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Thursday
October 1, 1998

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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 98–040–2]

Witchweed; Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We are adopting a final rule, without change, an interim rule that amended the list of suppressive areas under the witchweed quarantine and regulations by removing areas from 12 counties in North Carolina and 3 counties in South Carolina. The interim rule was necessary to relieve unnecessary restrictions on the interstate movement of regulated articles from these areas.

EFFECTIVE DATE: The interim rule was effective on June 4, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald P. Milberg, Operations Officer, Operational Support, PPQ, APHIS, 4700 River Road, Unit 134, Riverdale, MD 20737–1236, (301) 734–5255.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule effective June 4, 1998, and published in the **Federal Register** on June 10, 1998 (63 FR 31601–31604, Docket No. 98–040–1), we amended § 301.80–2a of the witchweed quarantine and regulations by removing areas in Blanden, Columbus, Craven, Cumberland, Duplin, Greene, Lenoir, Pender, Pitt, Robeson, Sampson, and Wayne Counties, NC, and areas in Dillon, Horry, and Marion Counties, SC, from the list of suppressive areas.

Comments on the interim rule were required to be received on or before August 10, 1998. We did not receive any comments. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule.

This action also affirms the information contained in the interim rule concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Orders 12372 and 12988, and the Paperwork Reduction Act.

Further, for this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule that amended 7 CFR 301 and that was published at 63 FR 31601–31604 on June 10, 1998.

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

Done in Washington, DC, this 25th day of September, 1998.

Joan M. Arnoldi,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–26272 Filed 9–30–98; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–109–AD; Amendment 39–10803; AD 98–20–36]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Airbus Model A300 B2 and B4 series airplanes, that currently requires inspections for cracks of the fuselage, wings, and vertical stabilizer structures; and repairs or modifications, if necessary. That AD was prompted by reports of cracking in several areas of the fuselage, wings, and vertical stabilizer structure due to fatigue-related stress. The actions specified by this AD are intended to prevent such fatigue-related cracking, which could result in reduced structural integrity of the fuselage, wing, and vertical stabilizer. This action provides for a new optional terminating action, for certain airplanes, and expands the applicability of the existing AD to include additional airplanes.

DATES: Effective November 5, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 5, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 86–19–02, amendment 39–5396 (51 FR 29910, August 21, 1986), applicable to certain Airbus Model A300 B2 and B4 series airplanes, was published in the **Federal Register** on April 29, 1996 (61 FR 18700). The action proposed to continue to require inspections for cracks of the fuselage, wings, and vertical stabilizer structures; and repairs or modifications, if necessary. For certain airplanes, the action also proposed to provide for a new optional replacement action, which would constitute terminating action for certain repetitive inspection requirements. The actions also proposed to expand the applicability of the existing AD to include additional airplanes.

Comments

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

Both commenters support the proposed rule.

Changes to the Referenced Service Information

Paragraph (b)(4) of the proposed AD incorrectly lists the date of issuance of Airbus Service Bulletin A300–53–170, Revision 1, as January 25, 1985; however, the correct date of issuance is April 26, 1982. The final rule has been revised to correct the date of issuance for Revision 1, and to include Revision 2 of the service bulletin, dated February 2, 1988, as an additional source of service information.

Paragraph (e)(3) of the proposed AD incorrectly lists the date of issuance of Airbus Service Bulletin A300–53–027, Revision 4, as January 4, 1984. However, the correct date of issuance is January 30, 1981. The final rule has been revised accordingly.

Additionally, since the issuance of the proposed AD, the following service bulletin revisions have been issued by the manufacturer:

Airbus Service Bulletin A300–53–100, Revision 2, dated July 11, 1995;

Airbus Service Bulletin A300–55–026, Revision 4, dated February 16, 1988; and

Airbus Service Bulletin A300–57–026, Revision 4, dated December 12, 1985.

The FAA has reviewed these later revisions and has determined that no substantive differences exist from the service bulletin revisions that were referenced in the proposed AD as appropriate sources of service information. The FAA has revised paragraphs (f), (g), (h)(3), and (h)(4) of the final rule to include these later revisions as additional sources of service information.

The FAA also has removed NOTE 2 of the proposal from this final rule, and has added the information specified in that note to the applicability of this final rule. The effect of this change is that the applicability of this AD indicates that the AD does not apply to Model A300–600 series airplanes.

Conclusion

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

Cost Impact

Approximately 7 Airbus Model A300 B2 and B4 series airplanes of U.S. registry will be affected by this AD.

The actions that are currently required by AD 86–19–02 take approximately 919 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. The cost of required parts will be nominal. Based on these figures, the cost impact on U.S. operators of the actions currently required is estimated to be $385,980, or $55,140 per airplane, per inspection cycle.

The new actions that are required in this AD will take approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact on U.S. operators of the new requirements of this AD is estimated to be $1,260, or $180 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–5396 (51 FR 29910, August 21, 1986), and by adding a new airworthiness directive (AD), amendment 39–10803 to read as follows:

98–20–36 Airbus Industrie: Amendment 39–10803. Docket 95–NM–109–AD. Supersedes AD 86–19–02, Amendment 39–5396.

Applicability: All Model A300 B2 and B4 series airplanes, certificated in any category, excluding Model A300–600 series airplanes.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue-related cracking, which could result in reduced structural integrity of the fuselage, wing, and vertical stabilizer, accomplish the following:

(a) For airplanes with serial numbers listed in Airbus Service Bulletin A300–53–127, Revision 4, dated May 10, 1984: Perform a visual inspection to detect cracks in the upper fuselage skin at frame 58 between stringer 5 left and stringer 5 right, in accordance with the Accomplishment Instructions of the service bulletin, and in accordance with the times specified in this paragraph.

(1) Perform the initial inspection at the later of the times specified in paragraph (a)(1)(i) or (a)(1)(ii) of this AD.

(i) Prior to the accumulation of 18,000 total landings or 18,000 total flight hours, whichever occurs earlier; or

(ii) Within one year after September 26, 1986 (the effective date of AD 86–19–02, amendment 39–5396).

(2) If no crack is detected, repeat this inspection thereafter at intervals not to exceed 3,000 flight hours.

(3) If any crack is detected, prior to further flight, repair it in accordance with Figure 2, ''Inspection and Repair Alternative Chart,'' of the service bulletin.

(4) Installation of Airbus Modification 2147 (reference Airbus Service Bulletin A300–53–110, Revision 10, dated April 7, 1986) or Airbus Modification 2526/1693 (reference Airbus Service Bulletin A300–53–128, Revision 5, dated May 10, 1984) constitutes terminating action for the repetitive inspection requirements of paragraph (a)(2) of this AD.

(b) For airplanes with serial numbers listed in Airbus Service Bulletin A300–53–101, Revision 7, dated May 10, 1984: Perform a radiographic and ultrasonic inspection to detect cracks in the circumferential fuselage splice plates and stringer couplings, in accordance with the Accomplishment Instructions of the service bulletin, and in accordance with the times specified in this paragraph.

(1) Perform the initial inspections at the applicable time specified in paragraph (b)(1)(i) or (b)(1)(ii) of this AD:

(i) For airplanes on which the actions specified in Airbus Service Bulletin A300–53–053, Revision 2, dated July 30, 1981, have been accomplished previously: Inspect prior to the accumulation of 20,000 landings since accomplishment of those actions, or within one year after September 26, 1986, whichever occurs later.

(ii) For airplanes on which the actions specified in Airbus Service Bulletin A300–53–053, Revision 2, dated July 30, 1981, have not been accomplished: Inspect prior to the accumulation of 18,000 total landings, or within one year after September 26, 1986, whichever occurs later.

(2) If no crack is detected, repeat the inspections thereafter at intervals not to exceed 3,000 landings.

(3) If any crack is detected, prior to further flight, repair it in accordance with Figures 1 and 2 of the service bulletin.

(4) Installation of Airbus Modification 3760 (reference Airbus Service Bulletin A300–53–170, Revision 1, dated April 26, 1982, or Revision 2, dated February 2, 1988) constitutes terminating action for the repetitive inspection requirements of paragraph (b)(2) of this AD.

(c) For airplanes with serial numbers listed in Airbus Service Bulletin A300–53–143, Revision 3, dated May 10, 1984: Perform a visual inspection to detect cracks in frame 57A between stringers 15 and 16 (left- and right-hand), and the stringer 5 connection angle at frame 65 (left- and right-hand), in accordance with the Accomplishment Instructions of the service bulletin, and in accordance with the times specified in this paragraph.

(1) Perform the initial inspection at the later of the times specified in paragraph (c)(1)(i) or (c)(1)(ii) of this AD:

(i) Prior to the accumulation of 20,000 total landings; or

(ii) Within one year after September 26, 1986.

(2) If no crack is detected, repeat this inspection thereafter at intervals not to exceed 3,000 landings.

(3) If any crack is detected, prior to further flight, repair it in accordance with the service bulletin.

(4) Installation of Airbus Modification 2643 (reference Airbus Service Bulletin A300–53–132, Revision 4, dated May 10, 1984) constitutes terminating action for the repetitive inspection requirement of paragraph (c)(2) of this AD.

(d) For airplanes having serial number 002 through 156 inclusive, on which Airbus Modification 2611 has not been installed: Perform a visual inspection, and liquid penetrant test if applicable, to detect cracks in the web plate and support fitting between frames 30A and 32 at stringer 18, and between stringers 22 and 23 (left- and right-hand), in accordance with Airbus Service Bulletin A300–53–182, Revision 3, dated March 16, 1994, and in accordance with the times specified in this paragraph.

(1) Perform the initial inspection at the later of the times specified in paragraph (d)(1)(i) or (d)(1)(ii) of this AD:

(i) Prior to the accumulation of 30,000 total landings; or

(ii) Within 1,500 landings after the effective date of this AD.

(2) If no crack is detected, repeat the inspection at the applicable intervals specified in paragraph (d)(2)(i) or (d)(2)(ii) of this AD.

(i) If, at the time of the most recent inspection, the airplane has accumulated fewer than 36,000 total landings, repeat the inspection thereafter at intervals not to exceed 3,000 landings.

