	391	503	571
Dare	290	459	529	724	740
Gates	279	322	391	503	571
Granville	295	322	391	518	585
Halifax	279	322	391	503	571
Haywood	283	322	391	525	571
Hertford	279	322	391	503	571
Hyde	279	322	391	503	571
Jackson	279	322	391	547	715
Lee	279	356	422	547	592
Mcdowell	279	340	408	558	660
Martin	279	322	391	503	571
Montgomery	279	322	391	503	571
Northampton	279	322	391	503	571
Pasquotank	322	344	429	596	602
Perquimans	279	322	391	503	571
Polk	279	353	396	503	571
Robeson	279	329	391	503	571
Rutherford	282	322	391	503	571
Scotland	279	322	391	503	571
Surry	279	322	391	503	571
Transylvania	309	330	418	555	593
Vance	296	335	391	503	571
Washington	279	322	391	503	571
Wilkes	317	357	402	557	625
Yancey	279	328	391	503	589

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Anson	279	322	391	503	571
Avery	311	350	427	535	598
Bertie	279	322	391	503	571
Camden	279	356	475	594	667
Caswell	279	322	391	503	571
Chowan	279	322	391	503	571
Cleveland	279	328	391	518	571
Craven	279	348	420	550	588
Duplin	279	322	391	503	571
Graham	279	322	391	503	571
Greene	279	322	391	503	571
Harnett	279	322	391	505	571
Henderson	324	334	413	550	634
Hoke	279	322	391	503	571
Iredell	336	345	455	568	637
Jones	279	322	391	503	571
Lenoir	279	322	391	503	571
Macon	279	334	391	503	571
Mitchell	279	365	419	572	598
Moore	279	337	401	549	658
Pamlico	279	322	391	503	571
Pender	279	338	391	503	616
Person	279	322	419	547	640
Richmond	279	322	391	503	571
Rockingham	279	322	391	503	571
Sampson	279	322	391	503	571
Stanly	279	322	396	535	571
Swain	279	322	391	503	571
Tyrrell	279	322	391	503	571
Warren	279	322	391	503	571
Watauga	364	437	553	752	906
Wilson	292	322	395	503	571

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N O R T H D A K O T A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bismarck, ND MSA	301	337	449	625	738	Burleigh, Morton
Fargo-Moorhead, ND-MN MSA	295	407	491	681	729	Cass
Grand Forks, ND-MN MSA	305	364	478	660	736	Grand Forks

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	211	263	341	443	517
Benson	239	263	341	443	517
Bottineau	211	263	341	443	517
Burke	229	263	341	443	517
Dickey	229	263	341	443	517
Dunn	211	263	341	443	517
Emmons	211	263	341	443	517
Golden Valley	211	270	361	450	517
Griggs	211	263	341	443	517
Kidder	211	263	341	443	517
Logan	211	263	341	443	517
Mcintosh	211	263	341	443	517
Mclean	223	263	341	443	517
Mountrail	233	263	341	443	517
Oliver	211	263	341	443	517
Pierce	211	263	341	457	517
Ransom	214	263	341	443	517
Richland	221	263	348	443	517
Sargent	211	263	341	443	517
Sioux	211	263	341	443	517
Stark	211	263	341	443	517
Stutsman	253	263	345	481	566
Traill	221	281	341	443	517
Ward	211	289	386	522	622
Williams	211	263	341	443	517

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Barnes	211	265	353	461	517
Billings	229	263	341	443	517
Bowman	211	263	341	443	517
Cavalier	211	271	362	451	557
Divide	211	263	341	443	517
Eddy	211	263	341	443	517
Foster	211	263	343	443	517
Grant	211	263	341	443	517
Hettinger	211	263	341	443	517
Lamoure	229	263	341	443	517
Mchenry	211	263	341	443	517
Mckenzie	211	263	341	443	517
Mercer	211	263	341	443	517
Nelson	211	263	341	443	517
Pembina	211	263	341	449	535
Ramsey	216	289	386	484	632
Renville	244	263	341	446	527
Rolette	228	290	351	443	517
Sheridan	211	263	341	443	517
Slope	211	263	341	443	517
Steele	211	263	341	443	517
Towner	241	270	361	450	592
Walsh	280	300	372	466	521
Wells	224	263	341	443	517

O H I O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Akron, OH PMSA	326	397	509	636	713	Portage, Summit
Brown County, OH	268	315	395	510	563	Brown
Canton-Massillon, OH MSA	266	346	443	554	621	Carroll, Stark
Cincinnati, OH-KY-IN	289	372	498	667	720	Clermont, Hamilton, Warren
Cleveland-Lorain-Elyria, OH PMSA	327	412	510	648	731	Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina
Columbus, OH MSA	318	377	483	614	706	Delaware, Fairfield, Franklin, Licking, Madison, Pickaway

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

O H I O continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Dayton-Springfield, OH MSA	329	368	470	606	681	Clark, Greene, Miami, Montgomery
Hamilton-Middletown, OH PMSA	291	414	531	664	744	Butler
Huntington-Ashland, WV-KY-OH MSA	261	306	377	481	529	Lawrence
Lima, OH MSA	266	319	420	535	588	Allen, Auglaize
Mansfield, OH MSA	266	319	406	507	568	Crawford, Richland
Parkersburg-Marietta, WV-OH MSA	287	342	392	508	523	Washington
Steubenville-Weirton, OH-WV MSA	266	314	393	502	560	Jefferson
Toledo, OH MSA	333	405	495	638	692	Fulton, Lucas, Wood
Wheeling, WV-OH MSA	292	318	393	502	560	Belmont
Youngstown-Warren, OH MSA	279	329	411	518	589	Columbiana, Mahoning, Trumbull

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	262	310	387	495	553
Athens	309	350	412	539	663
Clinton	262	336	404	562	567
Darke	288	310	390	495	553
Erie	262	349	436	588	713
Gallia	262	310	387	495	553
Hancock	332	336	425	543	594
Harrison	262	310	387	495	553
Highland	262	310	387	495	553
Holmes	262	310	387	495	553
Jackson	262	310	387	495	553
Logan	307	311	402	541	563
Meigs	262	310	387	495	553
Monroe	262	310	387	495	553
Morrow	262	310	387	495	553
Noble	262	310	387	495	561
Paulding	262	310	387	495	553
Pike	262	310	387	495	553
Putnam	272	310	387	495	553
Sandusky	262	340	436	549	608
Seneca	263	310	387	499	553
Tuscarawas	262	310	406	508	569
Van Wert	262	314	387	495	553
Wayne	262	347	426	541	596
Wyandot	262	310	387	495	553

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ashland	262	310	409	510	572
Champaign	262	319	415	518	581
Coshocton	262	310	387	495	553
Defiance	274	310	410	516	574
Fayette	285	310	387	495	553
Guernsey	262	310	387	495	553
Hardin	262	310	387	495	553
Henry	283	313	391	504	574
Hocking	262	310	387	495	553
Huron	303	330	412	543	578
Knox	287	315	404	522	578
Marion	262	310	387	495	553
Mercer	262	310	387	495	569
Morgan	262	315	387	495	553
Muskingum	262	310	387	495	553
Ottawa	262	387	446	606	647
Perry	262	310	387	495	553
Preble	278	310	387	495	553
Ross	303	316	387	495	553
Scioto	262	310	387	495	553
Shelby	262	319	426	532	596
Union	262	363	478	598	693
Vinton	262	310	387	495	553
Williams	279	310	387	495	553

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

O K L A H O M A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Enid, OK MSA	276	280	371	517	590	Garfield
Fort Smith, AR-OK MSA	282	286	376	504	528	Sequoyah
Lawton, OK MSA	341	343	437	607	664	Comanche
Oklahoma City, OK MSA	293	319	414	577	645	Canadian, Cleveland, Logan, Mcclain, Oklahoma Pottawatomie
Tulsa, OK MSA	309	370	484	675	796	Creek, Osage, Rogers, Tulsa, Wagoner

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	237	272	339	451	518
Atoka	237	272	339	451	518
Beckham	241	272	339	451	518
Bryan	237	272	339	451	518
Carter	237	274	342	476	518
Choctaw	237	272	339	451	518
Coal	237	272	339	451	518
Craig	237	272	339	463	547
Delaware	237	272	339	451	527
Ellis	237	272	339	451	518
Grady	259	272	351	478	576
Greer	237	272	339	451	518
Harper	237	272	339	451	518
Hughes	237	272	339	451	518
Jefferson	237	272	339	451	518
Kay	262	278	365	509	596
Kiowa	237	272	339	451	518
Le Flore	237	272	339	451	518
Love	237	272	343	451	518
Mcintosh	237	272	339	451	518
Marshall	237	272	339	451	518
Murray	237	272	339	451	518
Noble	237	272	339	451	518
Okfuskee	237	272	339	451	518
Ottawa	255	272	339	451	518
Payne	274	323	413	571	640
Pontotoc	237	272	339	451	518
Roger Mills	237	272	339	451	518
Stephens	241	272	339	451	538
Tillman	237	272	339	451	518
Washita	237	272	339	451	518
Woodward	237	272	339	451	518

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alfalfa	237	272	339	451	518
Beaver	237	276	339	451	518
Blaine	237	272	339	451	518
Caddo	237	272	339	451	518
Cherokee	249	281	339	451	525
Cimarron	237	272	339	451	518
Cotton	237	272	339	451	518
Custer	237	272	347	483	558
Dewey	237	272	339	451	518
Garvin	237	272	339	451	522
Grant	237	272	339	451	518
Harmon	237	272	339	451	518
Haskell	237	272	339	451	518
Jackson	237	307	375	492	555
Johnston	237	272	339	451	518
Kingfisher	237	280	346	454	518
Latimer	237	272	339	451	518
Lincoln	254	272	339	451	518
Mccurtain	237	272	339	451	518
Major	237	285	339	471	518
Mayes	237	276	367	463	518
Muskogee	256	289	339	469	518
Nowata	237	272	339	451	518
Okmulgee	241	272	339	451	518
Pawnee	267	272	351	452	518
Pittsburg	237	272	339	451	518
Pushmataha	237	272	339	451	518
Seminole	237	272	339	451	518
Texas	237	282	339	452	518
Washington	237	325	396	525	614
Woods	237	272	339	451	518

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 40

O R E G O N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Eugene-Springfield, OR MSA	318	436	569	794	918	Lane
Medford-Ashland, OR MSA	327	429	572	796	888	Jackson
Portland-Vancouver, OR-WA PMSA	387	476	587	817	887	Clackamas, Columbia, Multnomah, Washington, Yamhill
Salem, OR PMSA	357	420	538	741	777	Marion, Polk

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Baker	294	348	452	622	693
Clatsop	294	348	456	622	698
Crook	294	348	452	622	693
Deschutes	363	418	559	778	901
Gilliam	294	371	452	622	693
Harney	294	348	452	622	693
Jefferson	294	348	452	622	693
Klamath	294	348	452	622	736
Lincoln	357	362	483	672	730
Malheur	294	348	452	622	693
Sherman	294	348	452	622	693
Umatilla	294	348	452	622	693
Wallowa	294	348	452	622	693
Wheeler	294	348	452	622	693

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Benton	310	402	510	768	815
Coos	294	359	476	664	693
Curry	294	400	531	679	836
Douglas	294	348	452	622	741
Grant	294	348	452	622	693
Hood River	324	364	496	644	761
Josephine	294	357	459	622	725
Lake	294	348	452	622	693
Linn	294	348	452	622	693
Morrow	294	348	452	622	693
Tillamook	294	348	452	622	693
Union	294	348	452	622	693
Wasco	358	443	497	676	759

P E N N S Y L V A N I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Allentown-Bethlehem-Easton, PA MSA	390	528	629	819	920	Carbon, Lehigh, Northampton
Altoona, PA MSA	271	342	412	535	599	Blair
Erie, PA MSA	270	351	414	535	599	Erie
Harrisburg-Lebanon-Carlisle, PA MSA	330	422	541	683	759	Cumberland, Dauphin, Lebanon, Perry
Johnstown, PA MSA	270	342	412	535	599	Cambria, Somerset
Lancaster, PA MSA	354	435	542	707	761	Lancaster
Newburgh, NY-PA PMSA	505	657	803	1019	1163	Pike
Philadelphia, PA-NJ PMSA	446	549	678	848	1063	Bucks, Chester, Delaware, Montgomery, Philadelphia
Pittsburgh, PA PMSA	315	387	467	585	653	Allegheny, Beaver, Butler, Fayette, Washington Westmoreland
Reading, PA MSA	281	414	511	639	721	Berks
Scranton--Wilkes-Barre--Hazleton, PA MSA	270	377	451	563	681	Columbia, Lackawanna, Luzerne, Wyoming
Sharon, PA MSA	295	342	412	535	599	Mercer
State College, PA MSA	388	474	587	769	823	Centre
Williamsport, PA MSA	270	344	414	535	599	Lycoming
York, PA MSA	300	412	511	638	714	York

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 41

P E N N S Y L V A N I A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	269	361	480	621	787
Bedford	269	341	410	534	597
Cameron	269	341	410	534	597
Clearfield	269	341	410	534	597
Crawford	269	341	410	534	597
Forest	269	341	410	534	597
Fulton	269	341	410	534	597
Huntingdon	269	341	410	534	597
Jefferson	269	341	410	534	597
Lawrence	269	341	410	534	597
Mifflin	298	341	410	534	597
Montour	318	341	429	597	705
Potter	269	341	410	534	597
Snyder	324	341	411	534	597
Susquehanna	322	341	410	534	633
Union	325	430	538	673	752
Warren	269	341	410	534	597

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Armstrong	273	360	410	534	672
Bradford	269	341	417	544	597
Clarion	269	341	410	534	597
Clinton	269	341	410	534	597
Elk	269	341	410	534	597
Franklin	269	341	415	571	597
Greene	269	341	410	534	597
Indiana	308	343	410	534	597
Juniata	269	341	410	534	597
Mc Kean	269	343	410	534	597
Monroe	429	512	632	865	966
Northumberland	284	359	438	583	648
Schuylkill	269	341	425	534	597
Sullivan	269	341	410	534	597
Tioga	269	341	410	534	597
Venango	269	341	410	534	597
Wayne	270	417	491	625	803

R H O D E I S L A N D

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
New London-Norwich, CT-RI MSA	476	575	700	877	1002	Washington county towns of Hopkinton town, Westerly town
Providence-Fall River-Warwick, RI-MA PMSA	393	534	642	805	992	Bristol county towns of Barrington town, Bristol town Warren town Kent county towns of Coventry town, East Greenwich tow Warwick city, West Greenwich tow, West Warwick town Newport county towns of Jamestown town Little Compton tow, Tiverton town Providence county towns of Burrillville town Central Falls city, Cranston city, Cumberland town East Providence ci, Foster town, Glocester town Johnston town, Lincoln town, North Providence t North Smithfield t, Pawtucket city, Providence city Scituate town, Smithfield town, Woonsocket city Washington county towns of Charlestown town, Exeter town Narragansett town, North Kingstown to, Richmond town South Kingstown to

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R H O D E I S L A N D continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Newport	526	613	787	984	1101	Middletown town, Newport city, Portsmouth town
Washington	622	699	786	1014	1117	New Shoreham town

S O U T H C A R O L I N A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Augusta-Aiken, GA-SC MSA	331	396	466	634	750	Aiken, Edgefield
Charleston-North Charleston, SC MSA	372	431	495	658	767	Berkeley, Charleston, Dorchester
Charlotte-Gastonia-Rock Hill, NC-SC MSA	403	454	511	674	807	York
Columbia, SC MSA	399	439	505	667	767	Lexington, Richland
Florence, SC MSA	302	336	436	545	610	Florence
Greenville-Spartanburg-Anderson, SC MSA	328	397	449	565	664	Anderson, Cherokee, Greenville, Pickens, Spartanburg
Myrtle Beach, SC MSA	391	398	509	637	714	Horry
Sumter, SC MSA	318	353	402	550	652	Sumter

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Abbeville	274	320	389	499	571
Bamberg	274	320	389	499	571
Beaufort	392	481	554	691	774
Chester	274	320	389	499	571
Clarendon	274	320	389	499	571
Darlington	274	320	389	499	571
Fairfield	274	368	419	523	585
Greenwood	275	320	389	499	571
Jasper	274	320	389	499	571
Lancaster	288	321	389	499	571
Lee	274	320	389	499	571
Marion	274	320	389	499	571
Newberry	274	320	389	499	571
Orangeburg	274	320	389	499	571
Union	274	320	389	499	571

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Allendale	274	320	389	499	571
Barnwell	289	320	391	499	571
Calhoun	274	320	389	499	571
Chesterfield	274	320	389	499	571
Colleton	274	320	389	499	571
Dillon	274	320	389	499	571
Georgetown	274	348	392	499	595
Hampton	274	320	389	499	571
Kershaw	274	320	389	499	571
Laurens	274	320	389	499	571
Mccormick	274	320	389	499	609
Marlboro	274	320	389	499	571
Oconee	274	320	389	499	571
Saluda	274	320	389	499	571
Williamsburg	274	320	389	499	571

S O U T H D A K O T A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Rapid City, SD MSA	311	370	493	670	810	Pennington
Sioux Falls, SD MSA	301	416	527	667	766	Lincoln, Minnehaha

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 43

S O U T H D A K O T A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aurora	234	312	388	514	595
Bennett	234	310	388	514	595
Brookings	251	396	439	593	700
Brule	234	310	388	514	595
Butte	268	367	488	637	752
Charles Mix	234	310	388	514	595
Clay	234	310	388	514	638
Corson	234	310	388	514	595
Davison	245	310	388	521	595
Deuel	234	310	388	514	595
Douglas	260	310	388	514	595
Fall River	265	310	388	514	595
Grant	234	310	388	514	595
Haakon	234	317	388	514	595
Hand	234	310	388	514	595
Harding	234	317	388	514	595
Hutchinson	234	310	388	514	595
Jackson	234	314	388	514	595
Jones	234	310	388	514	595
Lake	234	314	388	514	595
Lyman	234	310	388	514	595
Mcpherson	234	310	388	514	595
Meade	328	370	493	646	763
Miner	234	314	388	514	595
Perkins	234	310	388	514	595
Roberts	234	310	388	514	595
Shannon	234	314	388	514	595
Stanley	234	317	388	514	595
Todd	259	310	388	514	595
Turner	234	310	388	514	595
Walworth	234	317	388	514	595
Ziebach	234	310	388	514	595

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Beadle	234	310	388	514	595
Bon Homme	260	310	388	514	595
Brown	234	310	388	514	595
Buffalo	234	310	388	514	601
Campbell	234	310	388	514	595
Clark	234	310	388	514	595
Codington	234	310	388	514	595
Custer	234	310	388	514	595
Day	261	310	388	514	595
Dewey	234	310	388	514	595
Edmunds	234	310	388	514	595
Faulk	234	310	410	514	595
Gregory	235	310	388	514	595
Hamlin	234	310	388	514	595
Hanson	237	324	433	543	608
Hughes	258	310	410	540	638
Hyde	234	315	388	514	595
Jerauld	234	312	388	514	595
Kingsbury	256	310	388	514	595
Lawrence	266	385	485	664	751
Mccook	234	310	388	514	595
Marshall	275	310	388	514	595
Mellette	278	314	388	514	595
Moody	234	310	388	514	595
Potter	234	310	388	514	595
Sanborn	234	310	388	514	595
Spink	255	310	395	514	595
Sully	234	310	388	514	595
Tripp	234	310	388	514	595
Union	246	310	388	514	595
Yankton	234	310	388	514	595

T E N N E S S E E

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Chattanooga, TN-GA MSA	318	373	447	577	658	Hamilton, Marion
Clarksville-Hopkinsville, TN-KY MSA	313	351	411	561	576	Montgomery
Jackson, TN MSA	243	319	428	593	597	Madison

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

T E N N E S S E E continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Johnson City-Kingsport-Bristol, TN-VA MSA.....	248	287	366	475	540	Carter, Hawkins, Sullivan, Unicoi, Washington
Knoxville, TN MSA.....	281	347	434	579	696	Anderson, Blount, Knox, Loudon, Sevier, Union
Memphis, TN-AR-MS MSA.....	321	374	440	611	642	Fayette, Shelby, Tipton
Nashville, TN MSA.....	357	426	526	717	806	Cheatham, Davidson, Dickson, Robertson, Rutherford Sumner, Williamson, Wilson

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bedford.....	227	293	357	450	500	Benton.....	245	279	337	442	495
Bledsoe.....	227	266	337	442	495	Bradley.....	227	287	383	518	629
Campbell.....	229	266	337	442	495	Cannon.....	227	266	337	442	495
Carroll.....	227	276	337	442	495	Chester.....	227	266	337	442	495
Claiborne.....	227	266	337	442	495	Clay.....	231	266	337	442	495
Cocke.....	227	266	337	442	495	Coffee.....	227	317	356	495	564
Crockett.....	227	266	337	442	495	Cumberland.....	240	266	348	486	495
Decatur.....	227	266	337	442	495	Dekalb.....	227	266	337	442	495
Dyer.....	284	288	384	480	598	Fentress.....	227	266	337	442	495
Franklin.....	238	266	337	463	544	Gibson.....	227	266	337	442	495
Giles.....	227	290	358	448	501	Grainger.....	231	266	337	442	495
Greene.....	227	266	337	442	495	Grundy.....	227	266	337	442	495
Hamblen.....	227	267	350	467	495	Hancock.....	227	266	337	442	495
Hardeman.....	227	266	337	442	495	Hardin.....	227	266	337	442	495
Haywood.....	239	277	370	463	518	Henderson.....	227	266	337	442	495
Henry.....	227	266	337	442	495	Hickman.....	268	272	361	476	505
Houston.....	227	266	337	442	495	Humphreys.....	227	277	337	442	495
Jackson.....	227	266	337	442	495	Jefferson.....	248	266	345	442	549
Johnson.....	227	266	337	442	495	Lake.....	227	266	337	442	495
Lauderdale.....	227	266	339	442	495	Lawrence.....	227	266	337	442	495
Lewis.....	227	266	337	442	495	Lincoln.....	227	266	340	442	495
Mcminn.....	227	266	337	444	495	Mcnairy.....	227	266	337	442	495
Macon.....	227	266	337	442	495	Marshall.....	267	292	380	480	533
Maury.....	326	333	442	555	619	Meigs.....	227	266	337	442	495
Monroe.....	227	266	337	442	495	Moore.....	227	266	337	442	495
Morgan.....	227	266	337	442	495	Obion.....	263	267	342	453	495
Overton.....	227	266	337	442	495	Perry.....	227	268	337	442	495
Pickett.....	227	266	337	442	495	Polk.....	227	266	337	442	495
Putnam.....	276	279	358	492	531	Rhea.....	227	284	337	447	495
Roane.....	245	266	337	452	544	Scott.....	227	266	337	442	495
Sequatchie.....	227	266	337	442	495	Smith.....	227	266	337	442	495
Stewart.....	227	266	337	442	495	Trousdale.....	227	279	371	466	610
Van Buren.....	227	266	337	442	495	Warren.....	253	266	344	442	495

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 45

T E N N E S S E E continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Wayne	227	266	337	442	495
White	231	266	337	442	495
Weakley	246	266	337	442	495

T E X A S

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Abilene, TX MSA	273	301	393	530	644	Taylor
Amarillo, TX MSA	261	332	413	577	680	Potter, Randall
Austin-San Marcos, TX MSA	395	477	636	883	1043	Bastrop, Caldwell, Hays, Travis, Williamson
Beaumont-Port Arthur, TX MSA	300	362	442	585	620	Hardin, Jefferson, Orange
Brazoria, TX PMSA	419	467	584	814	958	Brazoria
Brownsville-Harlingen-San Benito, TX MSA	315	397	496	621	774	Cameron
Bryan-College Station, TX MSA	351	408	516	719	847	Brazos
Corpus Christi, TX MSA	328	403	515	700	828	Nueces, San Patricio
Dallas, TX	397	456	586	811	959	Collin, Dallas, Denton, Ellis, Hunt, Kaufman, Rockwall
El Paso, TX MSA	370	414	491	681	805	El Paso
Fort Worth-Arlington, TX PMSA	380	413	537	747	882	Hood, Johnson, Parker, Tarrant
Galveston-Texas City, TX PMSA	412	423	531	738	870	Galveston
Henderson County, TX	272	323	395	540	648	Henderson
Houston, TX PMSA	390	437	567	788	929	Chambers, Fort Bend, Harris, Liberty, Montgomery, Waller
Killeen-Temple, TX MSA	369	384	486	677	743	Bell, Coryell
Laredo, TX MSA	299	344	452	565	635	Webb
Longview-Marshall, TX MSA	296	334	410	558	610	Gregg, Harrison, Upshur
Lubbock, TX MSA	283	358	466	648	718	Lubbock
Mc Allen-Edinburg-Mission, TX MSA	261	359	411	514	577	Hidalgo
Odessa-Midland, TX MSA	283	327	437	608	704	Ector, Midland
San Angelo, TX MSA	261	336	408	559	660	Tom Green
San Antonio, TX MSA	346	399	517	719	849	Bexar, Comal, Guadalupe, Wilson
Sherman-Denison, TX MSA	261	359	434	554	663	Grayson
Texarkana, TX-Texarkana, AR MSA	286	350	427	563	597	Bowie
Tyler, TX MSA	329	363	444	616	651	Smith
Victoria, TX MSA	325	329	415	578	651	Victoria
Waco, TX MSA	286	351	462	615	647	Mclennan
Wichita Falls, TX MSA	315	353	425	566	667	Archer, Wichita

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Anderson	316	356	400	556	562
Angelina	288	333	376	522	615
Armstrong	263	304	398	499	562
Austin	263	304	367	503	562
Bandera	283	304	367	499	562
Bee	263	304	367	492	562
Borden	263	304	367	492	562
Brewster	263	304	367	496	594
Brooks	263	304	367	492	562
Burleson	263	304	386	522	635
Calhoun	282	304	367	508	601
Camp	356	361	451	565	631
Cass	263	304	367	492	562
Cherokee	294	305	374	492	562
Clay	263	310	367	492	573
Coke	263	304	367	492	562
Collingsworth	263	304	367	492	562
Comanche	263	304	367	492	562
Cooke	286	304	387	525	582
Crane	263	304	367	492	562
Crosby	263	304	367	492	562
Dallam	263	304	367	492	562
Deaf Smith	263	304	367	492	571
Dewitt	263	304	367	492	562
Dimmit	263	304	367	492	562
Duval	263	304	367	492	562
Edwards	263	304	367	492	562
Falls	263	304	367	492	562
Fayette	263	304	367	492	562
Floyd	263	304	367	492	562
Franklin	263	304	367	508	562
Frio	263	304	367	492	562
Garza	263	304	367	492	562
Glasscock	263	304	367	492	562
Gonzales	263	304	367	492	562
Grimes	263	304	367	496	585
Hall	263	304	367	492	562
Hansford	263	304	367	492	576
Hartley	263	304	367	492	562
Hemphill	263	339	380	529	562

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Andrews	263	304	367	492	562
Aransas	263	324	432	601	605
Atascosa	263	304	367	492	562
Bailey	263	304	367	492	562
Baylor	263	304	367	492	562
Blanco	263	304	389	541	570
Bosque	263	304	367	492	562
Briscoe	263	304	367	492	562
Brown	263	304	368	494	604
Burnet	263	304	375	521	609
Callahan	263	304	367	492	562
Carson	263	304	367	492	562
Castro	265	304	367	492	562
Childress	263	304	367	492	562
Cochran	263	304	367	492	562
Coleman	263	304	367	492	562
Colorado	263	304	367	492	562
Concho	263	304	367	492	562
Cottle	263	304	367	492	562
Crockett	263	304	367	492	562
Culberson	263	304	367	492	562
Dawson	263	304	367	492	562
Delta	263	315	367	492	562
Dickens	263	304	367	492	562
Donley	263	304	367	492	562
Eastland	263	304	367	492	562
Erath	273	309	400	518	562
Fannin	267	304	367	494	562
Fisher	263	304	367	492	562
Foard	263	304	367	492	562
Freestone	263	304	367	492	562
Gaines	269	304	367	492	562
Gillespie	263	331	430	591	603
Goliad	263	304	367	492	562
Gray	289	304	391	492	580
Hale	263	304	367	492	562
Hamilton	263	304	367	492	562
Hardeman	263	304	367	492	562
Haskell	263	304	367	492	562
Hill	263	304	367	492	562

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 47

T E X A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hockley	269	314	367	497	562
Houston	263	304	367	492	562
Hudspeth	317	358	400	502	659
Irion	263	304	367	492	562
Jackson	263	305	367	492	562
Jeff Davis	263	304	367	492	562
Jim Wells	263	304	367	492	569
Karnes	263	304	367	492	562
Kenedy	263	304	367	492	562
Kerr	263	341	426	593	699
King	263	304	367	492	562
Kleberg	320	331	404	565	665
Lamar	263	327	385	537	635
Lampasas	263	304	367	499	589
Lavaca	263	304	367	492	562
Leon	263	338	379	492	623
Lipscomb	263	304	367	492	562
Llano	263	339	451	566	742
Lynn	263	304	367	492	562
Mcmullen	263	304	367	492	562
Marion	263	304	367	492	582
Mason	263	304	367	492	562
Maverick	263	304	367	492	562
Menard	263	304	367	492	562
Mills	263	304	367	492	562
Montague	263	304	367	492	562
Morris	263	304	367	492	562
Nacogdoches	278	335	435	543	641
Newton	263	304	367	492	562
Ochiltree	263	304	367	492	562
Palo Pinto	263	304	367	492	584
Parmer	263	304	367	492	562
Polk	294	321	374	503	611
Rains	263	341	412	572	576
Real	263	304	367	492	562
Reeves	263	304	367	492	562
Roberts	263	307	367	492	562
Runnels	263	304	367	492	562
Sabine	263	304	367	492	562
San Jacinto	276	311	367	492	574

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hopkins	307	330	389	541	582
Howard	281	304	367	496	562
Hutchinson	263	304	380	529	625
Jack	263	304	367	492	562
Jasper	263	304	375	499	613
Jim Hogg	263	304	367	492	562
Jones	263	304	367	492	562
Kendall	263	385	432	601	710
Kent	263	304	367	492	562
Kimble	263	304	400	501	562
Kinney	263	304	367	492	562
Knox	263	304	367	492	562
Lamb	263	304	367	492	562
La Salle	263	304	367	492	562
Lee	298	335	377	526	590
Limestone	263	304	367	492	562
Live Oak	263	304	367	492	562
Loving	263	304	367	492	562
Mcculloch	271	304	367	492	562
Madison	263	313	367	492	578
Martin	263	304	367	492	562
Matagorda	304	332	412	572	576
Medina	263	304	367	492	562
Milam	263	304	367	492	562
Mitchell	263	304	367	492	562
Moore	263	309	367	492	571
Motley	263	304	367	492	562
Navarro	315	331	399	506	562
Nolan	271	304	367	492	562
Oldham	263	304	398	499	583
Panola	263	310	367	492	562
Pecos	263	304	367	496	585
Presidio	263	304	367	492	562
Reagan	335	341	453	569	745
Red River	263	339	380	492	562
Refugio	263	304	367	492	562
Robertson	263	348	390	492	562
Rusk	275	304	367	492	562
San Augustine	263	304	367	492	562
San Saba	263	304	367	492	562

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

T E X A S continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Schleicher	263	304	367	492	562
Shackelford	263	304	367	492	562
Sherman	263	304	367	492	562
Starr	263	304	367	492	562
Sterling	263	304	367	492	562
Sutton	263	304	367	492	562
Terrell	263	304	367	492	562
Throckmorton	263	304	367	492	562
Trinity	274	309	367	492	562
Upton	263	304	367	492	562
Val Verde	263	349	411	514	606
Walker	355	378	462	614	647
Washington	327	333	445	556	731
Wheeler	263	304	367	492	562
Willacy	263	304	367	492	562
Wise	263	307	369	515	562
Yoakum	263	346	426	532	699
Zapata	263	304	367	492	562

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Scurry	263	304	381	531	627
Shelby	263	304	367	492	562
Somervell	301	339	380	522	562
Stephens	263	304	367	492	562
Stonewall	263	304	367	492	562
Swisher	263	304	367	492	562
Terry	263	304	367	492	562
Titus	280	347	394	544	562
Tyler	263	304	392	492	645
Uvalde	263	304	367	492	562
Van Zandt	282	304	381	520	627
Ward	263	304	367	492	562
Wharton	263	304	367	492	562
Wilbarger	263	304	367	492	579
Winkler	263	304	367	492	562
Wood	263	304	380	529	625
Young	263	304	367	492	569
Zavala	263	304	367	492	562

U T A H

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Kane County, UT	273	336	420	562	677	Kane
Provo-Orem, UT MSA	377	398	493	684	808	Utah
Salt Lake City-Ogden, UT MSA	328	380	482	670	786	Davis, Salt Lake, Weber

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Beaver	273	336	420	562	677
Cache	273	336	420	562	677
Daggett	298	407	541	678	760
Emery	273	336	420	562	677
Grand	273	336	420	562	677
Juab	273	336	420	562	677
Morgan	273	336	420	562	677
Rich	273	336	420	562	677
Sanpete	273	336	420	562	677
Summit	405	499	624	841	1023
Uintah	273	336	420	562	677
Washington	337	415	551	736	902

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Box Elder	303	336	420	562	677
Carbon	294	336	420	562	677
Duchesne	273	336	420	562	677
Garfield	273	336	420	562	677
Iron	273	372	464	580	682
Millard	273	336	420	562	677
Piute	273	336	420	562	677
San Juan	273	336	420	562	677
Sevier	277	336	420	562	677
Tooele	273	349	420	562	677
Wasatch	273	349	420	562	677
Wayne	273	336	420	562	677

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

V E R M O N T

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Burlington, VT MSA	390	478	637	869	1047	Chittenden county towns of Burlington city Charlotte town, Colchester town, Essex town Hinesburg town, Jericho town, Milton town, Richmond town St. George town, Shelburne town, South Burlington c Williston town, Winooski city Franklin county towns of Fairfax town, Georgia town St. Albans city, St. Albans town, Swanton town Grand Isle county towns of Grand Isle town South Hero town

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Addison	369	447	520	724	812	
Bennington	344	432	557	708	824	
Caledonia	312	372	455	575	659	
Chittenden	319	517	582	808	952	Bolton town, Buels gore, Huntington town, Underhill town Westford town
Essex	306	366	455	575	659	
Franklin	328	370	455	579	665	Bakersfield town, Berkshire town, Enosburg town Fairfield town, Fletcher town, Franklin town Highgate town, Montgomery town, Richford town Sheldon town
Grand Isle	306	366	455	575	659	Alburg town, Isle La Motte town, North Hero town
Lamoille	306	423	505	694	795	
Orange	306	401	493	651	730	
Orleans	306	366	455	575	659	
Rutland	343	447	545	684	765	
Washington	328	410	549	687	770	
Windham	368	427	567	719	792	
Windsor	395	446	558	715	849	

V I R G I N I A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Charlottesville, VA MSA	387	457	585	778	873	Albemarle, Fluvanna, Greene, Charlottesville city
Clarke County, VA	290	407	528	724	740	Clarke
Culpeper County, VA	356	520	605	799	956	Culpeper
Danville, VA MSA	274	344	405	544	655	Pittsylvania, Danville city
Johnson City-Kingsport-Bristol, TN-VA MSA	248	287	366	475	540	Scott, Washington, Bristol city
King George County, VA	351	465	523	727	732	King George
Lynchburg, VA MSA	326	358	413	544	655	Amherst, Bedford, Campbell, Bedford city, Lynchburg city
Norfolk-Virginia Beach-Newport News, VA-NC MSA	407	457	542	756	887	Gloucester, Isle of Wight, James City, Mathews, York Chesapeake city, Hampton city, Newport News city Norfolk city, Poquoson city, Portsmouth city

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

V I R G I N I A continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Richmond-Petersburg, VA MSA	409	463	538	749	884	Suffolk city, Virginia Beach city, Williamsburg city Charles City, Chesterfield, Dinwiddie, Goochland, Hanover Henrico, New Kent, Powhatan, Prince George Colonial Heights city, Hopewell city, Petersburg city Richmond city
Roanoke, VA MSA	276	344	447	573	715	Botetourt, Roanoke, Roanoke city, Salem city
Warren County, VA	283	387	516	676	845	Warren
Washington, DC-MD-VA	569	646	759	1033	1245	Arlington, Fairfax, Loudoun, Prince William, Spotsylvania Stafford, Alexandria city, Fairfax city Falls Church city, Fauquier, Fredericksburg city Manassas city, Manassas Park city

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Accomack	324	349	409	542	653	Alleghany	284	343	404	542	653
Amelia	273	343	404	542	653	Appomattox	273	343	404	542	653
Augusta	273	353	428	564	687	Bath	273	343	404	542	653
Bland	273	343	404	542	653	Brunswick	273	343	404	542	653
Buchanan	273	343	404	542	653	Buckingham	273	343	404	542	653
Caroline	386	391	522	694	731	Carroll	273	343	404	542	653
Charlotte	273	343	404	542	653	Craig	273	343	404	542	653
Cumberland	273	373	433	542	653	Dickenson	273	343	404	542	653
Essex	273	383	453	629	743	Floyd	273	343	404	542	653
Franklin	273	343	404	542	653	Frederick	369	426	513	703	842
Giles	273	343	404	542	653	Grayson	273	343	404	542	653
Greensville	273	353	404	542	653	Halifax	273	343	404	542	653
Henry	273	343	404	542	653	Highland	273	343	404	542	653
King and Queen	273	391	440	550	653	King William	273	373	419	542	653
Lancaster	340	382	431	575	700	Lee	273	343	404	542	653
Louisa	273	355	437	608	653	Lunenburg	273	343	404	542	653
Madison	274	407	457	573	750	Mecklenburg	273	343	404	542	653
Middlesex	273	345	404	542	653	Montgomery	281	368	432	601	710
Nelson	273	343	404	542	653	Northampton	273	343	404	542	653
Northumberland	273	343	404	542	653	Nottoway	273	343	404	542	653
Orange	302	412	550	765	897	Page	317	357	404	542	653
Patrick	273	343	404	542	653	Prince Edward	305	345	404	542	653
Pulaski	273	343	404	542	653	Rappahannock	277	448	503	699	824
Richmond	273	363	408	542	670	Rockbridge	273	343	404	542	653
Rockingham	273	377	478	655	767	Russell	273	343	404	542	653
Shenandoah	359	368	454	628	713	Smyth	273	343	404	542	653
Southampton	273	343	404	542	653	Surry	283	343	404	542	653
Sussex	273	343	404	542	653	Tazewell	273	343	404	542	653

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

V I R G I N I A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Westmoreland	273	368	490	615	797
Wythe	285	343	404	542	653
Wise	273	343	404	542	653

W A S H I N G T O N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Bellingham, WA MSA	376	488	650	897	1065	Whatcom
Bremerton, WA PMSA	383	441	572	772	939	Kitsap
Olympia, WA PMSA	393	483	603	831	979	Thurston
Portland-Vancouver, OR-WA PMSA	387	476	587	817	887	Clark
Richland-Kennewick-Pasco, WA MSA	469	538	643	896	1052	Benton, Franklin
Seattle-Bellevue-Everett, WA PMSA	440	535	678	942	1113	Island, King, Snohomish
Spokane, WA MSA	316	436	526	715	800	Spokane
Tacoma, WA PMSA	356	424	565	786	887	Pierce
Yakima, WA MSA	340	418	517	694	725	Yakima

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	298	357	463	613	679
Chelan	298	357	463	613	679
Columbia	298	357	463	613	679
Douglas	348	368	463	613	679
Garfield	298	357	463	613	679
Grays Harbor	304	357	468	632	729
Kittitas	298	357	463	613	679
Lewis	298	357	463	613	679
Mason	339	420	516	678	729
Pacific	298	357	463	613	679
San Juan	368	503	670	883	1051
Skamania	298	357	463	613	679
Wahkiakum	298	357	463	613	679
Whitman	321	365	487	676	800
Asotin	298	357	463	613	679
Clallam	347	430	547	703	769
Cowlitz	335	374	482	669	679
Ferry	298	357	463	613	679
Grant	320	357	463	613	679
Jefferson	298	385	473	642	679
Klickitat	298	357	463	613	679
Lincoln	298	357	463	613	679
Okanogan	298	357	463	613	679
Pend Oreille	298	357	463	613	816
Skagit	406	497	585	731	818
Stevens	298	357	463	613	679
Walla Walla	298	357	463	621	734

W E S T V I R G I N I A

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Berkeley County, WV	348	370	441	551	617	Berkeley
Charleston, WV MSA	241	328	415	570	624	Kanawha, Putnam
Cumberland, MD-WV MSA	314	378	464	617	705	Mineral
Huntington-Ashland, WV-KY-OH MSA	261	306	377	481	529	Cabell, Wayne
Jefferson County, WV	352	389	481	625	708	Jefferson

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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W E S T V I R G I N I A continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Parkersburg-Marietta, WV-OH MSA	287	342	392	508	523	Wood
Steubenville-Weirton, OH-WV MSA	266	314	393	502	560	Brooke, Hancock
Wheeling, WV-OH MSA	292	318	393	502	560	Marshall, Ohio

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Barbour	241	307	343	442	514
Braxton	241	295	343	442	514
Clay	241	295	343	442	514
Fayette	241	295	343	442	514
Grant	241	295	343	442	514
Hampshire	241	295	345	455	514
Harrison	266	327	377	471	565
Lewis	241	324	343	442	514
Logan	247	295	343	445	526
Marion	241	305	376	483	556
Mercer	241	295	343	442	514
Monongalia	304	336	411	565	669
Morgan	298	335	377	473	528
Pendleton	241	295	343	442	514
Pocahontas	241	295	343	442	514
Raleigh	250	295	343	442	518
Ritchie	241	295	343	442	514
Summers	241	295	343	442	514
Tucker	241	295	343	442	514
Upshur	241	295	345	442	514
Wetzel	274	295	370	463	585
Wyoming	241	295	343	442	514

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Boone	241	295	343	442	514
Calhoun	241	295	343	442	514
Doddridge	250	295	343	442	514
Gilmer	266	295	343	442	514
Greenbrier	241	333	356	444	514
Hardy	241	295	343	442	514
Jackson	241	302	343	470	514
Lincoln	241	295	343	442	514
Mcdowell	241	295	343	442	514
Mason	241	295	343	442	528
Mingo	241	295	343	442	520
Monroe	241	295	343	442	514
Nicholas	241	295	343	442	514
Pleasants	249	295	343	442	527
Preston	241	310	343	442	514
Randolph	241	295	343	442	514
Roane	241	295	343	442	514
Taylor	296	320	349	442	514
Tyler	241	295	361	453	514
Webster	241	295	343	442	514
Wirt	241	295	343	442	514

W I S C O N S I N

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Appleton-Oshkosh-Neenah, WI MSA	297	366	464	586	675	Calumet, Outagamie, Winnebago
Duluth-Superior, MN-WI MSA	254	335	431	574	669	Douglas
Eau Claire, WI MSA	320	348	457	587	662	Chippewa, Eau Claire
Green Bay, WI MSA	325	358	459	638	642	Brown
Janesville-Beloit, WI MSA	327	412	511	640	717	Rock
Kenosha, WI PMSA	339	420	517	710	798	Kenosha
La Crosse, WI-MN MSA	263	340	433	578	701	La Crosse
Madison, WI MSA	406	511	617	857	1011	Dane

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

W I S C O N S I N continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Milwaukee-Waukesha, WI PMSA	343	449	564	706	789	Milwaukee, Ozaukee, Washington, Waukesha
Minneapolis-St. Paul, MN-WI MSA	369	474	605	820	928	Pierce, St. Croix
Racine, WI PMSA	305	378	499	644	705	Racine
Sheboygan, WI MSA	284	365	446	557	690	Sheboygan
Wausau, WI MSA	347	360	450	613	680	Marathon

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	259	302	385	492	554
Barron	259	302	385	492	554
Buffalo	259	302	385	492	554
Clark	259	302	385	492	554
Crawford	259	302	385	492	554
Door	259	321	399	512	622
Florence	259	302	385	492	554
Forest	259	302	385	492	554
Green	264	302	385	518	554
Iowa	269	302	385	506	554
Jackson	259	302	385	492	554
Juneau	265	302	385	492	554
Lafayette	264	302	385	492	554
Lincoln	259	302	385	492	554
Marinette	259	302	385	492	554
Menominee	259	302	385	492	554
Oconto	259	302	385	492	554
Pepin	259	302	385	492	554
Portage	315	333	432	539	668
Richland	259	302	385	492	554
Sauk	303	313	418	521	585
Shawano	264	302	385	492	554
Trempealeau	259	302	385	492	554
Vilas	259	302	385	492	554
Washburn	259	302	385	492	554
Waushara	259	302	385	492	554

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ashland	283	313	385	492	554
Bayfield	259	302	385	492	554
Burnett	259	302	385	492	554
Columbia	259	308	405	531	595
Dodge	328	333	438	548	613
Dunn	259	302	396	529	653
Fond du Lac	262	355	421	571	590
Grant	263	302	385	492	554
Green Lake	259	302	385	492	554
Iron	259	302	385	492	554
Jefferson	259	344	447	577	630
Kewaunee	259	302	385	492	554
Langlade	259	302	385	492	554
Manitowoc	262	302	385	492	554
Marquette	259	302	385	492	554
Monroe	259	302	385	513	554
Oneida	259	303	385	496	593
Polk	259	302	392	492	554
Price	259	302	385	492	554
Rusk	259	302	385	492	554
Sawyer	259	302	385	492	554
Taylor	259	302	385	492	554
Vernon	259	302	385	492	554
Walworth	271	380	495	644	722
Waupaca	259	302	385	492	583
Wood	282	322	400	501	562

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

W Y O M I N G

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Casper, WY MSA	282	327	418	573	677	Natrona
Cheyenne, WY MSA	319	399	533	682	828	Laramie

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Albany	283	355	473	658	777
Campbell	291	310	397	529	624
Converse	268	310	397	527	606
Fremont	268	310	397	527	606
Hot Springs	268	310	397	527	606
Lincoln	268	310	397	527	606
Park	268	310	397	527	611
Sheridan	268	310	397	527	611
Sweetwater	280	310	397	529	624
Uinta	282	310	397	528	637
Weston	268	310	397	527	606

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Big Horn	268	310	397	527	606
Carbon	268	310	397	527	606
Crook	268	310	397	527	606
Goshen	268	310	397	527	606
Johnson	268	310	397	527	606
Niobrara	268	310	397	527	606
Platte	268	310	397	527	606
Sublette	300	337	397	527	606
Teton	360	458	608	817	891
Washakie	268	310	397	527	606

P A C I F I C I S L A N D S

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Pacific Islands	655	787	932	1168	1314

P U E R T O R I C O

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Aguadilla, PR MSA	225	274	325	404	455	Aguada Municipio, Aguadilla Municipio, Moca Municipio
Arecibo, PR PMSA	308	373	438	551	616	Arecibo Municipio, Camuy Municipio, Hatillo Municipio
Caguas, PR PMSA	239	288	340	427	475	Caguas Municipio, Cayey Municipio, Cidra Municipio Gurabo Municipio, San Lorenzo Municipio
Mayaguez, PR MSA	225	274	325	404	455	Anasco Municipio, Cabo Rojo Municipio Hormigueros Municipio, Mayaguez Municipio Sabana Grande Municipio, San German Municipio
Ponce, PR MSA	298	364	429	536	601	Guayanilla Municipio, Juana Diaz Municipio Penuelas Municipio, Ponce Municipio, Villalba Municipio Yauco Municipio
San Juan-Bayamon, PR PMSA	298	364	429	536	601	Aguas Buenas Municipio, Barceloneta Municipio Bayamon Municipio, Canovanas Municipio Carolina Municipio, Catano Municipio, Ceiba Municipio Comerio Municipio, Corozal Municipio, Dorado Municipio Fajardo Municipio, Florida Municipio, Guaynabo Municipio Humacao Municipio, Juncos Municipio Las Piedras Municipio, Loiza Municipio Luquillo Municipio, Manati Municipio, Morovis Municipio

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR. 080895

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

P U E R T O R I C O continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
						Naguabo Municipio, Naranjito Municipio Rio Grande Municipio, San Juan Municipio Toa Alta Municipio, Toa Baja Municipio Trujillo Alto Municipio, Vega Alta Municipio Vega Baja Municipio, Yabucoa Municipio

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adjuntas Municipio.....	208	257	300	378	421
Arroyo Municipio.....	208	257	300	378	421
Ciales Municipio.....	208	257	300	378	421
Culebra Municipio.....	208	257	300	378	421
Guayama Municipio.....	208	257	300	378	421
Jayuya Municipio.....	208	257	300	378	421
Lares Municipio.....	208	257	300	378	421
Maricao Municipio.....	208	257	300	378	421
Orocovis Municipio.....	208	257	300	378	421
Quebradillas Municipio..	211	255	300	377	422
Salinas Municipio.....	208	257	300	378	421
Santa Isabel Municipio..	208	257	300	378	421
Vieques Municipio.....	208	257	300	378	421

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aibonito Municipio.....	208	257	300	378	421
Barranquitas Municipio..	208	257	300	378	421
Coamo Municipio.....	208	257	300	378	421
Guanica Municipio.....	208	257	300	378	421
Isabela Municipio.....	208	253	300	373	420
Lajas Municipio.....	208	257	300	378	421
Las Marias Municipio....	208	257	300	378	421
Maunabo Municipio.....	208	257	300	378	421
Patillas Municipio.....	208	257	300	378	421
Rincon Municipio.....	208	257	300	378	421
San Sebastian Municipio.	208	257	300	378	421
Utuado Municipio.....	208	257	300	378	421

V I R G I N I S L A N D S

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Virgin Islands.....	528	642	755	943	1055

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR

Note: The FMRS for unit sizes larger than 4 BRs are calculated by adding 15% to the 4 BR FMR for each extra bedroom. For example, the FMR for a 5 BR unit is 1.15 times the 4BR FMR, and the FMR for a 6 BR unit is 1.30 times the 4 BR FMR.

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SCHEDULE D - FY 1996 40th PERCENTILE FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES

STATE/FMR AREA	SPACE RENT
CALIFORNIA	
Orange County, CA PMSA	$449
San Diego, CA MSA	388
COLORADO	
Boulder-Longmont, CO PMSA	282
Denver, CO PMSA	268
DELAWARE	
Dover, DE MSA	163
Sussex County	115
MARYLAND	
Hagerstown, MD MSA	204
St. Marys County	251
MINNESOTA	
Minneapolis-St. Paul, MN-WI MSA	243
NEW YORK	
Dutchess, NY PMSA	329
Jamestown, NY MSA	172
Newburgh, NY MSA	309
Tompkins County, NY	196
OREGON	
Salem, OR PMSA	205
VERMONT	
Washington County	196
WEST VIRGINIA	
Berkeley County	132
Jefferson County	135
Morgan County	133

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federal register

Tuesday
August 15, 1995

Part V

Department of Commerce

Patent and Trademark Office

37 CFR Parts 1, 3 and 5

Changes to Implement 18-Month Publication of Patent Applications; Proposed Rule

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1, 3 and 5

[Docket No. 950620162–5162–01]

RIN 0651–AA75

Changes to Implement 18-Month Publication of Patent Applications

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Patent and Trademark Office (Office) is proposing to amend the rules of practice in patent cases primarily to implement changes related to the 18-month publication of patent applications in title 35, United States Code, contained in the Patent Application Publication Act of 1995 (H.R. 1733). Among the changes that are contained in H.R. 1733 would be the publication of patent applications after 18 months from the earliest filing date for which a benefit is sought, and the addition of provisional rights to the rights provided in a patent. These changes would apply to utility and plant applications other than provisional applications, but not to design applications.

DATES: Written comments must be submitted on or before September 19, 1995. A public hearing will be held on Tuesday, September 19, 1995, at 9:30 a.m. Those wishing to present oral testimony must request an opportunity to do so no later than September 14, 1995. Written comments and transcripts of the hearings will be available for public inspection on or about October 2, 1995, and will be available on or about October 2, 1995, through anonymous file transfer protocol (ftp) via the Internet (address: ftp.uspto.gov).

ADDRESSES: Address written comments and requests to present oral testimony to the Commissioner of Patents and Trademarks, Washington, D.C. 20231, Attention: Stephen G. Kunin, Deputy Assistant Commissioner for Patent Policy and Projects. In addition, written comments may also be sent by facsimile transmission to (703) 305–8825, with a confirmation copy mailed to the above address, or by electronic mail messages over the Internet to early-pub@uspto.gov. The public hearing will be held at the Holiday Inn—National Airport, 15th Street and Jefferson Davis Highway, Arlington, Virginia. The written comments and transcripts of the hearings will be available in Room 520 of Crystal Park One, 2011 Crystal Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Stephen G. Kunin by telephone at (703) 305–8850, by facsimile at (703) 305–8825, by electronic mail at rbahr@uspto.gov, or Jeffrey V. Nase by telephone at (703) 305–9285, or by mail marked to the attention of Stephen G. Kunin, addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: This proposed rule change is designed primarily to implement the changes in practice related to the publication of patent applications provided for in H.R. 1733. H.R. 1733 was introduced in the House of Representatives on May 25, 1995. The amendments to title 35 relating to 18-month publication, if enacted as proposed, would be effective on January 1, 1996. A copy of this legislation may be obtained from the individuals identified in the **FOR FURTHER INFORMATION CONTACT** section of the notice.

Section 122 of title 35, United States Code, currently provides that patent applications are maintained in confidence until a patent is granted. H.R. 1733, if enacted, would amend 35 U.S.C. 122 to provide that each application for patent, except for design applications filed under 35 U.S.C. 171 and provisional applications filed under 35 U.S.C. 111(b), shall be published ''as soon as possible after the expiration of a period of 18 months from the earliest filing date for which a benefit is sought,'' but provides that applications that are no longer pending and applications that are subject to a secrecy order under 35 U.S.C. 181 shall not be published.

H.R. 1733 includes a provision (35 U.S.C. 122(b)(2)) that, upon request, an application of an independent inventor who has been accorded status under 35 U.S.C. 41(h) will not be published until three months after an Office action under 35 U.S.C. 132; however, applications filed under 35 U.S.C. 363 and applications claiming the benefit of an earlier filing date under 35 U.S.C. 119, 120, 121, 365(a) or 365(c) are not eligible for such a request. In addition, H.R. 1733 provides that an applicant making such a request must certify that the invention disclosed in the application was not or will not be the subject of an application filed in a foreign country. H.R. 1733 provides that the Commissioner may establish appropriate procedures and fees for such a request.

H.R. 1733, if enacted, would further amend 35 U.S.C. 119 to provide that the claim and certified copy of the original foreign application must be filed in the Office at such time during the pendency of the application as required by the Commissioner, and that the Commissioner may consider the failure of the applicant to file a timely claim for priority as a waiver of any such claim. H.R. 1733, if enacted, would likewise amend 35 U.S.C. 120 to provide that the Commissioner may determine the time period during the pendency of the application within which an amendment containing the specific reference to the earlier filed application shall be submitted, and that the Commissioner may consider the failure of the applicant to file a timely claim for priority as a waiver of any such claim.

H.R. 1733, if enacted, would further amend 35 U.S.C. 102(e) to include applications published pursuant to 35 U.S.C. 122(b) within its scope. H.R. 1733, if enacted, would provide that the costs of early publication shall be recovered by adjusting the filing, issue and maintenance fees, by charging a separate publication fee, or by any combination of these methods. H.R. 1733, if enacted, would also provide that, upon issuance of the application as a patent, the patent shall, where the invention claimed in the patent is identical to the invention claimed in the published application, include provisional rights during the period from publication until issuance of the patent.

H.R. 1733 also includes amendments relating to 20-year patent term and provisional applications. Specifically, H.R. 1733 includes an amendment to 35 U.S.C. 119(e) to provide that if the day that is twelve months after the filing date of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the period of pendency of the provisional application shall be extended to the next succeeding secular or business day. H.R. 1733 also includes an amendment to 35 U.S.C. 154(b) to: (1) Include an unusual administrative delay by the Office in issuing the patent as a basis for patent term extension; (2) provide that the total duration of all extensions under 35 U.S.C. 154(b) shall not exceed ten years, as opposed to the five year limit currently provided in Public Law 103–465; (3) provide that no patent that has issued before the expiration of three years after the filing date of the application or entry of the application into the national stage under 35 U.S.C. 371 shall be extended under 35 U.S.C. 154(b); (4) provide that no patent whose term has been disclaimed beyond a specified date shall be extended under 35 U.S.C. 154(b) beyond the expiration date specified in the terminal disclaimer, and (5) provide that any

period of extension under 35 U.S.C. 154(b) shall be reduced by the period during which the applicant for patent did not engage in reasonable efforts to conclude processing or examination of the application, rather than the ''due diligence'' provision applicable to extensions under 35 U.S.C. 154(b)(2) in Public Law 103–465.

The current planning approach to the implementation of early publication is to create an electronic data base which captures the technical content, i.e., the specification, abstract, claims and drawings, of the application-as-filed. A data capturing operation will enable the creation of a data base containing image and text equivalent of the technical contents of the application-as-filed. Application materials will be digital image and/or optical character recognition (OCR) scanned by the Office for entry into this electronic data base. This electronic data base will be used to provide a source for (a) meeting publication requirements for the applications, (b) providing a basis for electronic searching and retrieval of applications, and (c) providing a basis for producing copies of the technical contents of the application-as-filed. The publication of an application will take the form of publishing information necessary to identify the applicant and the technical subject matter of the application, i.e., a Gazette Entry, in a separate Gazette of Patent Application Notices, with a one-page printed publication, i.e., a Patent Application Notice or PAN, containing similar information for placement in the paper search files. Published applications will be assigned a sequential Patent Application Notice (PAN) number in the manner that issued patents are assigned a sequential patent number. In addition, a document including the Patent Application Notice and the technical contents of the application-as-filed, designated as the Technical Contents Publication, will be available to the public upon publication.

The digital images of the technical contents of the application-as-filed, i.e., the Technical Contents Publication, will be available for public review. Paper copies of the Patent Application Notice and Technical Contents Publication will also be available for purchase similar to the way paper copies of patents are currently available for purchase. When budgetary and process considerations permit, text searching of the Patent Application Notice and Technical Contents Publication will be implemented.

The information provided to Patent and Trademark Depository Libraries will be expanded to include weekly issues of the Gazette of Patent Application Notices (provided by the Government Printing Office), and a CD–ROM collection of facsimile images of the Patent Application Notices and Technical Contents Publications. The public would also be able to place subscription orders to receive weekly paper copies of the Patent Application Notices and Technical Contents Publications published in specific classes and subclasses similar to the way such orders are currently placed for issued patents, as well as subscription orders to receive the CD–ROM collection of facsimile images of the Patent Application Notices and Technical Contents Publications.

H.R. 1733, as proposed, does not specifically exclude applications that are national security classified from those applications to be published. Executive Order 12356 and a number of statutes, e.g., 42 U.S.C. 2011 et seq. (the Atomic Energy Act of 1954), 15 U.S.C. 1155 (provides that the Secretary of Commerce shall respect and preserve the security classification of inventions in the possession or control of the Department of Commerce), and 18 U.S.C. 798 (provides criminal sanctions for the disclosure of classified information) preclude the publication of a national security classified application. Further, the publication requirement in H.R. 1733, as proposed, provides some latitude to the Commissioner to publish applications later than 18 months from the earliest filing date for which a benefit is sought. Therefore, the publication of a national security classified application will be delayed until such application is either declassified, which will permit publication of the application, or subjected to a secrecy order pursuant to 35 U.S.C. 181, which will exclude the application from publication by the express terms of H.R. 1733, as proposed. In view of national security considerations, and the current statutory prohibitions on the disclosure of classified information, it is appropriate to specifically exclude those applications that are national security classified from publication under the provisions of H.R. 1733.

While H.R. 1733, if enacted, would not directly affect design applications, this notice of proposed rulemaking includes a proposed amendment to § 1.154 such that the arrangement for a design application will be consistent with the arrangements for a utility (§ 1.77) or plant (§ 1.163) application, as well as a proposed amendment to § 1.5 to provide that a paper concerning a provisional application must identify the provisional application as such and by application number. In addition, while this proposed rule change is designed primarily to implement the changes in practice related to the publication of patent applications provided for in H.R. 1733, a number of proposed rule changes set forth in this notice of proposed rulemaking would be desirable even in the absence of an 18-month publication system. Specifically, this proposed rule change is also designed to: (1) clarify which applications claiming the benefit of prior applications or prior applications for which a benefit is claimed in a later application will be preserved in confidence; (2) amend the rules pertaining to the format and standards for application papers and drawings to improve the standardization of patent applications; (3) broaden the application of § 1.131 to instances in which inventions of a pending application or patent under reexamination and a patent held by a single party are not identical, but not patentably distinct; (4) broaden the application of §§ 1.78(c) and (d) to patents under reexamination, (5) clarify the practice for the delivery or mailing of patents; (6) provide for the treatment of national security classified applications; (7) expedite the entry of international applications into the national stage; and (8) amend a number of rules for consistency and clarity. Since these proposed rule changes may be adopted as final rules even in the absence of an 18-month publication system, interested persons are advised to comment on any proposed rule change, regardless of whether H.R. 1733 is enacted.

If H.R. 1733 is amended during the legislative process, the final rules will comply with this legislation as enacted. If H.R. 1733 is not enacted, the proposed rules that would implement publication of patent applications would be withdrawn.

In a Notice of Public Hearing and Request for Comments on 18-Month Publication of Patent Applications (18-Month Publication Notice) published in the **Federal Register** at 59 FR 63966 (December 12, 1994) and in the Patent and Trademark Office Official Gazette at 1170 Off. Gaz. Pat Office 390–94 (January 3, 1995), the Office requested public comment on the procedures the Office should adopt if an 18-month publication system was enacted. The 18-Month Publication Notice set forth the Office's planning approach for the implementation of 18-month (pre-grant) publication of patent applications, and specifically presented fourteen (14) questions on which comment was invited. An oral hearing was conducted on February 15, 1995.

Sixty-five (65) written comments, as well as two (2) Law Review articles concerning the pre-grant publication of pending patent applications, were submitted. Of the sixty-five (65) comments, forty (40) submitted comments directed to at least one of the questions presented in the 18-Month Publication Notice. Sixteen (16) persons testified at the public hearing conducted on February 15, 1995.

Response to Comments on the 18-Month Publication Notice

The following questions were presented in the 18-Month Publication Notice. Each question is followed by a summary of the comments submitted in response to the question, and the proposed disposition of the issue presented in the question.

1. Should the PTO require that all official application-related materials be delivered to a central location? Specifically, what problems would a requirement that all official application-related materials be delivered to a central location cause?

Summary: A slight majority of the comments opposed a requirement that all official application-related materials be delivered to a central location.

Response: As the Office currently considers the delivery of all official application-related materials to a central location to be unnecessary to the currently planned approach to implementation of 18-month publication, no change to the rules of practice to require that all official application-related materials be delivered to a central location will be proposed.

2. Should the PTO adopt a standard application format? If so, what portions of the application papers should the PTO require be submitted in a standard size and/or format, and what sanction (e.g., surcharge) should be established for the failure to comply with these requirements?

Summary: A majority of the comments favored the implementation of a standard application format, so long as an applicant was given a time period in which to comply with this format, i.e., failure to comply with the standard application format did not deprive the application of a filing date. In addition, a number of comments indicated that any additional requirements should not be inconsistent with European Patent Office (EPO) or Patent Cooperation Treaty (PCT) requirements, or in excess of those requirements necessary for the implementation of 18-month publication.

Response: The Office is proposing to change the rules of practice to institute only those additional standardizations which are consistent with the requirements set forth in PCT Rule 11, and are considered necessary for the digital image and OCR scanning of application materials into an electronic data base. Those additional standardizations are that: (1) applications be submitted on flexible, strong, smooth, non-shiny, durable and white paper (PCT Rule 11.3); (2) the papers be typewritten by a typewriter or word-processor, i.e., hand-written application materials would no longer be acceptable, with 1½ or double spaced lines (PCT Rule 11.9(c)), and in permanent ''dark'' ink (PCT Rule 11.9(d)) and portrait orientation, i.e., with the shorter sides of the paper on the top and bottom (PCT Rule 11.2(d)); (3) the sheets of papers be the same size and either 21.0 cm. by 29.7 cm. (DIN size A4) or 21.6 cm. by 27.9 cm. (8½ by 11 inches) (PCT Rule 11.5), with a top margin of at least 2.0 cm. (¾ inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 2.0 cm. (¾ inch), and a bottom margin of at least 2.0 cm. (¾ inch) (PCT Rule 11.6(a)); (4) the pages of the application be numbered consecutively, with the numbers being centrally located above or below the text (PCT Rule 11.7); and (5) the claims be on a separate sheet (PCT Rule 11.4). Finally, §§ 1.52(b) and 1.84(x) are proposed to be amended to provide that no holes should be provided in the paper or drawing sheets due to the potential for their interference with the scanning operation.

Section 1.52(b) currently requires that application papers be written on but one side, and § 1.72(b) currently requires that the abstract be on a separate sheet. In an application filed without: (1) typewritten application papers on flexible, strong, smooth, non-shiny, durable and white paper; (2) 1½ or double spaced lines in portrait orientation; (3) permanent ''dark'' ink typing; (4) sheets of papers of the same size and either 21.0 cm. by 29.7 cm. (DIN size A4) or 21.6 cm. by 27.9 cm. (8½ by 11 inches), with a top margin of at least 2.0 cm. (¾ inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 2.0 cm. (¾ inch), and a bottom margin of at least 2.0 cm. (¾ inch); (5) the pages of the application including claims and abstract be numbered consecutively, starting with page one, with the numbers being centrally located above or below the text; (6) application papers typed on but one side; and (7) an abstract and claims on a separate sheet, the applicant will be given a time period, non-extendable under § 1.136(a), in which to file a substitute specification in compliance with § 1.125 on application papers in compliance with §§ 1.52(a) and (b). The Office, however, does not propose to require a surcharge for the failure to comply with these standardizations on filing.

Additional standardizations to the rules of practice concerning drawings requirements are also being proposed. Currently, § 1.84(f) permits paper sizes of 21.6 cm. by 35.6 cm. (8½ by 14 inches), 21.6 cm. by 33.1 cm. (8½ by 13 inches), 21.6 cm. by 27.9 cm. (8½ by 11 inches), and 21.0 cm. by 29.7 cm. (DIN size A4). Section 1.84(f), as proposed, would permit paper sizes of only 21.0 cm. by 29.7 cm. (DIN size A4) or 21.6 cm. by 27.9 cm. (8½ by 11 inches). The use of these paper sizes, which correspond to the paper sizes required under § 1.52(b), as proposed, would not impact the current Automated Patent System (APS) database, and would permit a fully automatic scanning operation due to their similar size. To electronically store, display, and print drawings paper sheet sizes up to 21.6 cm. by 35.6 cm. (8½ by 14 inches) would require modifications of the APS system hardware, software, displays, and printers. In addition, the digital image scanning of drawing paper sheet sizes up to 21.6 cm. by 35.6 cm. (8½ by 14 inches) would require a semi-automatic scanning operation, thus increasing scanning costs significantly. Therefore, § 1.84(f), as proposed, would permit paper sheet sizes of only 21.0 cm. by 29.7 cm. (DIN size A4) or 21.6 cm. by 27.9 cm. (8½ by 11 inches), with a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (9⁄16 inch), and a bottom margin of at least 1.0 cm. (⅜ inch), thereby leaving a sight no greater than 17.0 cm. by 26.2 on 21.0 cm. by 29.7 cm. (DIN size A4) sheets, and a sight no greater than 17.6 cm. by 24.4 cm. (6 15⁄16 by 9⅝ inches) on 21.6 cm. by 27.9 cm. (8½ by 11 inch) sheets (PCT Rule 11.6(c)). As PCT Rule 11.6(d) provides that the margin requirements apply to 21.0 cm. by 29.7 cm. (DIN size A4) sheets such that a copy of the drawings sheet on a 21.0 cm. by 29.7 cm. (DIN size A4) sheet leaves the required margin, the requirement for drawing sheet sizes of only 21.6 cm. by 27.9 cm. (8½ by 11 inches) or 21.0 cm. by 29.7 cm. (DIN size A4) is not a substantive drawing limitation in excess of PCT Rule 11.

Currently, formal drawings are not required until an application has been allowed. As a drawing figure will be included in the Gazette Entry in the Gazette of Patent Application Notices,

as well as the Patent Application Notice, drawings of sufficient quality for digital image scanning into an electronic data base will be necessary for the initial processing of the application. In instances in which an application is filed with drawings of such poor quality as to preclude their digital image scanning into the electronic data base, it will be necessary to set a time period, non-extendable under § 1.136(a), in which to file drawings of sufficient clarity, contrast, and quality and in the proper size and format for electronic reproduction by digital imaging.

Currently, a complete application under § 1.51(a) does not require an abstract on a separate sheet, claims on a separate sheet, application papers typed on but one side of the paper, or application papers or drawings of sufficient clarity, contrast, or quality or in the proper size or format for electronic reproduction, and, as such, an application may be filed under § 1.60 from a prior application not in a format necessary for the image and/or OCR scanning of the application materials into an electronic data base. Therefore, an amendment to § 1.60(d) is necessary to assure the prompt filing of application papers including an abstract and claims on a separate sheet, application papers typed on but one side of the paper, and application papers and drawings of sufficient clarity, contrast, and quality and in the proper size and format for electronic reproduction.

Currently, the filing of the copy of the specification from the prior application, or a new specification, in an application filed under § 1.62 is considered improper. As applications filed prior to January 1, 1996, will not have been image- or OCR-scanned into the electronic data base, the technical contents of an application filed under § 1.62 in which the prior application was itself filed prior to January 1, 1996, will not be contained in the electronic data base. For applications under § 1.62 which do not add additional disclosure, i.e., continuation or divisional applications, the Office will obtain the microfiche copy of the prior application and image or OCR scan it into the electronic data base. For applications under § 1.62 which add additional disclosure, i.e., continuation-in-part applications, a substitute specification and drawings will be necessary for image or OCR scanning into the electronic data base. Therefore, an amendment has been proposed to § 1.62 to provide that, where the application is a continuation-in-part application, a substitute specification in compliance with § 1.125 and drawings will be required.

Section 1.62 currently provides that no copy of the prior application or new specification is required, and further provides that the filing of such a copy or specification will be considered improper, and a petition is necessary to obtain the date of deposit of the request for an application under § 1.62 as the filing date. Section 1.62, as proposed, would provide that the failure to provide any required substitute specification would not affect the filing date of the application, but a time period, non-extendable under § 1.136(a), would be set for its filing. Section 1.62, as proposed, would further provide that any new specification filed in an application under § 1.62 would not be considered part of the original application papers, but would be treated as a substitute specification under § 1.125. Any request to treat a new specification filed in an application under § 1.62 as part of the original application papers may be by way of petition under § 1.182.

Finally, amendments to §§ 1.77, 1.154, and 1.163 have been proposed to provide a standard arrangement for utility, design, and plant applications, respectively. This standard arrangement will include, *inter alia*, a Fee Transmittal form for utility, design, and plant applications, a Utility Patent Application Transmittal form, a Design Patent Application Transmittal form, a Plant Patent Application Transmittal form, and a Plant Color Coding Sheet for plant applications. Standardized versions of the Fee Transmittal form, Utility Patent Application Transmittal form, Design Patent Application Transmittal form, Plant Patent Application Transmittal form, Plant Color Coding Sheet, as well as a standard Declaration form and Plant Patent Application Declaration form, are included as an Appendix A to this notice of proposed rulemaking.

3. Assuming that the entire application is not published, what information concerning the application should be published in the Gazette of Patent Application Notices?

Summary: A slight majority of the comments indicated that the printed publication should include the entire application, or at least the claims, each independent claim, or a claim of each statutory class in the application. The remaining comments that did not oppose pre-grant publication indicated that any Patent Application Notice should contain information similar to what is published in the Official Gazette or sufficient information to determine whether further investigation was warranted. Those comments that opposed any pre-grant publication opposed publication of any information other than the applicant's name, address and a ''non-enabling'' abstract of the invention.

Response: The Technical Contents Publication will include a copy of the Patent Application Notice, and the specification, abstract, claims and drawings of the application-as-filed. The Technical Contents Publication will be available for public review through video display terminals in the Public Search Room and through CD-ROM collections of facsimile images of Patent Application Notices and Technical Contents Publications in the Patent and Trademark Depository Libraries. Copies of the Patent Application Notices and Technical Contents Publications will also be available for purchase under the conditions that paper copies of patents are currently available for purchase. When budgetary and process constraints permit, text searching of the Patent Application Notices and Technical Contents Publications will be implemented.

H.R. 1733, if enacted, would not provide any appropriations to cover the costs of early publication, but would provide that these costs are to be recovered by adjusting the filing, issue and maintenance fees, by charging a separate publication fee, or by any combination of these methods, i.e., that the patent applicant is to bear the costs of publication. A number of comments have criticized this method of allocating the publication costs as pre-grant publication provides no benefit to the patent applicant. The Office was required to balance the requests for a printed publication conveying the greatest amount of application information with those comments opposing additional publication costs. To provide the maximum amount of application information at the lowest cost to applicant, the specification, abstract, claims and drawings of the application-as-filed will be available for public review in the Technical Contents Publication.

4. Should the patent applicant receive a copy of the published application—either published notice and/or application content at time of publication?

Summary: A majority of the comments indicated that the applicant should receive a copy of the Patent Application Notice.

Response: The Office proposes to provide for the delivery of the Patent Application Notice similar to the current delivery of patents.

5. Should the PTO permit an accelerated examination? If so, under what conditions?

Summary: A majority of the comments favored permitting accelerated examination. A number of comments indicated that accelerated examination should be provided for applicants who either: (1) meet the current conditions for accelerated examination; or (2) pay a relatively high fee, i.e., that the Office should add the payment of a high accelerated examination fee to the current conditions for providing an accelerated examination. A number of comments, however, indicated that adding the payment of a high accelerated examination fee to those conditions for providing an accelerated examination would benefit large companies at the expense of small entities.

Response: The Office will provide accelerated examination only under the current conditions set forth in § 1.102, as described in MPEP 708.02. Accelerated examination is currently provided depending upon the subject matter of the invention, medical condition of the applicant, business circumstances, or the willingness of the applicant to participate in a special accelerated examination procedure. Increasing the number of applications receiving accelerated examinations could diminish the availability or speed of accelerated examination to an individual applicant because there will be more applications receiving an accelerated examination. It would further delay the examination of applications not provided with accelerated examination. Adding a condition for providing accelerated examination which bears no relationship to the merits of the application or circumstances of the applicant, i.e., for the mere payment of a fee, is not considered appropriate. Therefore, the Office does not propose to change the conditions under which the examination of an application will be accelerated.

The Office, however, will continue to make special an application under the conditions currently set forth in MPEP 708.02 (VIII), special examining procedures for certain new applications—accelerated examination. MPEP 708.02 (VIII) provides that a new application may be granted special status provided that the applicant: (1) submits a written petition to make special accompanied by the fee set forth in § 1.17(i); (2) presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status; (3) submits a statement that a pre-examination search was made; (4) submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims; (5) submits a detailed discussion of the references pointing out with the particularity required by § 1.111 (b) and (c) how the claimed subject matter is distinguishable over the references; and (6) submits any affidavit or declaration under § 1.131 that is necessary to overcome the references before the application is taken up for action, but in no event later than one month after request for special status. An application granted special status under MPEP 708.02 (VIII) will be taken up by the examiner before all other categories of applications except those clearly in condition for allowance and those with set time limits, such as examiner's answers, etc., and will be given a complete first action which will include all essential matters of merit as to all claims.

6. Since the cost for publishing applications must be recovered from fees, how should the cost of publication be allocated among the various fees, including the possibility of charging a separate publication fee?

Summary: The overwhelming majority of comments opposed a separate publication fee. Most comments indicated that the costs of publication should be spread over the existing fees, with the remaining comments indicating that these costs should be absorbed by those accessing the published applications or the Office.

Response: H.R. 1733, if enacted, would not provide appropriations for the Office to absorb the publication cost, but provides that the ''Commissioner shall recover the costs of early publication . . . by adjusting the filing, issue, and maintenance fees, by charging a separate publication fee, or by any combination of these methods.'' Notwithstanding that H.R. 1733, if enacted, would not authorize the Office to recover the costs of publication through those seeking access to the published application, the demand for publication products, e.g., Patent Application Notices and Technical Contents Publications, would not be consistent, and it would not be possible to project the demand for publication products with the degree of precision necessary to recover a substantial portion of the publication costs through the inclusion of such costs in the fees charged for the publication products. In addition, the Office will supply, *inter alia,* CD-ROM collections of facsimile images of the Patent Application Notices and Technical Contents Publications under the condition that CD-ROM collections of patent images are currently supplied. As the Office has no authority to control the further duplication of such images, it would not be practicable to attempt to recover publication costs through increases in the fees charged for publication products, since those persons desiring copies of Patent Application Notices or Technical Contents Publications would simply obtain them from the original purchasers of the CD-ROM collections, who need not include any publication costs in their prices. Therefore, the Office proposes to adjust the filing, issue, and maintenance fees to recover the costs of publication.

In a Notice of Proposed Rulemaking published in the **Federal Register** at 60 FR 27934 (May 26, 1995) and in the Patent and Trademark Office Official Gazette at 1174 Off. Gaz. Pat Office 134–50 (May 30, 1995), a number of changes to the rules of practice to, *inter alia,* adjust patent and trademark fees to reflect the fluctuations in the Consumer Price Index (CPI) pursuant to 35 U.S.C. 41(f) were proposed (Patent and Trademark Fee Notice of Proposed Rulemaking). The proposed patent and trademark fee adjustments, if adopted in final rules, would take effect on October 2, 1995 (October 1, 1995 being a Sunday), prior to the effective date of the fee increase in this notice of proposed rulemaking to recover the costs of publication. The proposed amendments to §§ 1.19(b)(1)(i) and 1.19(b)(1)(ii) are repeated in this notice of proposed rulemaking for clarity.

The Office estimates that it will cost about $9 million to publish applications in Fiscal Year 1996. To allocate these costs among the filing fees of those applications which the Office anticipates will be filed in Fiscal Year 1996, the issue fee for those applications for which the Office anticipates payment of an issue fee in Fiscal Year 1996, and maintenance fees due at three (3) years and six (6) months, seven (7) years and six (6) months, and eleven (11) years and six (6) months for those patents for which the Office anticipates payment of the respective maintenance fees in Fiscal Year 1996, a further increase in the filing fee for an original nonprovisional (35 U.S.C. 111(a)) or reissue application to $780 ($390 for a small entity) and a plant application to $540 ($270 for a small entity), issue fee for an original or reissue application to $1280 ($640 for a small entity) and a plant application to $660 ($330 for a small entity), maintenance fee due at three (3) years and six (6) months to

$1020 ($510 for a small entity), maintenance fee due at seven (7) years and six (6) months to $2020 ($1010 for a small entity), and maintenance fee due at eleven (11) years and six (6) months to $3020 ($1510 for a small entity) is necessary to recover the costs of publication in Fiscal Year 1996. A comparison of existing fee amounts, fee amounts proposed in the Patent and Trademark Fee Notice of Proposed Rulemaking, and fee amounts proposed in this notice of proposed rulemaking is included as an Appendix B to this notice of proposed rulemaking.

7. Should the PTO require an affirmative communication from a patent applicant indicating that the applicant does not wish the application to be published, or should failure to timely submit a publication fee be taken as instruction not to publish the application? That is, should an application be published unless the applicant affirmatively indicates that the application is not to be published, regardless of whether a publication fee has been submitted? What latitude should the PTO permit for late submission of a publication fee?

Summary: An overwhelming majority of the comments (except for those who opposed any pre-grant publication) favored a requirement that an applicant affirmatively communicate that an application is being expressly abandoned to avoid publication of the application at 18 months.

Response: The Office does not process applications as abandoned until seven (7) months after the mailing date of an Office action to allow for extensions of time under § 1.136(a) and mailing delays. Where no response to an Office action setting a shortened statutory period for response of three (3) months mailed at 13 months after filing in an application is received, the application becomes abandoned by operation of 35 U.S.C. 133 at 16 months after filing, but is not recognized or processed by the Office as an abandoned application until 20 months after filing, and thus would be published in regular course at 18 months. Therefore, an applicant intending to permit an application to become abandoned for failure to respond to an Office action mailed within seven (7) months of the projected publication date must take affirmative action to avoid publication of the application.

The Office intends to indicate the projected date of publication on the filing receipt. Any person who wants to avoid publication of the application at 18 months must submit a letter of express abandonment in sufficient time to permit the Office to act on the letter. Likewise, any person who considers the projected date of publication on the filing receipt to be incorrect must submit a request to correct the projected date of publication in sufficient time to permit the Office to act on the request.

Currently, the Office considers two (2) months to be the minimum time necessary to avoid publication of an application. Therefore, any letter of express abandonment or request to withdraw the application from publication submitted less than two (2) months from the projected date of publication will not be considered effective to avoid publication of the application at the projected date of publication. The Office also intends to indicate on the filing receipt the date by which an application must be expressly abandoned to avoid its publication.

8. The delayed filing of either a claim for priority under 35 U.S.C. 119 or 120 may result in the delayed publication of the application. Should priority or benefit be lost if not made within a reasonable time after filing? What latitude should the PTO permit for late claiming of priority or benefit?

Summary: A large majority of the comments indicated that claims for priority under 35 U.S.C. 119 and 120 should be lost if not timely filed. A number of comments also indicated that there should be provisions for the acceptance of late claims for priority.

Response: The submission of a claim for priority under 35 U.S.C. 119 or 120 later than four (4) months prior to the publication date appropriate for an application claiming that priority date will result in delays in the publication of the application and will interfere with the publication process. Therefore, the Office proposes to change the rules of practice to provide that claims for priority under 35 U.S.C. 119 or 120 must be made within two (2) months of filing, or fourteen (14) months from the filing date for which a benefit is desired, whichever is later. To avoid a potential loss of patent rights to an applicant who inadvertently failed to present a timely claim for priority, the Office further proposes to provide for the acceptance of late claims for priority submitted during the pendency of the application with a surcharge, so long as the delay in submitting the claim for priority was unintentional.

9. Once the patent has issued, should the paper document containing information similar to that published in the Gazette of Patent Application Notices, i.e., the Patent Application Notice, be removed from the search files, and should publication information be included on the issued patent?

Summary: A majority of the comments indicated that the Patent Application Notice should not be removed from the search files.

Response: The Office will not remove the Patent Application Notice from the search files upon issuance of the patent.

10. After publication, should access to the content of the application file be limited to the originally filed application papers? If not, what degree of access should be permitted? Should access be limited to the content before publication, or should it extend to materials added after publication?

Summary: A majority of the comments indicated that, upon publication, the access to the content of the application file should not be limited.

Response: The Office proposes to change the rules of practice to provide that, upon publication, access to the entire content of the application file would be permitted. To avoid undue interference with the examination of the application, however, the public access to the application file of a pending published application is proposed to be limited to obtaining, upon the payment of the fee set forth in § 1.19(b)(2), a copy of the application file produced during non-working hours by the Office when the application file is made available by the appropriate patent application processing organization. The Office also proposes to provide, upon the payment of the fee(s) set forth in § 1.19(b)(4), as proposed, a copy of specifically identified document(s) contained in a pending published application.

The Office will provide public access to a database containing information concerning the status of a pending published application and the content of the application file similar to that contained in the Patent Application Location and Monitoring (PALM) system. Using this database, interested members of the public will be able to ascertain the status of a pending published application to determine whether obtaining a copy of the file wrapper and content of the application or any document(s) in the file wrapper is warranted. In addition, this database can also be used to permit specific identification of the document(s) of which a copy is desired, assuming that obtaining a copy of the entire file wrapper and content is not considered warranted.

The Office specifically proposes to provide a copy of a specifically identified document contained in a pending published application for a fee of $75.00. Each paper in the application file to which a separate paper number is assigned constitutes a document in

the application. As the cost of obtaining a pending published application from its location in the various patent application processing organizations throughout the Office is a substantial portion of the cost of providing a copy of the file wrapper and content of a pending published application, the fee for providing a copy of the first requested document from a pending published application must recover the cost of obtaining the application. The Office, however, will provide copies of additional documents from the same application in the same request for a fee of $25.00 per document.

11. After publication, should assignment records of a published application also be made accessible to the public?

Summary: An overwhelming majority of the comments indicated that, upon publication, the assignment records of an application should be accessible to the public.

Response: The Office proposes to change the rules of practice to provide that, upon publication, the assignment records of the application would be available by both application and Patent Application Notice (PAN) number and open to public inspection through the existing Patent Assignment Search System. The Office further proposes to permit applicants to indicate on the assignment cover sheet whether they want assignment information to be printed on the Patent Application Notice. The Office, however, does not propose to require that any assignment information be printed on the Patent Application Notice.

12. After publication, should access include the deposit of biological materials as set forth in § 1.802 et seq.?

Summary: A majority of the comments indicated that, upon publication, any deposit of biological materials should be accessible to the public. A number of comments, however, indicated that such access should be limited in the manner similar to that in European or Japanese laws, or that such access should be limited to experimental use.

Response: Section 1.809(c) currently provides that the applicant need not provide any necessary deposit of biological materials until three (3) months from the mailing of the Notice of Allowance and Issue Fee Due. The deposit of biological materials on filing of an application are often required by foreign laws. Applicants may not be able to claim priority under these laws based upon an earlier United States application filed without any necessary deposit of biological materials. The laws and rules of practice of the United States, however, do not require an applicant to make any deposit of biological materials until the application is allowed. *See, In re Lundak*, 723 F.2d 1216, 227 USPQ 90 (Fed. Cir. 1985). Accordingly, the Office proposes to change the rules of practice to provide that, upon publication, any deposit of biological materials that has been made would be available after deposit under the same conditions that such deposit of biological material would be available for an issued patent.

13. What types of problems will be encountered if all amendments must be made by (a) substitute paragraphs and claims, (b) substitute pages, or (c) replacement of the entire application?

Summary: A majority of the comments indicated that, if the rules of practice regarding the submission of amendments were changed, a requirement for substitute paragraphs and claims, or substitute pages would be acceptable.

Response: The Office currently considers changes in the procedures for entering amendments into applications to be unnecessary to the current planning approach to implementation of 18-month publication, and, as such, no change to the rules of practice to require substitute paragraphs and claims, substitute pages, or replacement of the entire application is being proposed.

14. Should protest procedures be modified to permit the third party submission of prior art only prior to a specific period after publication of the application? What action should be taken with respect to untimely submissions by a third party?

Summary: A majority of comments indicated that third party submissions of prior art patents and publications should be permitted for a limited period upon publication, but the overwhelming majority of comments opposed any pre-grant opposition procedure.

Response: The Office does not intend to institute any procedures that would amount to pre-grant opposition. H.R. 1732 was also introduced in the House of Representatives on May 25, 1995, and, if enacted, will expand reexamination, i.e., post-grant opposition, proceedings to provide a third party requester with increased participation rights, including the right to appeal any decisions favorable to patentability to the Board of Patent Appeals and Interferences and to the courts. In view of the opposition to pre-grant third party participation, i.e., support for the continued ex parte examination of pending applications, the Office proposes to change the rules of practice to limit the period for filing protests and petitions for the institution of public use proceedings.

The Office proposes to change the rules of practice concerning protests to provide that a submission by a third party in a pending application would be considered if: (1) it is submitted within two months of the date the application was published or prior to the mailing of a notice of allowance under § 1.311, whichever occurs first; (2) the submission has been served on the applicant in accordance with § 1.248 if filed after the date the application was published, and the submission indicates such service; (3) the submission is accompanied by a $220 fee if submitted after publication of the application; and (4) the application is still pending when the submission and application file is brought before the examiner.

The $220 fee for a protest submitted after publication of the application is considered appropriate. Any party submitting a protest after publication has benefitted by the publication of the application. The third party should not obtain this benefit solely at the expense of the patent applicant, but should obtain this benefit only upon payment of a fee. In addition, it is expected that any protest submitted after publication of the application will be considered late in the prosecution of the application, which will cause inconvenience both to the patent applicant and the Office. Therefore, the requirement for the payment of a fee is considered appropriate to defray the costs of the belated consideration of any such submission and discourage the submission of protests having questionable merit.