(ii) If, at the time of the most recent inspection, the airplane has accumulated 36,000 or more total landings, repeat the inspection thereafter at intervals not to exceed 2,000 landings.

(3) If any crack is detected in the web plate between frames 30A and 32 at stringer 18, prior to further flight, replace the web plate and support fitting at stringer 18 (left- and right-hand) with a new web plate and support fitting, in accordance with the service bulletin. Accomplishment of this replacement constitutes terminating action for the repetitive inspection requirements for stringer 18 as required by paragraph (d)(2) of this AD.

(4) If any crack is detected in the web plate between frame 30A and 32 between stringers 22 and 23, prior to further flight, replace the web plate and support fitting between stringers 22 and 23 (left- and right-hand) with a new web plate and support fitting, in accordance with Airbus Service Bulletin A300–53–182, Revision 3, dated March 16, 1994. Accomplishment of this replacement constitutes terminating action for the repetitive inspection requirements for the subject area between stringers 22 and 23 as required by paragraph (d)(2) of this AD.

(5) Terminating action for the repetitive inspection requirements of paragraph (d)(2) of this AD is as follows:

(i) Installation of Airbus Modification 1691 (reference Airbus Service Bulletin A300–53–063, Revision 4, dated October 22, 1991) between stringers 22 and 23 constitutes terminating action for the repetitive inspection requirements of paragraph (d)(2) of this AD for that area only.

(ii) Replacement of the web plates and support fittings at the level of stringer 18 (left- and right-hand) with a new web plate and support fitting, in accordance with Airbus Service Bulletin A300–53–182, Revision 3, dated March 16, 1994, constitutes terminating action for the repetitive inspection requirements of paragraph (d)(2) of this AD for that stringer only.

(iii) Accomplishment of the actions specified in both paragraph (d)(5)(i) and paragraph (d)(5)(ii) of this AD constitutes terminating action for all repetitive inspection requirements required by paragraph (d)(2) of this AD.

(e) For airplanes with serial numbers listed in Airbus Service Bulletin A300–53–112, Revision 2, dated July 20, 1981: Perform a visual inspection to detect cracks of the skin from frame 28 to frame 31 between stringers 29 and 31 (left- and right-hand), in accordance with the Accomplishment Instructions of the service bulletin, and in accordance with the times specified in this paragraph.

(1) Perform the initial inspection at the later of the times specified in paragraph (e)(1)(i) or (e)(1)(ii) of this AD:

(i) Prior to the accumulation of 24,000 total landings; or

(ii) Within one year after September 26, 1986.

(2) If no crack is detected, repeat the inspection at the applicable intervals specified in paragraph (e)(2)(i) or (e)(2)(ii) of this AD:

(i) If, at the time of the most recent inspection, the airplane has accumulated fewer than 36,000 total landings, repeat the inspection thereafter at intervals not to exceed 6,000 landings.

(ii) If, at the time of the most recent inspection, the airplane has accumulated 36,000 or more total landings, repeat the inspection thereafter at intervals not to exceed 3,000 landings.

(3) If any crack is found, prior to further flight, install Airbus Modification 1358 in accordance with Airbus Service Bulletin A300–53–027, Revision 4, dated January 30, 1981. Accomplishment of this modification constitutes terminating action for the repetitive inspection requirements of paragraph (e)(2) of this AD.

(4) Installation of Airbus Modification 1358 (reference Airbus Service Bulletin A300–53–027, Revision 4, dated January 30, 1981) constitutes terminating action for the repetitive inspection requirements of paragraph (e)(2) of this AD.

(f) For airplanes with serial numbers listed in Airbus Service Bulletin A300–53–100, Revision 1, dated May 10, 1984: Perform an internal and external visual inspection to detect cracks of the longitudinal joint at stringer 51 (left- and right-hand) between frames 72 and 80, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–53–100, Revision 1, dated May 10, 1984, or Revision 2, dated July 11, 1995, and in accordance with the times specified in this paragraph.

(1) Perform the initial inspection at the later of the times specified in paragraph (f)(1)(i) or (f)(1)(ii) of this AD:

(i) Prior to the accumulation of 12,000 total landings or 15,000 total flight hours, whichever occurs earlier; or

(ii) Within one year after September 26, 1986.

(2) If no crack is found, repeat the internal inspection thereafter at intervals not to exceed 1,500 flight hours, and repeat the external inspection thereafter at intervals not to exceed 12,000 flight hours.

(3) If any crack is detected, prior to further flight, repair it in accordance with the service bulletin.

(4) Installation of Airbus Modification 1421 (reference Airbus Service Bulletin A300–53–033, Revision 3, dated May 10, 1984) constitutes terminating action for the repetitive inspection requirements of paragraph (f)(2) of this AD.

(g) For airplanes with serial numbers listed in Airbus Service Bulletin A300–55–026, Revision 3, dated May 10, 1984: Perform a visual inspection of the 6 vertical stabilizer attachment fittings for cracks, which initiate from the rivet holes, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–55–026, Revision 3, dated May 10, 1984, or Revision 4, dated February 16, 1988, and in accordance with the times specified in this paragraph.

(1) Perform the initial inspection at the later of the times specified in paragraph (g)(1)(i) or (g)(1)(ii) of this AD:

(i) Prior to the accumulation of 20,000 total landings or 20,000 total flight hours, whichever occurs earlier; or

(ii) Within one year after September 26, 1986, whichever occurs earlier.

(2) If no crack is detected, repeat the inspection thereafter at intervals not to exceed 1,500 landings.

(3) If any crack is detected, prior to further flight, repair it in accordance with the service bulletin.

(4) Installation of Airbus Modification 3172 (reference Airbus Service Bulletin A300–55–024, Revision 4, dated May 25, 1984) constitutes terminating action for the repetitive inspection requirements of paragraph (g)(2) of this AD.

(h) For airplanes with serial numbers listed in Airbus Service Bulletin A300–57–109, Revision 1, dated July 10, 1982: Perform a visual inspection to detect cracks in the landing angle attached to the outboard side of the wing leading edge at nose rib 8 (left- and right-hand), in accordance with the Accomplishment Instructions of the service bulletin, and in accordance with the times specified in this paragraph.

(1) Perform the initial inspection at the later of the times specified in paragraph (h)(1)(i) or (h)(1)(ii):

(i) Prior to the accumulation of 15,000 total landings; or

(ii) Within one year after September 26, 1986.

(2) If no crack is detected, repeat the inspection thereafter at intervals not to exceed 3,000 landings.

(3) If any crack is detected, within the next 1,000 landings following crack detection, install Airbus Modification 1307 in accordance with Airbus Service Bulletin A300–57–026, Revision 3, dated October 21, 1982, or Revision 4, dated December 12, 1985.

(4) Installation of Airbus Modification 1307 (reference Airbus Service Bulletin A300–57–026, Revision 3, dated October 21, 1982, or Revision 4, dated December 12, 1985) constitutes terminating action for the repetitive inspection requirements of paragraph (h)(2) of this AD.

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

(j) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

(k) The actions shall be done in accordance with the following Airbus service bulletins, as applicable, which contain the specified list of effective pages:

Service bulletin referenced and date	Page No.	Revision level shown on page	Date shown on page
A300–53–127, Revision 4, May 10, 1984	1–5, 11, 12	4	May 10, 1984.
	6–10, 13	Original	April 17, 1980.
A300–53–101, Revision 7, May 10, 1984	1, 2	7	May 10, 1984.
	3, 7	5	September 10, 1982.
	4–6, 8, 9	4	June 15, 1981.
A300–53–143, Revision 3, May 10, 1984	1, 2, 5, 8	3	May 10, 1984.
	3, 4, 6, 7, 9	Original	September 28, 1981.
A300–53–182, Revision 3, March 16, 1994	1–20	3	March 16, 1994.
A300–53–112, Revision 2, July 20, 1981	1	2	July 20, 1981.
	2, 3	Original	December 28, 1979.
A300–53–027, Revision 4, January 30, 1981	1, 15	4	January 30, 1981.
	2	3	October 23, 1979.
	3–14	Original	March 14, 1976.
A300–53–100, Revision 1, May 10, 1984	1–4	1	May 10, 1984.
	5–9	Original	September 14, 1979.
A300–53–100, Revision 2, July 11, 1995	1, 4	2	July 11, 1995.
	2, 3	1	May 10, 1984.
	5–9	Original	September 14, 1979.
A300–55–026, Revision 3, May 10, 1984	1, 7	3	May 10, 1984.
	2–6, 8, 9	2	October 10, 1981.
A300–55–026, Revision 4, February 16, 1988	1–5	4	February 16, 1988.
	6, 8, 9	2	October 10, 1981.
	7	3	May 10, 1984.
A300–57–109, Revision 1, July 10, 1982	1–4	1	July 10, 1982.
A300–57–026, Revision 3, October 21, 1982	1, 2	3	October 21, 1982.
	3, 5–17	Original	August 2, 1976.
	4	1	December 2, 1976.
A300–57–026, Revision 4, December 12, 1985	1	4	December 12, 1985.
	2	3	October 21, 1982.
	3, 5–17	Original	August 2, 1976.
	4	1	December 2, 1976.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directive 83–102–053(B)R2, dated March 2, 1994.

(l) This amendment becomes effective on November 5, 1998.

Issued in Renton, Washington, on September 22, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–25953 Filed 9–30–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–39–AD; Amendment 39–10807; AD 98–20–39]

RIN 2120–AA64

Airworthiness Directives; Mitsubishi Heavy Industries, Ltd. MU–2B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Mitsubishi Heavy Industries, Ltd. (Mitsubishi) MU–2B series airplanes. This AD requires inspecting each forward attachment fitting bolt of the wing tip tanks for the correct bolt and replacing any incorrect bolt. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Japan. The actions specified by this AD are intended to prevent the wing tip tank from separating from the airplane because of an incorrect bolt corroding, which could result in loss of control of the airplane.

DATES: Effective November 20, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 20, 1998.