Third parties may continue to submit information concerning prior public use of the invention in accordance with § 1.292. Currently, § 1.292 does not set forth a time period within which a petition for the institution of public use proceedings must be filed. The Office proposes to further amend § 1.292 to provide that the public use petition will be entered if submitted within two months of the publication date of the application or prior to the mailing of a notice of allowance under § 1.311, whichever occurs first.

The proposed changes to §§ 1.291 and 1.292 are intended to limit any right of third parties to have information entered and considered in a pending application. They do not vest the applicant with any right to prevent the Office from sua sponte making such information of record in the application or relying upon such information in subsequent proceedings in the application, i.e., they do not limit the authority of the Office to re-open the

prosecution of an application to consider any information deemed relevant to the patentability of any claim.

A number of miscellaneous comments concerning the 18-month publication of patent applications were also received.

Comment 1: A number of comments opposed any pre-grant publication of pending applications as an improper limiting of the right of a patent applicant to maintain trade secrets, or argued that any pre-grant publication should not occur prior to 24 or 60 months from the earliest filing date.

Response: H.R. 1733, if enacted, would require the Commissioner to publish pending applications at 18 months. The proposed changes to the rules of practice concern the implementation of an 18-month publication system mandated by statute, not the advisability of an 18-month publication system. If legislation containing provisions for the publication of pending applications is enacted, it is not expected that the Office would have the discretion to determine whether or when pending applications are to be published. That is, it is expected that any legislation containing provisions for the publication of pending applications will mandate whether and when applications are to be published.

Comment 2: A number of comments indicated that the publication of pending applications should be joined with provisional rights.

Response: H.R. 1733, as proposed, provides for provisional rights. This issue, however, was not treated in the 18-Month Publication Notice or this notice of proposed rulemaking since it does not affect the way business is conducted with or within the Office.

Comment 3: One comment indicated that the requirement under 35 U.S.C. 112, first paragraph, for a disclosure of a best mode should be eliminated in view of 18-month publication.

Response: The requirement in 35 U.S.C. 112, first paragraph, for a disclosure of a best mode is a statutory, not regulatory, requirement. Therefore, the Office has no authority to eliminate or limit this requirement of the patent statutes.

Comment 4: One comment indicated that any publication of patent applications should address the situation in which: (1) an applicant files a continuing application prior to receiving a patent, and then maintains the pendency of continuing application(s), which are maintained in confidence, to obtain claims of various scope; (2) a second party invests resources in developing a product which does not infringe the claims of the patent, but which the applicant could draft claims in the continuing application(s) to cover; and (3) the applicant then permits a continuing application having claims which covers the second party's product to issue, thus checkmating the second party.

Response: H.R. 1733, if enacted, would provide that applications shall be published ''as soon as possible after the expiry of a period of 18 months from the earliest filing date for which a benefit is sought.'' Any continuing application which claims priority from any prior application would be published either 18 months after the filing date of the earliest filed prior application or as soon as possible after filing of the continuing application, and thus would not be maintained in confidence.

Comment 5: One comment indicated that applicants should obtain the defensive benefit of their filing date in a published application regardless of whether the application issues as a patent, either by statute or rule.

Response: H.R. 1733, if enacted, would provide that a published application is prior art under 35 U.S.C. 102(e) as of its filing date. As prior art is defined by statute, i.e., 35 U.S.C. 102, the Office has no authority to promulgate regulations defining what does or does not constitute prior art.

Comment 6: One comment indicated that any rulemaking should be postponed until there is pending legislation, and it is clear as to what form 18-month publication will take.

Response: As legislation has been introduced, the form that 18-month publication will likely take is known. As such, it is now appropriate to initiate the rulemaking process in light of the changes that would be necessitated by this legislation, the requirement for a rapid implementation, if enacted, and the desire on the part of the Office to receive public input prior to initiating the rulemaking process. If H.R. 1733 is amended during the legislative process, the final rules will comply with this legislation as enacted. If H.R. 1733 is not enacted, the proposed rules that would implement publication of patent applications would be withdrawn.

Comment 7: One comment indicated that it is unclear as to whether, when a restriction requirement is applied, each application will require a separate publication fee.

Response: No separate publication fee has been proposed. In accordance with current practice, each application would require separate filing, issue, and maintenance fees, which fees will be increased to recover the costs of publication.

Comment 8: Several comments indicated that the Office should not impose access fees for either copying the paper application files, or searching and copying a published application from any electronic data base.

Response: As discussed supra, the Office intends to provide free public access to images of the Patent Application Notices and Technical Contents Publications through video display terminals in the Public Search Room and through CD–ROM collections of facsimile images of Patent Application Notices and Technical Contents Publications in the Patent and Trademark Depository Libraries. Copies of the Patent Application Notices, Technical Contents Publications, or copies of the file wrapper and contents of the application will be available for a fee. The costs of publication have been allocated primarily to those applicants whose applications are being published. Since publication primarily benefits those seeking access to the published applications, it is reasonable to require such persons to pay a fee for making copies of the Patent Application Notices and Technical Contents Publications, or obtaining a copy of the file wrapper and application contents of a published application from the Office.

Comment 9: One comment indicated that the publication of applications may result in instances in which third parties will submit information to the applicant directly, rather than to the Office. In instances in which the applicant was previously aware of the information, but did not consider it material, the applicant cannot submit the information to the Office in that application (if after final or allowance), but will be charged with a § 1.56 violation if they do not file a continuation application to have it considered. Thus, § 1.56 should be amended such that an applicant in this situation no longer has a duty to submit information to the Office.

Response: Section 1.56 expressly provides that there is no duty to submit information which is not material to the patentability of any existing claim. Since the applicant previously determined that the information was not material, the fact that a third party has provided this previously known material to the applicant has no effect on the applicant's compliance with § 1.56. Second, since the applicant was previously aware of this information, the applicant is under a duty to bring such information to the attention of the Office if it is material, regardless of the actions of any third party, and the applicant is not under a duty to bring such information to the attention of the

Office if it is not material, again regardless of the actions of any third party. In either instance, the third party's actions have no bearing on whether the applicant is in compliance with § 1.56. Therefore, no change to § 1.56 is being proposed.

Comment 10: One comment indicated that § 1.56 should be modified or abolished. Where information is brought to the attention of the applicant after allowance, the applicant should be considered to have met his or her duty of disclosure under § 1.56 if the applicant simply chooses to permit the patent to issue, as the public can take care of itself through reexamination or whatever opposition proceedings are instituted.

Response: As indicated supra, no change to § 1.56 is being proposed. In addition, the Office is proposing to limit third party protest procedures, and is not proposing to develop any procedures amounting to pre-grant opposition. Since the Office is continuing the ex parte examination of applications, the proposed modification or abolition of § 1.56 is not considered appropriate.

Comment 11: One comment indicated that an applicant should be allowed to request early publication.

Response: Section 1.306(d) is being proposed to provide for petitions requesting early publication.

Comment 12: One comment indicated that the Office should require that the text of all applications be filed in digital form, and the publication of applications should be purely digital, i.e., that Office should not print any publication.

Response: 35 U.S.C. 22 provides that ''[t]he Commissioner may require papers filed in the Patent and Trademark Office to be printed or typewritten.'' Therefore, the Office does not currently have the authority to require that application papers be submitted in digital form. The Office is considering the legislative and regulatory changes that would be necessary to permit purely digital filing of application papers; however, requiring all applicants to submit application papers in digital form at this time would place an unnecessary burden on those applicants lacking word-processing resources. In addition, the Office received a substantial number of comments requesting a printed publication containing more information, as well as a number of comments opposing the promulgation of any regulations concerning a standard application format which were in excess of EPO and PCT regulations and not necessary to 18-month publication.

Comment 13: One comment indicated that the Office should clearly define or eliminate the ''formal'' pre-examination search requirement in MPEP 708.02.

Response: MPEP 708.02(VIII) provides that an application may be granted special status under the condition that, *inter alia,* the applicant:

> Submits a statement that a pre-examination search was made, and specifying whether by the inventor, attorney, agent, professional searchers, *etc.*, and listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, *etc.* A search made by a foreign patent office satisfies this requirement.

This definition of a pre-examination search is reasonably clear as to what actions are necessary for an applicant to have satisfied this requirement of MPEP 708.02(VIII), and the requirement for a pre-examination search is basic to the justification for granting special status to an application on that basis. No changes to 37 CFR 1.102 are being proposed.

Comment 14: One comment indicated that the publication of applications at 18 months will create a security review problem, especially where a nonprovisional, *i.e.*, 35 U.S.C. 111(a), application claiming the benefit of a prior provisional application not subject to a secrecy order contains additional material which must be reviewed. Therefore, the Office should require that any nonprovisional applications claiming the benefit of a prior provisional application indicate any additional material by underlining and bracketing.

Response: Provisional applications will increase the number of applications requiring security screening. All provisional applications will require security screening immediately after filing in the same manner as nonprovisional applications due to the licensing provision of 35 U.S.C. 184. Any subsequent U.S. patent application claiming the benefit of a prior provisional application will also require security screening unless it is evident on its face that no additional subject matter is contained in the application beyond that in the provisional application. It would be beneficial for the applicant to provide this information to the Office upon filing of the nonprovisional application. Thus, the Office is considering suggesting that applicants employ a standard application transmittal letter similar to the standard transmittal letter for transmitting an international application to the United States Receiving Office (PTO–1382). This standard transmittal letter would indicate, *inter alia:* (1) any difference between a provisional application and a nonprovisional application claiming the benefit of the provisional application; (2) the residence of the inventor(s) to avoid the unnecessary screening of foreign origin applications; and (3) any Government interests in the application, which applications should be screened through contract provisions.

Comment 15: One comment indicated that the Office should automatically place a secrecy order on any nonprovisional application in which the prior provisional application was under a secrecy order.

Response: The Office does not have the authority to impose a secrecy order without a specific recommendation from a defense agency. 35 U.S.C. 181. Additionally, all secrecy orders include the provision that any other patent application already or hereafter filed in this or any foreign country which contains any significant part of the subject matter of the application under secrecy order also falls within the scope of the secrecy order and must be brought to the immediate attention of Licensing and Review. See § 5.2(d). All papers pertaining to such applications must be filed under the provisions of § 5.33, *i.e.*, to the attention of Licensing and Review. Thus, the applicant is obligated to maintain proper security of any nonprovisional application that claims benefit of a prior provisional application under a secrecy order.

Comment 16: One comment expressed concern that the defense agencies may not have sufficient time to complete national security review of applications made available to them under 35 U.S.C. 181 prior to publication at 18 months from the earliest filing date for which a benefit is sought, and suggested that applications not be published until they have been cleared by the defense agencies.

Response: H.R. 1733, if enacted, would provide for withholding an application from publication beyond 18 months from the earliest filing date for which a benefit is sought if the application is under a secrecy order or abandoned. There is no provision for delaying the publication of an application until a completion of all reviews under 35 U.S.C. 181. In addition, 35 U.S.C. 184 authorizes foreign filing of an application without the need for a license once the application has been on file for at least six (6) months. In view of 35 U.S.C. 184, the defense agencies must complete all security reviews within six (6) months of filing to prevent public disclosure. Thus, security review must be completed within six (6) months of the actual U.S. filing date. For those

applications due for publication prior to six (6) months from the actual filing date, e.g., those claiming the benefit of an earlier application filed more than 18 months prior and those which a petition for early publication has been granted, considerations of national security mandate a limited delay in publication. The Office will not pass an application for publication that is still under review by a defense agency unless it has been on file for at least six (6) months and the defense agency has been provided a minimum of three (3) months to review the application.

Comment 17: One comment indicated that the digitized images of the application file contents should be available in magnetic tape form in the morning of the day of publication.

Response: Digitized images of the Patent Application Notice and Technical Contents Publication will be available in magnetic tape form for a fee to all parties as soon as possible after publication similar to the way in which digitized images of granted patents are provided, assuming that there is interest in such products.

Comment 18: One comment indicated that it is unclear as to whether an examiner can cite the Patent Application Notice, and whether the examiner will be required to supply the full application specification.

Response: When an examiner cites a published application, a copy of the Technical Contents Publication will be provided with the Office action under the same conditions that a copy of the entire patent of any cited patent would currently be provided. That is, where an examiner would provide only those portions of a patent relied upon, rather than a copy of the entire patent due to its size, *i.e.*, in instances of jumbo patents, the examiner would similarly be expected to provide only those portions of a published application relied upon in instances of jumbo applications.

Comment 19: One comment indicated that the entire application as filed should be published, otherwise the abandoned published application must be permanently stored in a manner that would permit on-site retrieval.

Response: The Technical Contents Publication of any published application will be electronically available, without any necessity for retrieval of the actual application file. Therefore, a printed publication of the application-as-filed would not provide any information not electronically available. Nevertheless, the actual file of an abandoned application may be readily obtained regardless of where it is stored.

Comment 20: One comment indicated that the 18-Month Publication Notice did not set forth the capacity of Patent and Trademark Depository Libraries (PTDLs) to: (1) Collect fees, (2) provide librarians of assistance, and (3) house new publications.

Response: Each PTDL sets its own service standard procedures. Any customer must directly contact the PTDL to ascertain its customer service standards and requirements. Nevertheless, as the Office proposes to publish only a Patent Application Notice, rather than the entire application-as-filed, in printed form, and further proposes to provide the Patent Application Notices and Technical Contents Publications to PTDLs through CD–ROM collections of facsimile images, this publication of applications would appear to alleviate, rather than exacerbate, any publication storage housing problems.

Comment 21: One comment indicated that the Office should provide a first Office action on the merits in all patent applications within 14 months of the actual filing date of the application in the United States.

Response: The ability of the Office to process application within any established time frame is entirely dependent upon the staff and resources allocated by Congress, the Office of Management and Budget (OMB), and the Department of Commerce (DoC). In January of 1995, the first Office action was mailed within 14 months of the actual filing date of the application in the United States in ninety-two (92) percent of all applications in which a first Office action was mailed. Any applicant who absolutely needs a first Office action on the merits mailed within 14 months of the actual filing date of the application should consider a petition to make special using the special examining procedure for certain new applications set forth in MPEP 708.02(VIII). In addition, any independent inventor meeting the requirements set forth in 35 U.S.C. 122(b)(2) and § 1.306(e), as proposed, may wish to consider filing the application with a petition under § 1.306(e).

Comment 22: One comment noted the current procedure of permitting applicants to submit trade secret material and later expunge the material if it is not necessary to patentability, and indicated that new procedures should be implemented in the content of pre-grant publication of pending applications.

Response: The current procedures for the treatment of petitions to expunge trade secret, proprietary, or protective order material are set forth in MPEP 724.05. Applicants are cautioned, in MPEP 724.05, that in instances in which a decision on the petition is not made prior to the date on which the application issues as a patent, any material in the application file will remain open to public inspection, and, as such, petitions to expunge must be filed as soon as possible. Under an 18-month publication system, any material in the application file on the date the application is published would likewise remain open to public inspection. However, as petitions to expunge are considered under § 1.182, *i.e.*, petitions not otherwise provided for, no change to the rules of practice regarding petitions to expunge is being proposed.

Discussion of Specific Rules

Title 37 of the Code of Federal Regulations, Parts 1, 3 and 5, are proposed to be amended as follows:

Section 1.4(a), as proposed, would add Patent Application Notices and Technical Contents Publications to those services and facilities which correspondence with the Office may comprise.

Section 1.5(a), as proposed, would provide that any letter concerning an application must identify on the top page in a conspicuous location, the application number (consisting of the series code and the serial number) or serial number and filing date assigned to that application by the Office, or the international application number of the international application, regardless of whether the application is a published application. That is, the identification required for a pending or abandoned application would not change due to its status as a published application.

Section 1.5(f), as proposed, would provide that a paper concerning a provisional application must identify the application as such and by the application number.

Section 1.5(g), as proposed, would provide that a paper relating to a Patent Application Notice should identify it as such and by the Patent Application Notice number. That is, a paper concerning a published application must identify the application by application number, not Patent Application Notice number; however, a paper concerning the Patent Application Notice *per se* must identify it by Patent Application Notice number.

Section 1.9(a), as proposed, would define an international application in subparagraph (a)(4), rather than in paragraph (b).

Section 1.9(b), as proposed, would now define a published application as an application for patent which has

been published pursuant to 35 U.S.C. 122(b).

A new § 1.9(h), as proposed, would define national security classified as specifically authorized under criteria established by Act of Congress or Executive Order to be kept secret in the interest of national defense or foreign policy and in fact properly classified pursuant to Act of Congress or Executive Order.

Section 1.11, as proposed, would provide that, like an issued patent or a statutory invention registration, the specification, drawings, and all papers relating to the case in the file of an abandoned published application would be open to inspection by the public. Section 1.11, as proposed, would further provide that a copy of the specification, drawings, and all papers relating to the case in the file of any published application, a patent, or statutory invention registration may be obtained upon the payment of the fee set forth in § 1.19(b)(2). That is, while the actual application file of an abandoned published application, patent, and statutory invention registration would be available for public inspection, the actual application file of a pending published application would not be available for public inspection, but a copy of the specification, drawings, and all papers relating to a pending published application would, upon the payment of the fee set forth in § 1.19(b)(2), be provided to any member of the public.

Section 1.12, as proposed, would provide that the assignment records relating to published applications are available and open to public inspection at the Office, and copies of those assignment records may be obtained upon request and payment of the fee. Section 1.12 would further exclude the assignment records of published applications from those records that are preserved in confidence. Finally, § 1.12, as proposed, would revise paragraph (c) to read ''preserved in confidence under § 1.14'' for consistency with § 1.14.

Section 1.13, as proposed, would provide that, like an issued patent, certified and non-certified copies of Patent Application Notices, Technical Contents Publications, and the file wrapper and contents of published applications would, upon payment of a fee, be furnished to any person.

Section 1.14, as proposed, would revise the title and paragraphs (a) and (e) to read ''preserved in confidence'' for consistency with the language in 35 U.S.C. 122.

Section 1.14(a), as proposed, would provide that published applications are excluded from those pending and abandoned applications which are maintained in confidence. Section 1.14(a), as proposed, would further change ''the United States of America has been indicated as a Designated State in a published international application'' to ''a published international application in which the United States of America has been indicated as a Designated State'' for clarity, and add ''U.S. published application'' to those documents in which identification of an application by application number or serial number and filing date would entitle the public to status information concerning the application. Section 1.14(a), as proposed, would further provide that reference to an application in a U.S. published application or patent, or identification of an application by application number or serial number and filing date in a published patent document or a published international application in which the United States of America has been indicated as a Designated State would entitle the public to the application number, filing date, and status information concerning any application claiming the benefit of the identified or referenced application. Finally, § 1.14(a), as proposed, would replace the phrase ''serial number'' with ''application number or serial number and filing date'' since the mere reference to a serial number without the series code (application number) or filing date would not constitute a reference to a specific single application.

Section 1.14(b), as proposed, would provide that published applications, as well as applications that are referred to in a published application, are excluded from those abandoned applications which are not open to public inspection. Section 1.14(b), as proposed, would further provide that applications that are referred to in applications open to public inspection pursuant to this section and applications which claim the benefit of an application open to public inspection pursuant to this section are also excluded from those abandoned applications which are not open to public inspection. Finally, § 1.14(b), as proposed, would further remove applications that have been published pursuant to 35 U.S.C. 122(b) from those abandoned applications that may be destroyed after 20 years from their filing date.

Section 1.16(a), (h) and (g), as proposed, would increase the filing fee for an original nonprovisional (35 U.S.C. 111(a)) or reissue application to $780 ($390 for small entities), and plant application to $540 ($270 for small entities). The filing fee for a design application would not be affected by this proposed rule change.

Section 1.17(i), as proposed, would add petitions under § 1.306(d) for early publication of an application, petitions under § 1.306(e) for deferred publication of an application, and under § 1.701(f) for patent term extension based upon administrative delays not specifically provided for to the list of petitions for which the fee set forth in § 1.17(i) is required.

A new § 1.17(t), as proposed, would be added to establish the fee for submitting a protest under § 1.291 after publication of an application.

A new § 1.17(u), as proposed, would be added to establish the surcharge for accepting a late claim for priority under 35 U.S.C. 119(a)–(d) or for the benefit of a prior application under 35 U.S.C. 119(e), 120 or 121 filed during the pendency of the application.

Section 1.18 (a) and (c), as proposed, would increase the issue fee for an original or reissue application to $1280 ($640 for small entities), and plant application to $660 ($330 for small entities). The issue fee for a design application would not be affected by this proposed rule change.

Section 1.19(a)(1), as proposed, would add Patent Application Notices to the documents that the Office would supply in the manner of a patent upon payment of a fee.

A new § 1.19(a)(4), as proposed, would add Technical Contents Publications to the documents that the Office would supply upon payment of a fee.

Section 1.19(b)(2), as proposed, would add the file wrapper and contents of published applications to the files that the Office would supply a copy of upon payment of a fee.

Current § 1.19(b)(4), as proposed, would be redesignated as § 1.19(b)(5), and would add the assignment records of published applications to the assignment records that the Office would supply upon payment of a fee.

A new § 1.19(b)(4), as proposed, would provide the fees for a certified or uncertified copy of documents contained in a pending application. Section 1.19(b)(4)(i), as proposed, would provide that the fee for a certified or uncertified copy of the first document contained in a pending application would be $75.00. Section 1.19(b)(4)(ii), as proposed, would provide that the fee for a copy of each commonly requested additional document contained in such pending application would be $25.00. That is, while the fee for the first document contained in a pending application would be $75.00, the fee for a copy of each additional document

contained in the same pending application and requested together with the first document would be $25.00. Where, however, a person requests a first document from a pending published application, and subsequently requests an additional document, the additional document was not commonly requested with the first document, and the fee for the additional document would be $75.00. Nevertheless, the fee for any further additional document(s) commonly requested with the additional document would be $25.00 per additional document.

Section 1.19(c), as proposed, would provide that copies of all Technical Contents Publications published annually would also be provided to libraries upon payment of the fee for copies of all patents issued annually.

Section 1.20(e)–(g), as proposed, would increase the fee for maintaining an original or reissue patent in force beyond four years, eight years, and twelve years, respectively, to $1020, $2020, and $3020, respectively ($510, $1010, and $1510, respectively, for small entities).

Section 1.24, as proposed, would add the purchase of copies of Patent Application Notices and Technical Contents Publications to those documents for which the coupons set forth therein may be used.

Section 1.51(a)(1), as proposed, would further provide that a complete application comprises, inter alia, an abstract.

Section 1.52(a), as proposed, would provide that all papers which are to become a part of the permanent records of the Office must be legibly typed in permanent dark ink in portrait orientation on flexible, strong, smooth, non-shiny, durable and white paper. Currently, § 1.52(a) permits such papers to be hand-written, and does not limit the color of the ink or paper, quality of the paper, or orientation of the typing. Section 1.52(a), as proposed, would further provide that the application papers must be presented in a form having sufficient clarity and contrast between the paper and the typing thereon to permit electronic reproduction by use of digital imaging and optical character recognition, as well as the direct reproduction currently provided for. Section 1.52(a), as proposed, would further provide that substitute typewritten papers ''will,'' rather than ''may,'' be required if the original application papers are not of the required quality. As any substitute typewritten papers containing the subject matter of the originally filed application papers would constitute a substitute specification, the provisions of § 1.125 governing the entry of a substitute specification would be applicable, and § 1.52(a), as proposed, would include a specific reference to § 1.125.

Section 1.52(b), as proposed, would provide that the claims must be set forth on a separate sheet. Section 1.72(b) currently provides that the abstract must be set forth on a separate sheet. Thus, §§ 1.52(b), as proposed, and 1.72(b) would require that the abstract and claims be set forth on a separate sheet. Section 1.52(b), as proposed, would further provide that the sheets of paper must be the same size and either 21.0 cm. by 29.7 cm. (DIN size A4) or 21.6 cm. by 27.9 cm (8½ by 11 inches), with a top margin of at least 2.0 cm. (¾ inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 2.0 cm. (¾ inch), and a bottom margin of at least 2.0 cm. (¾ inch), and that no holes should be provided in the paper sheets. Section 1.52(b) currently provides that papers must be written on but one side, but this phrase is proposed to be changed to ''typed on but one side'' to conform to § 1.52(a) which, as proposed, would no longer permit hand-written or hand-printed (''written or printed'') papers. Section 1.52(b), as proposed, would further provide that the lines ''must,'' rather than ''should,'' be 1½ or double spaced, and that the pages ''must,'' rather than ''should,'' be numbered consecutively, starting with page one, with the numbers being centrally located above or below the text. Finally, § 1.52(b), as proposed, would specifically reference drawings to clarify that drawings are part of the application papers, but that the standards for drawings are set forth in § 1.84.

Section 1.52(d), as proposed, would provide that where an application is filed in a language other than English, the verified English translation of the non-English-language application and the fee set forth in § 1.17(k) are required to be filed with the application or within such time period as may be set by the Office, and that extensions of time pursuant to § 1.136(a) would not be available for submitting the English translation.

Section 1.53(d)(1), as proposed, would further provide that the applicant will be given a time period within which to file an abstract and claims on a separate sheet, or substitute specification in compliance § 1.125 with papers typed on but one side of the paper or new sheets of drawings, each of the substitute specification and sheets of drawings of sufficient clarity, contrast, and quality, and in a proper size and format for electronic reproduction in instances in which the application papers did not comply with §§ 1.52 (a) and (b), as proposed, or the drawings were of such poor quality as to preclude their digital image scanning into the electronic data base. Section 1.53(d)(1), as proposed, would further provide that extensions of time pursuant to § 1.136(a) would not be available for filing an abstract and claims on a separate sheet, and a substitute specification with papers typed on but one side of the paper and sheets of drawings, each of sufficient clarity, contrast, and quality and in the proper size and format for electronic reproduction.

Section 1.54(b), as proposed, would provide that the applicant will be informed of the application number, filing date, and projected publication date on a filing receipt. The phrase ''application serial number'' would be changed to ''application number'' for consistency with § 1.5(a).

Section 1.55(a), as proposed, would provide that any claim to priority under 35 U.S.C. 119(a)–(d) must be stated within two months of filing or within fourteen months of the date of the prior foreign application, whichever is later, and must identify the prior foreign application by specifying its application number, country, and day, month and year of its filing. The proposed amendment to § 1.55, however, would not affect claims to priority under 35 U.S.C. 172, and would not affect the time periods set forth in § 1.55(a) for the perfection of any claim for priority under 35 U.S.C. 119 (a)–(d), i.e., the filing of a certified copy of the foreign application.

Section 1.55(c), as proposed, would provide a procedure for the acceptance of claim to priority under 35 U.S.C. 119(a)–(d) presented after the time period set in § 1.55(a). The procedure would require the filing of a petition during the pendency of the application requesting acceptance of the delayed claim, the surcharge set forth in § 1.17(u), and a statement that the delay was unintentional.

Section 1.55(d), as proposed, would provide that the time periods set forth in this section, i.e., two months of filing or within fourteen months of the filing date of the prior foreign application as set forth in § 1.55(a), and during the pendency of the application as set forth in § 1.55(c), cannot be extended.

Section 1.58(b), as proposed, would be removed and reserved as unnecessary in view of the proposed amendments to §§ 1.52 (a) and (b).

Section 1.58(c), as proposed, would delete the sentence ''[i]f it is not

possible to limit the width of a formula or table to 5 inches (12.7 cm.), it is permissible to present the formula or table with a maximum width of 10¾ inches (27.3 cm.) and to place it sideways on the sheet'' and ''[h]and lettering must be neat, clean, and have a minimum character height of 0.08 inch (2.1 mm.)'' to conform to the typing and paper size and orientation limitations in §§ 1.52 (a) and (b), as proposed. Section 1.58(c), as proposed, would further provide metric dimensions with English equivalents in parentheticals, rather than vice versa.

Section 1.60(d), as proposed, would provide that the applicant will be given a time period, which is not extendable under § 1.136(a), within which to file an abstract and claims on a separate sheet, and a substitute specification in compliance with § 1.125 with papers typed on but one side of the paper and sheets of drawings, each of sufficient clarity, contrast, and quality and in the proper size and format for electronic reproduction where the papers of the prior application did not comply with §§ 1.52 (a) and (b), as proposed, or the drawings of the prior application were of such poor quality as to preclude their digital image scanning into the electronic data base.

Section 1.62(d), as proposed, would provide that the applicant will be given a time period, which is not extendable under § 1.136(a), within which to file any substitute specification and drawings required under § 1.62(e)(2), discussed infra.

Section 1.62(e), as proposed, would be subdivided into paragraphs (e)(1) and (e)(2) for clarity. Section 1.62(e)(1), as proposed, would contain the first two (2) sentences of § 1.62(e) without change. Section 1.62(e)(2), as proposed, would provide that a substitute specification and drawings would be required when the application being filed under § 1.62 is a continuation-in-part application. Section 1.62(e) currently provides that no copy of the prior application or new specification is required, that the filing of a copy of the prior application or new specification is in fact considered improper, and that a petition with instructions to cancel the copy of the prior application or new specification is necessary to obtain the date of deposit of the request for an application under § 1.62 as the filing date. Section 1.62(e)(2), as proposed, would provide that any new specification filed will not be considered part of the original application papers, but will be treated as a substitute specification in accordance with § 1.125.

Section 1.62(f), as proposed, would amend ''35 U.S.C. 122'' to read ''35 U.S.C. 122(a)'' to reflect the changes in H.R. 1733, if enacted, would change ''secrecy'' to ''confidence'' as is found in § 1.14, as proposed, and would change ''37 CFR 1.14'' to ''§ 1.14'' for consistency.

Section 1.72(b), as proposed, would provide that the abstract should be prior to the first page of the specification, rather than following the claims, to conform to § 1.77, as proposed.

Section 1.75, as proposed, would include an amendment to paragraph (g), and would add two new paragraphs. Section 1.75(g), as proposed, would add the phrase ''the least restrictive claim should be presented as claim number 1'' to paragraph (g) to facilitate the selection of a representative claim. Section 1.75(h), as proposed, would provide that the claim or claims must be set forth on a separate sheet. Section 1.75(i), as proposed, would provide that where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation to facilitate the digital image and/or OCR scanning of the claim into the electronic data base.

Section 1.77, as proposed, would provide that the elements of the application, if applicable, should appear in the following order: (1) Utility Application Transmittal Form; (2) Fee Transmittal Form; (3) abstract of the disclosure; (4) title of the invention; or an introductory portion stating the name, citizenship, and residence of the applicant, and the title of the invention may be used; (5) cross-reference to related applications; (6) statement regarding federally sponsored research or development; (7) reference to a ''Microfiche appendix; (8) background of the invention; (9), brief summary of the invention; (10) brief description of the several views of the drawing; (11), detailed description; (12) claim or claims; (13) drawings; (14) executed oath or declaration; and (15) sequence listing. The phrase ''if applicable'' is proposed to be inserted in the heading, rather than associated with any particular listed element, to clarify that § 1.77 does not per se require that an application include all of the listed elements, but merely provides that any listed element included in the application should appear in the order set forth in § 1.77. Section 1.77, as proposed, would further provide that the (1) abstract of the disclosure; (2) title of the invention; (3) cross-reference to related applications; (4) statement regarding federally sponsored research or development; (5) background of the invention; (6) brief summary of the invention; (7) brief description of the several views of the drawing; (8) detailed description; (9) claim or claims; and (10) sequence listing, should appear in upper case, without underlining or bold type, as section headings, and if no text follows the section heading, the phrase ''Not Applicable'' should follow the section heading. Finally, § 1.77, as proposed, would be amended to change the reference to § 1.96(b) in § 1.77(c)(2), § 1.77(a)(7) as proposed, to § 1.96(c) for consistency with § 1.96, as proposed.

Section 1.78(a)(2), as proposed, would provide that any claim to the benefit of any prior filed copending nonprovisional application or international application designating the United States of America must be stated within two months of filing or fourteen months from the filing date of the prior application, whichever is later, and must include an identification of the prior application by application number.

Section 1.78(a)(3), as proposed, would delete the sentence ''[s]ince a provisional application can be pending for no more than twelve months, the last day of pendency may occur on a Saturday, Sunday, or Federal holiday within the District of Columbia which for copendency would require the nonprovisional application to be filed prior to the Saturday, Sunday, or Federal holiday.'' In view of the proposed amendment in H.R. 1733 to 35 U.S.C. 119(e), the provisions of § 1.7 would be applicable to a nonprovisional application claiming the benefit of a prior provisional application.

Section 1.78(a)(4), as proposed, would provide that any claim to the benefit of any prior filed copending provisional application must be stated within two months of filing or within fourteen months of the filing date of the prior application, whichever is later, and must include an identification of the prior application by application number.

Section 1.78(a)(5), as proposed, would provide a procedure for the acceptance of a delayed claim to priority under 35 U.S.C. 119(e), 120 or 121. The procedure would require the filing of a petition during the pendency of the application requesting acceptance of the delayed claim, the surcharge set forth in § 1.17(u), and a statement that the delay was unintentional.

Section 1.78(a)(6), as proposed, would provide that the time periods set forth in this paragraph, i.e., two months of filing or within fourteen months of the filing date of the prior application as set forth in §§ 1.78 (a)(2) and (a)(4), and during the pendency of the application

as set forth in § 1.78(a)(5), cannot be extended.

Section 1.78(c), as proposed, would change ''two or more applications or an application and a patent'' to ''an application or a patent under reexamination and an application or a patent'' such that the provisions of § 1.78(c) will also be applicable to a patent under reexamination. Section 1.78(c), as proposed, would further correct ''inventors and owned by the same party contain conflicting claims'' to read ''inventors are owned by the same party and contain conflicting claims.''

Section 1.78(d), as proposed, would change ''obviousness-type double patenting rejection'' to ''non-statutory double patenting rejection'' as current examining procedures authorize non-obviousness-type double patenting rejections, as well as obviousness-type double patenting rejections (MPEP 804(II)), and either may be obviated by filing a terminal disclaimer in accordance with § 1.321(b). Section 1.78(d), as proposed, would further change each instance of ''application'' to ''application or a patent under reexamination'' for consistency with § 1.321(b) and to clarify that double patenting is a proper consideration in reexamination (*Ex parte Obiaya,* 227 USPQ 58, 60–61 (Bd. Pat. App. & Inter. 1985)), and that a non-statutory double patenting rejection in a patent under reexamination may be obviated by filing a terminal disclaimer in accordance with § 1.321(b).

Section 1.84(c), as proposed, would provide that a reference to the application number, or, if an application number has not been assigned, the inventor's name, may be included in the left-hand corner of the drawing sheet, provided that reference appears within 1.5 cm. (9/16 inch) from the top of the sheet. As the back side of a drawing sheet will not be scanned into the electronic data base, an applicant can include other identifying indicia on the back side the drawing sheet.

Section 1.84(f), as proposed, would provide that the size of all drawing sheets in an application must be either 21.0 cm. by 29.7 cm. (DIN size A4) or 21.6 cm. by 27.9 cm. (8½ by 11 inches) to conform to the requirement in § 1.52(b) concerning papers in an application.

Section 1.84(g), as proposed, would be amended to delete the margin requirements for the sheet sizes that would no longer be acceptable if the proposed change to § 1.84(f) were adopted. Section 1.84(g), as proposed, would be further amended to provide that, to facilitate digital image scanning of the drawing sheets, the sheets should have scan targets (cross-hairs) on two cater-corner margin corners. Finally, § 1.84(g), as proposed, would increase the bottom and side margins such that each sheet must include a top margin of at least 2.5 cm. (1 inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 1.5 cm. (9/16 inch), and a bottom margin of at least 1.0 cm. (3/8 inch), thereby leaving a sight no greater than 17.0 cm. by 26.2 cm. on 21.0 cm. by 29.7 cm. (DIN size A4) drawing sheets, and a sight no greater than 17.6 cm. by 24.4 cm. (6 15/16 by 9 5/8 inches) on 21.6 cm. by 27.9 cm. (8½ by 11 inch) drawing sheets.

Section 1.84(j), as proposed, would provide that one of the views should be suitable for publication in the Patent Application Notice, and the Gazette of Patent Application Notices, as well as the Official Gazette, as the illustration of the invention.

Section 1.84(x), as proposed, would be amended to delete the provisions indicating the proper location for holes in a drawing sheet, and provide that no holes should be provided in the drawing sheets.

Section 1.85, as proposed, would provide that drawings must be suitable for ''electronic'' reproduction ''by digital imaging'' before being admitted for examination. As discussed supra, as a drawing figure will be included in the Gazette Entry in the Gazette of Patent Application Notices and the Patent Application Notice, drawings suitable for electronic reproduction by digital imaging would be necessary for the initial processing of the application.

Section 1.96, as proposed, would be amended to designate the text preceding current paragraph (a) as paragraph (a), and would redesignate current paragraphs (a) and (b) as paragraphs (b) and (c), respectively. New § 1.96(a), as proposed, would be further amended to insert a period between ''specification'' and ''[a] computer,'' to change ''these rules'' to ''this section,'' and to change ''may be submitted in patent applications in the following forms'' to ''may be submitted in patent applications as set forth in paragraphs (b) and (c) of this section.

New § 1.96(b), as proposed, would be further amended to change the sentences ''[t]he listing may be submitted as part of the specification in the form of computer printout sheets (commonly 14 by 11 inches in size) for use as ''camera ready copy'' when a patent is subsequently printed'' and ''[s]uch computer printout sheets must be original copies from the computer with dark solid black letters not less than 0.21 cm high, on white, unshaded and unlined paper, the printing on each sheet must be limited to an area 9 inches high by 13 inches wide, and the sheets should be submitted in a protective cover'' to ''[a]ny listing submitted as part of the specification must be original copies from the computer with dark solid black letters not less than 0.21 cm high, on white, unshaded and unlined paper, and the sheets should be submitted in a protective cover,'' to delete the sentence ''[w]hen printed in patents, such computer printout sheets will appear at the end of the description but before the claims and will usually be reduced about ½ in size with two printout sheets being printed as one patent specification page,'' and to delete the phrase ''if the copy is to be used for camera ready copy.'' Section 1.96(a)(1), new § 1.96(b)(1) as proposed, currently provides that the requirements of § 1.84 apply to computer program listings submitted as sheets of drawings, and § 1.96(a)(2), new § 1.96(b)(2) as proposed, currently provides that the requirements of § 1.52 apply to computer program listings submitted as part of the specification. Section 1.52(b), as proposed, would require that the sheets of paper be the same size and either 21.0 cm. by 29.7 cm. (DIN size A4) or 21.6 cm. by 27.9 cm (8½ by 11 inches), with a top margin of at least 2.0 cm. (¾ inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 2.0 cm. (¾ inch), and a bottom margin of at least 2.0 cm. (¾ inch), and § 1.52(a), as proposed, would require that application papers be legibly typed in permanent dark ink in portrait orientation.

New § 1.96(c), as proposed, would be amended to change the references to § 1.77(c)(2) in new § 1.96(c) to § 1.77(a)(7) for consistency with § 1.77, as proposed, to change ''may'' and ''should'' to ''must,'' to delete the sentence ''[a]ll computer program listings submitted on paper will be printed as part of the patent,'' to relocate the phrase ''except as modified or clarified below'' in subsection (c)(2), to change the phrase ''computer-generated information submitted as an appendix to an application for patent shall be in the form of microfiche in accordance with the standards'' to ''computer-generated information submitted as a ''microfiche appendix'' to an application shall be in accordance with the standards'' for clarity, to change to sentences ''[e]ither Computer-Output-Microfilm (COM) ouput or copies of photographed paper copy may be submitted'' and ''[i] the former case, NMA standards MS1 and MS2 apply; in

the latter case, standard MS5 applies'' to ''[c]omputer-Output-Microfilm (COM) ouput may be submitted in accordance with either NMA standard MS1 or MS2,'' to change ''serial number'' to ''application number,'' and to provide metric dimensions with English equivalents in parentheticals, rather than vice versa.

Section 1.97(a)–(d), as proposed, would be amended to include the phrase ''for an applicant for patent or for reissue of a patent, or an owner of a patent under reexamination'' in paragraph (a) and ''by the applicant or patent owner'' to clarify that § 1.97 is not available for any third party seeking to have information considered in a pending application. Any third party seeking to have information considered in a pending application must proceed under §§ 1.291 or 1.292, both discussed infra. Section 1.97(c), as proposed, would be further amended to correct the phrase ''certification as specified in paragraph (3) of this section'' to read ''certification as specified in paragraph (e) of this section.''

Section 1.98, as proposed, would provide that any Patent Application Notice or Technical Contents Publication listed in an information disclosure statement must be identified by applicant, Patent Application Notice number or Technical Contents Publication number and publication date. Section 1.98, as proposed, would also limit those U.S. patent applications of which a copy need not be included to unpublished applications.

Section 1.107, as proposed, would provide that if domestic published applications are cited by the examiner, their Technical Contents Publication number, publication date, the names of the applicants must be stated. Section 1.107, as proposed, would be amended to delete the phrase ''and the classes of inventions.''

Section 1.108, as proposed, would further except published applications from those abandoned applications that will not be cited as references.

Section 1.131(a), as proposed, would include pending or patented U.S. published applications which substantially show or describe but do not claim the same patentable invention, as defined in § 1.601(n), and abandoned U.S. published applications as references to which the provisions of § 1.131 apply. Pending or patented U.S. applications would be treated in the same manner that U.S. patents are currently treated, i.e., § 1.131 would apply only if the pending or patented application does not claim the same patentable invention. Abandoned U.S. published applications would be treated in the manner that foreign patents or printed publications are currently treated. As U.S. published applications, either pending, abandoned or patented, may constitute prior art under 35 U.S.C. 102(a) or (e), this change, and the change to § 1.132 infra, are necessary to accommodate such references.

In a Notice of Proposed Rulemaking published in the **Federal Register** at 59 FR 49876 (September 30, 1994) and in the Official Gazette at 1167 Off. Gaz. Pat. Office 96–97 (October 25, 1994) (§ 1.131 Notice of Proposed Rulemaking), § 1.131(a) was proposed to be amended to, inter alia, broaden its application to instances in which inventions of a pending application or patent under reexamination and a patent held by a single party are not identical as set forth in 35 U.S.C. 102, but not patentably distinct, and changes to § 1.131 were adopted as a final rule. 60 FR 21043 (May 1, 1995); 1174 Off. Gaz. Pat Office 155 (May 30, 1995). An amendment to § 1.131(a) was proposed in the § 1.131 Notice of Proposed Rulemaking to avoid a potential conflict between § 1.131(a) and § 1.602(a) in instances in which § 1.131(a) prohibits the filing of affidavits or declarations thereunder when the same patentable invention as defined in § 1.601(n) is being claimed, but § 1.602(a) prohibits, unless good cause is shown, the declaration or continuance of an interference when the application(s) and patent are owned by a single party. While this conflict between two pending applications can be avoided by filing a continuation-in-part application merging the conflicting inventions into a single application, this conflict can result in hardship where there is a pending application and an issued patent that can no longer be merged by filing a continuation-in-part application.

Specifically, the proposed amendment to § 1.131(a) in the § 1.131 Notice of Proposed Rulemaking would have permitted the filing of an affidavit or declaration thereunder in a pending application or patent under reexamination to avoid a rejection under 35 U.S.C. 103 based upon a patent which qualifies as prior art only under 35 U.S.C. 102(a) or (e) where the pending application or patent under reexamination and patent upon which the rejection was based were owned by a single party. This proposed amendment to § 1.131(a) in the § 1.131 Notice of Proposed Rulemaking, however, was withdrawn in the final rule to permit further study.

Section 1.131(a), as currently proposed, would permit a showing of prior invention in a pending application or patent under reexamination to avoid a rejection under 35 U.S.C. 103 based upon a patent which qualifies as prior art only under 35 U.S.C. 102(a) or (e), where the application or patent under reexamination and the patent upon which the rejection is based are both owned by a single party, so long as the invention claimed in the pending application or patent under reexamination and in the other patent are not identical as set forth in 35 U.S.C. 102. Section 1.131(a)(3), as proposed, would not require common ownership at the time the latter invention was made, but consistent with § 1.602(a), would require only that there be common ownership when the § 1.131 affidavit or declaration is under consideration.

Where the patent upon which the rejection is based is not prior art under 35 U.S.C. 102 (a) or (e), but is prior art only under 35 U.S.C. 102(f) or (g), to the pending application or patent under reexamination, and the invention claimed in the pending application or patent under reexamination is not identical as set forth in 35 U.S.C. 102, the issue is whether the subject matter of the other patent and the invention claimed in the pending application or patent under reexamination were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person, i.e., whether the patent upon which the rejection is based is disqualified as prior art under the second paragraph of 35 U.S.C. 103, and §§ 1.78 (c) and (d) are applicable to this issue. Where, however, the patent upon which the rejection is based is prior art under 35 U.S.C. 102(a) or (e), it cannot be disqualified as prior art under the second paragraph of 35 U.S.C. 103, and as such §§ 1.78 (c) and (d) are inapplicable. Section 1.131(a)(3), as currently proposed, would permit a showing of prior invention in an application or patent under reexamination where the application or patent under reexamination and patent upon which the rejection was based were owned by a single party.

As the conflict between two pending applications can be avoided by filing a continuation-in-part application merging the conflicting inventions into a single application, § 1.131(a)(3), as proposed, provides only for a showing of prior invention to avoid a rejection based upon a patent. In situations in which two pending applications claiming patentably indistinct but not identical inventions are held by a single party but cannot be merged into a single application, petitions under § 1.183 will be entertained for waiver of the § 1.131

requirement that the rejection be based upon a patent.

Section 1.131, as proposed, would not affect a statutory or non-statutory double patenting rejection. Specifically, affidavits or declarations under § 1.131 will continue to be ineffective where the claims of the pending application or the patent undergoing reexamination are rejected under 35 U.S.C. 101 for double patenting and the claims of the pending application or the patent under reexamination claim the identical invention of a patent. However, where patentably indistinct but not identical inventions are claimed, a non-statutory double patenting rejection can be overcome by filing an appropriate terminal disclaimer.

Section 1.132, as proposed, would change ''domestic'' to ''U.S.'' for consistency with § 1.131, and would include U.S. pending published applications which substantially show or describe but do not claim the invention, and abandoned published applications as references to which the provisions of § 1.132 apply for the reasons discussed supra.

Section 1.136(a), as proposed, would provide that extensions under § 1.136(a) are not available where the response is to a requirement for an English translation, an abstract or claims on a separate sheet, or substitute specification or sheets of drawings of sufficient clarity, contrast, and quality and in the proper size and format for electronic reproduction submitted pursuant to §§ 1.52(d), 1.53(d), 1.60(d), 1.62(d), 1.494(c), or 1.495(c), or an oath or declaration submitted pursuant to §§ 1.494(c) or 1.495(c).

Section 1.138, as proposed, would add ''or publication'' to the end of the sentence that ''express abandonment of the application may not be recognized by the Office unless it is actually received by appropriate officials in time to act thereon before the date of issue'' to clarify that the express abandonment must be filed in sufficient time to permit its correlation with the application file and the termination of the publication process. Section 1.138, as proposed, would further provide that an applicant seeking to abandon an application to avoid publication of the application must submit a proper letter of express abandonment at least two months prior to the projected date of publication to allow sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process, and that unless an applicant receives written acknowledgement of the letter of express abandonment prior to the projected date of publication, applicant should expect that the application will be published in due course.

Section 1.154, as proposed, would provide that the elements of a design application, if applicable, should appear in the following order: (1) Design Application Transmittal Form; (2) Fee Transmittal Form; (3) preamble, stating name of the applicant and title of the design; (4) cross-reference to related applications; (5), statement regarding federally sponsored research or development; (6) description of the figure or figures of the drawing; (7) description; (8) claim; (9) drawings or photographs; and (10) executed oath or declaration. The phrase ''[t]he following order of arrangement should be observed in framing design specifications'' is proposed to be changed to ''[t]he elements of the design application, if applicable, should appear in the following order'' to clarify that § 1.154 does not per se require that an application include all of the listed elements, but merely provides that any listed element included in the application should appear in the order set forth in § 1.154.

A new § 1.163(c), as proposed, would be added to provide that the elements of a plant application, if applicable, should appear in the following order: (1) Plant Application Transmittal Form; (2) Fee Transmittal Form; (3) abstract of the disclosure; (4) title of the invention; (5) cross-reference to related applications; (6) statement regarding federally sponsored research or development; (7) background of the invention; (8) brief summary of the invention; (9) brief description of the drawing; (10) detailed botanical description; (11) claim; (12) drawings (in duplicate); (13) executed oath or declaration; and (14) Plant Color Coding Sheet. The phrase ''if applicable'' is proposed to be included in the heading, rather than associated with any particular listed element, to clarify that § 1.163 does not per se require that an application include all of the listed elements, but merely provides that any listed element included in the application should appear in the order set forth in § 1.163.

A new § 1.163(d), as proposed, would be added to define a plant color coding sheet. A plant color coding sheet is a sheet that specifies a color coding system as designated in a recognized color dictionary, and lists every plant structure to which color is a distinguishing feature and the corresponding color code which best represents that plant structure. The plant color coding sheet will provide a means for applicants to uniformly convey detailed color characteristics of the plant. Providing this information is a systematic manner will facilitate the examination of the application.

Section 1.291, as proposed, would provide that a protest must be filed within two months of the date the application is published or prior to the mailing of a Notice of Allowance, whichever occurs first, to be considered timely, and that any protest submitted after publication must be accompanied by the fee set forth in § 1.17(t). In addition, § 1.291(a)(2), as proposed, would require that any protest filed after the date the application was published be served upon the applicant in accordance with § 1.248, i.e., filing two copies of the protest in the Office would not be acceptable. As a protest cannot be considered subsequent to issuance of the application as a patent, § 1.291(b), as proposed, would provide that the protest will be considered if the application is still pending when the protest and application file is brought before the examiner, i.e., that the application was pending at the time the protest was filed would be immaterial to its ultimate consideration. Finally, § 1.291, as proposed, would further locate the sentences ''[p]rotests raising fraud or other inequitable conduct issues will be entered in the application file, generally without comment on those issues'' and [p]rotests which do not adequately identify a pending patent application will be disposed of and will not be considered by the Office'' in paragraph (b).

Section 1.292, as proposed, would be amended to delete the phrase ''is filed by one having information of the pendency of an application'' as applications will no longer necessarily be maintained in confidence throughout their entire pendency, and would move the requirement for the fee set forth in § 1.17(j) from paragraph (a) to paragraph (b) where the conditions for entry of a petition for the institution of public use proceedings are set forth. Section 1.292, as proposed, would further require that any petition filed after the date the application was published be served on the applicant in accordance with § 1.248. Finally, § 1.292, as proposed, would provide that a petition to institute public use proceedings must be filed within two months of the date the application is published or prior to the mailing of a Notice of Allowance, whichever occurs first, to be considered timely.

Sections 1.305 through 1.309 are proposed to be added to set forth the procedures for the 18-month publication of patent applications.

Section 1.305, as proposed, would provide that applications may be

withdrawn from publication at the initiative of the Office or upon request by the applicant. The basis for the withdrawal of an application from publication would be limited to: (1) A mistake on the part of the Office, e.g., the application is abandoned or has issued as a patent, or the projected publication date is not at 18 months from the earliest filing date for which a benefit is sought; (2) the application is either national security classified or subject to a secrecy order pursuant to 35 U.S.C. 181; or (3) express abandonment of the application.

Section 1.306(a), as proposed, would provide that applications under 35 U.S.C. 111(a), 161 or 371 will be published as soon as possible after the expiration of a period of 18 months from the filing date, including the earliest filing date for which a benefit is sought, but excludes applications that: (1) Are national security classified or subject to a secrecy order pursuant to 35 U.S.C. 181; (2) have issued as a patent; (3) are recognized by the Office as no longer pending, i.e., are abandoned; or (4) were previously published through early publication.

Section 1.306(b), as proposed, would provide that the publication of an application will include a notice designated as a ''Gazette Entry'' containing information such as the application number, filing date, title, inventor's name, abstract, a drawing figure, a representative claim, and U.S. and IPC classification in a Gazette of Patent Application Notices, and a printed publication designated as a Patent Application Notice or PAN containing information such as the application number, filing date, title, inventor's name, correspondence address, abstract, a drawing figure, a representative claim, and U.S. and IPC classification. In addition, § 1.306(b), as proposed, would provide that the publication of an application will include a document designated as a Technical Contents Publication containing the Patent Application Notice, and the specification, abstract, claims, and drawings of the original application papers. Finally, § 306(b), as proposed, would provide that publication would include public access to a copy of the specification, drawings, and all papers relating to the application file in accordance with § 1.11.

Section 1.306(c), as proposed, would provide that provisional applications under 35 U.S.C. 111(b) shall not be published, and that design applications under 35 U.S.C. 171 and reissue applications under 35 U.S.C. 251 shall not be published pursuant to § 1.306. H.R. 1733, if enacted, would not authorize the publication of design applications (prior to their issuance as patents) or provisional applications. Reissue applications are currently published through the announcement in the Official Gazette of the filing of the reissue application, and the opening of the application to public inspection in accordance with § 1.11(b).

Section 1.306(d), as proposed, would provide for the early publication of applications. Any request for early publication of an application should be filed as soon as possible, and must be by way of petition, including the fee set forth in § 1.17(i). In addition, any application must include an abstract and claims on a separate sheet, any substitute specification or drawings required pursuant to §§ 1.53(d), 1.60(d), or 1.62(d), and any English translation required pursuant to § 1.52(d). The Office cannot assure publication of an application on any certain date, and, as such, requests for publication on a date certain will be treated as a request for publication as soon as possible. Finally, as H.R. 1733, if enacted, would not authorize the publication of provisional applications, no consideration will be given to any request for the early publication of a provisional application.

Section 1.306(e), as proposed, would implement the provisions in H.R. 1733 (35 U.S.C. 122(b)(2)) for, under limited circumstances, not publishing an application under 35 U.S.C. 122(b) until three months after an Office action under 35 U.S.C. 132. Section 1.306(e), as proposed, would specifically provide that an applicant who is an independent inventor and has been accorded status under 35 U.S.C. 41(h) in an application that does not claim the benefit of an earlier filing date under 35 U.S.C. 119, 120, 121, 365(a) or 365(c) may request that the application not be published until three months after an action on the merits, and that a petition requesting that the application not be published until three months after an action on the merits must be submitted on filing, and accompanied by the petition fee set forth in § 1.17(i) and a certification that the invention disclosed in the application was not or will not be the subject of an application filed in a foreign country, which certification must be verified if made by a person not registered to practice before the Patent and Trademark Office.

Section 1.307, as proposed, would provide for the delivery of the printed publication, i.e., the Patent Application Notice or PAN, to the correspondence address of record, which is the manner in which a patent is currently delivered to the patentee.

Section 1.308, as proposed, would provide for the correction of the printed publication, but such correction would be granted only for a significant mistake made by the Office which is apparent from Office records.

Section 1.315, as proposed, would change ''the attorney or agent of record, if there be one; or if the attorney or agent so requests, to the patentee or assignee of an interest therein; or, if there be no attorney or agent, to the patentee or to the assignee of the entire interest, if he so requests'' to ''the correspondence address of record. See § 1.33(a)'' for simplicity as patents are currently mailed to the patentee at the correspondence address of record.

Section 1.321(c), as proposed, would change ''double patenting rejection'' to ''non-statutory double patenting rejection'' for consistency with § 1.78(c), as proposed, and to clarify that the filing of a terminal disclaimer is ineffective to overcome a statutory double patenting rejection.

Section 1.492(a), as proposed, would increase the basic national fee for international applications entering the national stage under 35 U.S.C. 371 to: (1) $710 ($355 for a small entity) where an international preliminary examination fee as set forth in § 1.482 has been paid on the international application to the Office; (2) $780 ($390 for a small entity) where no international preliminary examination fee as set forth in § 1.482 has been paid to the Office, but an international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the Office as an International Searching Authority; (3) $1040 ($520 for a small entity) where no international preliminary examination fee as set forth in § 1.482 has been paid and no international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the Office; (4) $120 ($60 for a small entity) where the international preliminary examination fee as set forth in § 1.482 has been paid to the Office and the international preliminary examination report states that the criteria of novelty, inventive step (non-obviousness), and industrial applicability, as defined in PCT Article 33(1) to (4) have been satisfied for all the claims presented in the application entering the national stage (see § 1.496(b)); and (5) $910 ($455 for a small entity) where a search report on the international application has been prepared by the European Patent Office or the Japanese Patent Office.

Section 1.494 (c) and (g), as proposed, would provide that the applicant will be given a time period within which to file an abstract and claims on a separate

sheet, or substitute specification in compliance § 1.125 with papers typed on but one side of the paper or new sheets of drawings, each of the substitute specification and sheets of drawings of sufficient clarity, contrast, and quality, and in a proper size and format for electronic reproduction in instances in which the application papers did not comply with §§ 1.52 (a) and (b), as proposed, or the drawings were of such poor quality as to preclude their digital image scanning into the electronic data base. Section 1.494(c), as proposed, would further provide that extensions of time pursuant to § 1.136(a) would not be available for filing an English translation, oath or declaration, abstract and claims on a separate sheet, and a substitute specification with papers typed on but one side of the paper and sheets of drawings, each of sufficient clarity, contrast, and quality and in the proper size and format for electronic reproduction.

Section 1.495 (c) and (h), as proposed, would provide that the applicant will be given a time period within which to file an abstract and claims on a separate sheet, or substitute specification in compliance § 1.125 with papers typed on but one side of the paper or new sheets of drawings, each of the substitute specification and sheets of drawings of sufficient clarity, contrast, and quality, and in a proper size and format for electronic reproduction in instances in which the application papers did not comply with §§ 1.52 (a) and (b), as proposed, or the drawings were of such poor quality as to preclude their digital image scanning into the electronic data base. Section 1.495(c), as proposed, would further provide that extensions of time pursuant to § 1.136(a) would not be available for filing an English translation, oath or declaration, abstract and claims on a separate sheet, and a substitute specification with papers typed on but one side of the paper and sheets of drawings, each of sufficient clarity, contrast, and quality and in the proper size and format for electronic reproduction.

The proposed rules to implement 18-month publication provide that extensions of time pursuant to § 1.136(a) are not available for submissions which will affect the publication of the application. Section 1.53(d)(1), as proposed, does not exclude extensions of time pursuant to § 1.136(a) for the filing of an oath or declaration as the absence of an oath or declaration for an application filed under 35 U.S.C. 111(a) does not affect the publication of the application. Section 1.306(a), as proposed, does not provide for the publication of a national application for patent which resulted from an international application until after compliance with 35 U.S.C. 371, and an international application is not in compliance with 35 U.S.C. 371 until an oath or declaration is filed. See 35 U.S.C. 371(c)(4). Therefore, the absence of an oath or declaration will affect the publication of an application under 35 U.S.C. 371. Accordingly, §§ 1.494(c) and 1.495(c), unlike § 1.53(d)(1), provide that the period for filing the oath or declaration cannot be extended pursuant to § 1.136(a) to consistently provide that extensions of time pursuant to § 1.136(a) are not available for submissions which will affect the publication of the application.

Section 1.497(a), as proposed, would be amended to provide that an applicant in an international application must file an oath or declaration that: (1) is executed in accordance with either §§ 1.66 or 1.68, (2) identifies the specification to which it is directed, (3) identifies each inventor and the country of citizenship of each inventor, and (4) states that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought, rather than an oath or declaration in accordance with § 1.63, to enter the national stage pursuant to §§ 1.494 or 1.495. Currently, the failure to file an oath or declaration in strict compliance with § 1.63 results in non-compliance with § 1.497, and thus 35 U.S.C. 371, which in turn delays the entry of the international application into the national stage. To expedite the entry of international applications into the national stage, § 1.497(a), as proposed, would require only an oath or declaration that is properly executed, identifies the specification to which it is directed, and, as required by 35 U.S.C. 115, identifies each inventor and the country of citizenship of each inventor and states that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.

Section 1.497(b), as proposed, would be subdivided into paragraphs (b)(1) and (b)(2). Section 1.497(b)(1), as proposed, would provide that the oath or declaration must be made by all of the actual inventors except as provided for in §§ 1.42, 1.43 or 1.47. Section 1.497(b)(2), as proposed, would change ''[i]f the international application was made as provided in §§ 1.422, 1.423 or 1.425, the applicant shall state his or her relationship to the inventor and, upon information and belief, the facts which the inventor is required by § 1.63 to state'' to ''[i]f the person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47), the oath or declaration shall state the relationship of the person to the inventor and, upon information and belief, the facts which the inventor is required to state'' such that § 1.497(b), as proposed, would be parallel to § 1.64.

Section 1.497(c), as proposed, would be added to provide that the oath or declaration must comply with the requirements of § 1.63. Section 1.497(c), as proposed, would further provide that in instances in which the oath or declaration does not comply with § 1.63, but meets the requirements of § 1.497 (a) and (b), as proposed, the oath or declaration will be accepted as complying with 35 U.S.C. 371(c)(4) and §§ 1.494(c) or 1.495(c), thus permitting the application to enter the national stage and the assignment of dates under 35 U.S.C. 102(e) and 371(c). A supplemental oath or declaration in compliance with § 1.63, however, will be required in accordance with § 1.67.

Section 1.701(a), as proposed, would add ''an unusual administrative delay by the Office'' to the bases for extension of patent term due to prosecution delay. H.R. 1733 provides that the Commissioner shall prescribe regulations to govern the particular circumstances deemed to be an unusual administrative delay. Section 1.701(a)(4)(i), as proposed, would set forth the failure to act on a reply under § 1.111 or appeal brief under § 1.192 within six months of the date it was filed; the failure to act on an application within six months of the date of a decision under § 1.196 by the Board of Patent Appeals and Interferences where claims stand allowed in an application or the nature of the decision requires further action by the examiner; and the failure to issue a patent within six months of the date that the issue fee was paid and all outstanding requirements were satisfied as circumstances constituting a *prima facie* unusual administrative delay. In an application entitled to an extension under § 1.701(a)(3), however, any unusual administrative delay during the appellate proceeding would be disregarded under § 1.701(a)(4) in accordance with the ''not overlapping'' provision in § 1.701(b). Requests for patent term extension based upon circumstances not specifically set forth in § 1.701(a)(4)(i) as a *prima facie* unusual administrative delay must be specifically requested by petition and would be considered on a case-by-case basis. Section 1.701(a), as proposed,

would further add ''subject to the provisions of this section'' and delete the phrase ''if the patent is not subject to a terminal disclaimer due to the issuance of another patent claiming subject matter that is not patentably distinct from that under appellate review'' from paragraph (a)(3).

Section 1.701(b), as proposed, would add paragraph (c)(4) to those paragraphs summed in calculating the period of extension, and change the maximum extension from five years to ten years in accordance with H.R. 1733.

Section 1.701(c), as proposed, would provide that the period of delay is the sum of the number of days, if any, in the period of unusual delay by the Office. That is, the ordinary delay in processing and examining an application would not be included under § 1.701(c), as proposed, in determining the extension under § 1.701(b). For example, (1) where there was a failure to act on a reply under § 1.111 within six months of the date it was filed, the period of delay is the number of days in excess of six months, if any, in the period beginning on the date a reply under § 1.111 was filed and ending on the mailing date of an action in response thereto, (2) where there was a failure to act on an appeal brief under § 1.192 within six months of the date it was filed, and the application is not entitled to an extension under § 1.701(a)(3), the period of delay is the number of days in excess of six months, if any, in the period beginning on the date an appeal brief under § 1.192 was filed and ending on the mailing date of either a notification under § 1.192(d) or examiner's answer under § 1.193, and (3) where there was a failure to issue a patent within six months of the date that the issue fee was paid and all outstanding requirements were satisfied, § 1.701(a)(3), the period of delay is the number of days in excess of six months, if any, in the period beginning on the date the issue fee was paid or all outstanding requirements were satisfied, whichever is later, and the date the patent was issued.

Section 1.701(d), as proposed, would change ''[t]he period of delay set forth in paragraph (c)(3)'' to ''[t]he period set forth in paragraph (c),'' as the limitation on patent term extension in H.R. 1733 based upon an applicant's failure to engage in reasonable efforts to conclude processing or examination of the application is not limited to extension under 35 U.S.C. 154(b)(2), i.e., delays during appellate proceedings. Section 1.701(d), as proposed, would further delete ''any time during the period of appellate review that occurred before three years from the filing date of the first national application for a patent presented for examination.'' Public Law 103–465 provides that extensions under 35 U.S.C. 154(b)(2) shall be reduced by any time during the period of appellate review that occurred before three years from the filing date of the first national application for patent presented for examination, where H.R. 1733 provides only that no patent shall be extended under 35 U.S.C. 154(b) that has issued before the expiration of three years after the filing date of the application or entry of the application into the national stage under 35 U.S.C. 371, whichever is later, not taking into account any claim to the benefit of the filing date of any application under 35 U.S.C. 120, 121, or 365(c).

Section 1.701(d), as proposed, would further change ''any time during the period of appellate review, as determined by the Commissioner, during which the applicant for patent did not act with due diligence'' and ''[i]n determining the due diligence of an applicant, the Commissioner may examine the facts and circumstances of the applicant's actions during the period of appellate review to determine whether the applicant exhibited that degree of timeliness as may reasonably be expected from, and which is ordinarily exercised by, a person during a period of appellate review'' to ''any time during the processing or examination of the application, as determined by the Commissioner, during which the applicant for patent failed to engage in reasonable efforts to conclude processing or examination of the application,'' ''[i]n determining whether an applicant failed to engage in reasonable efforts to conclude processing or examination of the application, the Commissioner may examine the facts and circumstances of the applicant's actions during the entire prosecution of the application to determine whether the applicant exhibited that degree of timeliness as may reasonably be expected from, and which is ordinarily exercised by, an applicant for patent seeking to conclude the processing or examination of the application,'' and ''[c]ircumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the application include: (1) requesting suspension of action under § 1.103, and (2) abandonment of the application.''

H.R. 1733 provides that the period of extension under 35 U.S.C. 154(b) shall be reduced by a period equal to the time during the processing or examination of the application leading to the patent in which the applicant failed to engage in reasonable efforts to conclude processing or examination of the application and that the Commissioner shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. Section § 1.701(d) specifically sets forth requesting suspension of action under § 1.103 and abandonment of the application as examples of *prima facie* failures to engage in reasonable efforts to conclude processing or examination of the application. In determining whether an applicant engaged in reasonable efforts to conclude processing or examination of the application, however, the facts and circumstances of applicant's actions during the entire prosecution of the application will be considered on a case-by-case basis to determine whether the applicant exhibited that degree of timeliness as may reasonably be expected from, and which is ordinarily exercised by, an applicant for patent seeking to conclude the processing or examination of the application. As such, it is not possible to list all of the specific circumstances in § 1.701(d). That is, circumstances other than the examples specifically set forth § 1.701(d) may, on a case-by-case basis, be considered the failure to engage in reasonable efforts to conclude the processing or examination of the application.

A new § 1.701(e), as proposed, would provide that no patent shall be extended under this section: (1) beyond the expiration date specified in a terminal disclaimer in a patent whose term has been disclaimed in such terminal disclaimer, or (2) an instance in which the patent issued before the expiration of three years after the filing date of the application or entry of the application into the national stage under 35 U.S.C. 371, whichever is later, not taking into account any claim to the benefit of the filing date of any application under 35 U.S.C. 120, 121, or 365(c). H.R. 1733 provides these limitations on extensions under 35 U.S.C. 154(b).

A new § 1.701(f), as proposed, would provide that any extension of patent term under § 1.701(a)(4) on the basis of an administrative delay other than one specifically set forth in §§ 1.701(a)(4)(i)(A)-(C) must be requested by petition. Due to the necessity for individualized determinations of patent term extensions based upon prosecution delay due to an unusual administrative delay by the Office not specifically provided for, such extensions of patent term under § 1.701(a)(4) must be specifically requested by petition in a timely manner. Section 1.701(f), as proposed, would specifically provide

that any petition for patent term extension based upon § 1.701(a)(4) for an unusual administrative delay by the Office other than one specifically set forth in §§ 1.701(a)(4)(i)(A)-(C) cannot be filed prior to the mailing of a notice of allowance under § 1.311 and must be accompanied by a statement of the facts involved, the administrative delay by the Office to be reviewed, the period of extension requested, and the fee set forth in § 1.17(i). The petition may include a request that the petition fee be refunded if an extension of the patent term under § 1.701(a)(4) is granted.

Section 1.808(a), as proposed, would provide that upon the publishing of the application, all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed, subject to provisions of § 1.808(b).

Section 3.31, as proposed, would provide that the assignment cover sheet may, but need not, include an indication that the assignment information is to be printed on the Patent Application Notice. Section 3.31, as proposed, would further provide that, due to constraints in the publication process, any such indication not submitted within two months of filing or fourteen months from the earliest filing date for which a benefit is claimed, whichever is later, may result in the assignment information not being printed on the Patent Application Notice.

Section 5.1, as proposed, would include a new paragraph (c) which would provide defense agencies adequate time to complete national security review under 35 U.S.C. 181 before an application would be released for publication under § 1.306. Specifically, the period for completion of a defense agency review would be six (6) months from the actual U.S. filing date for applications filed under 35 U.S.C. 111(a) or three (3) months from the date the application was made available to the defense agency for review, whichever is later.

Section 5.1, as proposed, would further include a new paragraph (d) which would set forth the current practice that applications on inventions not made in the United States and on inventions in which the Federal Government has a known property interest are not made available to defense agencies under § 5.2(b).

A new § 5.9, as proposed, would set forth the procedures for the treatment of national security classified applications. The procedures set forth in this section, except for those pertaining to the publication of applications pursuant to § 1.306, are the current procedures for the treatment of national security classified applications. It is, however, considered appropriate to implement these procedures through the rulemaking process.

35 U.S.C. 181 authorizes the withholding of the grant of a patent on an application that has been placed under a secrecy order; however, title 35, United States Code, does not specifically authorize the withholding of the grant of a patent on an application that is national security classified, but not placed under a secrecy order. Nevertheless, the Office is prohibited by Executive Order and statute from disclosing a national security classified application. Therefore, procedures for obtaining a secrecy order pursuant to 35 U.S.C. 181 on a national security classified application, or the declassification of such application, are necessary.

Section 5.9(a), as proposed, would provide that patent applications and papers that are national security classified and contain authorized national security markings of ''Confidential,'' ''Secret'' or ''Top Secret'' are accepted by the Office, that national security classified documents mailed to the Office must be addressed in compliance with § 5.33, and that national security classified documents may be hand-carried to Licensing and Review.

Section 5.9(b), as proposed, would provide that a national security classified patent application will not be published pursuant to § 1.306 or allowed pursuant to § 1.311 of this chapter until the application is declassified.

Section 5.9(c), as proposed, would clarify that, in a national security classified application, it is the applicant's responsibility to either obtain a secrecy order pursuant to § 5.2, or have the application declassified by the relevant department or agency. Section 5.9(c), as proposed, would further provide that in a national security classified patent application filed without a notification pursuant to § 5.2(a), *i.e.*, a recommendation for imposition of a secrecy order from the relevant department or agency, the Office will set a time period within which the application must be declassified, a secrecy order must be obtained, or evidence of a good faith effort to obtain a secrecy from the relevant department or agency must be presented in order to prevent abandonment of the application.

Section 5.9(d), as proposed, would provide for instances in which, after an effort to obtain a secrecy order, the national security classified application has not been declassified and a secrecy order has not been obtained. Section 5.9(d), as proposed, would specifically provide that in each instance in which the national security classified application has not been declassified and a secrecy order has not been obtained, but the applicant has presented evidence of a good faith effort to obtain a secrecy order, the Office will again set a time period within which the application must be declassified, a secrecy order pursuant to § 5.2 must be obtained, or evidence of a good faith effort to again obtain a secrecy order pursuant to § 5.2 from the relevant department or agency must be presented in order to prevent abandonment of the application. This process will reiterate until the application becomes abandoned, e.g., through a lack of a good faith effort to obtain a secrecy order or failure to prosecute under 35 U.S.C. 133, the application is declassified, or a secrecy order is obtained.

Other Considerations

The proposed rule changes are in conformity with the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), Executive Order 12612, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* It has been determined that this rulemaking is significant for the purposes of Executive Order 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that these proposed rule changes will not have a significant economic impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)). The principal impact of these proposed changes is to require that application papers be filed in a format which permits their digital image and OCR scanning into an electronic data base, and that claims for the benefit of the filing date of prior foreign and domestic applications be submitted promptly to permit publication of the application at 18 months from the earliest filing date for which a benefit is sought.

The Office has also determined that this notice has no Federalism implications affecting the relationship between the National Government and the States as outlined in Executive Order 12612.

These proposed rule changes contain a collection of information requirements subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* The initial patent application filing is

currently approved by the Office of Management and Budget under Control No. 0651–0032. Public reporting burden for the collection of information for filing the initial patent application is estimated to average 11 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The Fee Transmittal form, Utility Patent Application Transmittal form, Design Patent Application Transmittal form, Plant Patent Application Transmittal form, Plant Color Coding Sheet, Declaration form, and Plant Patent Application Declaration form will reduce the burden and uncertainty associated with the submission of an application and related information, and enhance the Office's ability to use standardized automation routines (optical character recognition, etc.) to record and process information concerning applications. Public reporting burden for these collections of information is estimated to average: (1) 12 minutes per response for the Fee Transmittal form, (2) 12 minutes per response for the Utility Patent Application Transmittal form, (3) 12 minutes per response for the Design Patent Application Transmittal form, (4) 12 minutes per response for the Plant Patent Application Transmittal form, (5) 12 minutes per response for the Plant Color Coding Sheet, (6) 24 minutes per response for the Declaration form, and (7) 24 minutes per response for the Plant Patent Application Declaration. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information.

The assignment cover sheet is currently approved by the Office of Management and Budget under Control No. 0651–0027. Public reporting burden for the collection of information on the assignment cover sheet is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Office of Assistance Quality and Enhancement Division, Patent and Trademark Office, Washington, D.C. 20231, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: Paperwork Reduction Act Projects 0651–0027 and 0651–0032). The Fee Transmittal form, Utility Patent Application Transmittal form, Design Patent Application Transmittal form, Plant Patent Application Transmittal form, Plant Color Coding Sheet, Declaration form, and Plant Patent Application Declaration form have been submitted to the Office of Management and Budget for clearance under the Paperwork Reduction Act. See 60 FR 35174 (July 6, 1995). Written comments and recommendations for the proposed information collection should be sent to Maya A. Bernstein, OMB Desk Officer, room 10236, New Executive Office Building, Washington, D.C. 20230.

Notice is hereby given that pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6, the Patent and Trademark Office proposes to amend Title 37, Chapter I, of the Code of Federal Regulations as set forth below.

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and record keeping requirements, Small Businesses.

37 CFR Part 3

Administrative practice and procedure, Inventions and patents, Reporting and record keeping requirements.

37 CFR Part 5

Classified information, foreign relations, inventions and patents.

For the reasons set forth in the preamble, 37 CFR parts 1, 3 and 5 are proposed to be amended as follows, with removals indicated by brackets ([]) and additions by arrows (><):

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR part 1 would continue to read as follows:

Authority: 35 U.S.C. 6, unless otherwise noted.

2. Section 1.4 is proposed to be amended by revising paragraph (a)(1) to read as follows:

§ 1.4 Nature of correspondence and signature requirements.

(a) Correspondence with the Patent and Trademark Office comprises:

(1) Correspondence relating to services and facilities of the Office, such as general inquiries, requests for publications supplied by the Office, orders for printed copies of patents >, patent application notices, technical contents publications< or trademark registrations, orders for copies of records, transmission of assignments for recording, and the like; and

* * * * *

3. Section 1.5 is proposed to be amended by revising paragraph (a) and adding paragraphs (f) and (g) to read as follows:

§ 1.5 Identification of application, patent or registration.

(a) No correspondence relating to an application should be filed prior to when notification of the application number is received from the Patent and Trademark Office. When a letter directed to the Patent and Trademark Office concerns a previously filed application for a patent, >including a published application,< it must identify on the top page in a conspicuous location, the application number (consisting of the series code and the serial number; e.g., 07/123,456), or the serial number and filing date assigned to that application by the Patent and Trademark Office, or the international application number of the international application. Any correspondence not containing such identification will be returned to the sender where a return address is available. The returned correspondence will be accompanied with a cover letter which will indicate to the sender that if the returned correspondence is resubmitted to the Patent and Trademark Office within two weeks of the mail date on the cover letter, the original date of receipt of the correspondence will be considered by the Patent and Trademark Office as the date of receipt of the correspondence. Applicants may use either the Certificate of Mailing or Transmission procedure under § 1.8 or the Express Mail procedure under § 1.10 for resubmissions of returned correspondence if they desire to have the benefit of the date of deposit in the United States Postal Service. If the returned correspondence is not resubmitted within the two-week period, the date of receipt of the resubmission will be considered to be the date of receipt of the correspondence. The two-week period to resubmit the returned correspondence will not be extended. If for some reason, returned correspondence is resubmitted with proper identification later than two weeks after the return mailing by the Patent and Trademark Office, the resubmitted correspondence will be

accepted but given its date of receipt. In addition to the application number, all letters directed to the Patent and Trademark Office concerning applications for patents should also state ''PATENT APPLICATION,'' the name of the applicant, the title of the invention, the date of filing the same, and, if known, the group art unit or other unit within the Patent and Trademark Office responsible for considering the letter and the name of the examiner or other person to which it has been assigned.

* * * * *

>(f) When a paper concerns a provisional application, it should identify the application as such and include the application number.

(g) A paper relating to a patent application notice should identify it as such and include the patent application notice number.<

4. Section 1.9 is proposed to be amended by revising paragraphs (a) and (b) and adding a paragraph (h) to read as follows:

§ 1.9 Definitions.

(a)(1) A national application as used in this chapter means a U.S. national application for patent which was either filed in the Office under 35 U.S.C. 111, or which entered the national stage from an international application after compliance with 35 U.S.C. 371.

(2) A provisional application as used in this chapter means a U.S. national application for patent filed in the Office under 35 U.S.C. 111(b).

(3) A nonprovisional application as used in this chapter means a U.S. national application for patent which was either filed in the Office under 35 U.S.C. 111(a), or which entered the national stage from an international application after compliance with 35 U.S.C. 371.

>(4)<[(b)] An international application as used in this chapter means an international application for patent filed under the Patent Cooperation Treaty prior to entering national processing at the Designated Office stage.

>(b) A published application as used in this chapter means an application for patent which has been published pursuant to 35 U.S.C. 122(b).<

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>(h) National security classified as used in this chapter means specifically authorized under criteria established by Act of Congress or Executive order to be kept secret in the interest of national defense or foreign policy and in fact properly classified pursuant to Act of Congress or Executive order.<

5. Section 1.11 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.11 Files open to the public.

(a) [After a patent has been issued or a statutory invention registration has been published, the] >The< specification, drawings, and all papers relating to the case in the file of >an abandoned published application, a< [the] patent >,< or >a< statutory invention registration are open to inspection by the public >.< [, and copies may be obtained upon paying the fee therefor.] >A copy of the specification, drawings, and all papers relating to the case in the file of a published application, a patent, or statutory invention registration may be obtained upon the payment of the fee set forth in § 1.19(b)(2).< See § 2.27 for trademark files.

* * * * *

6. Section 1.12 is proposed to be amended by revising paragraphs (a)–(c) to read as follows:

§ 1.12 Assignment records open to public inspection.

(a)(1) Separate assignment records are maintained in the Patent and Trademark Office for patents and trademarks. The assignment records, relating to original or reissue patents, including digests and indexes, for assignments recorded on or after May 1, 1957, >published applications,< and assignment records relating to pending or abandoned trademark applications and to trademark registrations, for assignments recorded on or after January 1, 1955, are open to public inspection at the Patent and Trademark Office, and copies of those assignment records may be obtained upon request and payment of the fee set forth in § 1.19 and § 2.6 of this chapter.

(2) All records of assignments of patents recorded before May 1, 1957, and all records of trademark assignments recorded before January 1, 1955, are maintained by the National Archives and Records Administration (NARA). The records are open to public inspection. Certified and uncertified copies of those assignment records are provided by NARA upon request and payment of the fees required by NARA.

(b) Assignment records, digests, and indexes relating to any pending or abandoned application >which has not been published pursuant to 35 U.S.C. 122(b)< are not available to the public. Copies of any such assignment records and information with respect thereto shall be obtainable only upon written authority of the applicant or applicant's assignee or attorney or agent or upon a showing that the person seeking such information is a bona fide prospective or actual purchaser, mortgagee, or licensee of such application, unless it shall be necessary to the proper conduct of business before the Office or as provided by these rules.

(c) Any request by a member of the public seeking copies of any assignment records of any pending or abandoned patent application preserved in >confidence< [secrecy] under § 1.14, or any information with respect thereto, must:

(1) Be in the form of a petition accompanied by the petition fee set forth in § 1.17(i); or

(2) Include written authority granting access to the member of the public to the particular assignment records from the applicant or applicant's assignee or attorney or agent of record.

* * * * *

7. Section 1.13 is proposed to be revised to read as follows:

§ 1.13 Copies and certified copies.

(a) Non-certified copies of patents >, patent application notices, technical contents publications, file wrapper and contents of published applications,< and trademark registrations and of any records, books, papers, or drawings within the jurisdiction of the Patent and Trademark Office and open to the public, will be furnished by the Patent and Trademark Office to any person, and copies of other records or papers will be furnished to persons entitled thereto, upon payment of the fee therefor.

(b) Certified copies of the patents >, patent application notices, technical contents publications, file wrapper and contents of published applications,< and trademark registrations and of any records, books, papers, or drawings within the jurisdiction of the Patent and Trademark Office and open to the public or persons entitled thereto will be authenticated by the seal of the Patent and Trademark Office and certified by the Commissioner, or in his name attested by an officer of the Patent and Trademark Office authorized by the Commissioner, upon payment of the fee for the certified copy.

8. Section 1.14 is proposed to be amended by revising the section heading, paragraphs (a)–(b) and (e) to read as follows:

§ 1.14 Patent applications preserved in >confidence< [secrecy].

(a) Except as provided in § 1.11(b) >,< pending patent applications >which have not been published pursuant to 35 U.S.C. 122(b)< are preserved in >confidence.< [secrecy.] No information

will be given by the Office respecting the filing by any particular person of an application for a patent, the pendency of any particular case before it, or the subject matter of any particular application, nor will access be given to or copies furnished of any pending application or papers relating thereto, without written authority in that particular application from the applicant or his assignee or attorney or agent of record, unless the application has been identified by >application number or< serial number >and filing date< in a published patent document >, a U.S. published application,< or >a published international application in which< the United States of America has been indicated as a Designated State [in a published international application], in which case status information such as whether it is pending, abandoned, or patented may be supplied, >or unless the application claims the benefit of the filing date of an application that has been referred to in a U.S. published application or patent, or identified by application number or serial number and filing date in a published patent document or a published international application in which the United States of America has been indicated as a Designated State, in which case the application number, filing date, and status information such as whether it is pending, abandoned, or patented may be supplied,< or unless it shall be necessary to the proper conduct of business before the Office or as provided by this part. Where an application has been patented, the patent number and issue date may also be supplied.

(b) [Except as provided in § 1.11(b), abandoned] >Abandoned< applications >which have not been published pursuant to 35 U.S.C. 122(b)< are likewise not open to public inspection, except >as provided in § 1.11(b) and as set forth below.< [that if] >If< an application referred to in a U.S. >published application or< patent, >application open to public inspection pursuant to this section, application which claims the benefit of the filing date of an application open to public inspection pursuant to this section,< or in an application in which the applicant has filed an authorization to open the complete application to the public, is abandoned and is available, it may be inspected or copies obtained by any person on written request, without notice to the applicant. Complete applications (§ 1.51(a)) which are abandoned >and have not been published pursuant to 35 U.S.C. 122(b)< may be destroyed after 20 years from their filing date, except those to which particular attention has been called and which have been marked for preservation. Abandoned applications will not be returned.

* * * * *

(e) Any request by a member of the public seeking access to, or copies of, any pending or abandoned application preserved in >confidence< [secrecy] pursuant to paragraphs (a) and (b) of this section, or any papers relating thereto, must:

(1) Be in the form of a petition and be accompanied by the petition fee set forth in § 1.17(i); or

(2) Include written authority granting access to the member of the public in that particular application from the applicant or the applicant's assignee or attorney or agent of record.

* * * * *

9. Section 1.16 is proposed to be amended by revising paragraphs (a) and (g)–(h) to read as follows:

§ 1.16 National application filing fees.

(a) Basic fee for filing each application for an original patent, except provisional, design or plant cases:

By a small entity (§ 1.9(f)).....>$390.00< [$365.00]
By other than a small entity .....>780.00< [730.00]

* * * * *

(g) Basic fee for filing each plant application, except provisional applications:

By a small entity (§ 1.9(f)) ...>270.00< [245.00]
By other than a small entity .....>540.00< [490.00]

(h) Basic fee for filing each reissue application:

By a small entity (§ 1.9(f)) ...>390.00< [365.00]
By other than a small entity .....>780.00< [730.00]

* * * * *

10. Section 1.17 is proposed to be amended by revising paragraph (i) and adding new paragraphs (t) and (u) to read as follows:

§ 1.17 Patent application processing fees.

* * * * *

(i) For filing a petition to the Commissioner under a section listed below which refers to this paragraph 130.00

§ 1.12—for access to an assignment record.

§ 1.14—for access to an application.

§ 1.53—to accord a filing date.

§ 1.55—for entry of late priority papers.

§ 1.60—to accord a filing date.

§ 1.62—to accord a filing date.

§ 1.97(d)—to consider an information disclosure statement.

§ 1.102—to make application special

§ 1.103—to suspend action in application.

§ 1.177—for divisional reissues to issue separately.

§ 1.312—for amendment after payment of issue fee.

§ 1.313—to withdraw an application from issue.

>§ 1.306(d)—for early publication of an application.

§ 1.306(e)—to defer publication of an application.<

§ 1.314—to defer issuance of a patent.

§ 1.666(b)—for access to interference settlement agreement.

>§ 1.701(f)—for patent term extension based upon administrative delay not specifically provided for.<

§ 3.81—for patent to issue to assignee, assignment submitted after payment of the issue fee.

* * * * *

>(t) For filing a protest under § 1.291 in an application after the date the application was published 220.00

(u) For the acceptance of a late claim for priority under 35 U.S.C. 119(a)-(d) or for acceptance of a late claim for the benefit of a prior application under 35 U.S.C. 119(e), 120 or 121 filed during the pendency of the application .....1500.00<

11. Section 1.18 is proposed to be amended by revising paragraphs (a) and (c) to read as follows:

§ 1.18 Patent issue fees.

(a) Issue fee for issuing each original or reissue patent, except a design or plant patent:

By a small entity (§ 1.9(f)).....>$640.00< [$605.00]
By other than a small entity .....>1280.00< [1210.00]

* * * * *

(c) Issue fee for issuing a plant patent:

By a small entity (§ 1.9(f)) ...>330.00< [305.00]
By other than a small entity .....>660.00< [610.00]

12. Section 1.19 is proposed to be amended by revising paragraphs (a)-(d) to read as follows:

§ 1.19 Document supply fees.

* * * * *

(a) Uncertified copies of patents >, patent application notices, and technical contents publications<:

(1) Printed copy of a >patent application notice,< patent, including a design patent, statutory invention registration, or defensive publication document, except plant or statutory invention registration containing color drawing:

(i) Regular service $3.00
(ii) Overnight delivery to PTO Box or

overnight fax 6.00
(iii) Expedited service for copy ordered by expedited mail or fax delivery service and delivered to the customer within two workdays 25.00
(2) Printed copy of a plant patent in color 12.00
(3) Copy of a utility patent or statutory invention registration containing color drawing (see § 1.84(a)(2)) 24.00
>(4) Copy of a technical contents publication.....9.00<

(b) Certified and uncertified copies of Office documents:

(1) Certified or uncertified copy of patent application as filed:

(i) Regular service.....>15.00< [12.00]
(ii) Expedited local service .....>30.00< [24.00]

(2) Certified or uncertified copy of >published application or< patent-related file wrapper and contents 150.00
(3) Certified or uncertified copy of Office records, per document >,< except >those contained in a pending application and< as otherwise provided in this section 25.00

>(4) Certified or uncertified copy of documents contained in a pending application:

(i) First document contained in a pending application 75.00
(ii) For each commonly requested additional document contained in such pending application.....25.00
(5)< [(4)] For assignment records, abstract of title and certification, per >published application or< patent 25.00
(c) Library service (35 U.S.C. 13): For providing to libraries copies of all patents issued annually >and technical contents publications published annually<, per annum 50.00
(d) For list of all United States >published applications,< patents and statutory invention registrations in a subclass 3.00

* * * * *

13. Section 1.20 is proposed to be amended by revising paragraphs (e)-(g) to read as follows:

§ 1.20 Post-issuance fees.