ADDRESSES: Mitsubishi MU–2 Service Bulletin (SB) No. 225, dated September 29, 1995, may be obtained from Mitsubishi Heavy Industries, Ltd., Nagoya Aerospace Systems Works, 10, OYE–CHO, MINATO–KU, Nagoya, Japan; telephone: NAGOYA (611) 2141; facsimile: 4464561HISI. Mitsubishi MU–2 SB No. 089/57–002A, dated November 5, 1996, may be obtained from the Raytheon Aircraft Company, 9709 East Central, Wichita, Kansas 67201, Attention: Manager, Publications. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–39–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. William Roberts, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone: (562) 627–5228; facsimile: (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Mitsubishi MU–2B series airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on July 21, 1998 (63 FR 39051). The NPRM proposed to require inspecting each forward attachment fitting bolt of the wing tip tanks to determine whether any bolt incorporating P/N 017A–12887, P/N 017A–12887–3, P/N 017A–12887A–5, or 017A–12887–7 is installed, and replacing any bolt not incorporating one of these part numbers, with a P/N 017A–12887A–5 or P/N 017A–12887–7 bolt. The bolts that apply to each model and serial number airplanes are specified in the service bulletins referenced below. The P/N 017A–12887A–5 and P/N 017A–12887–7 bolts are of similar design to the P/N 017A–12887 and P/N 017A–12887–3 bolts, and are identified with the black painted letters ''SPL''. The NPRM also proposed to require identifying any P/N 017A–12887 or P/N 017A–12887–3 bolt with the letters ''SPL''. Accomplishment of the proposed actions as specified in the NPRM would be in accordance with Mitsubishi MU–2 Service Bulletin (SB) No. 225, dated September 29, 1995, and Mitsubishi MU–2 SB No. 089/57–002A, dated November 5, 1996.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Japan.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 252 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per airplane to accomplish the inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the inspection on U.S. operators is estimated to be $15,120, or $60 per airplane.

Any replacements that will be required by this AD will take approximately 4 workhours per airplane with each bolt costing $350 (up to 4 to 5 bolts per airplane depending on the configuration).

Regulatory Impact

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–20–39 Mitsubishi Heavy Industries, Ltd.: Amendment 39–10807; Docket No. 98–CE–39–AD.

Applicability: The following airplane model and serial number airplanes:

Models	Serial numbers
Type Certificate No. A2PC	
MU–2B, MU–2B–10, MU–2B–15, MU–2B–20, MU–2B–25, and MU–2B–26	008 through 312, 314 through 320, and 322 through 347.
MU–2B–30, MU–2B–35, and MU–2B–36	501 through 651, 653 through 660, and 662 through 696.
Type Certificate No. A10SW	
MU–2B–25, MU–2B–26, MU–2B–26A, and MU–2B–40	313SA, 321SA, 348SA and through 459SA.
MU–2B–35, MU–2B–36A, and MU–2B–60	652SA, 661SA, and 697SA through 1569SA.

Note 1: Mitsubishi Heavy Industries, Ltd. holds both Type Certificate No. A2PC and Type Certificate No. A10SW for the affected airplanes. Raytheon manufactures, in the United States, the airplanes affected by Type Certificate No. A10SW under a licensing agreement with Mitsubishi Heavy Industries, Ltd.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated in the body of this AD, unless already accomplished.

To prevent the wing tip tank from separating from the airplane because of an incorrect bolt corroding, which could result in loss of control of the airplane, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, inspect each forward attachment fitting bolt (up to 4 to 5 bolts per airplane depending on the configuration) of the wing tip tanks to determine whether any bolt not incorporating part number (P/N) 017A–12887, P/N 017A–12887–3, P/N 017A–12887A–5, or P/N 017A–12887–7, is installed. The bolts that apply to each model and serial number airplanes are specified in the service bulletins referenced below. Accomplish this inspection in accordance with whichever of the following is applicable:

(1) Mitsubishi MU–2 Service Bulletin No. 225, dated September 29, 1995, for airplanes affected by Type Certificate No. A2PC; or

(2) Mitsubishi MU–2 Service Bulletin No. 089/57–002A, dated November 5, 1996, for airplanes affected by Type Certificate No. A10SW.

(b) If any bolt not incorporating P/N 017A–12887, P/N 017A–12887–3, P/N 017A–12887A–5, or P/N 017A–12887–7, is installed, prior to further flight, replace it with a P/N 017A–12887–5 or P/N 017A–12887–7 bolt as applicable and as specified in the service information. The P/N 017A–12887–5 and P/N 017A–12887–7 bolts are of similar design to the P/N 017A–12887 and P/N 017A–12887–3 bolts, and are identified with the black painted letters ''SPL''. Accomplish this action in accordance with one of the service bulletins listed in paragraphs (a)(1) and (a)(2) of this AD, as applicable.

(c) If any P/N 017A–12887 or P/N 017A–12887–3 bolt is installed, prior to further flight, identify the bolt with the letters ''SPL''. Accomplish this action in accordance with one of the service bulletins listed in paragraphs (a)(1) and (a)(2) of this AD, as applicable.

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

(e) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Blvd., Lakewood, California 90712. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

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

(f) Questions or technical information related to Mitsubishi MU–2 Service Bulletin No. 225, dated September 29, 1995, should be directed to Mitsubishi Heavy Industries, Ltd., Nagoya Aerospace Systems Works, 10, OYE–CHO, MINATO–KU, Nagoya, Japan; telephone: NAGOYA (611) 2141, facsimile: 4464561HISI. Questions or technical information related to Mitsubishi MU–2 Service Bulletin No. 089/57–002A, dated November 5, 1996, should be directed to Raytheon Aircraft Company, 9709 East Central, Wichita, Kansas 67201, Attention: Manager, Publications. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(g) The inspection, replacements, and modification required by this AD shall be done in accordance with Mitsubishi MU–2 Service Bulletin No. 225, dated September 29, 1995, or Mitsubishi MU–2 Service Bulletin No. 089/57–002A, dated November 5, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Mitsubishi Heavy Industries, Ltd., Nagoya Aerospace Systems Works, 10, OYE–CHO, MINATO–KU, Nagoya, Japan or Raytheon Aircraft Company, 9709 East Central, Wichita, Kansas 67201. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Japanese AD KU–KI–158 TCD–4310–96, dated March 25, 1996.

(h) This amendment becomes effective on November 20, 1998.

Issued in Kansas City, Missouri, on September 22, 1998.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–25957 Filed 9–30–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–CE–23–AD; Amendment 39–10805; AD 96–12–03 R2]

RIN 2120–AA64

Airworthiness Directives; Aviat Aircraft, Inc. Models S–1S, S–1T, S–2, S–2A, S–2S, and S–2B Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 96–12–03 R1, which applies to Aviat Aircraft, Inc. (Aviat) Models S–1S, S–1T, S–2, S–2A, S–2S, and S–2B airplanes that are equipped with aft lower fuselage wing attach fittings incorporating part number (P/N) 76090, P/N 2–2107–1, or P/N 1–210–102. AD 96–12–03 R1 currently requires repetitively inspecting the aft lower fuselage wing attach fitting on both wings for cracks, and modifying any cracked aft lower fuselage wing attach fitting. Modifying both aft lower fuselage wing attach fittings eliminates the repetitive inspection requirement of AD 96–12–03. Aviat started incorporating modified aft lower fuselage wing attach fittings on newly manufactured airplanes beginning with serial number 5337, instead of 5349 as referenced in the existing AD. This AD retains the repetitive inspection and possible modification requirements of AD 96–12–03 R1, and will change the applicability accordingly. The actions specified by this AD are intended to prevent possible in-flight separation of the wing from the airplane caused by a cracked fuselage wing attach fitting.

DATES: Effective November 20, 1998.

The incorporation by reference of Aviat Service Bulletin No. 25, dated April 3, 1996; Revised: November 12, 1996; Revised: November 11, 1997, as listed in the regulations is approved by the Director of the Federal Register as of November 20, 1998.

The incorporation by reference of Aviat Service Bulletin No. 25, dated April 3, 1996, Revised: November 12, 1996, as listed in the regulations, was previously approved by the Director of the Federal Register as of October 3, 1997 (62 FR 44535, August 22, 1997).

The incorporation by reference of Aviat Service Bulletin No. 25, dated April 3, 1996, as listed in the regulations, was previously approved by the Director of the Federal Register as of June 24, 1996 (61 FR 28730, June 6, 1996).

ADDRESSES: Service information that applies to this AD may be obtained from Aviat Aircraft, Inc., P.O. Box 1240, Afton, Wyoming 83110; telephone: (307) 886–3151; facsimile: (307) 886–9674. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 96–CE–23–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Caldwell, Aerospace Engineer, FAA, Denver Aircraft Certification Office, 26805 E. 68th Avenue, Room 214, Denver, Colorado 80249; telephone: (303) 342–1086; facsimile: (303) 342–1088.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Aviat Models S–1S, S–1T, S–2, S–2A, S–2S, and S–2B airplanes that are equipped with aft lower fuselage wing attach fittings incorporating P/N 76090, P/N 2–2107–1, or P/N 1–210–102, was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on June 5, 1998 (63 FR 30658). The NPRM proposed to revise AD 96–12–03 R1, which currently requires the following on Aviat Models S–1S, S–1T, S–2, S–2A, S–2S, and S–2B airplanes that are equipped with aft lower fuselage wing attach fittings incorporating P/N 76090, P/N 2–2107–1, or P/N 1–210–102:

—Repetitively inspecting the aft lower fuselage wing attach fitting on both wings for cracks; and

—Modifying any cracked aft lower fuselage wing attach fitting. Modifying both aft lower fuselage wing attach fittings eliminates the repetitive inspection requirement of AD 96–12–03.

The NPRM also proposed to retain the repetitive inspection and possible modification requirements of AD 96–12–03 R1, and would change the applicability of the Model S–2B airplanes from an ending serial number of 5348 to an ending serial number of 5336. Accomplishment of the proposed action as specified in the NPRM would be in accordance with Aviat Service Bulletin No. 25, dated April 3, 1996; Revised: November 12, 1996; Revised: November 11, 1997.