* * * * *

(e) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond four years; the fee is due by three years and six months after the original grant

By small entity (§ 1.9(f)).....>510.00< [480.00]
By other than a small entity .....>1020.00< [960.00]

(f) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond eight years; the fee is due by seven years and six months after the original grant

By a small entity (§ 1.9(f)).....>1010.00< [965.00]
By other than a small entity .....>2020.00< [1930.00]

(g) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980, in force beyond twelve years; the fee is due by eleven years and six months after the original grant

By a small entity (§ 1.9(f)).....>1510.00< [1450.00]
By other than a small entity .....>3020.00< [2900.00]

* * * * *

14. Section 1.24 is proposed to be revised to read as follows:

§ 1.24 Coupons.

Coupons in denominations of three dollars, for the purchase of patents, >patent application notices and technical contents publications,< designs, defensive publications, statutory invention registrations, and trademark registrations are sold by the Patent and Trademark Office for the convenience of the general public; these coupons may not be used for any other purpose. The three-dollar coupons are sold individually and in books of 50 for $150.00. These coupons are good until used; they may be transferred but cannot be redeemed.

15. Section 1.51 is proposed to be amended by revising paragraph (a)(1) to read as follows:

§ 1.51 General requisites of an application.

(a) * * *

(1) A complete application filed under § 1.53(b)(1) comprises:

(i) A specification, including >an abstract and< a claim or claims, see §§ 1.71 to 1.77;

(ii) An oath or declaration, see §§ 1.63 and 1.68;

(iii) Drawings, when necessary, see §§ 1.81 to 1.85; and

(iv) The prescribed filing fee, see § 1.16.

* * * * *

16. Section 1.52 is proposed to be amended by revising paragraphs (a)–(b) and (d) to read as follows:

§ 1.52 Language, paper, writing, margins.

(a) The application, any amendments or corrections thereto, and the oath or declaration must be in the English language except as provided for in § 1.69 and paragraph (d) of this section, or be accompanied by a verified translation of the application and a translation of any corrections or amendments into the English language. All papers which are to become a part of the permanent records of the Patent and Trademark Office must be legibly [written,] typed [, or printed] in permanent >dark< ink >in portrait orientation on flexible, strong, smooth, non-shiny, durable and white paper.< [or its equivalent in quality.]

All of the application papers must be presented in a form having sufficient clarity and contrast between the paper and the [writing,] typing [, or printing] thereon to permit the direct reproduction of readily legible copies in any number by use of photographic, electrostatic, photo-offset, and microfilming processes >and electronic reproduction by use of digital imaging and optical character recognition<. If the papers are not of the required quality, substitute typewritten [or printed] papers of suitable quality >will< [may] be required. >See § 1.125 for filing substitute typewritten papers constituting a substitute specification.<

(b) >Except for drawings, the< [The] application papers (specification, including claims, abstract, oath or declaration, and papers as provided for in §§ 1.42, 1.43, 1.47, etc.) and also papers subsequently filed, must be plainly >typed< [written] on but one side of the paper >, with the abstract and claims set forth on a separate sheet. See §§ 1.72(b) and 1.75(h)<. The [size of all] sheets of paper >must be the same size and either 21.0 cm. by 29.7 cm. (DIN size A4) or 21.6 cm. by 27.9 cm. (8½ by 11 inches).< [should be 8 to 8½ by 10½ to 13 inches (20.3 to 21.6 cm. by 26.6 to 33.0 cm.).] >Each sheet must include a top margin of at least 2.0 cm. (¾ inch), a left side margin of at least 2.5 cm. (1 inch), a right side margin of at least 2.0 cm. (¾ inch), and a bottom margin of at least 2.0 cm. (¾ inch), and no holes should be provided in the sheets.< [A margin of at least approximately one inch (2.5 cm.) must be reserved on the left-hand of each page. The top of each page of the application, including claims, must have a margin of at least approximately ¾ inch (2 cm.).] The lines must [not be crowded too closely together; typewritten lines should] be 1½ or double spaced. The pages of the application including claims and abstract >must< [should] be numbered consecutively, starting with 1, the numbers being centrally located above or preferably, below, the text. >See § 1.84 for drawings.<

* * * * *

(d) An application may be filed in a language other than English. A verified

English translation of the non-English-language application and the fee set forth in § 1.17(k) are required to be filed with the application or within such time >period< as may be set by the Office. >The period for filing the verified English translation cannot be extended pursuant to § 1.136(a).<

17. Section 1.53 is proposed to be amended by revising the section heading and paragraph (d)(1) to read as follows:

§ 1.53 Serial Number, filing date, and completion of application.

* * * * *

(d)(1) If an application which has been accorded a filing date pursuant to paragraph (b)(1) of this section does not include the appropriate filing fee >,< [or] an oath or declaration by the applicant, >an abstract on a separate sheet, claims on a separate sheet, papers typed on but one side of the paper, or application papers or sheets of drawings of sufficient clarity, contrast, and quality, and in the proper size and format for electronic reproduction,< applicant will be so notified, if a correspondence address has been provided >. The applicant will be< [and] given a period of time within which to >correct the deficiencies< [file the fee, oath or declaration] and to pay the surcharge as set forth in § 1.16(e) >if the application did not include the basic filing fee or the oath or declaration by the applicant< in order to prevent abandonment of the application. A copy of the ''Notice to File Missing Parts'' form mailed to applicant should accompany any response thereto submitted to the Office. If the required filing fee is not timely paid, or if the processing and retention fee set forth in § 1.21(l) is not paid within one year of the date of mailing of the notification required by this paragraph, the application will be disposed of. No copies will be provided or certified by the Office of an application which has been disposed of or in which neither the required basic filing fee nor the processing and retention fee has been paid. The notification pursuant to this paragraph may be made simultaneously with any notification pursuant to paragraph (c) of this section. If no correspondence address is included in the application, applicant has two months from the filing date to file the basic filing fee, oath or declaration >, abstract or claims on a separate sheet, papers typed on but one side of the paper, papers and sheets of drawings of sufficient clarity, contrast, and quality and in the proper size and format for electronic reproduction,< and to pay the surcharge as set forth in § 1.16(e) >if the application did not include the basic filing fee or the oath or declaration by the applicant< in order to prevent abandonment of the application; or, if no basic filing fee has been paid, one year from the filing date to pay the processing and retention fee set forth in § 1.21(l) to prevent disposal of the application. >The period for filing an abstract and claims on a separate sheet, and a substitute specification and sheets of drawings of sufficient clarity, contrast, and quality and in the proper size and format for electronic reproduction cannot be extended pursuant to § 1.136(a).<

* * * * *

18. Section 1.54 is proposed to be amended by revising paragraph (b) to read as follows:

§ 1.54 Parts of application to be filed together; filing receipt.

* * * * *

(b) Applicant will be informed of the application [serial] number >,< [and] filing date >, and projected publication date< by a filing receipt.

19. Section 1.55 is proposed to be amended by revising paragraph (a) and adding paragraphs (c)–(d) to read as follows:

§ 1.55 Claim for foreign priority.

(a) An applicant in a nonprovisional application may claim the benefit of the filing date of a prior foreign application under the conditions specified in 35 U.S.C. 119 (a)–(d) and 172. The claim to priority >under 35 U.S.C. 172< need be in no special form and may be made by the attorney or agent if the foreign application is referred to in the oath or declaration as required by § 1.63. >The claim to priority under 35 U.S.C. 119(a)–(d) must be presented within two months of filing or fourteen months from the filing date of the prior foreign application, whichever is later, must identify the prior foreign application by specifying its application number, country, and the day, month and year of its filing, and may be made by the attorney or agent if the foreign application is referred to in the oath or declaration as required by § 1.63.< The [claim for priority and the] certified copy of the foreign application specified in 35 U.S.C. 119(b) must be filed in the case of an interference (§ 1.630), when necessary to overcome the date of a reference relied upon by the examiner, when specifically required by the examiner, and in all other cases, before the patent is granted. If the [claim for priority or the] certified copy of the foreign application is filed after the date the issue fee is paid, it must be accompanied by a petition requesting entry and by the fee set forth in § 1.17(i). If the certified copy filed is not in the English language, a translation need not be filed except in the case of interference; or when necessary to overcome the date of a reference relied upon by the examiner; or when specifically required by the examiner, in which event an English language translation must be filed together with a statement that the translation of the certified copy is accurate. The statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office.

* * * * *

>(c) If a claim to priority under 35 U.S.C. 119(a)–(d) is presented after the time period provided by paragraph (a) of this section, the claim may be accepted if the claim identifying the prior foreign application by specifying its application number, country, and the day, month and year of its filing is filed during the pendency of the application and the delay in stating the claim was unintentional. A petition to accept a delayed claim to priority under 35 U.S.C. 119(a)–(d) must be accompanied by:

(1) The surcharge set forth in § 1.17(u); and

(2) A statement that the delay was unintentional. The statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. The Commissioner may require additional information where there is a question whether the delay was unintentional.

(d) The time periods set forth in this section cannot be extended.<

20. Section 1.58 is proposed to be amended by removing and reserving paragraph (b) and revising paragraph (c) to read as follows:

§ 1.58 Chemical and mathematical formulas and tables.

* * * * *

(b) >[Reserved]< [All tables and chemical and mathematical formulas in the specification, including claims, and amendments thereto, must be on paper which is flexible, strong, white, smooth, non-shiny, durable in order to permit use as camera copy when printing any patent which may issue. A good grade of bond paper is acceptable; watermarks should not be prominent. India ink or its equivalent, or solid black typewriter, should be used to secure perfectly black solid lines.]

(c) To facilitate camera copying when printing, the width of formulas and tables as presented should be limited normally to >12.7 cm. (5 inches)< [5 inches (12.7 cm.)] so that it may appear as a single column in the printed patent.

[If it is not possible to limit the width of a formula or table to 5 inches (12.7 cm.), it is permissible to present the formula or table with a maximum width of 10¾ inches (27.3 cm.) and to place it sideways on the sheet.] Typewritten characters used in such formulas and tables must be from a block (nonscript) type font or lettering style having capital letters which are at least >2.1 mm. (0.08 inch)< [0.08 inch (2.1 mm.)] high (*e.g.*, elite type). [Hand lettering must be neat, clean, and have a minimum character height of 0.08 inch (2.1 mm.)]. A space at least >.64 cm. (¼ inch)< [¼ inch (6.4 mm.)] high should be provided between complex formulas and tables and the text. Tables should have the lines and columns of data closely spaced to conserve space, consistent with high degree of legibility.

21. Section 1.60 is proposed to be amended by revising the section heading and paragraph (d) to read as follows:

§ 1.60 Continuation or divisional application for invention disclosed in a prior application.

* * * * *

(d) If an application filed pursuant to paragraph (b) of this section is otherwise complete, but does not include the appropriate filing fee, a true copy of the oath or declaration from the prior complete application, showing the signature or an indication it was signed, >or the prior application did not include an abstract and claims on a separate sheet, and application papers typed on but one side of the paper with application papers or sheets of drawings of sufficient clarity, contrast, or quality in the proper size and format for electronic reproduction,< a filing date will be granted and applicant will be so notified and given a period of time within which to file the fee, or the true copy of the oath or declaration >, an abstract and claims on a separate sheet, substitute specification in compliance with § 1.125 with papers typed on but one side of the paper and sheets of drawings, each of the substitute specification and sheets of drawings of sufficient clarity, contrast, and quality and in the proper size and format for electronic reproduction,< and to pay the surcharge as set forth in § 1.16(e) >if the application did not include the basic filing fee or the copy of the oath or declaration from the prior application< in order to prevent abandonment of the application. The notification pursuant to this paragraph may be made simultaneously with any notification pursuant to paragraph (c) of this section. >The period for filing an abstract and claims on a separate sheet and a substitute specification and sheets of drawings of sufficient clarity, contrast, and quality for electronic reproduction cannot be extended pursuant to § 1.136(a).<

22. Section 1.62 is proposed to be amended by revising paragraphs (d)–(f) to read as follows:

§ 1.62 File wrapper continuing procedure.

* * * * *

(d) If an application which has been accorded a filing date pursuant to paragraph (a) of this section does not include the appropriate basic filing fee pursuant to paragraph (b) of this section, or an oath or declaration by the applicant in the case of a continuation-in-part application pursuant to paragraph (c) of this section, >or any substitute specification and drawings pursuant to paragraph (e)(2) of this section,< applicant will be so notified and given a period of time within which to file the fee, oath [,] or declaration >, substitute specification, and drawings< and to pay the surcharge as set forth in § 1.16(e) >if the application did not include the basic filing fee or oath or declaration< in order to prevent abandonment of the application. The notification pursuant to this paragraph may be made simultaneously with any notification of a defect pursuant to paragraph (a) of this section. >The period for filing a substitute specification cannot be extended pursuant to § 1.136(a).<

(e)>(1)< An application filed under this section will utilize the file wrapper and contents of the prior application to constitute the new continuation, continuation-in-part, or divisional application but will be assigned a new application [serial] number. Changes to the prior application must be made in the form of an amendment to the prior application as it exists at the time of filing the application under this section.

>(2)< No copy of the prior [application or new] specification >or drawings< is required >, unless the application is a continuation-in-part application containing any additional disclosure, in which case a substitute specification in compliance with § 1.125 and drawings are required. Any new specification filed will not be considered part of the original application papers, but will be treated as a substitute specification in accordance with § 1.125<. [The filing of such a copy or specification will be considered improper, and a filing date as of the date of deposit of the request for an application under this section will not be granted to the application unless a petition with the fee set forth in § 1.17(i) is filed with instructions to cancel the copy or specification.]

(f) The filing of an application under this section will be construed to include a waiver of >confidence< [secrecy] by the applicant under 35 U.S.C. 122>(a)< to the extent that any member of the public who is entitled under the provisions of >§ < [37 CFR] 1.14 to access to, or information concerning either the prior application or any continuing application filed under the provisions of this section may be given similar access to, or similar information concerning, the other application(s) in the file wrapper.

* * * * *

23. Section 1.72 is proposed to be amended by revising paragraph (b) to read as follows:

§ 1.72 Title and abstract.

* * * * *

(b) A brief abstract of the technical disclosure in the specification must be set forth on a separate sheet, preferably >prior to the first page of the specification< [following the claims] under the heading ''Abstract of the Disclosure''. The purpose of the abstract is to enable the Patent and Trademark Office and the public generally to determine quickly from a cursory inspection the nature and gist of the technical disclosure. The abstract shall not be used for interpreting the scope of the claims.

24. Section 1.75 is proposed to be amended by revising paragraph (g) and adding paragraphs (h) and (i) to read as follows:

§ 1.75 Claim(s).

* * * * *

(g) >The least restrictive claim should be presented as claim number 1, and all< [All] dependent claims should be grouped together with the claim or claims to which they refer to the extent possible.

>(h) The claim or claims must be set forth on a separate sheet.

(i) Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation.<

25. Section 1.77 is proposed to be revised to read as follows:

§ 1.77 Arrangement of application elements.

>(a)< The elements of the application >, if applicable,< should appear in the following order:

[(a)] >(1) Utility Application Transmittal Form.

(2) Fee Transmittal Form.

(3) Abstract of the disclosure.

(4)< Title of the invention; or an introductory portion stating the name,

citizenship, and residence of the applicant, and the title of the invention may be used.

>(5)<[(c)(1)] Cross-reference to related applications [, if any].

>(6)< [(2)] >Statement regarding federally sponsored research or development.

(7)< Reference to a ''Microfiche appendix'' [if any]. (See § 1.96 >(c)< [(b)]). The total number of microfiche and total number of frames should be specified.

>(8)< [(d)] >Background of the invention.

(9)< Brief summary of the invention.

>(10)< [(e)] Brief description of the several views of the drawing [, if there are drawings].

>(11)< [(f)] Detailed description.

>(12)< [(g)] Claim or claims.

>(13)< [(h) Abstract of the disclosure.

(i) Signed oath or declaration.

(j)] Drawings.

>(14) Executed oath or declaration.

(15) Sequence Listing (See § 1.821 *et seq.*).

(b) The elements set forth in paragraphs (a)(3) through (a)(6), (a)(8) through (a)(12) and (a)(15) of this section should appear in upper case, without underlining or bold type, as section headings. If no text follows the section heading, with the phrase ''Not Applicable'' should follow the section heading.<

26. Section 1.78 is proposed to be amended by revising paragraphs (a) and (c)–(d) to read as follows:

§ 1.78 Claiming benefit of earlier filing date and cross references to other applications.

(a)(1) A nonprovisional application may claim an invention disclosed in one or more prior filed copending nonprovisional applications or international applications designating the United States of America. In order for a nonprovisional application to claim the benefit of a prior filed copending nonprovisional application or international application designating the United States of America, each prior application must name as an inventor at least one inventor named in the later filed nonprovisional application and disclose the named inventor's invention claimed in at least one claim of the later filed nonprovisional application in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, each prior application must be:

(i) Complete as set forth in § 1.51(a)(1); or

(ii) Entitled to a filing date as set forth in § 1.53(b)(1), § 1.60 or § 1.62 and include the basic filing fee set forth in § 1.16; or

(iii) Entitled to a filing date as set forth in § 1.53(b)(1) and have paid therein the processing and retention fee set forth in § 1.21(l) within the time period set forth in § 1.53(d)(1).

(2) Any nonprovisional application claiming the benefit of one or more prior filed copending nonprovisional applications or international applications designating the United States of America must >, within two months of filing or within fourteen months of the filing date of the prior application, whichever is later,< contain or be amended to contain in the first sentence of the specification following the title a reference to each such prior application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications. Cross-references to other related applications may be made when appropriate. (See § 1.14(b)).

(3) A nonprovisional application other than for a design patent may claim an invention disclosed in one or more prior filed copending provisional applications. [Since a provisional application can be pending for no more than twelve months, the last day of pendency may occur on a Saturday, Sunday, or Federal holiday within the District of Columbia which for copendency would require the nonprovisional application to be filed prior to the Saturday, Sunday, or Federal holiday.] In order for a nonprovisional application to claim the benefit of one or more prior filed copending provisional applications, each prior provisional application must name as an inventor at least one inventor named in the later filed nonprovisional application and disclose the named inventor's invention claimed in at least one claim of the later filed nonprovisional application in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, each prior provisional application must be:

(i) Complete as set forth in § 1.51(a)(2); or

(ii) Entitled to a filing date as set forth in § 1.53(b)(2) and include the basic filing fee set forth in § 1.16(k).

(4) Any nonprovisional application claiming the benefit of one or more prior filed copending provisional applications must >, within two months of filing or within fourteen months of the filing date of the prior application, whichever is later,< contain or be amended to contain in the first sentence of the specification following the title a reference to each such prior provisional application, identifying it as a provisional application, and including the provisional application number (consisting of series code and serial number).

>(5) If a claim to the benefit of any prior filed copending nonprovisional application or international application designating the United States of America is presented in a nonprovisional application after the time period provided by paragraph (a)(2) of this section, or if a claim to the benefit of any prior filed copending provisional application is presented in a nonprovisional application other than for a design patent after the time period provided by paragraph (a)(4) of this section, the claim may be accepted in the application if the claim identifying the prior application by application number or international application number and international filing date is filed during the pendency of the application and the delay in stating the claim was unintentional. A petition to accept a delayed claim to the benefit of a prior filed copending application must be accompanied by:

(i) The surcharge set forth in § 1.17(u); and

(ii) A statement that the delay was unintentional. The statement must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. The Commissioner may require additional information where there is a question whether the delay was unintentional.

(6) The time periods set forth in paragraphs (a)(2), (4) and (5) of this section cannot be extended.<

* * * * *

(c) Where >an< [two or more] application [s,] >or a patent under reexamination< [or an application] and >an application or< a patent naming different inventors >are< [and] owned by the same party >and< contain conflicting claims, and there is no statement of record indicating that the claimed inventions were commonly owned or subject to an obligation of assignment to the same person at the time the later invention was made, the assignee may be called upon to state whether the claimed inventions were commonly owned or subject to an obligation of assignment to the same person at the time the later invention was made, and if not, indicate which named inventor is the prior inventor. In addition to making said statement, the assignee may also explain why an interference should or should not be declared.

(d) Where an application >or a patent under reexamination< claims an invention which is not patentably distinct from an invention claimed in a commonly owned patent with the same

or a different inventive entity, a double patenting rejection will be made in the application >or a patent under reexamination<. >A non-statutory< [An obviousness-type] double patenting rejection may be obviated by filing a terminal disclaimer in accordance with § 1.321(b).

27. Section 1.84 is proposed to be amended by revising paragraphs (c), (f)–(g), (j) and (x) to read as follows:

§ 1.84 Standards for drawings.

* * * * *

(c) *Identification of drawings.* Identifying indicia, if provided, should include the application number or the title of the invention, inventor's name, docket number (if any), and the name and telephone number of a person to call if the Office is unable to match the drawings to the proper application. This information should be placed on the back of each sheet of drawings a minimum distance of 1.5 cm. (5/8 inch) down from the top of the page. >In addition, a reference to the application number, or, if an application number has not been assigned, the inventor's name, may be included in the left-hand corner, provided that the reference appears within 1.5 cm. (9/16 inch) from the top of the sheet.<

* * * * *

(f) *Size of paper.* All drawing sheets in an application must be the same size. One of the shorter sides of the sheet is regarded as its top. The size of the sheets on which drawings are made must be:

[(1) 21.6 cm. by 35.6 cm. (8½ by 14 inches),

(2) 21.6 cm. by 33.1 cm. (8½ by 13 inches),

(3) 21.6 cm. by 27.9 cm. (8½ by 11 inches), or

(4)] >(1)< 21.0 cm. by 29.7 cm. (DIN size A4) >; or

(2) 21.6 cm. by 27.9 cm. (8½ by 11 inches)<.

(g) *Margins.* The sheets must not contain frames around the sight; i.e., the usable surface [.] >, but should have scan target points, i.e., cross-hairs, printed on two catercorner margin corners.< [The following margins are required:

(1) On 21.6 cm. by 35.6 cm. (8½ by 14 inches) drawing sheets, each sheet must include a top margin of 5.1 cm. (2 inches), and bottom and side margins of .64 cm. (¼ inch) from the edges, thereby leaving a sight no greater than 20.3 cm. by 29.8 cm. (8 by 11¾ inches).

(2) On 21.6 cm. by 33.1 cm. (8½ by 13 inches) drawing sheets, each sheet must include a top margin of 2.5 cm. (1 inch) and bottom and side margins of .64 cm. (¼ inch) from the edges, thereby leaving a sight no greater than 20.3 cm. by 29.8 cm. (8 by 11¾ inches).

(3) On 21.6 cm. by 27.9 cm. (8½ by 11 inch) drawing sheets, each sheet must include a top margin of 2.5 cm. (1 inch) and bottom and side margins of .64 cm. (¼ inch) from the edges, thereby leaving a sight no greater than 20.3 cm. by 24.8 cm. (8 by 9¾ inches).

(4) On 21.0 cm. by 29.7 cm. (DIN size A4) drawing sheets, each] >Each< sheet must include a top margin of at least 2.5 cm. >(1 inch)<, a left side margin of >at least< 2.5 cm. >(1 inch)<, a right side margin of >at least< 1.5 cm. >(9/16 inch)<, and a bottom margin of >at least< 1.0 cm. >(3/8 inch)<, thereby leaving a sight no greater than 17.0 cm. by 26.2 cm >on 21.0 cm. by 29.7 cm. (DIN size A4) drawing sheets, and a sight no greater than 17.6 cm. by 24.4 cm. (6 15/16 by 9 5/8 inches) on 21.6 cm. by 27.9 cm. (8½ by 11 inch) drawing sheets<.

* * * * *

(j) *View for Official Gazette.* One of the views should be suitable for publication in the Official Gazette >, the patent application notice, and the Gazette of Patent Application Notices< as the illustration of the invention.

* * * * *

(x) *Holes.* >No holes should be provided in the drawing sheets.< [The drawing sheets may be provided with two holes in the top margin. The holes should be equally spaced from the respective side edges, and their center lines should be spaced 7.0 cm. (2¾ inches) apart.]

(See § 1.152 for design drawings, § 1.165 for plant drawings, and § 1.174 for reissue drawings.)

28. Section 1.85 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.85 Corrections to drawings.

(a) The requirements of § 1.84 relating to drawings will be strictly enforced. A drawing not executed in conformity thereto, if suitable for >electronic< reproduction >by digital imaging< , may be admitted for examination but in such case a new drawing must be furnished.

* * * * *

29. Section 1.96 is proposed to be revised to read as follows:

§ 1.96 Submission of computer program listings.

>(a) General.< Descriptions of the operation and general content of computer program listings should appear in the description portion of the specification >.< A computer program listing for the purpose of >this section< [these rules] is defined as a printout that lists in appropriate sequence the instructions, routines, and other contents of a program for a computer. The program listing may be either in machine or machine-independent (object or source) language which will cause a computer to perform a desired procedure or task such as solve a problem, regulate the flow of work in a computer, or control or monitor events. Computer program listings may be submitted in patent applications >as set forth in paragraphs (b) and (c) of this section.< [in the following forms:]

>(b)< [(a)] *Material which will be printed in the patent.* If the computer program listing is contained on 10 printout pages or less, it must be submitted either as drawings or as part of the specification.

(1) *Drawings.* The listing may be submitted in the manner and complying with the requirements for drawings as provided in § 1.84. At least one figure numeral is required on each sheet of drawing.

(2) *Specification.* (i) The listing may be submitted as part of the specification in accordance with the provisions of § 1.52, at the end of the description but before the claims.

(ii) >Any< [The] listing [may be] submitted as part of the specification [in the form of computer printout sheets (commonly 14 by 11 inches in size) for use as ''camera ready copy'' when a patent is subsequently printed. Such computer printout sheets] must be original copies from the computer with dark solid black letters not less than 0.21 cm high, on white, unshaded and unlined paper, [the printing on each sheet must be limited to an area 9 inches high by 13 inches wide,] and the sheets should be submitted in a protective cover. [When printed in patents, such computer printout sheets will appear at the end of the description but before the claims and will usually be reduced about ½ in size with two printout sheets being printed as one patent specification page.] Any amendments must be made by way of submission of a substitute sheet >.< [if the copy is to be used for camera ready copy.]

>(c)< [(b)] *As an appendix which will not be printed.* If a computer program listing printout is 11 or more pages long, applicants >must< [may] submit such listing in the form of microfiche, referred to in the specification (see § 1.77 >(a)(7)< [(c)(2)]). Such microfiche filed with a patent application is to be referred to as a ''microfiche appendix.'' The ''microfiche appendix'' will not be part of the printed patent. Reference in the application to the ''microfiche appendix'' >must< [should] be made at the beginning of the specification at the

location indicated in § 1.77 >(a)(7)< [(c)(2)]. Any amendments thereto must be made by way of revised microfiche. [All computer program listings submitted on paper will be printed as part of the patent.]

(1) *Availability of appendix.* Such computer program listings on microfiche will be available to the public for inspection, and microfiche copies thereof will be available for purchase with the file wrapper and contents, after a patent based on such application is granted or the application is otherwise made publicly available.

(2) *Submission requirements.* >Except as modified or clarified below, computer-generated< [Computer-generated] information submitted as >a ''microfiche appendix''< [an appendix] to an application [for patent] shall be in [the form of microfiche in] accordance with the standards set forth in the following American National Standards Institute (ANSI) or National Micrographics Association (NMA) standards [(Note: As new editions of these standards are published, the latest shall apply)]:

ANSI PH 1.28–1976—Specifications for Photographic Film for Archival records, Silver-Gelatin Type, on Cellulose Ester Base.

ANSI PH 1.41–1976 Specifications for Photographic Film for Archival Records, Silver-Gelatin Type, on Polyester Base.

NMA-MSI (1971) Quality Standards for Computer Output Microfilm.

ANSI/NMA MS2 (1978) Format and Coding Standards for Computer Output Microfilm.

NMA MS5 (ANSI PH 5.9–1975) Microfiche of Documents.

ANSI PH 2.19 (1959)—Diffuse Transmission Density. [Except as modified or clarified below:]

(i) [Either] Computer-Output-Microfilm (COM) output [or copies of photographed paper copy] may be submitted >in accordance with either< [. In the former case,] NMA >standard< [standards] MS1 >or< [and] MS2 >.< [apply; in the latter case, standard MS5 applies.]

(ii) Film submitted shall be first generation (camera film) negative appearing microfiche (with emulsion on the back side of the film when viewed with the images right reading).

(iii) Reduction ratio of microfiche submitted should be 24:1 or a similar ratio where variation from said ratio is required in order to fit the documents into the image area of the microfiche format used.

(iv) Film submitted shall have a thickness of at least >0.13 mm (.005 inches)< [.005 inches (0.13 mm)] and not more than >0.23 mm (.009 inches)< [.009 inches (0.23 mm)] for either cellulose acetate base or polyester base type.

(v) Both microfiche formats A1 (98 frames, 14 columns x 7 rows) and A3 (63 frames, 9 columns x 7 rows) which are described in NMA standard MS2 (A1 is also described in MS5) are acceptable for use in preparation of microfiche submitted.

(vi) At least the left-most ⅓ (50 mm x 12 mm) of the header or title area of each microfiche submitted shall be clear or positive appearing so that the Patent and Trademark Office can apply >application< [serial] number and filing date thereto in an eye-readable form. The middle portion of the header shall be used by applicant to apply an eye-readable application identification such as the title and/or the first inventor's name. The attorney's docket number may be included. The final right-hand portion of the microfiche shall contain sequence in-formation for the microfiche, such as 1 of 4, 2 of 4, etc.

(vii) Additional requirements which apply specifically to microfiche of filmed paper copy:

(A) The first frame of each microfiche submitted shall contain a standard test target which contains five NBS Micro-copy Resolution Test Charts (No. 1010A), one in the center and one in each corner. See illustration on page 2 of NMA Recommended Practice MS104, Inspection and Quality Control of First Generation Silver Halide Microfilm. See also paragraph 7 of NMA-MS5.

(B) The second frame of each microfiche submitted must contain a fully descriptive title and the inventor's name as filed.

(C) The pages or lines appearing on the microfiche frames should be consecutively numbered.

(D) Pagination of the microfiche frames shall be from left to right and from top to bottom.

(E) At a reduction of 24:1 resolution of the original microfilm shall be at least 120 lines per mm (5.0 target) so that reproduction copies may be expected to comply with provisions of paragraph 7.1.4 of NMA Standard MS5.

(F) Background density of negative appearing camera master microfiche of filmed paper documents shall be within the range of 0.9 to 1.2 and line density should be no greater than 0.08. The density shall be visual diffuse density as measured using the method described in ANSI Standard PH 2.19.

(G) An index, when included, should appear in the last frame (lower right hand corner when data is right-reading) of each microfiche. See NMA-MS5, paragraph 6.6.

(viii) Microfiche generated by Computer Output Microfilm (COM).

(A) Background density of negative-appearing COM-generated camera master microfiche shall be within the range of 1.5 to 2.0 and line density should be no greater than 0.2. The density shall be visual diffuse density as described in ANSI PH2.19.

(B) The first frame of each microfiche submitted should contain a resolution test frame in conformance with NMA standard MS1.

(C) The second frame of each microfiche submitted must contain a fully descriptive title and the inventor's name as filed.

(D) The pages or lines appearing on the microfiche frames should be consecutively numbered.

(E) It is preferred that pagination of the microfiche frames be from left to right and top to bottom but the alternative, i.e., from top to bottom and from left to right, is also acceptable.

(F) An index, when included, should appear on the last frame (lower right hand corner when data is right reading) of each microfiche.

(G) Amendment of microfiche must be made by way of replacement microfiche.

30. Section 1.97 is proposed to be amended by revising paragraphs (a)–(d) to read as follows:

§ 1.97 Filing of an information disclosure statement.

(a) In order >for an applicant for patent or for reissue of a patent, or an owner of a patent under reexamination< to have information considered by the Office during the pendency of a patent application, an information disclosure statement in compliance with § 1.98 should be filed in accordance with this section.

(b) An information disclosure statement shall be considered by the Office if filed >by the applicant or patent owner<:

(1) Within three months of the filing date of a national application;

(2) Within three months of the date of entry of the national stage as set forth in § 1.491 in an international application; or

(3) Before the mailing date of a first Office action on the merits, whichever event occurs last.

(c) An information disclosure statement shall be considered by the Office if filed >by the applicant or patent owner< after the period specified in paragraph (b) of this section, but before the mailing date of either:

(1) A final action under § 1.113; or

(2) A notice of allowance under § 1.311, whichever occurs first, provided the statement is accompanied

by either a certification as specified in paragraph >(e)< [(3)] of this section or the fee set forth in § 1.17(p).

(d) An information disclosure statement shall be considered by the Office if filed >by the applicant or patent owner< after the mailing date of either:

(1) A final action under § 1.113; or

(2) A notice of allowance under § 1.311, whichever occurs first, but before payment of the issue fee, provided the statement is accompanied by:

(i) A certification as specified in paragraph (e) of this section;

(ii) A petition requesting consideration of the information disclosure statement; and

(iii) The petition fee set forth in § 1.17(i).

* * * * *

31. Section 1.98 is proposed to be amended by revising paragraphs (a)–(b) to read as follows:

§ 1.98 Content of information disclosure statement.

(a) Any information disclosure statement filed under § 1.97 shall include:

(1) list of all patents, publications or other information submitted for consideration by the Office;

(2) A legible copy of:

(i) Each U.S. >patent application notice, technical contents publication and U.S.< and foreign patent;

(ii) Each publication or that portion which caused it to be listed; and

(iii) All other information or that portion which caused it to be listed, except that no copy of >an unpublished< [a] U.S. patent application need be included; and

(3) A concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content of the information, of each patent, publication, or other information listed that is not in the English language. The concise explanation may be either separate from the specification or incorporated therein.

(b) Each U.S. patent listed in an information disclosure statement shall be identified by patentee, patent number and issue date. >Each U.S. patent application notice or technical contents publication listed in an information disclosure statement shall be identified by applicant, patent application notice number or technical contents publication number and publication date.< Each foreign patent or published foreign patent application shall be identified by the country or patent office which issued the patent or published the application, an appropriate document number, and the publication date indicated on the patent or published application. Each publication shall be identified by author (if any), title, relevant pages of the publication, date, and place of publication.

* * * * *

32. Section 1.107 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.107 Citation of references.

(a) If domestic patents are cited by the examiner, their numbers and dates, and the names of the patentees [, and the classes of inventions] must be stated. >If domestic published applications are cited by the examiner, their technical contents publication number, publication date, and the names of the applicants must be stated.< If foreign published applications or patents are cited, their nationality or country, numbers and dates, and the names of the patentees must be stated, and such other data must be furnished as may be necessary to enable the applicant, or in the case of a reexamination proceeding, the patent owner, to identify the published applications or patents cited. In citing foreign published applications or patents, in case only a part of the document is involved, the particular pages and sheets containing the parts relied upon must be identified. If printed publications are cited, the author (if any), title, date, pages or plates, and place of publication, or place where a copy can be found, shall be given.

* * * * *

33. Section 1.108 is proposed to be revised to read as follows:

§ 1.108 Abandoned applications not cited.

Abandoned applications as such will not be cited as references >,< except those which >are published applications or< have been opened to inspection by the public following a defensive publication.

34. Section 1.131 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.131 Affidavit or declaration of prior invention to overcome cited patent or publication.

(a)(1) When any claim of an application or a patent under reexamination is rejected under 35 U.S.C. 102(a) or (e), or 35 U.S.C. 103 based on a U.S. patent >or pending or patented published application< to another which is prior art under 35 U.S.C. 102 (a) or (e) and which substantially shows or describes but does not claim the same patentable invention, as defined in § 1.601(n), or on reference to a foreign patent >, an abandoned U.S. published application,< or to a printed publication, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to overcome the patent >, published application< or publication. The oath or declaration must include facts showing a completion of the invention in this country or in a NAFTA or WTO member country before the filing date of the >U.S. published application or the< application on which the U.S. patent issued, or before the date of the foreign patent, or before the date of the printed publication. When an appropriate oath or declaration is made, the patent >, published application< or publication cited shall not bar the grant of a patent to the inventor or the confirmation of the patentability of the claims of the patent, unless the date of such patent >, published application< or publication is more than one year prior to the date on which the inventor's or patent owner's application was filed in this country.

(2) A date of completion of the invention may not be established under this section before December 8, 1993, in a NAFTA country, or before January 1, 1996, in a WTO member country other than a NAFTA country.

>(3) Notwithstanding the provisions of paragraph (a)(1) of this section, a showing may be made under this section where the inventions defined by a claim in an application or a patent under reexamination and by a claim in U.S. patent or pending or patented published application are not identical as set forth in 35 U.S.C. 102, and where the inventions are owned by the same party, unless the date of such patent or published application is more than one year prior to the date on which the inventor's or patent owner's application was filed in this country.<

* * * * *

35. Section 1.132 is proposed to be revised to read as follows:

§ 1.132 Affidavits or declarations traversing grounds of rejection.

When any claim of an application or a patent under reexamination is rejected on reference to a [domestic] >U.S.< patent >or pending U.S. published application< which substantially shows or describes but does not claim the invention, or on reference to a foreign patent, >an abandoned U.S. published application,< or to a printed publication, or to facts within the personal knowledge of an employee of the Office, or when rejected upon a

mode or capability of operation attributed to a reference, or because the alleged invention is held to be inoperative or lacking in utility, or frivolous or injurious to public health or morals, affidavits or declarations traversing these references or objections may be received.

36. Section 1.136 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.136 Filing of timely responses with petition and fee for extension of time and extensions of time for cause.

(a)(1) If an applicant is required to respond within a nonstatutory or shortened statutory time period, applicant may respond up to four months after the time period set if a petition for an extension of time and the fee set in § 1.17 are filed prior to or with the response, unless:

(i) Applicant is notified otherwise in an Office action;

(ii) >The response is to a requirement for an English translation, an abstract or claims on a separate sheet, or substitute specification or sheets of drawings of sufficient clarity, contrast, and quality and in the proper size and format for electronic reproduction submitted pursuant to §§ 1.52(d), 1.53(d), 1.60(d), 1.62(d), 1.494(c) or 1.495(c), or an oath or declaration submitted pursuant to §§ 1.494(c) or 1.495(c);

(iii)< The response is a reply brief submitted pursuant to § 1.193(b);

>(iv)< [(iii)] The response is a request for an oral hearing submitted pursuant to § 1.194(b);

>(v)< [(iv)] The response is to a decision by the Board of Patent Appeals and Interferences pursuant to § 1.196, § 1.197 or § 1.304; or

>(vi)< [(v)] The application is involved in an interference declared pursuant to § 1.611.

(2) The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for purposes of determining the period of extension and the corresponding amount of the fee. The expiration of the time period is determined by the amount of the fee paid. In no case may an applicant respond later than the maximum time period set by statute, or be granted an extension of time under paragraph (b) of this section when the provisions of this paragraph are available. See § 1.136(b) for extensions of time relating to >the filing of an English translation pursuant to §§ 1.52(d), 1.494(c) or 1.495(c), the filing of an abstract or claims on a separate sheet, substitute specification or sheets of drawings of sufficient clarity, contrast, and quality and in the proper size and format for electronic reproduction pursuant to §§ 1.53(d), 1.60(d), 1.62(d), 1.494(c), or 1.495(c), the filing of an oath or declaration pursuant to §§ 1.494(c) or 1.495(c), or< proceedings pursuant to §§ 1.193(b), 1.194, 1.196 or 1.197. See § 1.304 for extension of time to appeal to the U.S. Court of Appeals for the Federal Circuit or to commence a civil action. See § 1.550(c) for extension of time in reexamination proceedings and § 1.645 for extension of time in interference proceedings.

37. Section 1.138 is proposed to be revised to read as follows:

§ 1.138 Express abandonment.

An application may be expressly abandoned by filing in the Patent and Trademark Office a written declaration of abandonment signed by the applicant and the assignee of record, if any, and identifying the application. An application may also be expressly abandoned by filing a written declaration of abandonment signed by the attorney or agent of record. A registered attorney or agent acting under the provision of § 1.34(a), or of record, may also expressly abandon a prior application as of the filing date granted to a continuing application when filing such a continuing application. Express abandonment of the application may not be recognized by the Office unless it is actually received by appropriate officials in time to act thereon before the date of issue >or publication. An applicant seeking to abandon an application to avoid publication of the application must submit a proper letter of express abandonment more than two months prior to the projected date of publication to allow sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process, and unless an applicant receives written acknowledgement of the letter of express abandonment prior to the projected date of publication, applicant should expect that the application will be published in regular course<.

38. Section 1.154 is proposed to be revised to read as follows:

§ 1.154 Arrangement of specification.

>(a) The elements of the design application, if applicable, should appear in the following order< [The following order of arrangement should be observed in framing design specifications]:

>(1) Design Application Transmittal Form.

(2) Fee Transmittal Form.

(3)< [(a)] Preamble, stating name of the applicant and title of the design.

>(4) Cross-reference to related applications.

(5) Statement regarding federally sponsored research or development.<

>(6)< [(b)] Description of the figure or figures of the drawing.

>(7)< [(c)] Description [, if any].

>(8)< [(d)] Claim.

>(9) Drawings or photographs

(10)< [(e)] Executed oath or declaration (See § 1.153(b)).

(b) [Reserved]

39. Section 1.163 is proposed to be amended by adding new paragraphs (c) and (d) to read as follows:

§ 1.163 Specification.

* * * * *

>(c) The elements of the plant application, if applicable, should appear in the following order:

(1) Plant Application Transmittal Form.

(2) Fee Transmittal Form.

(3) Abstract of the disclosure.

(4) Title of the invention.

(5) Cross-reference to related applications.

(6) Statement regarding federally sponsored research or development.

(7) Background of the invention.

(8) Brief summary of the invention.

(9) Brief description of the drawing.

(10) Detailed Botanical Description.

(11) Claim.

(12) Drawings (in duplicate).

(13) Executed oath or declaration.

(14) Plant color coding sheet.

(d) A plant color coding sheet as used in this section means a sheet that specifies a color coding system as designated in a recognized color dictionary, and lists every plant structure to which color is a distinguishing feature and the corresponding color code which best represents that plant structure.<

40. Section 1.291 is proposed to be amended by revising paragraphs (a)–(b) to read as follows:

§ 1.291 Protests by the public against pending applications.

(a) Protests by a member of the public against pending applications will be referred to the examiner having charge of the subject matter involved. A protest specifically identifying the application to which the protest is directed will be entered in the application file if:

(1) The protest is [timely] submitted >:

(i) prior to the date the application was published or the mailing of a notice of allowance under § 1.311, whichever occurs first; or

(ii) within two months of the date the application was published or prior to

the mailing of a notice of allowance under § 1.311, whichever occurs first, if accompanied by the fee set forth in § 1.17(t)<; and

(2) The protest is either served upon the applicant in accordance with § 1.248, or >, if submitted prior to the date the application was published,< filed with the Office in duplicate in the event service is not possible.

[Protests raising fraud or other inequitable conduct issues will be entered in the application file, generally without comment on those issues. Protests which do not adequately identify a pending patent application will be disposed of and will not be considered by the Office.]