The NPRM was the result of Aviat reporting to the FAA that the ending serial number for the Model S–2B airplanes is incorrect.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 500 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 2 workhours per airplane to accomplish the initial inspection, and that the average labor rate is approximately $60 an hour. Parts to accomplish the inspections cost approximately $100 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $110,000. These figures do not take into account the cost of repetitive inspections. The FAA has no way of determining how many repetitive inspections each owner/operator may incur over the life of each airplane.

AD 96–12–03 R1 currently requires the same actions on the affected airplanes as this AD. The only difference between this AD and AD 96–12–03 R1 is a change in the ending serial number of the Model S–2B airplanes. Therefore, this AD has no additional cost impact over that already required by AD 96–12–03 R1.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in

accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 96–12–03 R1, Amendment 39–10109 (62 FR 44535, August 22, 1997), and by adding a new AD to read as follows:

96–12–03 R2 Aviat Aircraft, Inc.: Amendment 39–10805; Docket No. 96–CE–23–AD; Revises AD 96–12–03 R1, Amendment 39–10109.

Applicability: The following airplane models and serial numbers, certificated in any category, that are equipped with aft lower fuselage wing attach fittings incorporating part number (P/N) 76090, P/N 2–2107–1, or P/N 1–210–102, and where these aft lower fuselage wing attach fittings on both wings have not been modified in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of one of the following service bulletins (SB):

Service Bulletins

—Aviat SB No. 25, dated April 3, 1996, Revised: November 12, 1996, Revised: November 11, 1997;
—Aviat SB No. 25, dated April 3, 1996, Revised: November 12, 1996; or
—Aviat SB No. 25, dated April 3, 1996.

Airplanes Affected

—Models S–1S, S–1T, S–2, S–2A, and S–2S airplanes, all serial numbers.
—Model S–2B airplanes, serial numbers 5000 through 5336.

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

Compliance: Required as indicated in the body of this AD.

To prevent possible in-flight separation of the wing from the airplane caused by a cracked aft lower fuselage wing attach fitting, accomplish the following:

(a) Within 50 hours time-in-service (TIS) after October 3, 1997 (the effective date of AD 96–12–03 R1), unless already accomplished (compliance with either AD 96–12–03 R1 or AD 96–12–03), and thereafter at intervals not to exceed 50 hours TIS, inspect the aft lower fuselage wing attach fitting on both wings for cracks. Accomplish these inspections in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of one of the following SB's:

(1) Aviat SB No. 25, dated April 3, 1996, Revised: November 12, 1996, Revised: November 11, 1997;

(2) Aviat SB No. 25, dated April 3, 1996, Revised: November 12, 1996; or

(3) Aviat SB No. 25, dated April 3, 1996.

(b) If any cracked aft lower fuselage wing attach fitting is found during any inspection required by this AD, prior to further flight, modify the cracked aft lower fuselage wing attach fitting in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of one of the SB's referenced in paragraphs (a)(1), (a)(2), and (a)(3) of this AD. Repetitive inspections are no longer necessary on an aft lower fuselage wing attachment fitting that was found cracked and has the referenced modification incorporated.

(c) Modifying the aft lower fuselage wing attach fitting on both wings in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of one of the SB's referenced in paragraphs (a)(1), (a)(2), and (a)(3) of this AD is considered terminating action for the repetitive inspection requirement of this AD.

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

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Denver Aircraft Certification Office (ACO), 26805 E. 68th Avenue, Room 214, Denver, Colorado 80249.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Denver ACO.

(2) Alternative methods of compliance approved in accordance with AD 96–12–03 R1 or AD 96–12–03 are considered approved for this AD.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Denver ACO.

(f) The inspections and modifications required by this AD shall be done in accordance with Aviat Service Bulletin No. 25, dated April 3, 1996; Revised: November 12, 1996; Revised: November 11, 1997, Aviat Service Bulletin No. 25, dated April 3, 1996, Revised: November 12, 1996; or Aviat Service Bulletin No. 25, dated April 3, 1996.

(1) The incorporation by reference of Aviat Service Bulletin No. 25, dated April 3, 1996; Revised: November 12, 1996; Revised: November 11, 1997, was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Aviat Service Bulletin No. 25, dated April 3, 1996, Revised: November 12, 1996, was previously approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of October 3, 1997 (62 FR 44535, August 22, 1997).

(3) The incorporation by reference of Aviat Service Bulletin No. 25, dated April 3, 1996, was previously approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of June 24, 1996 (61 FR 28730, June 6, 1996).

(4) Copies may be obtained from Aviat Aircraft, Inc., P.O. Box 1240, Afton, Wyoming 83110. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(g) This amendment revises AD 96–12–03 R1, Amendment 39–10109.

(h) This amendment becomes effective on November 20, 1998.

Issued in Kansas City, Missouri, on September 22, 1998.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–25956 Filed 9–30–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–85–AD; Amendment 39–10804; AD 98–20–37]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100, –200, and –300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747–100, –200, and –300 series airplanes, that requires the replacement of certain switches located in the cabin attendant's panel at doors 1 and 3 right with new, improved switches. This amendment is prompted by reports indicating that fires have occurred on some airplanes due to the internal failure of some of these switches. The actions specified by this AD are intended to prevent the installation and use of such switches that could short circuit when they fail, and consequently cause fire and smoke aboard the airplane.

DATES: Effective November 5, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 5, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Forrest Keller, Senior Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–2790; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747–100, –200, and –300 series airplanes was published in the **Federal Register** on May 30, 1997 (62 FR 29306). That action proposed to require the replacement of certain switches located in the cabin attendant's panel at doors 1 and 3 right with new, improved switches.

Actions Since Issuance of Proposal

Since the issuance of the proposal, the FAA has received a report of incidents of burned switches and fire found behind the cabin attendant's switch panels at doors 2, 3, and 4 right on Boeing Model 747–100 series airplanes. Investigation revealed that the power switches burned due to an internal failure of the switch and resulted in a short circuit to ground.

Description of New Service Information

Since the issuance of the proposal, the FAA also has reviewed and approved Boeing Alert Service Bulletin 747–33A2261, Revision 1, dated June 4, 1998, which describes procedures for replacing certain power switches with new, improved switches. The improved switches will prevent an internal failure of the switch that could result in a short circuit between the switch and its ground, thereby reducing the potential for fire or smoke. The switches described in the alert service bulletin are the switches for the passenger entertainment and/or passenger service system on the cabin attendant's switch panel at doors 1 left, 1 right, 3 left, 3 right, 4 left, and 5 right, and in the stairwell and upper deck. The alert service bulletin also describes procedures for installing a ground clamp, reterminating the wires in the connectors, modifying certain circuit breakers, and performing a continuity test on the panel when the modification is complete. Accomplishment of the actions specified in Revision 1 of the alert service bulletin is intended to adequately address the identified unsafe condition.

The manufacturer has advised that the procedures described in Boeing Alert Service Bulletin 747–33A2252, dated August 1, 1996, as amended by Boeing Notice of Status Change 747–33A2252 NSC 01, dated October 10, 1996 (cited as the appropriate source of service information in the proposal), apply only to doors 2 and 4 right and will not work for doors 1 and 3 right. Boeing Alert Service Bulletin 747–33A2261, described previously, specifies procedures that apply to doors 1 and 3 right. Boeing Alert Service Bulletin 747–33A2261 adds a procedure for modification of certain circuit breakers that is not specified by Boeing Alert Service Bulletin 747–33A2252. The final rule specifically omits that modification. Therefore, this change of service information referenced in the final rule will not increase the scope of the AD.

Additionally, the applicability of the proposed AD referenced airplanes listed in Boeing Alert Service Bulletin 747–33A2252; the effectivity of that alert service bulletin includes all Model 747–100, –200, and –300 series airplanes. However, the applicability of this final rule has been revised to specify that it applies only to Model 747–100, –200, and –300 series airplanes having cabin attendant's panels installed at doors 1 and 3 right. The effectivity of the alert service bulletin referenced in this final rule (Boeing Alert Service Bulletin 747–33A2261) includes Model 747SP series airplanes, as well as Model 747–100, –200, and –300 series airplanes. However, to include Model 747SP series airplanes in this final rule would require the issuance of a supplemental notice of proposed rulemaking to reopen the public comment period. To delay this final rule would be inappropriate, since the FAA has determined that an unsafe condition exists and the required actions must be accomplished to ensure continued safety. However, the FAA may consider additional rulemaking to address the identified unsafe condition on Model 747SP series airplanes.

Comments to the NPRM

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

Support for the Proposal

Several commenters support the proposed rule.

Request To Withdraw the Proposal

One commenter questions why the replacement action specified by the proposal should be mandatory. This commenter reports that it has seen no instances of short circuiting of the cabin attendant's panel switches at door 1 or 3 right. The commenter states that Boeing's review of the switches at these doors revealed no problems.

The FAA infers that the commenter requests that the proposed AD be withdrawn as unnecessary. The FAA does not concur. The manufacturer has reported an incident of burned switches found behind the attendant's panel at door 3 right, and several instances of problems with switches at other panels within the Model 747 fleet. Failure of the subject switches could cause short circuiting and result in fire and smoke aboard the airplane. Consequently, the FAA has determined that AD action is

necessary to correct this unsafe condition.

Request To Extend the Compliance Time

Several commenters request that the compliance time be extended beyond the proposed 10 months; the commenters suggest various compliance times ranging up to 2 years. The commenters' various reasons for extending the compliance time are explained below.

- Several commenters question whether required parts will be available in a timely manner.
- Other commenters request an extended compliance time because of the anticipated lead time and the time required for accomplishment of the actions on a large fleet. One commenter adds that a compliance time coinciding with the normal ''C'' check would reduce the significant service disruption that would be caused by a 10-month compliance time.

The FAA concurs with the request to extend the compliance time. In light of the information presented, the FAA finds that such an extension will allow the modification to be performed on this large fleet with minimal effect on the maintenance schedule and no adverse effect on safety. Paragraphs (a) and (b) of the final rule have been revised to specify a compliance time of 14 months.

Operators should note that, since issuance of the proposal, the manufacturer has issued a new alert service bulletin (described previously) and has made available the required parts. Therefore, lack of appropriate service information or required parts will no longer present a problem for operators to comply with the AD in a timely manner.

Request To Revise Cost Estimate

One commenter states that the cost to be incurred by the actions required by this AD will greatly exceed the cost as stated in the proposal. The commenter states that all of its comments made in response to related AD 97–08–05, amendment 39–9993 (62 FR 17534, April 10, 1997), which concerns panels at doors 2 and 4 right, apply equally to this AD, which concerns similar panels at doors 1 and 3 right. In a letter dated January 30, 1997, responsive to AD 97–08–05, the commenter had stated that the cost associated with rebuilding the panels at doors 2 and 4 was $41,500 per airplane.

The FAA infers that the commenter requests that the cost estimate be revised in the final rule. The FAA does not concur. The cost estimate described in this AD included consideration of several comments, including those submitted by this commenter, in response to AD 97–08–05. Because the commenter provided no justification for its objection to the cost figures, and because no other commenter took issue with the costs described in the proposed rule, the FAA considers that the cost estimate is accurate.

Explanation of Editorial Change to Rule

Paragraph (b) of the proposal stated that installation of a certain ''cabin attendant's *panel*'' would be prohibited. However, reference to a *switch* in a cabin attendant's panel was inadvertently omitted in the proposal. The final rule has been revised to refer to ''a switch in a cabin attendant's panel'' having a certain part number.

Differences Between the AD and the Alert Service Bulletin

Boeing Alert Service Bulletin 747–33A2261 describes additional procedures for certain airplanes for modification of certain circuit breakers. The FAA has determined that, while operators of those airplanes may accomplish this modification, the action as proposed (replacement of the switches) is adequate to address the identified unsafe condition. The AD therefore will not require modification of the circuit breakers.

Conclusion

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

Cost Impact

There are approximately 648 Boeing Model 747–100, –200, and –300 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 167 airplanes of U.S. registry will be affected by this AD.

It will take approximately 10 work hours per airplane to accomplish the required switch replacement, at an average labor rate of $60 per work hour. Required parts will cost approximately $2,600 per airplane ($1,300 per panel). Based on these figures, the cost impact of the switch replacement required by this AD on U.S. operators is estimated to be $534,400, or $3,200 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–20–37 Boeing: Amendment 39–10804. Docket 97–NM–85–AD.

Applicability: Model 747–100, –200, and –300 series airplanes; having cabin attendant's panels installed at doors 1 and 3 right; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For

airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the installation and use of switches in the cabin attendant's panels at doors 1 right and 3 right that could short circuit when they fail, and consequently cause fire and smoke aboard the airplane, accomplish the following:

(a) Within 14 months after the effective date of this AD, replace the passenger entertainment switches and the passenger service system power switches, as applicable, in the cabin attendant's panels located at doors 1 right and 3 right, with new, improved switches, in accordance with Boeing Alert Service Bulletin 747–33A2261, Revision 1, dated June 4, 1998.

(b) As of 14 months after the effective date of this AD, no person shall install at doors 1 right and 3 right of any airplane a switch in a cabin attendant's panel having a part number identified in the ''Old Switch'' column of any table contained in Boeing Alert Service Bulletin 747–33A2261, Revision 1, dated June 4, 1998.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

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

(e) The replacement shall be done in accordance with Boeing Alert Service Bulletin 747–33A2261, Revision 1, dated June 4, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on November 5, 1998.

Issued in Renton, Washington, on September 22, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–25952 Filed 9–30–98; 8:45 am]

BILLING CODE 4910–13–U 10

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AEA–16]

Amendment to Class E Airspace; Berkeley Springs, WV

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace extending upward from 700 feet Above Ground Level (AGL) at Berkeley Springs, WV. The development of a Standard Instrument Approach Procedures (SIAP) based on the Global Positioning System (GPS) at Potomac Airpark has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rules (IFR) operations for aircraft executing the GPS RWY 11 SIAP, and GPS RWY 29 SIAP to Potomac Airpark.

EFFECTIVE DATE: 0901 UTC, December 3, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On August 7, 1998, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Class E airspace at Berkeley Springs, WV, was published in the **Federal Register** (63 FR 42293). The development of the GPS RWY 11 SIAP, and GPS RWY 29 SIAP for Potomac Airpark requires the amendment of the Class E airspace at Berkeley Springs, WV. The proposal was to amend controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designations for airspace extending upward from 700 feet AGL are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class E airspace at Berkeley Springs, WV, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS RWY 211 SIAP, and GPS RWY 29 SIAP to Potomac Airpark.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace

Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA WV E5 Berkeley Springs, WV [Revised]

Potomac Airpark, WV
(Lat. 39°41′33″N., long. 78°09′58″W.)

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Potomac Airpark, excluding that portion that coincides with the Hagerstown, MD Class E airspace area.

* * * * *

Issued in Jamaica, New York, on September 22, 1998.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 98–26302 Filed 9–30–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AEA–15]

Amendment to Class E Airspace; Fort Drum, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace extending upward from 700 feet Above Ground Level (AGL) at Fort Drum, NY. The development of Standard Instrument Approach Procedures (SIAP) based on the Instrument Landing System (ILS) and Global Positioning System (GPS) at Wheeler-Sack Army Air Field (AAF) has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rules (IFR) operations for aircraft executing the ILS RWY 03 SIAP, ILS RWY 21 SIAP, GPS RWY 03 SIAP, and GPS RWY 21 SIAP to Wheeler-Sack AAF.

EFFECTIVE DATE: 0901 UTC, December 3, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On August 7, 1998, a proposal to amend Part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend the Class E airspace at Fort Drum, NY, was published in the **Federal Register** (63 FR 42291). The development of the ILS RWY 03 SIAP, ILS RWY 21 SIAP, GPS RWY 03, and GPS RWY 21 SIAP for Wheeler-Sack AAF requires the amendment of the Class E airspace at Fort Drum, NY. The proposal was to amend controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designations for airspace extending upward from 700 feet AGL are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class E airspace at Fort Drum, NY, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the ILS RWY 03 SIAP, ILS RWY 21 SIAP, GPS RWY 03 SIAP, and GPS RWY 21 SIAP to Wheeler-Sack AAF.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA NY E5 Fort Drum, NY [Revised]

Wheeler-Sack AAF, Fort Drum, NY
(Lat. 44°03′06″ N., long. 75°43′18″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Wheeler Sack AAF extending clockwise from a 330° bearing to a 135° bearing from the airport and within a 12-mile radius of Wheeler Sack AAF extending from a 135° bearing to a 330° bearing from the airport, excluding that portion that coincides with the Watertown, NY Class E airspace area, and R–5201 when in use.

* * * * *

Issued in Jamaica, New York on September 22, 1998.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 98–26301 Filed 9–30–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–24]

Amendment to Class E Airspace; Newton, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Newton, IA.

DATES: The direct final rule published at 63 FR 40172 is effective on 0901 UTC, December 3, 1998.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on July 28, 1998, (63 FR 40172). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 3, 1998. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on September 17, 1998.

Jack L. Skelton,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–26298 Filed 9–30–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–18]

Amendment to Class E Airspace; Scottsbluff, NE

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Scottsbluff, NE.

DATE: The direct final rule published at 63 FR 39501 is effective on 0901 UTC, December 3, 1998.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on July 23, 1998 (63 FR 39501). The FAA uses the direct final rulemaking procedure for a non-controversial rule hwere the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 3, 1998. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO, on September 17, 1998.

Jack L. Skelton,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–26297 Filed 9–30–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–11]

Amendment to Class E Airspace; Cambridge, NE; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date and correction.

SUMMARY: This document confirms the effective date of a direct final rule which revises the Class E airspace at Cambridge, NE, and corrects the geographic coordinates of the Harry Struck Nondirectional Radio Beacon (NDB) as published in the direct final rule.

DATES: The direct final rule published at 63 FR 39499 is effective on 0901 UTC, December 3, 1998.

This correction is effective on December 3, 1998.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: On July 23, 1998, the FAA published in the **Federal Register** a direct final rule; request for comments which revises the Class E airspace at Cambridge, NE (FR Document 98–19674, 63 FR 39499, Airspace Docket No. 98–ACE–11). An error was subsequently discovered in the geographic coordinates for the Harry Struck NDB. After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require adoption of the rule. The FAA has determined that this correction will not change the meaning of the action nor add any additional burden on the public beyond that already published. This action corrects the geographic coordinates of the Harry Struck NDB and confirms the effective date of the direct final rule.

The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 3, 1998. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Correction

In rule FR Doc. 98–19674 published in the **Federal Register** on July 23, 1998, 63 FR 39499, make the following correction to the Cambridge, NE, Class E airspace designation incorporated by reference in 14 CFR 71.1:

§ 71.1 [Corrected]

ACE NE E Cambridge, NE [Corrected]

On page 39500, in the third column, under Harry Struck NDB correct ''(lat. 40° 18′ 15″., long. 100° 09′ 29″ W.)'' to read ''(lat. 40° 18′ 15″ N., long. 100° 09′ 28″ W.)''

Issued in Kansas City, MO on September 17, 1998.

Jack L. Skelton,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–26296 Filed 9–30–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CAR Part 1345

[Docket No. NHTSA–98–4496]

RIN 2127–AH40

Occupant Protection Incentive Grants

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

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule implements a new program established by the Transportation Equity Act for the 21st Century (TEA–21), under which States can qualify for incentive grant funds if they adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles. This interim final rule solicits public comment.

DATES: This interim final rule becomes effective November 2, 1998. Comments on this interim final rule are due no later than November 30, 1998.

ADDRESSES: Written comments should refer to the docket number for this notice, and be submitted (preferably in two copies) to: Docket Management, Room PL–401, National Highway Traffic Safety Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. (Docket hours are Monday–Friday, 10 a.m. to 5 p.m., excluding Federal holidays.)

FOR FURTHER INFORMATION CONTACT: Ms. Joan Tetrault, State and Community Services, NSC–01, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590; telephone (202) 366–2121, or Ms. Heidi L. Coleman, Assistant Chief Counsel for General Law, NCC–30, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590; telephone (202) 366–1834.