(b) >Protests raising fraud or other inequitable conduct issues will be entered in the application file, generally without comment on those issues. Protests which do not adequately identify a pending patent application will be disposed of and will not be considered by the Office.< A protest submitted in accordance with the second sentence of paragraph (a) of this section will be considered by the Office if >the application is still pending when the protest and application file are brought before the examiner and< it includes:

(1) A listing of the patents, publications, or other information relied upon;

(2) A concise explanation of the relevance of each listed item;

(3) A copy of each listed patent or publication or other item of information in written form or at least the pertinent portions thereof; and

(4) An English language translation of all the necessary and pertinent parts of any non-English language patent, publication, or other item of information in written form relied upon.

* * * * *

41. Section 1.292 is proposed to be amended by revising paragraphs (a)–(b) to read as follows:

§ 1.292 Public use proceedings.

(a) When a petition for the institution of public use proceedings, supported by affidavits or declarations [and the fee set forth in § 1.17(j), is filed by one having information of the pendency of an application and] is found, on reference to the examiner, to make a *prima facie* showing that the invention claimed in an application believed to be on file had been in public use or on sale more than one year before the filing of the application, a hearing may be had before the Commissioner to determine whether a public use proceeding should be instituted. If instituted, the Commissioner may designate an appropriate official to conduct the public use proceeding, including the setting of times for taking testimony, which shall be taken as provided by §§ 1.671 through 1.685. The petitioner will be heard in the proceedings but after decision therein will not be heard further in the prosecution of the application for patent.

(b) The petition and accompanying papers [should either: (1) Reflect that a copy of the same has been served upon the applicant or upon his attorney or agent of record; or (2) be filed with the Office in duplicate in the event service is not possible. The petition and accompanying papers], or a notice that such a petition has been filed, shall be entered in the application file [.] >if:

(1) The petition is accompanied by the fee set forth in § 1.17(j);

(2) The petition is served on the applicant in accordance with § 1.248, or, if submitted prior to the date the application was published, filed with the Office in duplicate in the event service is not possible; and

(3) The petition is submitted within two months of the date the application was published or prior to the mailing of a notice of allowance under § 1.311, whichever occurs first.<

* * * *

42. A new, undesignated center heading and new sections 1.305 through 1.308 are proposed to be added to Subpart B-National Processing Provisions to read as follows:

>Publication of Applications

§ 1.305 Withdrawal from publication.

Applications may be withdrawn from publication at the initiative of the Office or upon request by the applicant. An application will not be withdrawn from publication for any reason except:

(a) A mistake on the part of the Office;

(b) The application is either national security classified (see § 5.9(b)) or subject to a secrecy order pursuant to 35 U.S.C. 181; or

(c) Express abandonment of the application pursuant to § 1.138.

§ 1.306 Publication of application.

(a) A U.S. national application for patent which was either filed in the Office under 35 U.S.C. 111(a) or which resulted from an international application after compliance with 35 U.S.C. 371, or an application filed in the Office under 35 U.S.C. 161 will be published as soon as possible after the expiration of a period of 18 months from the filing date, including the earliest filing date for which a benefit is sought, unless:

(1) The application is national security classified (see § 5.9(b)) or subject to a secrecy order pursuant to 35 U.S.C. 181;

(2) The application has issued as a patent;

(3) The application is recognized by the Office as no longer pending; or

(4) The application was previously published pursuant to paragraph (d) of this section.

(b) The publication of an application shall consist of:

(1) A notice designated as a ''Gazette Entry'' containing information such as the application number, filing date, title, inventor's name, abstract, a drawing figure (if appropriate), a representative claim, and U.S. and International Patent Classification (IPC) classification(s) in a Gazette of Patent Application Notices;

(2) A printed publication designated as a ''patent application notice'' containing information such as the application number, filing date, title, inventor's name, correspondence address, abstract, a drawing figure (if appropriate), a representative claim, and U.S. and International Patent Classification (IPC) classification(s);

(3) A document designated as a ''technical contents publication'' containing the patent application notice and the specification, abstract, claim(s), and drawing(s); and

(4) Public access to a copy of the specification, drawings, and all papers relating to the application file in accordance with § 1.11(a).

(c) Provisional applications filed in the Office under 35 U.S.C. 111(b) shall not be published, and design applications filed in the Office under 35 U.S.C. 171 and reissue applications filed in the Office under 35 U.S.C. 251 shall not be published pursuant to this section.

(d) Applications that will be published pursuant to paragraph (a) of this section may be published earlier than as set forth in paragraph (a) of this section upon petition by the applicant. Any petition requesting early publication of an application must be accompanied by the fee set forth in § 1.17(i) and filed as soon as possible. No consideration will be given to requests for early publication in an application lacking an abstract or claims on a separate sheet, any English translation required pursuant to § 1.52(d), or substitute specification or drawings required pursuant to §§ 1.53(d), 1.60(d), or 1.62(d). No consideration will be given to requests for publication on a certain date, and such requests will be treated as a request for publication as soon as possible.

(e) An applicant who is an independent inventor and has been

accorded status under 35 U.S.C. 41(h) in an application that will be published pursuant to paragraph (a) of this section and does not claim the benefit of an earlier filing date under 35 U.S.C. 119, 120, 121, 365(a) or 365(c) may request that the application not be published until three months after an action on the merits. A petition requesting that the application not be published until three months after an action on the merits must be submitted with the filing of the application and be accompanied by:

(1) The petition fee set forth in § 1.17(i); and

(2) A certification that the invention disclosed in the application was not or will not be the subject of an application filed in a foreign country. The certification must be verified if made by a person not registered to practice before the Patent and Trademark Office.

§ 1.307 Delivery of the printed publication.

The patent application notice will be delivered or mailed on the day of its publication to the correspondence address of record. See § 1.33(a).

§ 1.308 Correction of the printed publication.

A request for a certificate of correction for the patent application notice will only be granted when the Office makes a significant mistake which is apparent from Office records.<

43. Section 1.315 is proposed to be revised to read as follows:

§ 1.315 Delivery of patent.

The patent will be delivered or mailed >upon issuance< [on the day of its date] to >the correspondence address of record. See § 1.33(a).< [the attorney or agent of record, if there be one; or if the attorney or agent so requests, to the patentee or assignee of an interest therein; or, if there be no attorney or agent, to the patentee or to the assignee of the entire interest, if he so requests.]

44. Section 1.321 is proposed to be amended by revising paragraph (c) to read as follows:

§ 1.321 Statutory disclaimers, including terminal disclaimers.

* * * * *

(c) A terminal disclaimer, when filed to obviate a >non-statutory< double patenting rejection in a patent application or in a reexamination proceeding, must:

(1) Comply with the provisions of paragraphs (b)(2) through (b)(4) of this section;

(2) Be signed in accordance with paragraph (b)(1) of this section if filed in a patent application or in accordance with paragraph (a)(1) of this section if filed in a reexamination proceeding; and

(3) Include a provision that any patent granted on that application or any patent subject to the reexamination proceeding shall be enforceable only for and during such period that said patent is commonly owned with the application or patent which formed the basis for the rejection.

45. Section 1.492 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.492 National stage fees.

* * * * *

(a) The basic national fee:

(1) Where an international preliminary examination fee as set forth in § 1.482 has been paid on the international application to the United States Patent and Trademark Office:

By a small entity (§ 1.9(f))—>$355.00< [$330.00]

By other than a small entity—>710.00< [660.00]

(2) Where no international preliminary examination fee as set forth in § 1.482 has been paid to the United States Patent and Trademark Office, but an international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office as an International Searching Authority:

By a small entity (§ 1.9(f))—>390.00< [365.00]

By other than a small entity—>780.00< [730.00]

(3) Where no international preliminary examination fee as set forth in § 1.482 has been paid and no international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office:

By a small entity (§ 1.9(f))—>520.00< [490.00]

By other than a small entity—>1040.00< [980.00]

(4) Where the international preliminary examination fee as set forth in § 1.482 has been paid to the United States Patent and Trademark Office and the international preliminary examination report states that the criteria of novelty, inventive step (non-obviousness), and industrial applicability, as defined in PCT Article 33(1) to (4) have been satisfied for all the claims presented in the application entering the national stage (see § 1.496(b)):

By a small entity (§ 1.9(f))—>60.00< [46.00]

By other than a small entity—>120.00< [92.00]

(5) Where a search report on the international application has been prepared by the European Patent Office or the Japanese Patent Office:

By a small entity (§ 1.9(f))—>455.00< [425.00]

By other than a small entity—>910.00< [850.00]

* * * * *

46. Section 1.494 is proposed to be amended by revising paragraphs (c) and (g) to read as follows:

§ 1.494 Entering the national stage in the United States of America as a Designated Office.

* * * * *

(c) If applicant complies with paragraph (b) of this section before expiration of 20 months from the priority date but omits:

(1) A translation of the international application, as filed, into the English language, if it was originally filed in another language (35 U.S.C. 371(c)(2)) >;< [and/or]

(2) The oath or declaration of the inventor (35 U.S.C. 371(c)(4); see § 1.497);

>(3) An abstract or claims on a separate sheet (see §§ 1.72(b) and 1.75(h));

(4) Papers typed on but one side of the paper (see § 1.52(b)); and/or

(5) Application papers or sheets of drawings of sufficient clarity, contrast, and quality, and in the proper size and format for electronic reproduction (see §§ 1.52(a) and (b) and 1.85(a)),< applicant will be so notified and given a period of time within which to file the >English< translation >,< [and/or] oath or declaration >, abstract or claims on a separate sheet, and a substitute specification in compliance with § 1.125 with papers typed on but one side of the paper and sheets of drawings, each of the substitute specification and sheets of drawings of sufficient clarity, contrast, and quality and in the proper size and format for electronic reproduction< in order to prevent abandonment of the application. The payment of the processing fee set forth in § 1.492(f) is required for acceptance of an English translation later than the expiration of 20 months after the priority date. The payment of the surcharge set forth in § 1.492(e) is required for acceptance of the oath or declaration of the inventor later than the expiration of 20 months after the priority date. >The period for filing the English translation, oath or declaration, an abstract and claims on a separate sheet, and a substitute specification and sheets of drawings of sufficient clarity, contrast, and quality and in the proper size and format for electronic reproduction cannot be extended pursuant to § 1.136(a).< A copy of the notification mailed to

applicant should accompany any response thereto submitted to the Office.

* * * * *

(g) An international application becomes abandoned as to the United States 20 months from the priority date if the requirements of paragraph (b) of this section have not been complied with within 20 months from the priority date where the United States has been designated but not elected by the expiration of 19 months from the priority date. If the requirements of paragraph (b) of this section are complied with within 20 months from the priority date but any required translation of the international application as filed >,< [and/or] the oath or declaration >,abstract or claims on a separate sheet, and/or substitute specification in compliance with § 1.125 with papers typed on but one side of the paper and sheets of drawings, each of the substitute specification and sheets of drawings of sufficient clarity, contrast, and quality and in the proper size and format for electronic reproduction< are not timely filed, an international application will become abandoned as to the United States upon expiration of the time period set pursuant to paragraph (c) of this section.

47. Section 1.495 is proposed to be amended by revising paragraphs (c) and (h) to read as follows:

§ 1.495 Entering the national stage in the United States of America as an Elected Office.

* * * * *

(c) If applicant complies with paragraph (b) of this section before expiration of 30 months from the priority date but omits:

(1) A translation of the international application, as filed, into the English language, if it was originally filed in another language (35 U.S.C. 371(c)(2)) >;< [and/or]

(2) The oath or declaration of the inventor (35 U.S.C. 371(c)(4); see § 1.497);

>(3) An abstract or claims on a separate sheet (see §§ 1.72(b) and 1.75(h));

(4) Papers typed on but one side of the paper (see § 1.52(b)); and/or

(5) Application papers or sheets of drawings of sufficient clarity, contrast, and quality, and in the proper size and format for electronic reproduction (see §§ 1.52(a) and (b) and 1.85(a)),< applicant will be so notified and given a period of time within which to file the >English< translation >,< [and/or] oath or declaration >, abstract or claims on a separate sheet, and a substitute specification in compliance with § 1.125 with papers typed on but one side of the paper and sheets of drawings, each of the substitute specification and sheets of drawings of sufficient clarity, contrast, and quality and in the proper size and format for electronic reproduction< in order to prevent abandonment of the application. The payment of the processing fee set forth in § 1.492(f) is required for acceptance of an English translation later than the expiration of 30 months after the priority date. The payment of the surcharge set forth in § 1.492(e) is required for acceptance of the oath or declaration of the inventor later than the expiration of 30 months after the priority date. >The period for filing the English translation, oath or declaration, an abstract and claims on a separate sheet, and a substitute specification and sheets of drawings of sufficient clarity, contrast, and quality and in the proper size and format for electronic reproduction cannot be extended pursuant to § 1.136(a).< A copy of the notification mailed to applicant should accompany any response thereto submitted to the Office.

* * * * *

(h) An international application becomes abandoned as to the United States 30 months from the priority date if the requirements of paragraph (b) of this section have not been complied with within 30 months from the priority date where the United States has been elected by the expiration of 19 months from the priority date. If the requirements of paragraph (b) of this section are complied with within 30 months from the priority date but any required translation of the international application as filed >,< [and/or] the oath or declaration >,abstract or claims on a separate sheet, and/or a substitute specification in compliance with § 1.125 with papers typed on but one side of the paper and sheets of drawings, each of the substitute specification and sheets of drawings of sufficient clarity, contrast, and quality and in the proper size and format for electronic reproduction< are not timely filed, an international application will become abandoned as to the United States upon expiration of the time period set pursuant to paragraph (c) of this section.

48. Section 1.497 is proposed to be revised to read as follows:

§ 1.497 Oath or declaration under 35 U.S.C. 371(c)(4).

(a) When an applicant of an international application [, if the inventor,] desires to enter the national stage under 35 U.S.C. 371 pursuant to §§ 1.494 or 1.495, he or she must file an oath or declaration >that:

(1) Is executed in accordance with either §§ 1.66 or 1.68;

(2) Identifies the specification to which it is directed;

(3) Identifies each inventor and the country of citizenship of each inventor; and

(4) States that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.< [in accordance with § 1.63.]

(b) >(1) The oath or declaration must be made by all of the actual inventors except as provided for in §§ 1.42, 1.43 or 1.47.

(2)< If the >person making the oath or declaration is not the inventor (§§ 1.42, 1.43 or 1.47),< [international application was made as provided in §§ 1.422, 1.423 or 1.425,] the >oath or declaration shall state the relationship of the person< [applicant shall state his or her relationship] to the inventor and, upon information and belief, the facts which the inventor is required [by § 1.63] to state.

>(c) The oath or declaration must comply with the requirements of § 1.63; however, if the oath or declaration meets the requirements of paragraphs (a) and (b) of this section, the oath or declaration will be accepted as complying with 35 U.S.C. 371(c)(4) and §§ 1.494(c) or 1.495(c). If the oath or declaration does not meet the requirements of § 1.63, a supplemental oath or declaration in compliance with § 1.63 will be required in accordance with § 1.67.<

49. Section 1.701 is proposed to be revised as follows:

§ 1.701 Extension of patent term due to prosecution delay.

(a) A patent, other than for designs, issued on an application filed on or after June 8, 1995, is >, subject to the provisions of this section,< entitled to extension of the patent term if the issuance of the patent was delayed due to:

(1) Interference proceedings under 35 U.S.C. 135(a); and/or

(2) The application being placed under a secrecy order under 35 U.S.C. 181; and/or

(3) Appellate review by the Board of Patent Appeals and Interferences or by a Federal court under 35 U.S.C. 141 or 145, if the patent was issued pursuant to a decision reversing an adverse determination of patentability >; and/or< [and if the patent is not subject to a terminal disclaimer due to the issuance of another patent claiming subject matter that is not patentably distinct from that under appellate review.]

>(4) An unusual administrative delay by the Office.

(i) Circumstances constituting an unusual administrative delay by the Office include the failure to:

(A) Act on a reply under § 1.111 or appeal brief under § 1.192 within six months of the date it was filed;

(B) Act on an application within six months of the date of a decision under § 1.196 by the Board of Patent Appeals and Interferences where claims stand allowed in an application or the nature of the decision requires further action by the examiner (§ 1.197); and

(C) Issue a patent within six months of the date that the issue fee was paid or all outstanding requirements were satisfied, whichever is later.<

(ii) [Reserved]

(b) The term of a patent entitled to extension under paragraph (a) of this section shall be extended for the sum of the periods of delay calculated under paragraphs (c)(1), (c)(2), (c)(3) >, (c)(4)< and (d) of this section, to the extent that these periods are not overlapping, up to a maximum of >ten< [five] years. The extension will run from the expiration date of the patent.

(c)(1) The period of delay under paragraph (a)(1) of this section for an application is the sum of the following periods, to the extent that the periods are not overlapping:

(i) With respect to each interference in which the application was involved, the number of days, if any, in the period beginning on the date the interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and

(ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Patent and Trademark Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension.

(2) The period of delay under paragraph (a)(2) of this section for an application is the sum of the following periods, to the extent that the periods are not overlapping:

(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181;

(ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 1.193 in the application under secrecy order and ending on the date the secrecy order and any renewal thereof was removed;

(iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order and any renewal thereof was removed; and

(iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) >of this chapter< and ending on the date of mailing of the notice of allowance under § 1.311.

(3) The period of delay under paragraph (a)(3) of this section is the sum of the number of days, if any, in the period beginning on the date on which an appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and ending on the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145.

>(4) The period of delay under paragraph (a)(4) of this section is the sum of the number of days, if any, in the period of unusual delay by the Office.<

(d) The period [of delay] set forth in paragraph (c)[(3)] shall be reduced by >any time during the processing or examination of the application, as determined by the Commissioner, during which the applicant for patent failed to engage in reasonable efforts to conclude processing or examination of the application. In determining whether an applicant failed to engage in reasonable efforts to conclude processing or examination of the application, the Commissioner may examine the facts and circumstances of the applicant's actions during the entire prosecution of the application to determine whether the applicant exhibited that degree of timeliness as may reasonably be expected from, and which is ordinarily exercised by, an applicant for patent seeking to conclude the processing or examination of the application. Circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the application include:

(1) Requesting suspension of action under § 1.103; and

(2) Abandonment of the application.< [:

(1) any time during the period of appellate review that occurred before three years from the filing date of the first national application for patent presented for examination; and

(2) any time during the period of appellate review, as determined by the Commissioner, during which the applicant for patent did not act with due diligence. In determining the due diligence of an applicant, the Commissioner may examine the facts and circumstances of the applicant's actions during the period of appellate review to determine whether the applicant exhibited that degree of timeliness as may reasonably be expected from, and which is ordinarily exercised by, a person during a period of appellate review.]

>(e) No patent term shall be extended under this section:

(1) Beyond the expiration date specified in a terminal disclaimer in a patent whose term has been disclaimed in such terminal disclaimer; or

(2) In a patent issued before the expiration of three years after the filing date of the application or entry of the application into the national stage under 35 U.S.C. 371, whichever is later, not taking into account any claim to the benefit of the filing date of any application under 35 U.S.C. 120, 121, 365(c).

(f) Any extension of patent term under paragraph (a)(4) of this section on the basis of an administrative delay other than one specifically set forth in paragraphs (a)(4)(i)(A) through (C) of this section must be requested by petition. A petition for an extension of patent term based upon unusual administrative delay by the Office other than one specifically set forth in paragraphs (a)(4)(i)(A) through (C) of this section cannot be filed prior to the mailing of a notice of allowance under § 1.311 and must be accompanied by:

(1) A statement of the facts involved, the administrative delay by the Office to be reviewed, and the period of extension requested; and

(2) The fee set forth in § 1.17(i). The petition may include a request that the petition fee be refunded if an extension of the patent term under paragraph (a)(4) of this section is granted.<

50. Section 1.808 is proposed to be amended by revising paragraph (a) to read as follows:

§ 1.808 Furnishing of samples.

(a) A deposit must be made under conditions that assure that:

(1) Access to the deposit will be available during pendency of the patent application making reference to the deposit to one determined by the Commissioner to be entitled thereto under § 1.14 and 35 U.S.C. 122>(a)<, and

(2) Subject to paragraph (b) of this section, all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon the >publication of the application under § 1.306 or< granting of the patent.

* * * * *

PART 3—ASSIGNMENT, RECORDING AND RIGHTS OF ASSIGNEE

51. The authority citation for 37 CFR part 3 would continue to read as follows:

Authority: 15 U.S.C. 1123; 35 U.S.C. 6.

52. Section 3.31 is proposed to be amended by redesignating paragraph (b) as paragraph (c) and adding a new paragraph (b) to read as follows:

§ 3.31 Cover sheet content.

* * * * *

(b) >For a patent application, the cover sheet may include an indication that the assignment information is to be printed on the patent application notice. If the assignment and cover sheet containing the above-mentioned indication is not submitted within two months of filing or fourteen months from the earliest filing date for which a benefit is claimed, whichever is later, the assignment information may not be printed on the patent application notice.<

* * * * *

PART 5—SECRECY OF CERTAIN INVENTIONS AND LICENSES TO EXPORT AND FILE APPLICATIONS IN FOREIGN COUNTRIES

53. The authority citation for 37 CFR part 5 would continue to read as follows:

Authority: 35 U.S.C. 6, 41, 181–188, as amended by the Patent Law Foreign Filing Amendments Act of 1988, Pub. L. 100–418, 102 Stat. 1567; the Arms Export Control Act, as amended, 22 U.S.C. 2751 et seq.; the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.; and the Nuclear Non-Proliferation Act of 1978, 22 U.S.C. 3201 et seq.; and the delegations in the regulations under these Acts to the Commissioner (15 CFR 370.10(j), 22 CFR 125.04, and 10 CFR 810.7).

54. Section 5.1 is proposed to be amended by adding new paragraphs (c) and (d) to read as follows:

§ 5.1 Defense inspection of certain applications.

* * * * *

>(c) Defense agency inspection must be promptly completed to enable those applications due for publication under § 1.306 of this chapter to be published in regular course. Applications under defense agency review will be released for publication six months from the actual U.S. filing date or three months from the date the application was made available to a defense agency under paragraph (b) of this section, whichever is later.

(d) Applications on inventions not made in the United States and on inventions in which the U.S. Government has a property interest will not be made available to defense agencies under § 5.2(b).<

55. A new § 5.9 is proposed to be added under the undesignated center heading ''Secrecy Orders'' to read as follows:

>§ 5.9 National security classified applications.

(a) Patent applications and papers relating thereto that are national security classified and contain authorized national security markings of ''Confidential,'' ''Secret'' or ''Top Secret,'' as appropriate, are accepted by the Office. National security classified documents mailed to the Office must be addressed in compliance with § 5.33. National security classified documents may be hand-carried to Licensing and Review.

(b) A national security classified patent application will not be published pursuant to § 1.306 of this chapter or allowed pursuant to § 1.311 of this chapter until the application is declassified.

(c) The applicant in a national security classified patent application must obtain a secrecy order pursuant to § 5.2. In a national security classified patent application filed without a notification pursuant to § 5.2(a), the Office will set a time period within which the application must be declassified, a secrecy order pursuant to § 5.2 must be obtained, or evidence of a good faith effort to obtain a secrecy order pursuant to § 5.2 from the relevant department or agency must be presented in order to prevent abandonment of the application.

(d) Where evidence of a good faith effort to obtain a secrecy order pursuant to § 5.2 from the relevant department or agency is presented within the time period set by the Office, but the application has not been declassified and a secrecy order pursuant to § 5.2 has not been obtained, the Office will again set a time period within which the application must be declassified, a secrecy order pursuant to § 5.2 must be obtained, or evidence of a good faith effort to again obtain a secrecy order pursuant to § 5.2 from the relevant department or agency must be presented in order to prevent abandonment of the application.<

Dated: July 27, 1995.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

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

BILLING CODE 3510–16–P

Appendix A—Forms

PTO/SB/ xx (6-95)
Approved for use through OMB 0651-0032
Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

0002/PTO
Rev. 6/95

U.S. Department of Commerce
Patent and Trademark Office

FEE TRANSMITTAL

TOTAL AMOUNT OF PAYMENT ($)

Complete if Known	
Application Number	
Filing Date	
First Named Inventor	
Group Art Unit	
Examiner Name	
Attorney Docket Number	

METHOD OF PAYMENT *(check one)*

1 ☐ **The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:**

Deposit Account Number

Deposit Account Name

☐ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

☐ Charge the Issue Fee Set in 37 CFR 1.18 at the Mailing of the Notice of Allowance, 37 CFR 1.311(b)

2 ☐ **Payment Enclosed:**

☐ Check

☐ Money Order

☐ Other

(reserved space)

FEE CALCULATION *(fees effective 10/01/94)*

1 FILING FEE

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
101	730	201	365	Utility filing	
106	300	206	150	Design filing fee	
107	490	207	245	Plant filing fee	
108	730	208	365	Reissue filing fee	

SUBTOTAL (1) ($)

2 CLAIMS

			Extra		Fee from below	Fee Paid
Total Claims		- 20 =		X		=
Independent Claims		- 3 =		X		=
Multiple Dependent Claims						=

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description
102	76	202	38	Independent claims in excess of 3
103	22	203	11	Claims in excess of 20
104	240	204	120	Multiple dependent claim
109	76	209	38	Reissue independent claims over original patent
110	22	210	11	Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) ($)

3 ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee ($)	Small Entity Fee Code	Small Entity Fee ($)	Fee Description	Fee Paid
105	130	205	65	Surcharge-late filing fee or oath	
139	130	139	130	Non-English specification	
147	2,320	147	2,320	For filing a request for reexamination	
112	840	112	840	Requesting publication of SIR prior to Examiner action	
113	1,690	113	1,690	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for response within first month	
116	370	216	185	Extension for response within second month	
117	870	217	435	Extension for response within third month	
118	1,360	218	680	Extension for response within fourth month	
119	280	219	140	Notice of Appeal	
120	280	220	140	Filing a brief in support of an appeal	
121	240	221	120	Request for oral hearing	
138	1,390	138	1,390	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive unavoidably abandoned application	
141	1,210	241	605	Petition to revive unintentionally abandoned application	
142	1,210	242	605	Utility issue fee (or reissue)	
143	420	243	210	Design issue fee	
144	610	244	305	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
126	210	126	210	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (x no. properties)	
114	150	214	75	Provisional Application filing	

Other fee (specify) _____

Other fee (specify) _____

SUBTOTAL (3) ($)

SUBMITTED BY				Complete *(if applicable)*	
Typed or Printed Name				Reg. Number	
Signature		Date		Deposit Account User ID	

Burden Hour Statement: This form is estimated to take .2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (Project 0651-0032), Washington DC 20503. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Please type a plus sign (+) inside this box --> ☐

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Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

0002/PTO
Rev. 6/95

U.S. Department of Commerce
Patent and Trademark Office

NEW UTILITY PATENT APPLICATION TRANSMITTAL

(to be used for new applications only)

Attorney Docket Number	
First Named Inventor	
Total Pages in this Submission	

APPLICATION ELEMENTS

*Notice: Checklist items mentioned under **Application Elements** section construct a new utility patent application. Please refer to MPEP Sections 506, 601, (37CFR 1.77, 1.53, 35 USC 111, 112, 113) for detailed explanation regarding completeness of an original patent application.*

1. ☐ Fee Transmittal Form (prescribed filing fee(s))
2. Specification
   - ☐ Abstract of the Disclosure
   - ☐ Title of the Invention
   - ☐ Cross References to Related Applications *(if applicable)*
   - ☐ Statement Regarding Federally-sponsored Research/Development *(if applicable)*
   - ☐ Reference to Microfiche Appendix *(if applicable)*
   - ☐ Background of the Invention
   - ☐ Brief Summary of the Invention
   - ☐ Brief Description of the Drawings *(if drawings filed)*
   - ☐ Detailed Description
   - ☐ Claim or Claims
3. ☐ Drawing(s) *(when necessary as prescribed by 35 USC 113)*
4. ☐ Executed Declaration
5. Genetic Sequence Submission *(if applicable, all must be included)*
   - ☐ Paper Copy
   - ☐ Computer Readable Copy
   - ☐ Statement Verifying Identical Paper and Computer Readable Copy

ACCOMPANYING APPLICATION PARTS

6. ☐ Assignment Papers
7. ☐ Certified Copy of Priority Document(s) *(if foreign priority is claimed)*
8. ☐ Computer Program in Microfiche
9. ☐ English Translation Document *(if applicable)*
10. ☐ Information Disclosure Statement/PTO-1449 ☐ Copies of IDS Citations
11. ☐ Petition Checklist and Accompanying Petition
12. ☐ Preliminary Amendment
13. ☐ Proprietary Information
14. ☐ Return Receipt Postcard
15. ☐ Small Entity Statement
16. ☐ Additional Enclosures *(please identify below):*

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm *or* Individual name	
Signature	
Date	

FOR OFFICIAL USE ONLY

Application Number			Class		Independent Claims	
Date of Receipt	Application Type		GAU		Total Claims	
	Filing Date		Foreign Filing License?		Drawing Sheets	
	Small Entity		Foreign Address?		Special Handling?	

Burden Hour Statement: This form is estimated to take .2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (Project 0651-0032), Washington DC 20503. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Please type a plus sign (+) inside this box --> ☐

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Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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U.S. Department of Commerce
Patent and Trademark Office

NEW DESIGN PATENT APPLICATION TRANSMITTAL

(to be used for new applications only)

Attorney Docket Number	
First Named Inventor	
Total Pages in this Submission	

APPLICATION ELEMENTS

*Notice: Checklist items mentioned under **Application Elements** section construct a new design patent application. Please refer to MPEP Section1500 (37 CFR 1.151, 1.152, 1.153, 1.154) for detailed explanation regarding completeness of an original design application*

1. ☐ Fee Transmittal Form (prescribed filing fee(s))
2. Specification
   - ☐ Preamble (Application name, Title of Design)
   - ☐ Cross References to Related Applications *(if applicable)*
   - ☐ Statement Regarding Federally-sponsored Research/Development *(if applicable)*
   - ☐ Description of the Figure(s) of the Drawings
   - ☐ Claim
3. ☐ Drawings
   - ☐ Photographs
4. ☐ Executed Declaration

ACCOMPANYING APPLICATION PARTS

5. ☐ Assignment Papers
6. ☐ Certified Copy of Priority Document(s) *(if foreign priority is claimed)*
7. ☐ English Translation Document *(if applicable)*
8. ☐ Information Disclosure Statement/PTO-1449 ☐ Copies of IDS Citations
9. ☐ Petition Checklist and Accompanying Petition
10. ☐ Preliminary Amendment
11. ☐ Proprietary Information
12. ☐ Return Receipt Postcard
13. ☐ Small Entity Statement
14. ☐ Additional Enclosures *(please identify below):*

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm *or* Individual name	
Signature	
Date	

FOR OFFICIAL USE ONLY

Application Number			Class		Drawing Sheets	
Date of Receipt	Application Type		GAU		Special Handling?	
	Filing Date		Foreign Filing License?			
	Small Entity		Foreign Address?			

Burden Hour Statement: This form is estimated to take .2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (Project 0651-0032), Washington DC 20503. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

Please type a plus sign (+) inside this box --> ☐

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U.S. Department of Commerce
Patent and Trademark Office

NEW PLANT PATENT APPLICATION TRANSMITTAL

(to be used for new applications only)

Attorney Docket Number	
First Named Inventor	
Total Pages in this Submission	

APPLICATION ELEMENTS

*Notice: Checklist items mentioned under **Application Elements** section construct a new plant patent application. Please refer to MPEP Sections 506, 601, 1600 (37 CFR 1.53, 35 USC 111, 112, 113) for detailed explanation regarding completeness of an original plant application.*

1. ☐ Fee Transmittal Form (prescribed filing fee(s))
2. Specification
   - ☐ Abstract of the Disclosure
   - ☐ Title of the Invention *(with Plant's name)*
   - ☐ Cross References to Related Applications *(if applicable)*
   - ☐ Statement Regarding Federally-sponsored Research/Development *(if applicable)*
   - ☐ Background of the Invention
   - ☐ Brief Summary of the Invention
   - ☐ Brief Description of the Drawings
   - ☐ Detailed Botanical Description
   - ☐ Claim
3. ☐ Drawing(s) in duplicate *(as prescribed by 35 USC 165)*
4. ☐ Executed Declaration
5. ☐ Plant Color Coding Sheet

ACCOMPANYING APPLICATION PARTS

6. ☐ Assignment Papers
7. ☐ Certified Copy of Priority Document(s) *(if foreign priority is claimed)*
8. ☐ English Translation Document *(if applicable)*
9. ☐ Information Disclosure Statement/PTO-1449 ☐ Copies of IDS Citations
10. ☐ Petition Checklist and Accompanying Petition
11. ☐ Preliminary Amendment
12. ☐ Proprietary Information
13. ☐ Return Receipt Postcard
14. ☐ Small Entity Statement
15. ☐ Additional Enclosures *(please identify below):*

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm *or* Individual name	
Signature	
Date	

FOR OFFICIAL USE ONLY

Application Number			Class		Drawing Sheets	
Date of Receipt	Application Type		GAU		Special Handling?	
	Filing Date		Foreign Filing License?			
	Small Entity		Foreign Address?			

Burden Hour Statement: This form is estimated to take .2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (Project 0651-0032), Washington DC 20503. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

PTO/SB/ xx (6-95)
OMB 0651-0032

Please type a plus sign (+) inside this box --> ☐

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Rev. 6/95

U.S. Department of Commerce
Patent and Trademark Office

PLANT COLOR CODING SHEET

(to be used for new applications only)

Sheet		of	

Attorney Docket Number	
First Named Inventor	
FOR OFFICIAL USE ONLY	
Date of Receipt	
Application Number	

PLEASE LIST THE ITEM TO WHICH COLOR IS A DISTINGUISHING FEATURE, THE COLOR CODE WHICH BEST REPRESENTS THAT PLANT STRUCTURE AND THE COLOR CODE SYSTEM.

ITEM	COLOR

COLOR CODE SYSTEM:	

Burden Hour Statement: This form is estimated to take .2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (Project 0651-0032), Washington DC 20503. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

PTO/SB/ xx (6-95)
OMB 0651-0032

Type a plus sign (+) inside this box → ☐

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Rev. 6/95

U.S. Department of Commerce
Patent and Trademark Office

DECLARATION

☐ Declaration Submitted with Initial Filing OR ☐ Declaration Submitted after Initial Filing

Attorney Docket Number	
First Named Inventor	
COMPLETE IF KNOWN	
Application Number	
Filing Date	
Group Art Unit	
Examiner Name	

As a below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled :

(Title of the Invention)

the specification of which

☐ is attached hereto

OR

☐ was filed on (MM/DD/YYYY) ☐ as United States Application Number or PCT International

Application Number ☐ and was amended on (MM/DD/YYYY) ☐ (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37 Code of Federal Regulations, §.56.

I hereby claim foreign priority benefits under Title 35, United States Code §119 (a)-(d) or §365(b) of any foreign application(s) for patent or inventor's certificate, or §365 (a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Copy Attached? YES	NO
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐

☐ Additional foreign application numbers are listed on a supplemental priority sheet attached hereto:

I hereby claim the benefit under Title 35, United States Code §119(e) of any United States provisional application(s) listed below.

Application Number(s)	Filing Date (MM/DD/YYYY)	
		☐ Additional provisional application numbers are listed on a supplemental priority sheet attached hereto.

Burden Hour Statement: This form is estimated to take .4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (Project 0651-0032), Washington DC 20503. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

DECLARATION

Page 2

I hereby claim the benefit under Title 35, United States Code §120 of any United States application(s), or §365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. Parent Application Number	PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number *(if applicable)*

☐ Additional U.S. or PCT international application numbers are listed on a supplemental priority sheet attached hereto.

As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

Firm Name _____ Payor Number (if applicable) _____

Name	Registration Number	Name	Registration Number

☐ Additional attorney(s) and/or agent(s) named on a supplemental sheet attached hereto.

☐ Please direct all correspondence to: **Name** _____

Address _____

Address _____

City _____ **State** _____ **ZIP** _____

Country _____ **Telephone** _____ **Fax** _____

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Name of Sole or First Inventor: _____ ☐ A petition has been filed for this unsigned inventor

Given Name		Middle Initial		Family Name		Suffix	
Inventor's Signature				Date			
RESIDENCE: City		State		Country		Citizenship	
POST OFFICE ADDRESS							
City		State		Zip		Country		Applicant Authority	

☐ Additional inventors are being named on supplemental sheet(s) attached hereto

Type a plus sign (+) inside this box --> ☐

DECLARATION	ADDITIONAL INVENTOR(S) Supplemental Sheet

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name		Middle Initial		Family Name		Suffix	
Inventor's Signature						Date	
RESIDENCE: City		State		Country		Citizenship	
POST OFFICE ADDRESS							
City		State		Zip		Country		Applicant Authority	

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name		Middle Initial		Family Name		Suffix	
Inventor's Signature						Date	
RESIDENCE: City		State		Country		Citizenship	
POST OFFICE ADDRESS							
City		State		Zip		Country		Applicant Authority	

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name		Middle Initial		Family Name		Suffix	
Inventor's Signature						Date	
RESIDENCE: City		State		Country		Citizenship	
POST OFFICE ADDRESS							
City		State		Zip		Country		Applicant Authority	

Name of Additional Joint Inventor, if any: ☐ A petition has been filed for this unsigned inventor

Given Name		Middle Initial		Family Name		Suffix	
Inventor's Signature						Date	
RESIDENCE: City		State		Country		Citizenship	
POST OFFICE ADDRESS							
City		State		Zip		Country		Applicant Authority	

☐ Additional inventors are being named on supplemental sheet(s) attached hereto

DECLARATION	**PRIORITY DATA (Supplemental Sheet)**

Additional foreign applications:

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Copy Attached? YES	NO
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐

Additional provisional applications:

Application Number	Filing Date (MM/DD/YYYY)

Additional U.S. applications:

U.S. Parent Application Number	PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number *(if applicable)*

DECLARATION	ATTORNEY and/or AGENT INFORMATION (Supplemental Sheet)

Name	Registration Number	Name	Registration Number

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Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Type a plus sign (+) inside this box → ☐

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Rev. 6/95

U.S. Department of Commerce
Patent and Trademark Office

PLANT PATENT APPLICATION (35 USC §161) DECLARATION

☐ Declaration Submitted with Initial Filing OR ☐ Declaration Submitted after Initial Filing

Attorney Docket Number	
First Named Inventor	
COMPLETE IF KNOWN	
Application Number	
Filing Date	
Group Art Unit	
Examiner Name	

As a below named inventor, I hereby declare that:

My residence, post office address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the new and distinct variety of:

plant named:

which is claimed and for which a plant patent is sought,

the specification of which ☐ is attached hereto ☐ was filed on (MM/DD/YYYY) as United States Application Number or PCT International Application Number and was amended on (MM/DD/YYYY) (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I hereby asexually reproduced the plant to which this application applies.

☐ Said plant was found in a cultivated area *(check this box for newly found plant only)*

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37 Code of Federal Regulations, § 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code §119 (a)-(d) or §365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Copy Attached? YES	NO
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐

☐ Additional foreign application numbers are listed on a supplemental sheet(s) attached hereto:

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below.

Application Number(s)	Filing Date (MM/DD/YYYY)	
		☐ Additional provisional application numbers are list on a supplemental sheet(s) attached hereto.

Burden Hour Statement: This form is estimated to take .4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (Project 0651-0032), Washington, DC 20503. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

DECLARATION

Page 2

I hereby claim the benefit under Title 35, United States Code § 120 of any United States application(s) or § 365(c) of any PCT international application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. Parent Application Number	PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number *(if applicable)*

☐ Additional U.S. or PCT international application numbers are listed on a supplemental sheet(s) attached hereto:

As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

Firm Name _____ Payor Number (if applicable) _____

Name	Registration Number	Name	Registration Number

☐ Please direct all correspondence to: **Name** _____

Address _____

Address _____

City	State		ZIP	

Country	Telephone		Fax	

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Name of Sole or First Inventor: ☐ A petition has been filed for this unsigned inventor

Given Name		Middle Initial		Family Name		Suffix	

Inventor's Signature		Date	

RESIDENCE: City		State		Country		Citizenship	

POST OFFICE ADDRESS	

City		State		Zip		Country		Applicant Authority	

☐ Additional inventors are being named on separately numbered sheets attached hereto.