SUPPLEMENTARY INFORMATION: The Transportation Equity Act for the 21st Century (TEA–21), Pub. L. 105–178, was signed into law on June 9, 1998. Section 2003 of the Act established a new incentive grant program under Section 405 of Title 23, United States Code (Section 405). Under this new program, States may qualify for incentive grant funds by adopting and implementing effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles. The program was designed to stimulate increased safety belt and child safety seat use.

Background

Effectiveness of Occupant Protection Systems

Injuries caused by motor vehicle traffic crashes in America are a major health care problem and are the leading cause of death for people aged 6 to 27. Each year injuries caused by traffic crashes in the United States claim approximately 42,000 lives and cost Americans an estimated $150 billion. Safety belts are an effective means of reducing fatalities and serious injuries when traffic crashes occur. Safety belts are estimated to save nearly 11,000 lives each year. Lap and shoulder belts reduce the risk of fatal injury to front seat passenger car occupants by 45 percent and the risk of moderate to critical injury by 50 percent. For light truck occupants, safety belts reduce the risk of fatal injury by 60 percent and moderate to critical injury by 65 percent.

Child safety seats reduce the risk of fatal injury in a crash by 69 percent for infants (less than 1 year old) and by 47 percent for toddlers (1–4 years old). In 1997, there were 593 occupant fatalities among children under 5 years of age. Of those 593 fatalities, an estimated 298 (54 percent) were totally unrestrained. From 1975 through 1997, an estimated 3,894 lives were saved by the use of child restraints (child safety seats or adult belts). In 1997, an estimated 312 children under age 5 were saved as a result of child restraint use.

America's Experience With Safety Belts and Child Safety Seats

While the first safety belts were installed by automobile manufacturers in the 1950s, safety belt use was very low—only 10 to 15 percent nationwide—until the early 1980s. From 1984 through 1987, belt use increased from 14 percent to 42 percent, as a result of the passage of safety belt use laws in 31 States. Belt use is now mandated in 49 States, the District of Columbia, Puerto Rico and the U.S. Territories (which include the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands), but only 13 States, the District of Columbia, Puerto Rico and the U.S. Territories allow police to stop a vehicle solely on the basis of observing a safety belt violation. Most States require that another violation must first be observed (i.e., secondary enforcement) before safety belt law violators can be stopped and issued a citation. Under these conditions, national safety belt usage seems to have reached a plateau of 69 percent.

The first law requiring children to be in safety seats was enacted in 1978 in Tennessee. By 1985, all 50 States and the District of Columbia had passed child passenger laws. Statewide reported usage rates currently range between 60 and 90 percent, depending on the age of the child. Most safety seats, however, are used improperly to some degree.

The President's Call To Increase Safety Belt and Child Safety Seat Usage

In 1997, President Clinton established the Presidential Initiative to Increase Seat Belt Usage Nationwide (Presidential Initiative), setting goals of achieving a safety belt use rate of 85% by the year 2000 and a 90 percent safety belt use rate by 2005. The President also seeks to reduce child occupant fatalities (0–4 years) by 15 percent in the year 2000 and by 25 percent in 2005. The Presidential Initiative contained a four point strategy to meet its goals of increasing safety belt and child safety seat use.

The first point in the strategy is to build public/private partnerships to address the issue of safety belt and child safety seat use. In addition, the strategy calls for States to enact strong laws and to embrace active, high-visibility enforcement. Finally, the strategy calls for public and private partners to conduct well-coordinated, effective public education. The occupant protection incentive grant program enacted by Congress as part of TEA–21 reinforces key elements of the President's national strategy, by encouraging States to adopt and strengthen safety belt use laws (including laws that provide for primary enforcement) and child safety seat use laws, conduct high visibility enforcement, and establish education programs.

Grant Criteria

To be eligible for a grant under the new Section 405 statute, a State must adopt or demonstrate at least four of the following six criteria: a safety belt use law; a primary safety belt use law; minimum fines or penalty points against the driver license of an individual for a violation of the State's safety belt use law or a violation of the State's child passenger protection law; a special traffic enforcement program; a child passenger protection education program; and a child passenger protection law. The elements of these grant criteria and the manner in which States must demonstrate compliance are explained fully below:

1. Safety Belt Use Law

To qualify under this criterion, a State must have in effect a safety belt use law that makes unlawful throughout the State the operation of a passenger motor vehicle whenever an individual (other than a child who is secured in a child restraint system) in the front seat of the vehicle (and, beginning in fiscal year 2001, in any seat in the vehicle) does not have a safety belt properly secured about the individual's body.

Based on the definitions contained in the statute, NHTSA has determined that the term ''passenger motor vehicle'' means passenger car, pickup truck, van, minivan, or sport utility vehicle. The statute did not contain a definition of the term ''child restraint system.'' NHTSA has determined that this term shall have the same meaning as the term ''child safety seat.'' The term ''child safety seat'' was defined by the statute. The definitions are reflected in § 1345.3 of the regulation.

Except for children in child restraint systems, the statute does not provide for any exemptions from application. However, NHTSA understands that all States have exemptions written into their safety belt laws. The agency believes that Congress' intent to aid States in their efforts to achieve higher belt use rates would not be served by reading the statute so literally as to deny an incentive grant to States whose laws contain any exemptions. On the other hand, some exemptions would either be incompatible with the language of the statute or would so severely undermine the safety considerations underlying the statute so as to render a State whose law contains the exemption ineligible for the incentive grant program.

NHTSA has reviewed existing safety belt laws and has decided to permit exemptions covering persons with medical excuses; postal, utility and other commercial drivers who make frequent stops in the course of their business; emergency vehicle operators and passengers; persons riding in positions not equipped with safety belts; persons in public and livery conveyances; persons riding in parade vehicles and persons in the custody of police. Any State considering an exemption other than those identified as acceptable should anticipate that the agency would review the exemption to determine whether it is in accordance with the intent of the statute and applies to situations in which the risk to occupants is very low or in which there are exigent circumstances. For example, the agency would consider an exemption for persons in vehicles equipped with air bags to be wholly unacceptable.

To demonstrate compliance with this criterion, the State is required to submit a copy of its law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of the safety belt use law criterion. The State is required to identify any exemptions to its safety belt use law.

2. Primary Safety Belt Use Law

To qualify under this criterion, a State must provide for primary enforcement of its safety belt use law. Under a primary enforcement law, law enforcement officials have the authority to enforce the law without the need to show that they have probable cause to believe that another violation had been committed. Any State that provides for secondary enforcement of its safety belt use law will not qualify for funds under this criterion. A review of State laws indicates that currently, 13 States, the District of Columbia, Puerto Rico and all the U.S. Territories have primary enforcement laws and 36 States have secondary enforcement laws.

To demonstrate compliance with this criterion, the State is required to submit a copy of its law, regulation or binding policy directive interpreting or implementing the law or regulation, that provides for each element of the primary safety belt use law criterion.

3. Minimum Fine or Penalty Points

To qualify under this criterion, a State must impose a minimum fine or provide for the imposition of penalty points against the driver's license of an individual for a violation of the safety belt use law of the State and for a violation of the child passenger protection law of the State. In other words, a violation of either the safety belt use law or the child passenger protection law must trigger the imposition of a minimum fine or penalty points.

Although the statute does not set a specific monetary amount as a ''minimum fine,'' NHTSA believes it would be inconsistent for Congress to set a statutory requirement for a minimum fine level, but leave open the possibility that there would be no monetary penalty or one that is nominal and insignificant. Accordingly, NHTSA has determined that the term ''minimum fine'' shall mean a total monetary penalty of at least $25.00, which may include fines, fees, court costs, or any other additional monetary assessments collected. The definition of ''minimum fine'' is contained in § 1345.3 of the regulation.

States will be permitted to meet this grant criterion as either ''Law States'' or ''Data States.'' To qualify as a Law State, the State must have a law, regulation, or binding policy directive interpreting or implementing such law or regulation that provides for each element of the minimum fine/penalty points criterion. A Law State may demonstrate compliance with this criterion by submitting a copy of its conforming law, regulation or binding policy directive.

A State that does not have a law, regulation or binding policy directive that conforms to each element of this criterion may qualify instead as a Data State. A Data State may show compliance with this criterion by submitting data covering at least a three-month period within the last twelve months showing the total number of persons convicted of a safety belt use or child passenger protection law violation and that 80% of all such persons were required to pay a fine of at least $25.00 or had one or more penalty points assessed against their driver's license. The total number of persons convicted must be sufficient to show that the State is conducting meaningful enforcement and adjudication of its safety belt use and child passenger protection laws.

A State is permitted to submit data based on a representative sample. By representative sample, the agency means that data should be obtained from all communities in the State or from a sample of communities representative of the State as a whole. The agency notes that a State may qualify as a Law State with respect to its safety belt use law and as a Data State with respect to its child passenger protection law, or vice versa.

4. Special Traffic Enforcement Program

To qualify under this criterion, a State must provide for a statewide Special Traffic Enforcement Program for occupant protection that emphasizes publicity for the program.

The term ''Special Traffic Enforcement Program'' (STEP) references a model program that NHTSA recommends for State and community implementation because it has proven effective in increasing safety belt use at both statewide and community levels. STEPs combine public education, publicity and intensified enforcement to increase safety belt and child safety seat use rates.

Several States have already developed and employed effective STEPs. In 1993, North Carolina launched a statewide campaign to increase safety belt use. The ''Click It or Ticket'' program combined law enforcement blitzes with extensive publicity. North Carolina law

enforcement agencies conducted 3,425 checkpoints across the State which resulted in nearly 34,000 safety belt and nearly 2,300 child safety seat citations. Safety belt use in the State rose from 63 percent to 80 percent.

Georgia is currently conducting a STEP operation called ''Operation Strap n' Snap.'' This two-year program, which began in August 1997, is scheduled to include eight enforcement waves. After the first enforcement wave, Georgia's safety belt use rate climbed to its highest level ever at 67.75 percent, up from 62 percent.

To qualify under this criterion, a State must plan to implement a STEP that provides for periodic enforcement efforts. Each enforcement effort must include the following five elements in chronological order: (1) A pre-wave seat belt observed use survey; (2) A statewide media campaign to inform the public about the risks and costs of traffic crashes, the benefits of increased occupant protection use, and the need for traffic enforcement as a way to manage those risks and costs; (3) Local media events announcing the pending enforcement wave; (4) A wave of enforcement effort consisting of checkpoints, saturation patrols or other enforcement tactics; and (5) A post-wave observed use survey coupled with a post-wave media event announcing the results of the survey and the enforcement effort.