Type a plus sign (+) inside this box --> [ ]

DECLARATION	Additional Inventor(s) Supplemental Sheet

Name of Additional Joint Inventor, if any: [ ] A petition has been filed for this unsigned inventor

Given Name		Middle Initial		Family Name		Suffix	
Inventor's Signature						Date	
RESIDENCE: City		State		Country		Citizenship	
POST OFFICE ADDRESS							
City		State		Zip		Country		Applicant Authority	

Name of Additional Joint Inventor, if any: [ ] A petition has been filed for this unsigned inventor

Given Name		Middle Initial		Family Name		Suffix	
Inventor's Signature						Date	
RESIDENCE: City		State		Country		Citizenship	
POST OFFICE ADDRESS							
City		State		Zip		Country		Applicant Authority	

Name of Additional Joint Inventor, if any: [ ] A petition has been filed for this unsigned inventor

Given Name		Middle Initial		Family Name		Suffix	
Inventor's Signature						Date	
RESIDENCE: City		State		Country		Citizenship	
POST OFFICE ADDRESS							
City		State		Zip		Country		Applicant Authority	

Name of Additional Joint Inventor, if any: [ ] A petition has been filed for this unsigned inventor

Given Name		Middle Initial		Family Name		Suffix	
Inventor's Signature						Date	
RESIDENCE: City		State		Country		Citizenship	
POST OFFICE ADDRESS							
City		State		Zip		Country		Applicant Authority	

[ ] Additional inventors are being named on separately numbered sheets attached hereto

SUPPLEMENTAL PRIORITY SHEET

Additional foreign applications:

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Copy Attached? YES	NO
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐
			☐	☐	☐

Additional provisional applications:

Application Number	Filing Date (MM/DD/YYYY)

Additional U.S. applications:

U.S. Parent Application Number	PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number *(if applicable)*

BILLING CODE 3510–16–C

APPENDIX B—COMPARISON OF EXISTING AND REVISED FEE AMOUNTS

37 CFR sec.	Description	Pre-Oct 1995	Oct 1995	Jan 1996
1.16(a)	Basic Filing Fee	$730	$750	$780
1.16(a)	Basic Filing Fee (Small Entity)	365	375	390
1.16(b)	Independent Claims	76	78	—
1.16(b)	Independent Claims (Small Entity)	38	39	—
1.16(c)	Claims in Excess of 20	22	—	—
1.16(c)	Claims in Excess of 20 (Small Entity)	11	—	—
1.16(d)	Multiple Dependent Claims	240	250	—
1.16(d)	Multiple Dependent Claims (Small Entity)	120	125	—
1.16(e)	Surcharge—Late Filing Fee	130	—	—
1.16(e)	Surcharge—Late Filing Fee (Small Entity)	65	—	—
1.16(f)	Design Filing Fee	300	310	—
1.16(f)	Design Filing Fee (Small Entity)	150	155	—
1.16(g)	Plant Filing Fee	490	510	540
1.16(g)	Plant Filing Fee (Small Entity)	245	255	270
1.16(h)	Reissue Filing Fee	730	750	780
1.16(h)	Reissue Filing Fee (Small Entity)	365	375	390
1.16(i)	Reissue Independent Claims	76	78	—
1.16(i)	Reissue Independent Claims (Small Entity)	38	39	—
1.16(j)	Reissue Claims in Excess of 20	22	—	—
1.16(j)	Reissue Claims in Excess of 20 (Small Entity)	11	—	—
1.16(k)	Provisional Application Filing Fee	150	—	—
1.16(k)	Provisional Application Filing Fee (Small Entity)	75	—	—
1.16(l)	Surcharge—Incomplete Provisional App. Filed	50	—	—
1.16(l)	Surcharge—Incomplete Provisional App. Filed (Small Entity)	25	—	—
1.17(a)	Extension—First Month	110	—	—
1.17(a)	Extension—First Month (Small Entity)	55	—	—
1.17(b)	Extension—Second Month	370	380	—
1.17(b)	Extension—Second Month (Small Entity)	185	190	—
1.17(c)	Extension—Third Month	870	900	—
1.17(c)	Extension—Third Month (Small Entity)	435	450	—
1.17(d)	Extension—Fourth Month	1,360	1,400	—
1.17(d)	Extension—Fourth Month (Small Entity)	680	700	—
1.17(e)	Notice of Appeal	280	290	—
1.17(e)	Notice of Appeal (Small Entity)	140	145	—
1.17(f)	Filing a Brief	280	290	—
1.17(f)	Filing a Brief (Small Entity)	140	145	—
1.17(g)	Request for Oral Hearing	240	250	—
1.17(g)	Request for Oral Hearing (Small Entity)	120	125	—
1.17(h)	Petition—Not All Inventors	130	—	—
1.17(h)	Petition—Correction of Inventorship	130	—	—
1.17(h)	Petition—Decision on Questions	130	—	—
1.17(h)	Petition—Suspend Rules	130	—	—
1.17(h)	Petition—Expedited License	130	—	—
1.17(h)	Petition—Scope of License	130	—	—
1.17(h)	Petition—Retroactive License	130	—	—
1.17(h)	Petition—Refusing Maintenance Fee	130	—	—
1.17(h)	Petition—Refusing Maintenance Fee—Expired Patent	130	—	—
1.17(h)	Petition—Interference	130	—	—
1.17(h)	Petition—Reconsider Interference	130	—	—
1.17(h)	Petition—Late Filing of Interference	130	—	—
1.20(b)	Petition—Correction of Inventorship	130	—	—
1.17(h)	Petition—Refusal to Publish SIR	130	—	—
1.17(i)	Petition—For Assignment	130	—	—
1.17(i)	Petition—For Application	130	—	—
1.17(i)	Petition—Late Priority Papers	130	—	—
1.17(i)	Petition—Suspend Action	130	—	—
1.17(i)	Petition—Divisional Reissues to Issue Separately	130	—	—
1.17(i)	Petition—For Interference Agreement	130	—	—
1.17(i)	Petition—Amendment After Issue	130	—	—
1.17(i)	Petition—Withdrawal After Issue	130	—	—
1.17(i)	Petition—Defer Issue	130	—	—
1.17(i)	Petition—Issue to Assignee	130	—	—
1.17(i)	Petition—Accord a Filing Date Under § 1.53	130	—	—
1.17(i)	Petition—Accord a Filing Date Under § 1.62	130	—	—
1.17(i)	Petition—Make Application Special	130	—	—
1.17(j)	Petition—Public Use Proceeding	1,390	1,430	—
1.17(k)	Non-English Specification	130	—	—
1.17(l)	Petition—Revive Abandoned Application	110	—	—
1.17(l)	Petition—Revive Abandoned Application (Small Entity)	55	—	—
1.17(m)	Petition—Revive Unintentionally Abandoned Application	1,210	1,250	—
1.17(m)	Petition—Revive Unintent Abandoned Application (Small Entity)	605	625	—

APPENDIX B—COMPARISON OF EXISTING AND REVISED FEE AMOUNTS—Continued

37 CFR sec.	Description	Pre-Oct 1995	Oct 1995	Jan 1996
1.17(n)	SIR—Prior to Examiner's Action	840	870	—
1.17(o)	SIR—After Examiner's Action	1,690	1,740	—
1.17(p)	Submission of an Information Disclosure Statement (§ 1.97)	210	220	—
1.17(q)	Petition—Correction of Inventorship (Provisional Application)	50	—	—
1.17(q)	Petition—Accord a filing date (Prov. App.)	50	—	—
1.17(r)	Filing a submission after final rejection (1.129(a))	730	750	—
1.17(r)	Filing a submission after final rejection (1.129(a)) (Small Entity)	365	375	—
1.17(s)	Per add'l invention to be examined (1.129(b))	730	750	—
1.17(s)	Per add'l invention to be examined (1.129(b)) (Small Entity)	365	375	—
1.17(t)	For filing a protest in an application after publication (1.291)	—	—	220
1.17(u)	Acceptance of a late claim for priority (119(a)–(d))	—	—	1,500
1.17(u)	Acceptance of a late claim for benefit of prior application (119(e))	—	—	1,500
1.18(a)	Issue Fee	1,210	1,250	1,280
1.18(a)	Issue Fee (Small Entity)	605	625	640
1.18(b)	Design Issue Fee	420	430	—
1.18(b)	Design Issue Fee (Small Entity)	210	215	—
1.18(c)	Plant Issue Fee	610	630	660
1.18(c)	Plant Issue Fee (Small Entity)	305	315	330
1.19(a)(1)(i)	Copy of Patent	3	—	—
1.19(a)(1)(ii)	Patent Copy—Overnight delivery to PTO Box or overnight fax	6	—	—
1.19(a)(1)(iii)	Patent Copy Ordered by Expedited Mail or Fax—Expedited service	25	—	—
1.19(a)(2)	Plant Patent Copy	12	—	—
1.19(a)(3)(i)	Copy of Utility Patent or SIR in Color	24	—	—
1.19(a)(4)	Copy of a technical contents publication	—	—	9
1.19(b)(1)(i)	Certified Copy of Patent Application as Filed	12	15	—
1.19(b)(1)(ii)	Certified Copy of Patent Application as Filed, Expedited	24	30	—
1.19(b)(2)	Certified or Uncertified Copy of pub. app. or patent-related file wrapper.	150	—	—
1.19(b)(3)	Cert. or Uncert. Copies of Office Records, per Document	25	—	—
1.19(b)(4)(i)	Certified or uncertified copy of first doc. contained in pending application.	—	—	75
1.19(b)(4)(ii)	Certified or uncertified copy of second and subsequent doc. in pending application.	—	—	25
1.19(b)(5)	For Assignment Records, Abstract of Title and Certification	25	—	—
1.19(c)	Library Service	50	—	—
1.19(d)	List of Patents and Published Applications in Subclass	3	—	—
1.19(e)	Uncertified Statement-Status of Maintenance Fee Payment	10	—	—
1.19(f)	Copy of Non-U.S. Patent Document	25	—	—
1.19(g)	Comparing and Certifying Copies, Per Document, Per Copy	25	—	—
1.19(h)	Duplicate or Corrected Filing Receipt	25	—	—
1.20(a)	Certificate of Correction	100	—	—
1.20(c)	Reexamination	2,320	2,390	—
1.20(d)	Statutory Disclaimer	110	—	—
1.20(d)	Statutory Disclaimer (Small Entity)	55	—	—
1.20(e)	Maintenance Fee—3.5 Years	960	990	1,020
1.20(e)	Maintenance Fee—3.5 Years (Small Entity)	480	495	510
1.20(f)	Maintenance Fee—7.5 Years	1,930	1,990	2,020
1.20(f)	Maintenance Fee—7.5 Years (Small Entity)	965	995	1,010
1.20(g)	Maintenance Fee—11.5 Years	2,900	2,990	3,020
1.20(g)	Maintenance Fee—11.5 Years (Small Entity)	1,450	1,495	1,510
1.20(h)	Surcharge—Maintenance Fee—6 Months	130	—	—
1.20(h)	Surcharge—Maintenance Fee—6 Months (Small Entity)	65	—	—
1.20(i)(1)	Surcharge—Maintenance After Expiration—Unavoidable	640	660	—
1.20(i)(2)	Surcharge—Maintenance After Expiration—Unintentional	1,500	1,550	—
1.20(j)	Extension of Term of Patent	1,030	1,060	—
1.21(a)(1)	Admission to Examination	300	310	—
1.21(a)(2)	Registration to Practice	100	—	—
1.21(a)(3)	Reinstatement to Practice	15	—	—
1.21(a)(4)	Certificate of Good Standing	10	—	—
1.21(a)(4)	Certificate of Good Standing, Suitable Framing	20	—	—
1.21(a)(5)	Review of Decision of Director, OED	130	—	—
1.21(a)(6)	Regrading of Examination	130	—	—
1.21(b)(1)	Establish Deposit Account	10	—	—
1.21(b)(2)	Service Charge Below Minimum Balance	25	—	—
1.21(b)(3)	Service Charge Below Minimum Balance	25	—	—
1.21(c)	Filing a Disclosure Document	10	—	—
1.21(d)	Box Rental	50	—	—
1.21(e)	International Type Search Report	40	—	—
1.21(g)	Self-Service Copy Charge	.25	—	—
1.21(h)	Recording Patent Property	40	—	—
1.21(i)	Publication in the OG	25	—	—

APPENDIX B—COMPARISON OF EXISTING AND REVISED FEE AMOUNTS—Continued

37 CFR sec.	Description	Pre-Oct 1995	Oct 1995	Jan 1996
1.21(j)	Labor Charges for Services	30	—	—
1.21(k)	Unspecified Other Services	(1)	—	—
1.21(k)	Terminal Use APS-CSIR (per hour)	50	—	—
1.21(m)	Processing Returned Checks	50	—	—
1.21(n)	Handling Fee—Incomplete Application	130	—	—
1.21(o)	Terminal Use APS-TEXT	40	—	—
1.24	Coupons for Patent and Trademark Copies	3	—	—
1.296	Handling Fee—Withdrawal SIR	130	—	—
1.445(a)(1)	Transmittal Fee	210	220	—
1.445(a)(2)(i)	PCT Search Fee—No U.S. Application	640	660	—
1.445(a)(2)(ii)	PCT Search Fee—Prior U.S. Application	420	430	—
1.445(a)(3)	Supplemental Search	180	190	—
1.482(a)(1)(i)	Preliminary Exam Fee	460	470	—
1.482(a)(1)(ii)	Preliminary Exam Fee	690	710	—
1.482(a)(2)(i)	Additional Invention	140	—	—
1.482(a)(2)(ii)	Additional Invention	240	250	—
1.492(a)(1)	Preliminary Examining Authority	660	680	710
1.492(a)(1)	Preliminary Examining Authority (Small Entity)	330	340	355
1.492(a)(2)	Searching Authority	730	750	780
1.492(a)(2)	Searching Authority (Small Entity)	365	375	390
1.492(a)(3)	PTO Not ISA nor IPEA	980	1,010	1,040
1.492(a)(3)	PTO Not ISA nor IPEA (Small Entity)	490	505	520
1.492(a)(4)	Claims—IPEA	92	94	120
1.492(a)(4)	Claims—IPEA (Small Entity)	46	47	60
1.492(a)(5)	Filing with EPO/JPO Search Report	850	880	910
1.492(a)(5)	Filing with EPO/JPO Search Report (Small Entity)	425	440	455
1.492(b)	Claims—Extra Independent (Over 3)	76	78	—
1.492(b)	Claims—Extra Independent (Over 3) (Small Entity)	38	39	—
1.492(c)	Claims—Extra Total (Over 20)	22	—	—
1.492(c)	Claims—Extra Total (Over 20) (Small Entity)	11	—	—
1.492(d)	Claims—Multiple Dependents	240	250	—
1.492(d)	Claims—Multiple Dependents (Small Entity)	120	125	—
1.492(e)	Surcharge	130	—	—
1.492(e)	Surcharge (Small Entity)	65	—	—
1.492(f)	English Translation—After 20 Months	130	—	—
2.6(a)(1)	Application for Registration, Per Class	245	—	—
2.6(a)(2)	Amendment to Allege Use, Per Class	100	—	—
2.6(a)(3)	Statement of Use, Per Class	100	—	—
2.6(a)(4)	Extension for Filing Statement of Use, Per Class	100	—	—
2.6(a)(5)	Application for Renewal, Per Class	300	—	—
2.6(a)(6)	Surcharge for Late Renewal, Per Class	100	—	—
2.6(a)(7)	Publication of Mark Under § 12(c), Per Class	100	—	—
2.6(a)(8)	Issuing New Certificate of Registration	100	—	—
2.6(a)(9)	Certificate of Correction of Registrant's Error	100	—	—
2.6(a)(10)	Filing Disclaimer to Registration	100	—	—
2.6(a)(11)	Filing Amendment to Registration	100	—	—
2.6(a)(12)	Filing Affidavit Under Section 8, Per Class	100	—	—
2.6(a)(13)	Filing Affidavit Under Section 15, Per Class	100	—	—
2.6(a)(14)	Filing Affidavit Under Sections 8 & 15, Per Class	200	—	—
2.6(a)(15)	Petitions to the Commissioner	100	—	—
2.6(a)(16)	Petition to Cancel, Per Class	200	—	—
2.6(a)(17)	Notice of Opposition, Per Class	200	—	—
2.6(a)(18)	Ex Parte Appeal to the TTAB, Per Class	100	—	—
2.6(a)(19)	Dividing an Application, Per New Application Created	100	—	—
2.6(b)(1)(i)	Copy of Registered Mark	3	—	—
2.6(b)(1)(ii)	Copy of Registered Mark, overnight delivery to PTO box or fax	6	—	—
2.6(b)(1)(iii)	Copy of Reg. Mark Ordered Via Exp. Mail or Fax, Exp. Svc.	25	—	—
2.6(b)(2)(i)	Certified Copy of TM Application as Filed	12	15	—
2.6(b)(2)(ii)	Certified Copy of TM Application as Filed, Expedited	24	30	—
2.6(b)(3)	Cert. or Uncert. Copy of TM-Related File Wrapper/Contents	50	—	—
2.6(b)(4)(i)	Cert. Copy of Registered Mark, Title or Status	10	—	—
2.6(b)(4)(ii)	Cert. Copy of Registered Mark, Title or Status—Expedited	20	—	—
2.6(b)(5)	Certified or Uncertified Copy of TM Records	25	—	—
2.6(b)(6)	Recording Trademark Property, Per Mark, Per Document	40	—	—
2.6(b)(6)	For Second and Subsequent Marks in Same Document	25	—	—
2.6(b)(7)	For Assignment Records, Abstracts of Title and Cert.	25	—	—
2.6(b)(8)	Terminal Use X-SEARCH	40	—	—

APPENDIX B—COMPARISON OF EXISTING AND REVISED FEE AMOUNTS—Continued

37 CFR sec.	Description	Pre-Oct 1995	Oct 1995	Jan 1996
2.6(b)(9)	Self-Service Copy Charge	0.25	—	—
2.6(b)(10)	Labor Charges for Services	30	—	—
2.6(b)(11)	Unspecified Other Services	([1])	—	—

[1] Actual cost.

[FR Doc. 95–18886 Filed 8–14–95; 8:45 am]

BILLING CODE 3510–16–P

federal register

Tuesday
August 15, 1995

Part VI

Department of Education

34 CFR Part 668

Student Assistance General Provisions; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 668

RIN 1840–AB80, 1840–AB85 and 1840–AC09

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Student Assistance General Provisions to add the Office of Management and Budget (OMB) control number to certain sections of the regulations. Those sections contain information collection requirements approved by OMB. The Secretary takes this action to inform the public that these requirements have been approved, and therefore affected parties must comply with them.

EFFECTIVE DATE: These regulations are effective on August 15, 1995.

FOR FURTHER INFORMATION CONTACT: Cheryl Leibovitz, U.S. Department of Education, 600 Independence Avenue SW., (Room 3045, ROB–3), Washington, D.C. 20202. Telephone: (202) 708–7888. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Final regulations for the Student Assistance General Provisions; Federal Family Education Loan Programs were published in the **Federal Register** on November 29, 1994 at (59 FR 61142) and the Student Assistance General Provisions at (59 FR 61192). Compliance with information collection requirements in certain sections of these regulations was delayed until those requirements were approved by OMB under the Paperwork Reduction Act of 1980. OMB approved the information collection requirements in the regulations on January 26, 1995.

Waiver of Proposed Rulemaking

It is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the publication of OMB control numbers simply shows that OMB has approved the paperwork collection requirements that correspond to the above-referenced regulations, and does not establish substantive policy. Therefore, the Secretary has determined under 5 U.S.C. 553(b)(B), that public comment on this technical amendment to the regulations is unnecessary and contrary to the public interest.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: August 9, 1995.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

The Secretary amends Part 668 of Title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for Part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, 1099c, and 1141 unless otherwise noted.

§§ 668.3, 668.8, 668.15, 668.16, 668.17, 668.22, 668.23 [Amended]

2. Sections 668.3, 668.8, 668.15, 668.16, 668.17, 668.22, and 668.23, are amended by adding the OMB control number following each section to read as follows:

(Approved by the Office of Management and Budget under control number 1840–0537)

[FR Doc. 95–20055 Filed 8–14–95; 8:45 am]

BILLING CODE 4000–01–M

federal register

Tuesday
August 15, 1995

Part VII

Federal Reserve System

Federal Reserve Bank Services; Notices

FEDERAL RESERVE SYSTEM

[Docket No. R–0866]

Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board has approved a firm closing time of 3:15 p.m. Eastern Time (ET) for transfer originations and 3:30 p.m. ET for reversals for the Fedwire book-entry securities transfer system. Periodic extensions of this closing time may be granted only in response to significant operating problems at a major bank or dealer or to prevent market disruption. The Board also has authorized the Reserve Banks to continue to close the Fedwire securities transfer service earlier than the scheduled closing time on certain days when the U.S. government and mortgage securities markets observe partial-day or full-day holiday operations. The Board believes that the new schedule will benefit market participants by reducing uncertainty about the final closing time of the system, thus enabling participants to manage resources more effectively and control costs with greater certainty than today.

EFFECTIVE DATE: January 2, 1996.

FOR FURTHER INFORMATION CONTACT: Louise L. Roseman, Associate Director (202/452–2789), Gayle Brett, Manager (202/452–2934), or Lisa Hoskins, Project Leader (202/452–3437), Division of Reserve Bank Operations and Payment Systems, Board of Governors of the Federal Reserve System. For the hearing impaired only: Telecommunications Device for the Deaf, Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION:

I. Background

In January 1995, the Board issued for comment a proposal to establish a firm closing time of 3:00 p.m. ET [1] for Fedwire book-entry securities transfer originations and 3:30 p.m. ET for reversals, beginning in January 1996 (60 FR 123, January 3, 1995).[2] The Board also requested comments on the potential benefits, costs, and market implications of opening the on-line Fedwire book-entry securities transfer service earlier in the day and on new service capabilities that would give depository institutions the option of participating in the Fedwire securities transfer system during earlier hours. In addition, the Board requested comment on new service capabilities that would allow depository institutions to control their use of intraday credit during expanded and/or core business hours.

The Board's action at this time is limited to establishing a firm closing time for the Fedwire securities transfer service. The Board is continuing to evaluate comments received on the potential benefits, costs, and market implications of an earlier opening of the on-line securities transfer service and potential new service capabilities.

Thirty-six commenters responded to the Board's proposal. About 60 percent of the commenters were commercial banks or bank holding companies, including banks that provide government securities clearing and settlement services to dealers and other firms. The following table identifies the number of commenters by type of organization:

Commercial Banking Organizations [3]	21
Credit Unions	2
Broker/Dealers [4]	2
Clearing House Associations	2
Clearing Organization	1
Trade Associations	3
Federal Home Loan Banks	2
Federal Reserve Banks	2
State Government	1
Total public comments	36

Thirty-one commenters addressed the issue of a firm closing time for the book-entry securities service. The major topics discussed by these commenters include: (1) benefits of a firm closing time; (2) selection of an appropriate closing time; and (3) extensions of the scheduled closing time. The following discussion provides a summary of the comments received and the Board's analysis of the issues raised.

II. Benefits of Firm Closing Time

Thirty commenters supported the establishment of a firm closing time for the Fedwire book-entry securities transfer service. Almost half of these commenters stated specifically that a firm closing time would reduce uncertainty about the final close and allow them to better plan staffing and other resource needs, thus improving their ability to control costs. In addition, Aubrey Lanston & Co. noted that ''a firm closing time would complement advances that have been made in the last year to reduce daylight overdraft charges, thus benefitting market participants with little additional costs.''

Roughly one-third of the commenters addressing the concept of a firm closing time expressed support for the concept if the Federal Reserve Banks would exercise flexibility in granting ''emergency'' extensions. A few commenters believed that the current practice of granting frequent extensions is adequate for their processing and planning needs.

Market participants have made significant operational improvements over the last ten years, including increased reliability and processing capability of their automated systems, that have affected average daily volume patterns. In addition, a number of initiatives implemented by the Federal Reserve Banks and market participants have altered the intraday pattern of Fedwire securities transfers.[5] For example, prior to the implementation of daylight overdraft fees in April 1994, about 20 percent of the value of securities transfers on Fedwire was processed by 10:00 a.m., 40 percent by noon, and 75 percent by 2:00 p.m. Since January 1995, roughly 36 percent of the value of securities transfers on Fedwire was processed by 10:00 a.m., 65 percent by noon and 92 percent by 2:00 p.m. Over the last ten years, the average actual closing time of the Fedwire securities transfer system has moved from 5:30 p.m. to 3:15 p.m.

The Board believes that a firm closing time for the Fedwire securities transfer service would allow market participants and the Federal Reserve Banks to manage resources more effectively and control costs with greater certainty than today. A firm closing time that accommodates the large majority of actual current closing times will reduce the frequency and duration of extensions and thus provide increased certainty with respect to the final closing time.

III. Selection of Appropriate Closing Time

Twenty-five commenters supported the proposed closing time of 3:00/3:30 p.m. Eleven commenters noted that establishing a closing time that is later

[1] All times are Eastern Time. For ease of reference throughout this document, the closing time may be identified as 3:00/3:30 p.m., for example.

[2] Currently, the Fedwire book-entry securities transfer service has a published closing time of 2:30 p.m. for transfer originations and 3:00 p.m. for reversals. Some Reserve Banks permit the movement of securities within a participant's account (also called repositioning) after the close of the reversal period.

[3] Banks, bank holding companies, and operating subsidiaries of banks or bank holding companies.

[4] Entities extensively involved in trading book-entry U.S. government or federal agency securities.

[5] Specific initiatives include: a $50 million maximum transaction limit for Fedwire book-entry securities transfers; Public Securities Association's ''good delivery guidelines'' designed to encourage earlier-in-the-day settlement of large securities deliveries; and the assessment of fees for daylight overdrafts incurred in accounts held at the Federal Reserve.

than the current published closing time of 2:30/3:00 p.m. will provide extra processing time for securities transfers, which may be useful for some participants. Two commenters noted that the extra time would relieve some of the pressure of acting upon late instructions for outright sales and repo collateral activity and would facilitate a smooth daily transition from securities to cash processing. One commenter suggested that expanding the closing time in this manner would relieve industry bottlenecks on heavy settlement days and help prevent ''fails''[6] on numerous occasions.

Seven commenters believed there would be no benefit to changing the current closing time of 2:30/3:00 p.m. These commenters stated that the current schedule is adequate for their processing needs and should not be changed. For example, the Public Securities Association (PSA) noted that the current closing time provides sufficient certainty to the market for participants to plan for staffing and other needs. In addition, while Chemical Bank stated that it did not oppose a 3:00/3:30 p.m. closing time, it indicated that it has been able to process successfully its two highest volume days on record within the current 2:30 p.m. closing time for securities transfer originations. Chemical Bank stated that there is no need to change the closing time, as long as the Federal Reserve Banks have the flexibility to extend the closing time when there are significant systems problems for a major participant.

Eight commenters believed that the Board should establish a firm closing time later than the proposed time of 3:00/3:30 p.m. While the American Bankers Association (ABA) expressed support for the proposed closing time, it noted that several of its members would support a 3:30/4:00 p.m. closing time to allow extra securities processing time. Harris Trust and Savings Bank stated that while its customers would benefit from the additional processing time associated with a 3:00/3:30 p.m. closing time, the bank prefers extending the closing time to 3:30/4:00 p.m. to facilitate its broker customers' needs arising from afternoon margin calls at the exchanges. The BOTCC argued that a 6:00 p.m. closing time would facilitate: (1) the afternoon settlement of futures transactions by permitting securities to be sold or pledged to meet related settlement obligations; (2) the collection of original margin deficits in the afternoon by permitting the transfer of securities to meet margin requirements; and (3) market participants' ability to adhere to firm closing times. In addition, the BOTCC suggested that a 6:00 p.m. closing time could benefit customers of clearing members by increasing the likelihood that they would receive the proceeds of payments from clearing members on a same-day basis.

Some commenters observed that a later close of the Fedwire book-entry securities transfer service will compress further the limited time available to complete overnight batch accounting cycles in anticipation of the 12:30 a.m. opening of the Fedwire funds transfer service, beginning in late 1997. Specifically, seven commenters indicated a fairly broad spectrum of end-of-day processing requirements and capabilities, ranging from 4–5 hour to 10–12 hour processing cycles. One commenter was unable to provide an estimate of the amount of time required for overnight batch processing because of systems changes it needed to make to accommodate interstate branch banking. In addition, one commenter noted that a later closing time could cause some participants to deliver securities ''at the last minute'' and another commenter argued that a later closing time would delay its funds settlement process.

The current published closing time has been in place since the system was implemented in the late 1960s. Historically, the service has routinely closed later than 2:30/3:00 p.m. to accommodate operating problems and volume backlogs incurred by major participants. Recent experience indicates that although market participants have made substantial improvements to their automated systems and internal operations, the increased efficiency has not enabled a stable closing time of 2:30/3:00 p.m. During the first half of 1995, the Fedwire securities transfer system was extended beyond the scheduled closing time on 61 out of 126 days, or 48 percent of the business days; most of these extensions were due to system/operating problems at a bank or major dealer. Extensions were granted on eight occasions to allow one of the clearing banks to complete its daily volume; generally, these volume backlogs were satisfied by 3:30 p.m.

In the context of reviewing changes to the final closing time, State Street Bank and Trust suggested that the Board also review the need for a dealer-turnaround deadline, which currently is 2:45 p.m. State Street suggested that the original reasons for granting broker/dealers additional delivery time to customers are no longer valid in today's automated environment and stated that this intermediary deadline becomes more difficult to justify as operating hours are expanded. State Street indicated that there are no ''class'' distinctions within other depositories.

Dealer-turnaround time was established by the PSA as an industry guideline to promote the smooth functioning of the government securities market. Operationally, broker/dealers prioritize their work based on the PSA good delivery guidelines; processing transfers during the day first to other broker/dealers and later to their customers. The dealer-turnaround deadline has been reflected in the Federal Reserve Banks' operating circulars; however, the Reserve Banks do not police participant activity with respect to this time.

Whereas the Board's original proposal suggested a closing time of 3:00/3:30 p.m., the Board believes that establishing a firm closing time of 3:15 p.m. for transfer originations and 3:30 p.m. for reversals is consistent with current practice[7] and would enable an orderly close of the government securities market. The Board believes that these closing times will satisfy adequately the known processing needs of market participants with respect to interbank transfers. The Board believes that the new closing time provides sufficient opportunity for market participants to complete daily deliveries, absent unusual operating or computer problems.[8] In addition, the Board's action does not preclude the continuation of an industry standard for a dealer-turnaround time if the industry believes it is needed.[9] The Board also believes that this new closing time will not interfere with the normal end-of-day processing requirements of market participants and Federal Reserve Banks. The Board encourages market participants to continue efforts to improve the efficiency of back-office operations, especially as these may be necessary in anticipation of expanded Fedwire funds transfer service operating hours in late 1997.

The Board believes that establishing a closing time later than 3:15/3:30 p.m. for the Fedwire securities transfer service is not warranted at present. It is

[6] A ''fail'' occurs when the securities and cash are not exchanged as agreed on the settlement date, usually because of technical problems.

[7] The existing 2:45 p.m. deadline for dealer-to-customer deliveries effectively results in a reversals-only period of 15 minutes.

[8] Those Reserve Banks that permit repositioning after the close of the reversal period may continue to do so.

[9] The Federal Reserve Banks' book-entry securities operating circulars will be modified to eliminate reference to a separate deadline for dealer-to-customer deliveries.

not clear that the potential benefits of closing later than 3:15/3:30 p.m. are sufficient to outweigh the costs of a later close. The existing characteristics of the Fedwire securities transfer service, especially the inability to control the receipt of securities transfers delivered against payment, compel on-line participants to actively monitor their accounts throughout the operating day. It is difficult to justify requiring participants to incur the additional expense associated with monitoring their Fedwire securities activity when there is relatively little volume to be processed later in the day.[10] While the BOTCC pointed out that a significantly later close of 6:00 p.m. would facilitate the afternoon settlement of futures transactions and permit the transfer of securities to meet margin requirement, there are significant costs associated with delaying the back-end processing that takes place at depository institutions after the close of the Fedwire book-entry securities transfer service. In addition, a 6:00 p.m. closing time for the Fedwire securities service may require a later third-party deadline and final close for the Fedwire funds transfer service. Also, decreasing the time between the close of the Fedwire book-entry securities transfer service and the close of the Fedwire funds transfer service allows less time to accommodate securities-related extensions without resulting in Fedwire funds transfer extensions. The Board is concerned about the possibility of securities-related extensions affecting the ability of the funds transfer service to close timely in light of its decision to open the Fedwire funds transfer service at 12:30 a.m. ET, beginning late 1997. Despite these concerns, the Board is willing to consider later closing times for the book-entry securities transfer service in the future and will continue to assess changes in market behavior and intraday volume patterns, as well as improvements in the efficiency of back office operations, that may call for such modifications.

IV. Extensions of the Scheduled Closing Time

Nine commenters emphasized the need for Federal Reserve flexibility in granting extensions for unusual circumstances. In addition, five commenters encouraged the Board to provide guidance as to what circumstances would warrant extension of the scheduled closing time. Specifically, some commenters argued that extensions should be granted only to accommodate significant operating or computer problems at a depository institution or major dealer or to prevent market disruption. PSA suggested that extensions also should be granted to accommodate the processing volume of large market participants. Two commenters stated that the Board should develop more ''equitable'' guidelines for granting extensions, arguing that the criteria should be more relevant to the industry as a whole. For example, State Street Bank and Trust observed that the ''current extension guidelines ($500 million or more in straight sells) favor the few banks which process the majority of securities transfers.''

Although market participants have improved significantly their automated systems over time, operational problems occasionally arise that interfere with the timely settlement of a participant's Fedwire securities transfers. An operating problem at a participant that originates and/or receives a significant volume of daily Fedwire securities transfers could affect the government securities market broadly by contributing to settlement gridlock. Settlement gridlock, if prolonged, could lead to systemic liquidity problems among dealers and other financial institutions, which could contribute to increased credit risks.

The Board believes that it is essential for the Federal Reserve Banks to have the flexibility to extend the closing time of the Fedwire book-entry securities transfer system on an as-needed basis to facilitate the smooth functioning of the government securities market and to minimize the systemic risks that may arise due to significant operating problems at one or more depository institutions or major dealers. The Board believes that granting extensions in such circumstances provides for the orderly functioning of the government securities market and minimizes the number of failed trades. Because the Board expects all on-line participants to invest in the necessary automation resources to process peak volumes as well as normal volumes, the Federal Reserve Banks generally will not grant extensions based on circumstances arising from volume backlogs at a participant.

V. Other Issues

Commenters raised several other issues relating to the closing time for the Fedwire book-entry securities transfer service. Specifically, these suggestions include implementing a free delivery period, considering an earlier close on certain days, and monitoring/disciplining participants for improper actions during the reversal processing period.

A. *Free Delivery Period*

Bank of America suggested that in conjunction with implementing a firm closing time of 3:00/3:30 p.m., the Board should consider allowing depository institutions to make bank-to-bank transfers free-of-payment (also called ''free deliveries'') for an hour after the close of the reversal period. Bank of America noted that depository institutions and their customers could use this processing window (i.e., from 3:31 p.m. to 4:30 p.m) to resolve major difficulties, such as correcting any operational errors or financing securities that inadvertently remained in the dealer's account. The bank stated that if payment were required for a securities transfer to be delivered during this period, the buyer could send the payment via the Fedwire funds transfer system. Bank of America believes that this new service should be implemented in January 1996.

At present, the Federal Reserve Banks' Fedwire book-entry securities transfer applications are unable to establish different closing times for interbank transfers that are ''free'' versus those that are against payment. The Federal Reserve Banks plan to implement new software for the book-entry securities transfer service, called the National Book-Entry System (NBES), beginning in 1996. NBES will have the capability to differentiate certain types of transactions by time-of-day, which would enable the Reserve Banks to establish a special period for free deliveries of securities, for example. The functionality for processing ''free'' bank-to-bank transfers after the close of the period for delivery-versus-payment transfers may be made operational in the future pending additional analysis.

B. *Earlier Close on Certain Market Holidays*

Crestar Financial Corporation suggested that the Board should consider closing the Fedwire book-entry securities transfer service earlier on days when the government securities market is closed and/or closes early. Crestar stated that ''typically these are days when staff schedules vacations and there might be significant system wide savings if coverage did not have to be provided.''

Each year, PSA announces a holiday schedule recommending full-day and partial-day closings of markets for U.S. government and mortgage securities and money market instruments. Typically, there is little Fedwire securities transfer volume to be processed on such days. As a result, the Federal Reserve Banks

[10] Recent data indicate that, on average, less than one percent of the aggregate value of securities transfers processed over Fedwire remains to be processed after 3:00 p.m.

generally have been able to close the Fedwire securities transfer system earlier than 2:30/3:00 p.m. on certain days designated in the PSA holiday schedule, such as Good Friday. For example, on April 14, 1995 (Good Friday), depository institutions in the Second Federal Reserve District originated a combined total of about 650 securities transfers, which were all completed by noon, compared with average volume of over 38,000 securities transfers originated per day during March 1995. Thus, the Federal Reserve Banks were able to close the system at 1:30 p.m. on that day.

As noted earlier, the characteristics of the Fedwire securities transfer service, especially the inability to control the receipt of securities transfer delivered against payment, compel on-line participants to actively monitor their accounts throughout the operating day. It is difficult to justify requiring participants to incur the additional expense associated with monitoring their Fedwire securities activity on those days when no volume is processed later in the day.

The Board believes that it is appropriate for the Federal Reserve Banks to continue to close the Fedwire securities transfer service earlier than the published closing time on all or some days designated by the PSA as full or partial market holidays, when there is relatively little volume to be processed. Shortly after the PSA publishes its annual holiday schedule, the Federal Reserve Banks will issue a notice identifying the days on which it plans to close the securities transfer service earlier than 3:15/3:30 p.m. In addition, the Federal Reserve Banks will notify participants of the scheduled early close approximately two weeks in advance of the particular date that Fedwire will be closed early, coincident with PSA's reminder notices for the recommended market holiday.

C. *Monitoring Improper Actions During Reversal Period*

Two commenters expressed concern about the practices of some institutions that send securities transfer originations during the reversals-only period. One of these commenters inquired about the Federal Reserve's ability to monitor and/or report such practices, indicating that the Federal Reserve should penalize institutions for improper use of the transfer reversal code.

The Federal Reserve Banks' book-entry securities services uniform operating circular sets forth the terms and conditions governing access to the Fedwire book-entry securities transfer service. In particular, paragraph 21 of this circular indicates that a participant should not send a transfer message for the first time during the reversals-only period by using a reversal code and provides the receiver of such a transfer with the ability to request an as-of adjustment for improper use of the reversal code. The circular notes that use of the reversal code to resend a transfer initially sent during the origination period and improperly reversed is not a misuse of the reversal code. The Board believes that this provision provides sufficient protection to receivers of improper transfer messages and, as a result, it is not necessary to institute additional measures at this time.

VI. Effective Date of Proposed Changes

Almost all of the commenters responding to the proposal believed that January 1996 is a reasonable effective date for establishing a firm closing time for the Fedwire book-entry securities transfer service. One commenter, however, suggested that it would be more prudent to establish an effective date that is after the implementation of the National Book-Entry System.

The Board believes that the benefits associated with establishing a firm closing time of 3:15/3:30 p.m. for the Fedwire securities transfer service justify a near-term effective date that permits institutions to make any necessary internal operational/procedural changes. The Board believes that an effective date of January 2, 1996 is reasonable because the new closing time does not represent a material change from average actual experience.

VII. Competitive Impact Analysis

The Board assesses the competitive impact of changes that may have a substantial effect on payment system participants. In particular, the Board assesses whether a proposed change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve Banks in providing similar services and whether such effects are due to legal differences or due to a dominant market position deriving from such legal differences.

Other providers of securities transfer services do not provide services that are directly comparable to the Fedwire book-entry securities transfer service, because only the Federal Reserve Banks can provide final delivery-versus-payment of securities settled in central bank money. There are other private-sector systems, however, such as the Government Securities Clearing Corporation and the Participants Trust Company, that facilitate primary and secondary market trades of U.S. Treasury and/or agency securities. Other transactions involving U.S. government securities may be cleared and settled on the books of depository institutions to the extent that the counterparties are customers of the same depository institution.

The Board does not believe that the establishment of a firm closing time for the Fedwire securities transfer system would have a direct and material adverse effect on the ability of other service providers to offer similar services. The Federal Reserve Banks, however, would maintain their unique position of providing risk-free central bank settlement.

By order of the Board of Governors of the Federal Reserve System, August 9, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–20127 Filed 8–14–95; 8:45 am]

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FEDERAL RESERVE SYSTEM

[Docket No. R–0889]

Federal Reserve Payment System Risk Policy

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice; request for comment.

SUMMARY: The Board requests comment on the benefits and costs of adopting a policy to control access to the Federal Reserve Banks' automated clearing house (ACH) service by entities other than the depository institution whose Federal Reserve account will be debited. The controls would apply to ACH credit transactions sent by third-party processors (service providers) and respondent depository institutions directly to a Reserve Bank or a private ACH operator that exchanges transactions with a Federal Reserve Bank. Controlling access to the ACH service will help to ensure the safety and soundness of the ACH system.

The concepts underlying the proposed ACH third-party access policy are similar to the provisions of the Fedwire third-party access policy, which was originally adopted in 1987 and amended today. (See notice published elsewhere in today's **Federal Register**.) The Board requests comment on the specific provisions of the proposed policy and the cost and operational impact of providing risk monitoring capabilities for controlling access to the Federal Reserve Banks' ACH service. The risk monitoring capabilities are intended to permit the depository institutions that are

responsible for funding ACH credit transactions to control the potential credit risk and reduce the risk of fraud created by their customers and respondent depository institutions. The proposed policy provisions and monitoring alternatives do not cover ACH debit transactions.

DATES: Comments must be submitted on or before November 9, 1995.

ADDRESSES: Comments should refer to Docket No. R–0889, and may be mailed to Mr. William Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551. Comments may also be delivered to Room B–2222 between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street N.W. (between Constitution Avenue and C Street) at any time. Comments may be inspected in Room MP–500 of the Martin Building between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding availability of information.

FOR FURTHER INFORMATION CONTACT: Florence M. Young, Assistant Director (202/452–3955), Wesley M. Horn, Manager, ACH Payments (202/452–2756), or Scott E. Knudson, Senior Financial Services Analyst, ACH Payments (202/452–3959) Division of Reserve Bank Operations and Payment Systems; for the hearing impaired *only*: Telecommunications Device for the Deaf, Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION:

I. Background

The ACH is a value-dated electronic payment service that supports both debit and credit transactions. In ACH debit transactions, funds flow from the depository institution receiving the transaction to the institution originating the transaction. Typical debit transactions include collection of insurance premiums, mortgage and loan payments, consumer bill payments, point-of-sale transactions, and corporate cash concentration transactions. Institutions originating ACH debit transactions are exposed to the risk that the receiving institution will return a transaction and the originating institution's customer will not have sufficient funds available to cover the returned transaction. An originating institution can control its exposure to potential losses from returned debit transactions by establishing funds availability policies that are based on the creditworthiness of each customer. That is, an originating institution can hold all or a part of the funds collected via ACH debit transactions until returned transactions are expected to be received.[1]

In ACH credit transactions, funds flow from the institution originating the transaction to the institution receiving the transaction. Typical ACH credit transactions include direct deposit of payroll, annuity payments, dividend payments, and corporate payments to vendors and suppliers. When ACH credit transactions are transmitted to a Reserve Bank, the depository institution originating ACH credit transactions or its designated correspondent is obligated to fund the transactions on the settlement day, whether or not the institution's customers fund the payments.[2] [3]

ACH transactions are processed in batches one or two days before they are scheduled to settle. The use of value-dating exposes an originating institution to interday credit risk that can extend from one to two business days, depending upon when transactions are transmitted to an ACH operator and when a depository institution's customer funds the payments it originates. To address this exposure, as of January 3, 1995, *The Guide to the Federal Reserve's Payment System Risk Policy* requires depository institutions performing self assessments in order to obtain daylight overdraft caps to (1) evaluate the creditworthiness of each customer that originates ACH credit transactions, (2) establish for each customer an interday credit limit, and (3) monitor compliance with credit limits across all processing cycles for a given settlement day. For customers in weak financial condition, real-time monitoring is required.[4] In addition, the Board has issued an *Overview of the Federal Reserve's Payments System Risk Policy* for use by depository institutions that use only minimal amounts of intraday Federal Reserve credit, that is, institutions that are exempt from filing or that qualify for a *de minimis* cap. The *Overview* indicates that institutions should perform credit assessments and establish credit or exposure limits for customers originating large dollar volumes of ACH credit transactions and that compliance with the limits should be monitored across all processing cycles for a given settlement day.[5] In both documents, depository institutions are encouraged to require customers in weak financial condition to prefund or collateralize ACH credit transactions.

Many depository institutions originating ACH transactions do so through third-party service providers. There are a variety of third-party processing arrangements that result in a service provider's transmitting ACH transactions directly to a Federal Reserve Bank or a private ACH operator, which may ultimately transmit the transactions to a Federal Reserve Bank.[6] For example, a depository institution may contract with another depository institution, acting as a service bureau, or with a non-depository institution service provider to create ACH transactions on its behalf. In some cases, companies create ACH transactions on behalf of their account-holding institution and transmit the files to third-party service providers. Service providers may also create ACH transactions directly for corporate customers, such as payroll payments. In these cases, service providers consider the contracting companies, not the depository institution, to be their clients. In addition, respondent depository institutions may send ACH credit transactions for which settlement will be made through a correspondent

[1] In Regulation CC (12 CFR Part 229), an ACH debit transfer is excluded from the definition of electronic payment, which is subject to next-day funds availability, because the receiver of an ACH debit transfer has the right to return the transfer. Thus, an ACH debit transfer is more like a check than a wire transfer of funds.

[2] The Federal Reserve Banks' Uniform Operating Circular on Automated Clearing House Items, paragraph 11(c) states ''by sending an item to a Reserve Bank, the sending institution authorized the Reserve Bank holding the institution's account to debit the amount of a credit item to the sending institution's account on the settlement date.'' Paragraph 38 states ''a sending institution or prior party may not amend or revoke an item after it has been received by a Reserve Bank, except as otherwise provided in the applicable ACH rules.'' The ACH Rules (Article Seven, Section 7.1), promulgated by the National Automated Clearing House Association (NACHA), state that ''neither an originator nor an ODFI (originating depository financial institution) has the right to recall an entry or file, to require the return of or adjustment to an entry, or to stop the payment or posting of an entry, once the entry or file has been received by the originating ACH operator.''

[3] The Uniform Operating Circular on Automated Clearing House Items, Appendix 4, Settlement Agreements, states that a sending or receiving institution (or its correspondent account holder) may terminate a settlement agreement by providing written notice to a Reserve Bank. A Reserve Bank may terminate a settlement agreement by providing written notice to the institution (or correspondent account holder). In either case, the termination notice is effective on and after the banking day following the banking day of receipt by the institution of the notice, or on and after a later date specified in the notice.

[4] *Guide to the Federal Reserve's Payment System Risk Policy*, Section VII, p. 57, January 1995.

[5] *Overview of the Federal Reserve's Payments System Risk Policy*, Section VI, p. 22, October 1993.

[6] There are currently one national private ACH operator—Visa, U.S.A.—and two regional private ACH operators—the New York Automated Clearing House and Deluxe Data Systems, which is the service provider for the Arizona Clearing House Association.

depository institution's account directly to a Federal Reserve Bank or a private ACH operator. In other cases, a respondent depository institution might transmit transactions to a third-party service provider, which would in turn transmit the transactions to a Federal Reserve Bank or private ACH operator. The Board believes that there may also be other types of third-party arrangements that have not been identified.

As noted above, depository institutions are required to fund ACH credit transactions on the settlement day once they have been transmitted to a Federal Reserve Bank. Therefore, the transmission of ACH credit transactions to a Federal Reserve Bank by a third-party service provider or respondent institution without the explicit review and consent of the originating institution or correspondent, whose Federal Reserve account will ultimately be charged for the transactions, can expose the originating institution or correspondent to credit risk. For example, if a depository institution's customer that uses a third-party service provider to originate payroll payments declares bankruptcy before transactions have settled, the depository institution would be required to absorb any loss. Similarly, if a third-party service provider originated fraudulent payments, a depository institution could, at a minimum, be exposed to liquidity risk and the safety and soundness of the ACH service could be undermined.

II. Risk in ACH Third-Party Processing Arrangements

During the mid-1980s, the Board became concerned about the credit exposure faced by depository institutions entering into arrangements with service providers to send and receive Fedwire funds transfers. To address the credit exposure inherent in these arrangements, as part of its risk reduction policy, in 1987 the Board approved a set of conditions under which Fedwire third-party access arrangements could be established. The Board has adopted revisions to the Fedwire third-party access policy. (See notice published elsewhere in today's **Federal Register**.)[7]

At the time the Fedwire controls were adopted, they were not applied to the ACH because it was considered a small-dollar payment system. As a result, there was little concern about the risks created when third parties originated and transmitted ACH transactions to ACH operators on behalf of depository institutions. Although the average value of individual ACH credit transactions is relatively small—$2,600 compared with $3 million for Fedwire funds transfers in 1994—the aggregate value of ACH transactions originated by a customer of an institution can be significant. Moreover, the volume and value of commercial ACH credit transactions has increased rapidly. In 1987, when the Fedwire policy was adopted, 206.8 million ACH credit transfers, with a value of approximately $410.7 billion, were processed by the Federal Reserve Banks. In 1994, 955 million transfers, with a value of almost $2.5 trillion, were processed by the Federal Reserve Banks. Thus, over the last seven years, the volume of ACH credit transactions has grown at an average annual rate of nearly 25 percent and the value of these transactions has increased at an average annual rate of nearly 30 percent. A number of factors indicate that continued rapid growth is likely.

To assess the level of risk depository institutions face due to ACH transactions originated through third-party service providers, the Board's staff surveyed the Reserve Banks to obtain information on the value of ACH credit transactions that are processed for depository institutions that have agreements with service providers.[8] The potential credit exposure was measured by dividing the dollar value of the daily average and peak-day ACH credit transactions originated by service providers for each depository institution by the amount of the institution's total capital. In general, the survey results indicated that the amount of risk faced by institutions in third-party processing arrangements is a small percentage of capital. Peak-day exposure averaged approximately 5 percent of the total capital of institutions using third-party processors. Although the average risk exposure, as measured by the survey, was not significant, for some institutions significant exposure existed. Of the 5,020 institutions that permitted service providers to originate ACH transactions, the peak-day exposure for seven institutions exceeded 150 percent of capital and, for one institution, it exceeded 250 percent of capital. As ACH volume continues to grow, the potential risks created by the use of service providers is likely to increase. Further, anecdotal evidence suggests that many depository institutions are not fully aware of the extent to which third parties originate ACH transactions on their behalves.

The potential exposure created by the use of third-party service providers to institutions originating ACH transactions, led the Board of Directors of the National Automated Clearing House Association to pass a resolution addressing system controls for third-party processors in November 1993. That resolution, among other things, recommended that ACH controls include: ''. . . a review and release function capability for originating depository financial institutions with respect to all files sent directly to ACH Operators by third parties and respondent depository financial institutions.. . .'' The purpose of this resolution was to provide originating depository institutions a mechanism to control the risks created by third-party service providers and respondent depository institutions.

The New York Automated Clearing House (NYACH) has implemented a voluntary mechanism that permits originating institutions to set limits on the aggregate amount of ACH credit transactions that can be originated against their accounts by third-party processors. If the credit limit is exceeded, NYACH will hold the files and contact the originating institution. Based on its instructions, NYACH will either reject the file or permit the institution to adjust the credit limit. Visa, U.S.A. and the Arizona Clearing House Association are considering instituting third-party controls.

III. Proposed ACH Access Policy

The Board is concerned about the potential lack of control in third-party arrangements and believes that appropriate measures should be taken to ensure the safety and soundness of the ACH service by enabling originating institutions to control the risks created by the use of service providers. Thus, the Board requests comment on the benefits and costs of adopting a policy to control access to the Federal Reserve's ACH services. In particular, the Board requests comment on the scope of the proposed policy, risk monitoring capabilities for implementing ACH credit controls, and several other controls.

A. Scope

The proposed ACH policy would apply only to ACH credit transactions. As noted above, a depository institution is able to control its credit risk from ACH debit transactions by delaying the

[7] The policy requires depository institutions to impose prudent controls over Fedwire transfers initiated, received, or otherwise processed on their behalf by a third-party service provider.

[8] Data were provided by all Reserve Banks, expect the Federal Reserve Bank of New York, for the month of December 1993. The New York Automated Clearing House provides essentially all commercial ACH service in the New York District.

availability of funds to the originators of the transactions. The Board, therefore, believes that limiting the policy to the origination of ACH credit transactions avoids imposing unnecessary burdens on the industry while addressing the most significant risk.

The policy would cover all of the following types of arrangements:

- Service providers (service bureaus, information processors, and depository institutions that act as service bureaus for other institutions) that transmit ACH credit transactions directly to a Federal Reserve Bank or to an ACH operator that exchanges payments with a Federal Reserve Bank;
- Companies that transmit their ACH credit transactions directly to a Reserve Bank or private ACH operators that transmit transactions to the Federal Reserve; and
- Institutions that transmit ACH credit transactions directly or indirectly to a Federal Reserve Bank and designate a correspondent depository institution for the settlement of the transactions.

B. Credit Controls

In its payments system risk policies, the Board has indicated that depository institutions should establish procedures to protect themselves from the risk created by their corporate customers when they originate ACH credit transactions. In particular, the Board has indicated that depository institutions should perform credit assessments and establish credit limits for corporate customers that originate ACH credit transactions. That policy applies whether ACH credit transactions are originated by a depository institution itself or by a service provider.

In addition to the requirements currently included in the payment system risk policy, the Board requests comment on the following credit controls.

- Institutions that outsource their own ACH processing would be required to establish an interday limit on the value of ACH credit transactions that a service provider can originate on their behalf.
- Correspondent depository institutions would be required to establish interday credit limits for each of their respondent institutions that originate ACH credit transactions.

Monitoring capabilities would enable institutions to ensure that the credit limits established by the originating institution for each corporate customer and for its own transactions are not exceeded. If monitoring capabilities only enabled a depository institution to monitor the aggregate value of ACH credit transactions transmitted to a Reserve Bank or a private ACH operator by a third-party, the responsible depository institution would not be able to control the risk that it faces from its corporate customers. The Board believes that it is important for depository institutions to be able to control the credit exposure that they face from each of their corporate customers and respondent institutions. As a result, the Board requests comment on the benefits and costs of adopting risk monitoring capabilities that differ from the approach recommended by the NACHA's Board of Directors and implemented by one private operator, which establishes controls over the total exposure an institution faces due to transactions originated through third-party service providers. Additionally, more than one third-party service provider may originate ACH credit transactions on behalf of a depository institution's customers. Therefore, a depository institution would be expected to ensure that its internal procedures enable it to monitor all ACH credit transactions originated for each of its corporate customers through third-party service providers.

The following discussion describes the requirements of the ACH risk monitoring capabilities. The Board requests comment on whether the Reserve Banks and private ACH operators and/or third-party service providers, at the option of depository institutions, should provide the risk monitoring capabilities.

The institution's management would set credit limits to reflect the total amount of *unsettled* ACH credit transactions that the institution's management had determined was acceptable based on the customer's or respondent institution's financial condition. The institution would provide these credit limits to the entity providing the monitoring capabilities. Upon receipt of a file from a third-party service provider or respondent institution, the dollar value of the ACH credit transactions in each batch would be combined with the amount of other *unsettled* ACH credit transactions that had previously been processed for the same company or respondent institution. The resulting aggregate amount of *unsettled* credit transactions would be compared to the pre-established credit limit. If this total were below the credit limit established for the customer or respondent institution, the transactions would be processed. If the credit limit for the customer or respondent institution were exceeded, the batch(es) would be held and the originating depository institution and/or the correspondent institution would be notified. The depository institution would have the option to reject the batch or set a new credit limit for its corporate or respondent customer.

If an originating institution of ACH credit transactions uses a third-party service provider to originate ACH transactions and uses a correspondent institution for settlement, the respondent institution would be expected to establish credit limits for its customers and to instruct the provider of the monitoring mechanism regarding the action to be taken if a batch(es) of ACH credit transactions exceeded its customer's credit limits. In addition, the correspondent institution would be expected to establish credit limits for its respondent institutions and to instruct the provider on the action to be taken if a batch(es) of transactions originated on behalf of its respondent institution exceeded the respondent's credit limit.

These risk monitoring requirements would apply if the Reserve Banks and private ACH operators or third-party service providers provided the monitoring capabilities. Specifically, the Board is requesting comment on whether the monitoring capabilities could most effectively be provided by the Reserve Banks and private ACH operators, third-party service providers, or some combination selected by depository institutions.

If the Reserve Banks provided the monitoring capabilities, the Board believes that the capabilities for this alternative could be implemented within approximately 12 to 18 months following approval of the ACH third-party policy. Developing and operating such a monitoring system would be costly, and the benefits of the system would accrue to institutions using third-party service providers and correspondent institutions. Therefore, it is likely that the Reserve Banks would assess some fee to institutions originating ACH credit transactions through third-party service providers and to institutions acting as ACH correspondent settlement agents if they were to provide monitoring capabilities. The Board is interested in knowing the amount of time that private ACH operators and service providers would need to implement the proposed monitoring capabilities.

The Board believes that the risk monitoring capability may require users of ACH services to make changes that may result in increased costs. For example, in many instances batches of ACH credit transactions could be pended after normal business hours. Thus, originating institutions and correspondent institutions would need to make personnel with credit-granting

authority available during these off-hours. Finally, if service providers provided the monitoring capabilities, originating depository institutions or correspondent institutions that permit customers or respondents to transmit ACH credit transactions directly to a Reserve Bank may not be able to rely on the service provider to provide effective controls over such transactions.

C. Other Controls

To ensure the integrity of ACH third-party and respondent access arrangements, the following provisions, which are generally consistent with those required in the Fedwire third-party access policy, would apply.

- An institution's board of directors would be required to approve the role and responsibilities of a service provider(s) that is not affiliated with the institution through at least 80 percent common ownership.
- A depository institution that uses an ACH third-party access arrangement would be required to have its auditors confirm compliance with the controls described in the policy at least annually.
- The service provider must be subject to examination by the appropriate federal depository institution regulatory agency(ies).
- The conditions under which these arrangements could be established would be set forth in the appendices of the Reserve Banks' uniform ACH operating circular. The uniform operating circular would serve as the legal agreement governing the arrangement between the institution and the service provider and/or correspondent and would govern arrangements of which the Reserve Banks otherwise may not be aware. The ACH Participation Agreement, which is used to document the various agreements between the Federal Reserve Banks and users of their ACH services, such as settlement arrangements and electronic connections, would serve to identify the institution and the service provider(s) or correspondent(s) in the third-party arrangement(s).

IV. Competitive Impact Analysis

In considering a change that has a substantial effect on payment system participants, the Board assesses whether the proposed change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve Banks in providing similar services and if such effects are due to legal differences or due to a dominant market position deriving from such legal differences.

The Federal Reserve Banks compete in providing ACH services to depository institutions with private-sector ACH operators. The intent of the proposed third-party access policy is to ensure the integrity of the ACH system. The proposed policy would apply equally to institutions using Federal Reserve Bank ACH services and to institutions that use the services of private ACH operators that transmit ACH transactions to the Federal Reserve Banks on their behalf. Therefore, the Board believes that although the proposal would impose requirements on private ACH operators, those requirements would not be any greater than the additional requirements the Federal Reserve would be placing on itself.

V. Request for Comments

The Board requests comments on all aspects of this proposal. The Board specifically requests comments on the following questions:

A. Current Arrangements and Controls

1. Under what types of arrangements do third parties initiate or transmit ACH credit transactions to the Federal Reserve Banks or private-sector ACH operators on behalf of depository institutions?

2. What are the unique risk characteristics of third-party processing arrangements and correspondent settlement arrangements that concern the institutions, service providers, and private ACH operators participating in such arrangements? Are the risks in these arrangements expected to increase in the future?

3. What controls are currently in place that permit institutions to control their risk in ACH third-party processing arrangements and correspondent settlement arrangements? Are these controls consistent with the type of controls required in the payment system risk policy?

B. Risk Monitoring Alternatives

4. How would the requirement to make personnel available after normal business hours affect institutions' ACH operating risk and costs? How would it affect the quality of the ACH service? Are there other operational issues or customer service issues associated with either risk control alternative?

5. Would monitoring capabilities provided by the Reserve Banks and private ACH operators or by the service providers be most effective in achieving the objectives of controlling risk in the ACH? Should the Board consider permitting depository institutions to select between the two alternatives or should only one approach be adopted?

6. If only service providers were to provide monitoring capabilities, how would the activity of originating institutions' customers and respondent institutions that transmit ACH credit transactions directly to a Federal Reserve Bank or a private ACH operator be monitored?

7. What costs would be incurred by (a) private ACH operators to expand or develop their monitoring systems to permit their users to monitor ACH credit transactions at the customer level and (b) third-party service providers to develop such a monitoring mechanism?

8. How do the benefits derived from improving credit controls over access to the ACH service compare with the potential costs of implementing the proposal and the operational risk (i.e., possible untimely processing) that may be created by proposed controls?

9. Are there other monitoring alternatives that would be equally effective but pose fewer operational issues and be less costly?

10. Could depository institutions, private ACH operators, and service providers comply with the proposed policy if the final policy were effective 18 months after adoption by the Board? Could the parties comply within 12 months after adoption by the Board?

C. Proposed Policy Provisions

11. Do the provisions of the proposed policy address the credit risk concerns of institutions participating in ACH third-party processing arrangements? If not, explain your concerns and suggested alternative controls.

12. Could the risk monitoring controls effectively control credit risk if they were applied only to corporate customers or respondent institutions whose financial condition was considered weak? What issues might be raised if parties other than the responsible depository institution had information identifying financially weak customers or respondent institutions?

13. Should a depository institution be responsible for monitoring the financial stability of its service providers and adopting procedures necessary to ensure that the activities of the service provider were controlled appropriately?

By order of the Board of Governors of the Federal Reserve System, August 9, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–20128 Filed 8–14–95; 8:45 am]

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FEDERAL RESERVE SYSTEM

[Docket No. R–0890]

Federal Reserve Payment System Risk Policy

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Policy statement.

SUMMARY: The Board has approved certain modifications to its Fedwire third-party access policy to clarify its applicability and to reduce the administrative burden of several provisions. Some depository institutions have entered into arrangements under which a third party provides operating facilities for their Fedwire services; under such arrangements, the third party's actions may result in a debit to the institution's reserve or clearing account at a Federal Reserve Bank. The policy provides important safeguards to both depository institutions participating in third-party access arrangements and to the Reserve Banks. Among other things, the policy requires depository institutions to impose prudent controls over Fedwire funds transfers and book-entry securities transfers initiated, received, or otherwise processed on their behalf by a third-party service provider. These policy modifications are interim modifications, pending the completion of a broader review of supervisory policies that should be applicable to outsourcing arrangements. The review may result in further modifications to the policy; however, the Board believes that any further modifications will be in the same general direction as those made today. The Federal Reserve Banks will not approve any new third-party access arrangements involving a foreign service provider, pending further analysis of issues associated with such arrangements.

EFFECTIVE DATE: August 10, 1995.

FOR FURTHER INFORMATION CONTACT: Gayle Brett, Manager (202/452–2934) or Lisa K. Hoskins, Project Leader (202/452–3437), Fedwire Payments, Division of Reserve Bank Operations and Payment Systems; for the hearing impaired *only:* Telecommunications Device for the Deaf, Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION:

I. Background

Fedwire is the large-value payment mechanism owned and operated by the Federal Reserve Banks. Fedwire provides depository institutions with real-time gross settlement in central bank money of funds transfers and book-entry securities transfers made for their own account or on behalf of their customers. Typically, each depository institution that holds an account at the Federal Reserve processes its own transfers and accesses Fedwire directly. In some cases, however, a depository institution accesses Fedwire through a third-party access arrangement in which a service provider, acting as agent for a depository institution, initiates payments that are posted to the institution's account at the Federal Reserve. Third-party access arrangements are a form of outsourcing. Depository institutions use service providers to perform a number of functions, including customer accounting, check and automated clearing house (ACH) processing, and the processing and/or transmission of large-value funds and securities transfers. Depository institutions have increasingly viewed outsourcing arrangements as one way to reduce operating costs.

During the mid-1980s, the Board and Reserve Banks became concerned about the credit exposure faced by depository institutions that contracted with a third-party service provider to process Fedwire funds transfers on their behalf. Due to the concerns raised about the legal, supervisory, and payments system risk implications of such arrangements, a moratorium on approving additional arrangements was imposed in 1985 until these issues could be reviewed and guidelines established.

In July 1987, the Board approved a set of conditions under which Fedwire third-party access arrangements could be established, as part of its payment system risk reduction policy (52 FR 29255, August 6, 1987). Specifically, the Board adopted a policy placing certain conditions on the ability of a service provider to initiate Fedwire transfers from a participant's reserve or clearing account held at the Federal Reserve.[1] The Board's original policy addressed two types of arrangements. Where the service provider and the participant are not affiliated, the participant must authorize each individual transfer before it is sent to a Reserve Bank. Where the service provider and the participant are affiliated, the participant may establish limits within which the service provider is authorized to act. For purposes of the policy, an affiliated service provider is defined as an organization that has at least 80 percent common ownership with the participant.

Since the third-party access policy went into effect, the Federal Reserve Banks have approved approximately 500 third-party service arrangements.[2] During this time a number of issues and requests for clarification have been raised with respect to the policy. These questions relate to: (1) the circumstances under which line-of-credit arrangements can be used; (2) the responsibility of a participant to monitor its reserve or clearing account in line-of-credit arrangements; (3) the need for a participant to have backup capabilities in the event the Federal Reserve Bank terminates the arrangement; and (4) the duties that may be assigned to personnel employed by the parties to the arrangement.

Issues also were raised about the scope of the policy. Questions of scope include: (1) whether the policy applies to arrangements for book-entry securities transfers as well as funds transfers; (2) whether the policy applies to arrangements in which a service provider serves as a communications link but does not process the transfers; (3) whether the policy applies when an institution contracts with a third party to process transfers that subsequently are routed through the participant to the Reserve Bank; and (4) whether the policy applies to arrangements in which the service provider is located outside the United States.

In considering modifications to the Fedwire third-party access policy, the Board has determined that it would be useful to undertake a broader review of supervisory policies that should be applicable to a larger range of outsourcing arrangements. The staff has begun to review broader issues relating to outsourcing generally, including, for example, the extent to which termination backup requirements should apply to other critical functions outsourced by banks and whether foreign service provider arrangements should be subject to special conditions. It is possible that the Board will modify further the Fedwire third-party access policy following completion of the

[1] The original issues surrounding third-party access arrangements arose in the context of funds transfer arrangements, and the language of the original policy reflected this orientation. Board staff subsequently interpreted the policy to include Fedwire book-entry securities transfer arrangements within its scope. Board staff also interpreted the policy to cover all situations where transfer instructions are not communicated directly to the Reserve Bank by the sending bank, but rather are transmitted indirectly through another entity.

[2] The number of current arrangements is less than the number approved because of mergers and changes in relationships between participants and service providers. Because some of the approved arrangements involved multiple participants using the same service provider, however, there may be more than 500 Fedwire participants currently using third-party service providers for Fedwire processing.

study. The Board believes, however, that any additional modifications to this policy are likely to be consistent with the changes made today to reduce further the costs imposed by the policy.

II. Provision-by-Provision Analysis

The following identifies each provision of the revised Fedwire third-party access policy and discusses how and why it differs from the original policy provision.

A. Scope

Revised Provision

The Board will allow third-party access arrangements whereby a sending or receiving institution (''the participant'') designates another depository institution or other entity (''the service provider'') to initiate, receive, and/or otherwise process Fedwire funds transfers or book-entry securities transfers that are posted to the participant's reserve or clearing account held at the Federal Reserve, provided the following conditions are met:[3]

Original Provision

The Board will allow, under certain conditions, arrangements by which a depository institution or other entity (''the service provider'') could initiate Fedwire transfers from the Federal Reserve account of another depository institution (''the participant''). Such arrangements will be permitted provided:

The original policy applied to arrangements where funds transfers or book-entry securities transfers were charged or credited to a depository institution's reserve or clearing account held at the Federal Reserve and for which the depository institution did not provide its transfer instructions directly to the Federal Reserve, but rather transmitted its instructions indirectly through another entity. The revised policy applies to the arrangements described above, as well as arrangements where an institution contracts with a third party to process transfers that subsequently are routed through the participant to the Reserve Bank. The Board believes that, whenever a service provider plays a role in processing Fedwire funds transfers or book-entry securities transfers that affect the participant's reserve or clearing account, the arrangement should be subject to the third-party access policy. The revised policy governs all arrangements in which a service provider has the operational ability to add or modify transfer instructions that will be posted to the participant's reserve or clearing account held at the Federal Reserve. As a result, communications carriers whose sole job is to transmit transfer instructions between entities are excluded from this policy.

The original policy is silent on whether the service provider can be located outside the United States. The Reserve Banks have not approved any such arrangements; however, several inquiries have been received during the last few years. Such arrangements raise a number of supervisory issues. In addition, because the original third-party access policy applies only to arrangements where the service provider is a separate legal entity from the participant, a Fedwire participant could designate an office of its bank located outside the U.S. to process Fedwire transfers on its behalf without obtaining prior approval from the Reserve Bank. The Reserve Bank and the primary regulator may be unaware of such an arrangement until discovered in the course of an examination. The Board believes that many of the issues that arise with respect to foreign service providers also arise when a foreign office of a Fedwire participant processes that participant's Fedwire transfers. Consequently, the Board has broadened the scope of the policy to include such arrangements. Any existing arrangements involving a foreign service provider must be reported promptly to the participant's Reserve Bank. The Reserve Bank will work with the participant and its primary supervisor to determine the extent to which the arrangement complies with the policy and the appropriateness of the arrangement. No new arrangements involving the outsourcing of Fedwire processing to a foreign service provider will be approved by the Reserve Banks pending the completion of the Board's analysis of issues associated with foreign service provider arrangements.

B. Control of Credit-Granting Process

Revised Condition (#1)

The participant retains operational control of the credit-granting process by (1) individually authorizing each funds or securities transfer, or (2) establishing individual customer transfer limits and a transfer limit for the participant's own activity, within which the service provider can act. The transfer limit could be a combination of the account balance and established credit limits. For the purposes of this policy, these arrangements are called ''line-of-credit arrangements.''

Original Condition (#1)

The institution whose account is being charged (the ''institution'') retains control of the credit-granting process by individually approving each transfer or establishing credit limits within which the service provider can act.

Original Condition (#12)

No individual with decision-making responsibilities relating to the funds-transfer area may hold such a position in more than one affiliated institution participating in an approved arrangement.

The Board believes that it is important for the participant to retain operational control of the credit-granting process under a third-party access arrangement. The revised language (1) clarifies that this condition applies to both funds transfer and book-entry securities transfer arrangements; (2) removes the restriction that line-of-credit arrangements are permissible only where the service provider and participant are affiliated organizations;[4] and (3) deletes the condition in the original policy that no individual with decision-making responsibilities related to Fedwire may hold such a position in multiple institutions participating in the arrangement.

The Board believes that the participant can retain operational control of the credit-granting process either by individually authorizing each transfer based on specific parameters (e.g., customer account balance and/or available credit line) or by permitting the service provider to make the same decisions the participant would have made based on the specific parameters established by the participant. Therefore, the Board does not believe it is necessary to limit the circumstances in which line-of-credit arrangements can be used. The revised policy clarifies further that the transfer limits in line-of-credit arrangements must be established by the participant for individual customer activity and for the participant's own activity. Some participants may prefer to establish lines of credit for certain categories of transfers (e.g., customer activity), but to authorize individual transfers for other categories (e.g., the participant's own activity).

The original provision prohibiting an individual with Fedwire-related responsibilities from holding such a position in multiple institutions participating in the arrangement was intended to ensure that a participant retains control of its reserve account and of its credit-granting function and does

[3] This policy applies to third-party access arrangements in which an office of the participant located outside the U.S. acts as service provider by initiating, receiving, or otherwise processing Fedwire transfers on behalf of the U.S. participant.

[4] In original condition 2, line-of-credit arrangements were limited to participants that used affiliated service providers.

not effectively relinquish control of these functions to the service provider. The Board believes that this condition has posed problems in cases where an individual with Fedwire-related responsibilities is an officer of multiple holding company affiliates that wished to establish Fedwire third-party access arrangements. The Board has deleted this specific provision from the revised policy, but continues to believe that it is important that the participant retain operational control of the establishment of criteria for approving Fedwire transfers handled by the service provider.

C. Transfers That Would Exceed the Established Transfer Limit

Revised Condition (#2)

In funds transfer line-of-credit arrangements, the service provider must have procedures in place and the operational ability to ensure that a funds transfer that would exceed the established transfer limit is not permitted without first obtaining the participant's approval. In book-entry securities transfer line-of-credit arrangements, the service provider must have procedures in place and the operational ability to provide the participant with timely notification of an incoming transfer that exceeds the applicable limit and must act upon the participant's instructions to accept or reverse the transfer accordingly.

Original Condition (#3)

The service provider must not permit or initiate transfers that would exceed individual credit limits without first obtaining the institution's permission.

The Board believes that it is important to retain the condition that customer credit limits are operationally binding on the service provider and that the service provider may not exceed those limits without the participant's permission. The language of this condition has been revised to distinguish between arrangements involving Fedwire funds transfers and book-entry securities transfers. In a funds transfer, the participant's reserve or clearing account held at the Reserve Bank is debited when the transfer is processed; therefore, transfer limits or controls must be in place before the transfer is made. In a book-entry securities transfer, however, the participant's reserve/clearing account is debited for each incoming transfer; therefore, transfer limits can only be monitored in an *ex post* fashion. As a result, the service provider must be able to notify the participant in a timely manner about incoming transfers that exceed the applicable limit so that the participant can instruct the service provider to accept or reverse the transfer accordingly.

D. Posting Transfers and Responsibility for Account Management

Revised Condition (#3)

Transfers will be posted to the participant's reserve or clearing account held at the Federal Reserve, and the participant will remain responsible for managing its Federal Reserve account, with respect to both its intraday and overnight positions. The participant must be able to monitor transfer activity conducted on its behalf.

Original Condition (#5)

All funds-transfer activity must be posted to the institution's account, and the institution will remain responsible for its account.

Original Condition (#9)

The institution must have the ability to monitor transfers being made on its behalf.

The revised condition (1) eliminates the language that limits the condition to funds-transfer activity; (2) clarifies that responsibility for management of the participant's reserve or clearing account, including control over daylight overdrafts, remains with the participant; and (3) incorporates the requirement that the participant be able to monitor its transfer activity.

E. Board of Directors' Approval

Revised Condition (#4)

The participant's board of directors must approve the role and responsibilities of a service provider(s) that is not affiliated with the participant through at least 80 percent common ownership. In line-of-credit arrangements, the participant's board of directors must approve the intraday overdraft limit for the activity to be processed by the service provider and the credit limits for any inter-affiliate funds transfers.[5]

Original Condition (#4)

The service provider must have the operational ability to ensure that the aggregate funds-transfer activity of the institution does not result in daylight overdrafts in excess of the institution's cap.

Original Condition (#6)

The institution's board of directors must approve the specifics of the arrangement, including (a) the operational transfer of its funds-transfer activity to the service provider, (b) the net debit cap for the activity to be processed by the service provider, and (c) the credit limits for any inter-affiliate funds transfers.

The Board has modified this condition to: (1) Limit the participant's board of directors' review of the roles and responsibilities of the service provider to arrangements where the service provider is not affiliated with the participant; (2) eliminate the language that limits the condition to funds-transfer arrangements; (3) clarify that certain issues to be considered by the board of directors are pertinent only to line-of-credit arrangements; and (4) encompass arrangements where more than one service provider handles a participant's transfer activity. The Board also acknowledges that the board of directors of a foreign bank might have more limited responsibilities than those typical of a U.S. board and has indicated that whatever body exercises similar authority in these situations would be the appropriate decision-maker with respect to the provisions of this policy that fall within the purview of a participant's board of directors.

F. Backup

Revised Condition (#5)

The Board expects all participants to ensure that their Fedwire operations could be resumed in a reasonable period of time in the event of an operating outage, consistent with the requirement to maintain adequate contingency backup capabilities as set forth in the interagency policy (FFIEC SP–5, July 1989). A participant is not relieved of such responsibility because it contracts with a service provider.

Revised Condition (#6)

In cases where the service provider is not affiliated with the participant through at least 80 percent common ownership, the participant must be able to continue Fedwire operations if the participant is unable to continue its service provider arrangement (e.g., in the event the Reserve Bank or the participant's primary supervisor terminates the service provider arrangement).

Original Condition (#8)

The institution must have adequate backup procedures and facilities to cover equipment failure or other developments affecting the adequacy of the service being provided. This backup must provide the Reserve Bank with the ability to terminate a service-provider arrangement.

The original backup requirement had two facets: (1) contingency backup to enable recovery in the event of an operating outage and (2) the ability of the participant to continue transfer activity in the event the arrangement with the service provider is terminated. The Board expects all Fedwire participants to maintain adequate contingency backup capabilities in accordance with the policy adopted by the federal banking regulatory agencies; a participant is not relieved of such responsibility because it contracts with a service provider. Revised condition #5 references explicitly the interagency policy that requires a depository

[5] In cases where a U.S. branch of a foreign bank wishes to be a participant in an arrangement subject to this policy, and its board of directors has a more limited role in the bank's management than a U.S. board, the role and responsibilities of the service provider should be reviewed by senior management at the foreign bank's head office that exercises authority over the foreign bank equivalent to the authority exercised by a board of directors over a U.S. depository institution.

institution to have contingency backup capabilities more broadly than for Fedwire processing.

The original ''termination backup'' requirement provided the participant's Reserve Bank with the flexibility to terminate an arrangement if it determined that the service provider was in a precarious financial condition, was performing its responsibilities in an unsafe and unsound manner, or was otherwise jeopardizing the condition of the participant. The termination backup requirement can be satisfied either by (1) retaining the capability to perform the functions internally that have been delegated to the service provider; or (2) making arrangements with an alternate service provider to take over these functions in the event that the arrangement must be terminated.

The Board recognizes that the termination backup requirement may have made third-party access arrangements impractical for some large institutions, due to the expense required either to have the internal capability to take over the functions of the service provider or to arrange with a backup service provider that has the capability and necessary software to assume these functions on short notice. This condition could prevent some institutions from benefiting from the cost savings that could be derived from a third-party access arrangement.

The Board has limited the termination backup requirement to arrangements in which the service provider is not affiliated with the participant. Most of the arrangements that have been approved to date involve affiliated parties. In arrangements where the service provider is affiliated with the participant, the participant is likely to have information about the service provider that would enable the participant to take actions to foster improvements in the financial condition and/or operating controls of the service provider before the situation deteriorates to the point that the Reserve Bank or the participant's primary supervisor would be likely to terminate the arrangement. The Board believes it is necessary at this time to retain the termination backup requirement for unaffiliated service provider arrangements in order to provide the Reserve Bank or the participant's primary supervisor with a higher level of supervisory control over such arrangements.

The Board notes that federal banking regulators currently do not require depository institutions to provide equivalent termination backup capabilities for other critical functions, such as customer deposit accounting (e.g., demand deposit accounting, or DDA) and loan processing, which provide management with information that may be necessary to approve Fedwire funds transfers and securities transfers. The Board plans to evaluate, as part of its broader review of outsourcing generally, the extent to which the ''termination backup'' requirement should apply to other business applications/functions that are outsourced to a third-party service provider, especially where there are dependencies between such functions and the Fedwire funds transfer and securities transfer services.

G. Consistency With Corporate Separateness and Branching Restrictions

Revised Condition (#7)

The participant must certify that the arrangement is consistent with corporate separateness and does not violate branching restrictions.

Original Condition (#10)

The institution must provide an opinion of counsel that the arrangement is consistent with corporate separateness and does not violate branching restrictions.

The third-party access policy raises potential concerns regarding maintenance of separate corporate identities between the service provider and the participant. Moreover, given the definition of ''branch'' as a location at which deposits are received, checks paid, or money lent, certain third-party access arrangements may raise questions regarding whether the location of the service provider is deemed a branch of the participant. The Board believes that the participant should carefully review the arrangement for consistency with corporate separateness and state branching restrictions. Although the participant may desire an opinion of counsel to make this certification, the Board believes that the participant's certification that the arrangement is consistent with corporate separateness and branching restrictions is sufficient and that the Reserve Bank need not require a copy of an opinion of counsel addressing these issues.

H. Compliance With Applicable Laws and Regulations

Revised Condition (#8)

The participant must certify that the specifics of the arrangement will allow the participant to comply with all applicable state and federal laws and regulations governing the participant, including, for example, retaining and making accessible records in accordance with the regulations adopted under the Bank Secrecy Act.

Original Condition

None.

In clarifying the scope of the policy, the Board believes it is important that the participant in a third-party access arrangement certify that the arrangement will be established in such a way to allow the participant to comply with all applicable state and federal laws and regulations, particularly those associated with record retention and availability of records, as required under the Bank Secrecy Act regulations (31 CFR Part 103). If, subsequent to establishing an arrangement, the Reserve Bank receives information that the operations or activities of the participant or its service provider do not comply with applicable state and federal laws and regulations, the Reserve Bank may terminate the third-party access arrangement.

I. Primary Supervisor

Revised Condition (#9)

The participant's primary supervisor(s) must affirmatively state in writing that it does not object to the arrangement.

Original Condition (#11)

The primary supervisor must not object to the arrangement.

The Board believes that it is important for the participant's primary supervisor(s) to review, and affirmatively not object to, each proposed third-party access arrangement. The provision has been modified further to recognize that some state-chartered institutions must inform both state and federal supervisors.

J. Audit Program

Revised Condition (#10)

The participant must have in place an adequate audit program to review the arrangement at least annually to confirm that these requirements are being met.

Original Condition (#13)

The institution must have in place an adequate audit program to review the arrangements at least annually to confirm that these requirements are being met.

The Board continues to believe that, because an agent is effecting transfers to and from the participant's reserve or clearing account held at the Federal Reserve and because the arrangement originally approved may change over time, it is in the interest of the participant to have its auditors confirm compliance with proper procedures.

K. Service Provider Examination

Revised Condition (#11)

The service provider must be subject to examination by the appropriate federal depository institution regulatory agency(ies).[6]

Original Condition (#2)[7]

The service provider must be an affiliate of the institution, or, if the institution approves each individual transaction, an unaffiliated company. All service providers must be subject to examination.

Depository institution service providers are subject to examination by the institution's primary supervisor. Service providers that are nonbank subsidiaries of a bank holding company are subject to examination by the Federal Reserve. Service providers that are not depository institutions or affiliates of bank holding companies may be subject to examination pursuant to the Bank Services Corporation Act.[8] Service providers that are subsidiaries of banks are subject to examination by the parent bank's primary supervisor(s). The Board believes that the service provider must acknowledge that it is subject to examination by the appropriate federal depository institution regulatory agency(ies). The requirement that the service provider be subject to examination also applies to arrangements where the participant's service provider arranges for a separate service provider to handle the participant's Fedwire transfers.

L. Agreements

Revised Condition (#12)

The participant and the service provider(s) must execute an agreement with the relevant Reserve Bank(s) incorporating these conditions.

Original Condition (#7)

The institution and the service provider must execute an agreement with the relevant Reserve Banks delineating the terms of the agreement.

This condition was revised to reflect the possibility that a participant's transfer activity may be handled operationally by more than one service provider in a given third-party access arrangement. The Reserve Banks have indicated that the conditions under which these arrangements could be established will be set forth in uniform appendices to the Fedwire funds transfer and book-entry securities transfer operating circulars. The uniform operating circular appendices would replace the individual comprehensive legal agreements that are currently used in most districts; would be easier to modify; and would govern arrangements of which the Reserve Bank otherwise may not be aware (for example, arrangements where transfers are processed by a service provider but transmitted to the Reserve Bank by the participant). The appendices to the operating circulars will include a model letter certifying compliance with circular requirements that would be signed by the participant and the service provider(s). Such a letter could be useful in the event that a service provider, especially a non-depository institution, may not have agreed to abide by the terms of the Reserve Bank operating circular through the general agreement. The Board believes that it is not necessary for Reserve Banks to obtain new agreements for existing arrangements because the revised policy is less restrictive than the original policy.

M. Review and Approval of Proposed Arrangements

Revised Condition (Closing Paragraph)

The Federal Reserve Bank is responsible for approving each proposed Fedwire third-party access arrangement. In a proposed arrangement in which the participant is not affiliated through at least 80 percent common ownership with the service provider and where the participant is owned by one of the 50 largest bank holding companies (based on consolidated assets), the Directors of the Division of Reserve Bank Operations and Payment Systems and the Division of Banking Supervision and Regulation must concur with the arrangement.

Original Condition (Closing paragraph)

In order to ensure consistency with the Board's policy, each new arrangement should be reviewed by the Director of the Division of Federal Reserve Bank Operations prior to approval by the Reserve Bank.

The Reserve Banks are responsible for approving proposed Fedwire third-party access arrangements before they become operational. Under the original policy, approval of all proposed arrangements was subject to review by Board staff. The Board believes that, given the number of existing third-party access arrangements, establishment of such arrangements has become more routine. Therefore, the Board has eliminated the requirement for Board staff review of most third-party access arrangements. The Board has retained, however, the requirement that Board staff review arrangements where the service provider is unaffiliated with the participant, and the participant is owned by one of the 50 largest bank holding companies (based on consolidated assets) before Reserve Bank approval. The Board believes that greater scrutiny of this subset of arrangements is warranted due to the significant value of the Fedwire transfers that would be handled by a service provider that is not affiliated with the participant.

III. Effective Date

The revised Fedwire third-party access policy becomes effective immediately. Existing Fedwire arrangements must comply by March 1, 1996. All arrangements established after the effective date must comply with the policy when established.

IV. Competitive Impact Analysis

The Board assesses the competitive impact of changes that may have a substantial effect on payment system participants. In particular, the Board assesses whether a proposed change would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve Banks in providing similar services and whether such effects are due to legal differences or due to a dominant market position deriving from such legal differences.

The Federal Reserve Banks' Fedwire funds transfer and book-entry securities transfer services provide real-time gross settlement in central bank money. While these services cannot be duplicated by private-sector service providers, banks can make large-dollar funds transfers through other systems, such as CHIPS, or through correspondent book transfers, although these transactions have attributes that differ from Fedwire transfers. Similarly, there are private-sector securities clearing and/or settlement systems, such as the Government Securities Clearing Corporation and the Participants Trust Company, that facilitate primary and secondary market trades of U.S. Treasury and agency securities. Other transactions involving U.S. government securities may be cleared and settled on the books of banks to the extent that the counterparties are customers of the same bank.

The Board's third-party access policy places conditions on arrangements in which a Fedwire participant may contract with another organization to

[6] The U.S. federal depository institution regulatory agency(ies) must be able to examine any aspects of the service provider as may be necessary to assess the adequacy of the operations and financial condition of the service provider.

[7] The ''affiliation'' requirement for line-of-credit arrangements is discussed in the context of revised condition 1.

[8] Section 7(c) of the Bank Services Corporation Act provides that '' * * * whenever a bank that is regularly examined by an appropriate Federal banking agency * * * causes to be performed for itself, by contract or otherwise, any services authorized under this Act, whether on or off its premises * * * such performance shall be subject to regulation and examination by such agency to the same extent as if such services were being performed by the bank itself on its own premises.''

initiate, receive, or otherwise process Fedwire transfers. The Board has revised the policy to clarify its scope and reduce its administrative and operational burden. Neither the original nor the revised policy adversely affects the ability of other service providers to compete with the Federal Reserve Banks to provide funds transfer or securities transfer services.

V. Policy Statement

The Board has amended its ''Federal Reserve System Policy Statement on Payments System Risk'' under the heading ''I. Federal Reserve Policy'' by replacing ''G. Third-party access arrangements'' with the following:

G. Fedwire Third-Party Access Policy

The Board will allow third-party access arrangements whereby a sending or receiving institution (''the participant'') designates another depository institution or other entity (''the service provider'') to initiate, receive, and/or otherwise process Fedwire funds transfers or book-entry securities transfers that are posted to the participant's reserve or clearing account held at the Federal Reserve, provided the following conditions are met: [1]

1. The participant retains operational control of the credit-granting process by (1) individually authorizing each funds or securities transfer, or (2) establishing individual customer transfer limits and a transfer limit for the participant's own activity, within which the service provider can act. The transfer limit could be a combination of the account balance and established credit limits. For the purposes of this policy, these arrangements are called ''line-of-credit arrangements.''

2. In funds transfer line-of-credit arrangements, the service provider must have procedures in place and the operational ability to ensure that a funds transfer that would exceed the established transfer limit is not permitted without first obtaining the participant's approval. In book-entry securities transfer line-of-credit arrangements, the service provider must have procedures in place and the operational ability to provide the participant with timely notification of an incoming transfer that exceeds the applicable limit and must act upon the participant's instructions to accept or reverse the transfer accordingly.

3. Transfers will be posted to the participant's reserve or clearing account held at the Federal Reserve, and the participant will remain responsible for managing its Federal Reserve account, with respect to both its intraday and overnight positions. The participant must be able to monitor transfer activity conducted on its behalf.

4. The participant's board of directors must approve the role and responsibilities of a service provider(s) that is not affiliated with the participant through at least 80 percent common ownership. In line-of-credit arrangements, the participant's board of directors must approve the intraday overdraft limit for the activity to be processed by the service provider and the credit limits for any inter-affiliate funds transfers.[2]

5. The Board expects all participants to ensure that their Fedwire operations could be resumed in a reasonable period of time in the event of an operating outage, consistent with the requirement to maintain adequate contingency backup capabilities as set forth in the interagency policy (FFIEC SP–5, July 1989). A participant is not relieved of such responsibility because it contracts with a service provider.

6. In cases where the service provider is not affiliated with the participant through at least 80 percent common ownership, the participant must be able to continue Fedwire operations if the participant is unable to continue its service provider arrangement (e.g., in the event the Reserve Bank or the participant's primary supervisor terminates the service provider arrangement).

7. The participant must certify that the arrangement is consistent with corporate separateness and does not violate branching restrictions.

8. The participant must certify that the specifics of the arrangement will allow the participant to comply with all applicable state and federal laws and regulations governing the participant, including, for example, retaining and making accessible records in accordance with the regulations adopted under the Bank Secrecy Act.

9. The participant's primary supervisor(s) must affirmatively state in writing that it does not object to the arrangement.

10. The participant must have in place an adequate audit program to review the arrangement at least annually to confirm that these requirements are being met.

11. The service provider must be subject to examination by the appropriate federal depository institution regulatory agency(ies).[3]

12. The participant and the service provider(s) must execute an agreement with the relevant Reserve Bank(s) incorporating these conditions.

The Federal Reserve Bank is responsible for approving each proposed Fedwire third-party access arrangement. In a proposed arrangement in which the participant is not affiliated through at least 80 percent common ownership with the service provider and where the participant is owned by one of the 50 largest bank holding companies (based on consolidated assets), the Directors of the Division of Reserve Bank Operations and Payment Systems and the Division of Banking Supervision and Regulation must concur with the arrangement.

By order of the Board of Governors of the Federal Reserve System, August 9, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–20136 Filed 8–14–95; 8:45 am]

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[1] This policy applies to third-party access arrangements in which an office of the participant located outside the United States acts as service provider by initiating, receiving, or otherwise processing Fedwire transfers on behalf of the U.S. participant.

[2] In cases where a U.S. branch of a foreign bank wishes to be a participant in an arrangement subject to this policy, and its board of directors has a more limited role in the bank's management than a U.S. board, the role and responsibilities of the service provider should be reviewed by senior management at the foreign bank's head office that exercises authority over the foreign bank equivalent to the authority exercised by a board of directors over a U.S. depository institution.

[3] The U.S. federal depository institution regulatory agency(ies) must be able to examine any aspects of the service provider as may be necessary to assess the adequacy of the operations and financial condition of the service provider.

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