By requiring that States conduct observed use surveys, NHTSA does not mean to require States to conduct scientifically based surveys with representative sample sizes. It will be sufficient if pre-wave and post-wave surveys are based on observed use and conducted at the same times (day and hour) and locations so that the measures are comparable.

The State's program must provide for at least 2 enforcement efforts each year and must require the participation of both State and local law enforcement agencies in each enforcement effort. In addition, States must demonstrate that their program covers at least 70% of the State's population.

Coverage can be accomplished by an area-wide or corridor approach, or a combination of those approaches. Under the area-wide approach, the population covered by the program is estimated based on the populations covered by each of the participating local law enforcement jurisdictions and the total State population. Under the corridor approach, the population covered is estimated based on traffic volumes over specified transportation routes, with concentrated enforcement/education efforts focused on that ''mobile'' population, and the total traffic volumes statewide on comparable roadways.

To demonstrate compliance in the first year the State receives a grant based on this criterion, the State must submit a plan to conduct a program that includes the elements described above. The plan must provide the approximate dates, durations and locations of the enforcement efforts planned in the upcoming year and must specify the types of enforcement methods that will be used during each enforcement effort. The State must also provide a listing of the law enforcement agencies that will participate in the enforcement efforts along with an estimate of the approximate cumulative percentage of the State's population served by those agencies or the approximate percentage of the traffic volume on roadways covered by the enforcement program.

In addition, the State must document the activities it plans to conduct to provide the public with information on the importance of occupant restraints and to publicize each enforcement effort and its results. This information should include a sample or synopsis of the content of the public information messages that will accompany the enforcement efforts and the strategy the State intends to use to deliver each message to its target audience.

To qualify for funding in subsequent years, the State must submit an updated plan for conducting its STEP and information documenting that the prior year's plan was effectively implemented. The information shall document that enforcement efforts were conducted; which police agencies were involved; and the dates, duration and location of each enforcement effort. The State must also submit samples of materials used, and document activities that took place to reach the target population. For example, the State may submit copies of news articles about the program or document press events, television and radio coverage or other publicity about the program and the enforcement efforts.

5. Child Passenger Protection Education Program

To qualify under this criterion, a State must plan to implement a statewide comprehensive child passenger protection education program that includes education programs about proper seating positions for children in air bag equipped motor vehicles and instruction on how to reduce the improper use of child restraint systems.

To qualify under this criterion, State child passenger protection education programs must meet the following four elements: (1) The program must provide information to the public about proper seating positions for children in air bag equipped motor vehicles, the importance of restraint use, and instruction on how to reduce the improper use of child restraint systems; (2) The program must provide for child passenger safety (CPS) training and retraining to establish or update child passenger safety technicians, police officers, fire and emergency personnel and other educators to function at the community level for the purpose of educating the public about proper restraint use and to teach child care givers how to install a child safety seat correctly. The training should encompass the goals and objectives of NHTSA's Standardized Child Passenger Safety technician curriculum; (3) The program must provide for child safety seat clinics conducted by State and or local agencies (health, medical, hospital, enforcement, etc.); and (4) Each of the State's program activities (with the exception of the training and retraining activities) must cover at least 70% of the State's population; that is, the public information and clinic components of State programs must reach counties or other subdivisions of the State that collectively contain at least 70% of the State's population.

To demonstrate compliance in the first fiscal year a State receives a grant based on this criterion, the State shall submit a comprehensive plan to conduct a statewide comprehensive child passenger protection education program that meets the elements set forth above. In its plan, the State must include a sample or synopsis of the content of the planned public information program and the strategy that will be used to reach 70% of the targeted population.

Also, the State must describe the activities that will be used to train and retrain child passenger safety technicians, police officers, fire and emergency personnel and other educators and provide the durations and locations of such training activities. In addition, the State must provide information on the approximate number of people who will participate in the training and retraining activities. The State must also describe its plan to conduct clinics that will serve at least 70% of the targeted population.

To qualify for funding in subsequent years, the State must submit an updated plan for conducting a child passenger protection education program and information documenting that the prior year's plan was effectively implemented. The information shall document that a public information program, training and child safety seat

clinics were conducted; which agencies were involved; and the dates, durations and locations of these programs.

6. Child Passenger Protection Law

To qualify under this criterion, a State must have in effect a law that requires minors who are riding in a passenger motor vehicle to be properly secured in a child safety seat or other appropriate restraint system.

The terms ''passenger motor vehicle'' and ''child safety seat'' which are used to describe this criterion are defined by statute. The statutory definitions are reflected in § 1345.3 of the regulation. The statute did not define the term ''minor.''

NHTSA has determined that, to comply with this grant criterion, a State must make unlawful the operation of a passenger motor vehicle whenever an individual who is less than 16 years of age is not properly secured in a child safety seat or other appropriate restraint system in any seating position of the vehicle. NHTSA believes that Congress' intent to aid the States in their efforts to achieve higher child safety seat and safety belt use would not be served if children under age 16 were allowed to ride unrestrained in a passenger motor vehicle. NHTSA's review of State laws indicates that some States currently allow some children under age 16 to ride unrestrained if they are in the rear seat of passenger vehicles. Other States' laws allow some children under 16 who ride in certain types of excepted vehicles to be unrestrained. NHTSA believes that the intent of the legislation was to eliminate these gaps in coverage. In addition, the agency believes that defining minor to mean under age 16 is consistent with the majority of State driver licensing laws that allow individuals at ages 16 and higher to obtain driver's licenses.

To demonstrate compliance, a State must submit a copy of its law, regulation, or binding policy directive interpreting or implementing such law or regulation adopting each element of the child passenger protection law requirement. In addition, the State is required to identify any exemptions to its child passenger protection law.

The agency notes that children age 12 and under should always sit in the back seat of a motor vehicle. Frontal crashes are the most serious types of crashes. The back seat is the safest seat because it is farthest away from the impact of such a crash. In addition, people sitting in the back seat have the soft back of the front seat in front of them, instead of hard surfaces like the windshield, mirror or dashboard.

Children should also sit in the back seat to guard against injuries from air bags. Air bags can seriously injure or kill children who are in the front seat. In a crash, the air bag must deploy in a fraction of a second. The energy of the air bag's deployment can harm anyone in the front seat who is too close to the air bag. Children age 12 and under who are not properly restrained are particularly at risk.

In addition, the agency wishes to stress the importance of placing children under age 4 in child safety seats. Specifically, the agency recommends that children less than 20 pounds, or less than one year old, be placed in a rear facing infant seat secured in the rear seat of the vehicle by the safety belts. Children from about 20 to 40 pounds and at least one year old should be placed in a forward-facing child seat secured in the rear seat of the vehicle by a safety belt. Children more than 40 pounds should sit in a booster seat secured in the rear seat of the vehicle with both portions of a lap/shoulder belt (except only the lap portion is used with some booster seats equipped with a front shield). Finally, the agency recommends that children whose sitting height is high enough so that they can, without the aid of a booster seat, wear the shoulder belt comfortably across their shoulder and secure the lap belt across their pelvis and whose legs are long enough to bend over the front of the seat when their backs are against the vehicle seat back be secured with both portions of a lap/shoulder belt.

Certifications in Subsequent Years

NHTSA believes that if a State has qualified under a criterion based on its laws and there have been no changes in the laws since the time of the original application, there is little reason to require the State to resubmit its laws in its application for subsequent year funds. In lieu of resubmitting its laws to demonstrate compliance in subsequent years the State receives a grant based on its compliance with Criterion No. 1 (Safety Belt Use Law), Criterion No. 2 (Primary Safety Belt Use Law), Criterion No. 3 (Minimum Fine or Penalty Points) or Criterion No. 6 (Child Passenger Protection Law), the State may submit a statement certifying that there have been no changes in the State's laws. A State demonstrating compliance as a Data State under Criterion No. 3 would still be required to submit all necessary data.

Limitations on Grant Amounts

Section 405 provides, in subsection (c), that an eligible State may receive as a grant an amount that shall not exceed 25 percent of its fiscal year 1997 highway safety grant (Section 402) apportionment under 23 U.S.C. 402.

No State may receive a grant in more than six fiscal years. A total of $68 million has been authorized for the Section 405 program over a period of five years. Specifically TEA–21 authorizes $10 million for fiscal year 1999, $10 million for fiscal year 2000, $13 million for fiscal year 2001, $15 million for fiscal year 2002 and $20 million for fiscal year 2003. Under Section 405, States are required to match the grant funds they receive as follows: the Federal share can not exceed 75 percent of the cost of implementing and enforcing the occupant protection program adopted to qualify for these funds in the first and second fiscal years the State receives funds; 50 percent in the third and fourth fiscal years it receives funds; and 25 percent in the fifth and sixth fiscal years.

No grant may be made to a State unless the State certifies that it will maintain its aggregate expenditures from all other sources for its occupant protection programs at or above the average level of such expenditures in fiscal years 1996 and 1997 (either State or Federal fiscal year 1996 and 1997 can be used).

The agency will accept a ''soft'' match in Section 405's administration, as it has for the agency's Section 402 and 410 programs. By this, NHTSA means the State's share may be satisfied by the use of either allowable costs incurred by the State or the value of in-kind contributions applicable to the period to which the matching requirement applies. A State could not, however, use any Federal funds, such as its Section 402 funds, to satisfy the matching requirements. In addition, a State can use each non-Federal expenditure only once for matching purposes.

Award Procedures

To receive a grant in any fiscal year, the State is required to submit an application to NHTSA, through the appropriate NHTSA Regional Administrator, which demonstrates that the State meets the requirements of the grant being requested. The particular requirements of these grants are defined in detail in § 1345.5 of the regulation. The State also must submit certifications that: (1) it has an occupant protection program that meets the grant requirements; (2) it will use the funds awarded only for the implementation and enforcement of occupant protection programs; (3) it will administer the funds in accordance with relevant regulations and OMB Circulars; and (4)

it will maintain its aggregate expenditures from all other sources for its occupant protection programs at or above the average level of such expenditures in fiscal years 1996 and 1997. State or Federal fiscal years may be used.

In both the first and in subsequent years, once a State has been informed that it is eligible for a grant, the State must include documentation in the State's Highway Safety Plan, prepared under Section 402, that indicates how it intends to use the grant funds. The documentation must include a Program Cost Summary (HS Form 217) obligating the section 405 funds to occupant protection programs.

To be eligible for grant funds in fiscal year 1999, States must submit their applications no later than August 1, 1999. To be eligible for grant funds in any subsequent fiscal years, States must submit their applications no later than August 1 of the fiscal year in which they are applying for funds. The agency will permit (and strongly encourages) States to submit all of these materials in advance of the regulatory deadlines.

Upon receipt and subsequent approval of a State's application, NHTSA will award grant funds to the State and will authorize the State to incur costs after receipt of an HS Form 217. Vouchers must be submitted to the appropriate NHTSA Regional Administrator and reimbursement will be made to States for authorized expenditures. The funding guidelines applicable to the Section 402 Highway Safety Program will be used to determine reimbursable expenditures under the Section 405 program. As with requests for reimbursement under the Section 402 program, States should indicate on the vouchers what amount of the funds expended are eligible for reimbursement under Section 405.

The release of the full grant amounts shall be subject to the availability of funding for that fiscal year. If there are expected to be insufficient funds to award full grant amounts to all eligible States in any fiscal year, NHTSA may release less than the full grant amounts upon initial approval of the State's application and documentation and the remainder of the full grant amounts, up to the State's proportionate share of available funds, before the end of that fiscal year. Project approval, and the contractual obligation of the Federal government to provide grant funds, shall be limited to the amount of funds released.

The Secretary may transfer any amounts remaining available under Sections 405, 410 and 411 to the amounts made available under any other of these programs to ensure, to the maximum extent possible, that each State receives the maximum incentive funding for which it is eligible.

Interim Final Rule

These regulations are being published as an interim final rule. Accordingly, the new regulations in Part 1345 are fully in effect 30 days after the date of the document's publication. No further regulatory action by the agency is necessary to make these regulations effective.

These regulations have been published as an interim final rule because insufficient time was available to provide for prior notice and opportunity for comment. Grants will be available beginning in FY 1999. Many of the grant criteria require States to enact legislation in order to comply. States are preparing their legislative agendas now for their 1999 legislative sessions. The States have a need to know what the criteria for grants under this program will be as soon as possible so they can enact conforming legislation.

In the agency's view, the States will not be impeded by the use of an interim final rule. The procedures that States must follow under this new program are similar to procedures that States have followed in other grant programs administered by NHTSA. These procedures were established by rulemaking and were subject to prior notice and opportunity for comment.

Moreover, the criteria are derived from the Federal statute and their implementation does not involve a significant amount of discretion on the part of the agency. For these reasons, the agency believes that there is good cause for finding that providing notice and comment in connection with this rulemaking action is impracticable, unnecessary, and contrary to the public interest.

The agency requests written comments on these new regulations. All comments submitted in response to this document will be considered by the agency. Following the close of the comment period, the agency will publish a document in the **Federal Register** responding to the comments and, if appropriate, will make revisions to the provisions of Part 1345.

Written Comments

Interested persons are invited to comment on this interim final rule. It is requested, but not required, that two copies be submitted.

All comments must be limited to 15 pages in length. Necessary attachments may be appended to those submissions without regard to the 15 page limit. (49 CFR 553.21.) This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

Written comments to the public docket must be received by November 30, 1998. All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the above address before and after that date. To the extent possible, comments received after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. NHTSA will continue to file relevant material in the docket as they become available after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Copies of all documents will be placed in Docket No. NHTSA–98–4496; in Docket Management, Room PL–401, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590.

Regulatory Analyses and Notice

Executive Order 12778 (Civil Justice Reform)

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

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

The agency has examined the impact of this action and has determined that it is not significant under Executive Order 12866 and the Department of Transportation's Regulatory Policies and Procedures.

The action will not have an annual effect on the economy of $100 million or more or adversely affect in a material way a sector of the economy, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities. It will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, and it will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and

obligations of recipients thereof. Nor does it raise novel legal or policy issues.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the agency has evaluated the effects of this action on small entities. Based on the evaluation, we certify that this action will not have a significant impact on a substantial number of small entities. States are the recipients of any funds awarded under the Section 405 program, and they are not considered to be small entities, as that term is defined in the Regulatory Flexibility Act.

Paperwork Reduction Act

This interim final rule contains information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the agency has submitted a copy of this section to the Office of Management and Budget for its review.

The public information and recordkeeping burden for this collection of information is estimated to be 1736 hours annually. The total number of respondents is estimated to be up to 56. The average number of hours per respondent is 31 (1736 hours/56 = 31 hours).

Organizations and individuals desiring to submit comments on the information collection requirements should submit them to Docket Management, Room PL–401, National Highway Traffic Safety Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Comments should refer to the docket number for this notice and should be sent within 30 days of the publication of this interim final rule.

The agency considers comments by the public on this collection of information in: evaluating whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have a practical use; evaluating the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; enhancing the quality, usefulness, and clarity of the information to be collected; and minimizing the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection will be published in the **Federal Register** after it is approved by the OMB.

For more details see the Paperwork Reduction Act Analysis available for copying and review in the public docket.

The title, description, and respondent description of the information collection are shown below with an estimate of the annual burden.

Title: Occupant Protection Incentive Grants.

OMB Clearance number: Not assigned.

Description of the need for the information and proposed use of the information: To determine whether States comply with grant criteria, NHTSA is requiring States to submit copies of relevant safety belt and child passenger protection statutes, plans and/or reports on statewide special traffic enforcement and child passenger protection education programs and possibly some traffic court records. In addition, to allow the agency to track grant funds, NHTSA is requiring States to submit a Program Cost Summary (Form 217), allocating the section 405 funds to occupant protection programs.

Description of likely respondents (including estimate of frequency of response to the collection of information): The respondents are the States. All respondents would submit an application and Form 217 to NHTSA in each year they seek to qualify for incentive grant funds.

Estimate of total annual reporting and record keeping burden resulting from the collection of information: NHTSA estimates that each respondent will take 30 hours to prepare and submit the grant application and one hour to prepare and submit a Program Cost Summary (Form 217) for an estimated total hour burden on all respondents of 1736 hours (31 hours x 56 respondents). Based on an estimated cost of $50.00 per hour employee cost, each response is estimated to cost a State $1550. If every jurisdiction considered a ''State'' under this program were to apply, the total cost on all respondents per year would be $86,800. It is not anticipated, however, that all 56 jurisdictions will apply each year.

National Environmental Policy Act

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

The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires agencies to prepare a written assessment of the costs, benefits and other affects of final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. This interim final rule does not meet the definition of a Federal mandate, because the resulting annual expenditures will not exceed the $100 million threshold. In addition, this incentive grant program is completely voluntary and States that choose to apply and qualify will receive incentive grant funds.

Executive Order 12612 (Federalism)

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

List of Subjects in 23 CFR Part 1345

Grant programs—Transportation, Highway safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, a new Part 1345 is added to Chapter III of Title 23 of the Code of Federal Regulations to read as follows:

PART 1345—INCENTIVE GRANT CRITERIA FOR OCCUPANT PROTECTION PROGRAMS

Sec.
1345.1 Scope.
1345.2 Purpose.
1345.3 Definitions.
§ 1345.4 General requirements.
1345.5 Requirements for a grant.
1345.6 Award procedures.

Authority: Pub. L. 105–178; 23 U.S.C. 405; delegation of authority at 49 CFR 1.50.

§ 1345.1 Scope.

This part establishes criteria, in accordance with section 2003 of the Transportation Equity Act for the 21st Century, for awarding incentive grants to States that adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles.

§ 1345.2 Purpose.

The purpose of this part is to implement the provisions of section

2003 of the Transportation Equity Act for the 21st Century, 23 U.S.C. 405, and to encourage States to adopt effective occupant protection programs.

§ 1345.3 Definitions.

(a) *Child restraint system* means child safety seat.

(b) *Child safety seat* means any device (except safety belts) designed for use in a motor vehicle to restrain, seat, or position a child who weighs 50 pounds or less.

(c) *Minimum fine* means a total monetary penalty which may include fines, fees, court costs, or any other additional monetary assessments collected.

(d) *Passenger motor vehicle* means a passenger car, pickup truck, van, minivan, or sport utility vehicle.

(e) *State* means any of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa or the Commonwealth of the Northern Mariana Islands.

§ 1345.4 General requirements.

(a) *Qualification requirements.* To qualify for a grant under 23 U.S.C. 405, a State must, for each year it seeks to qualify:

(1) Submit an application to the appropriate NHTSA Regional Administrator demonstrating that it meets the requirements of § 1345.5 and include certifications that:

(i) It has an occupant protection program that meets the requirements of 23 U.S.C. 405;

(ii) It will use the funds awarded under 23 U.S.C. 405 only for the implementation and enforcement of occupant protection programs;

(iii) It will administer the funds in accordance with 49 CFR part 18 and OMB Circulars A–102 and A–87 and

(iv) It will maintain its aggregate expenditures from all other sources for its occupant protection programs at or above the average level of such expenditures in fiscal years 1996 and 1997 (either State or Federal fiscal year 1996 and 1997 can be used); and

(2) After being informed by NHTSA that it is eligible for a grant, submit to the agency, within 30 days, a Program Cost Summary (HS Form 217) obligating the section 405 funds to occupant protection programs.

(3) The State's Highway Safety Plan, which is required to be submitted by September 1 of each year, pursuant to 23 U.S.C. 402 and 23 CFR 1200, should document how it intends to use the Section 405 grant funds.

(4) To qualify for grant funds in any fiscal year, the application must be received by the agency not later than August 1 of the fiscal year in which the State is applying for funds.

(b) *Limitation on grants.* A State may receive a grant for up to six fiscal years beginning after September 30, 1998, subject to the following limitations:

(1) The amount of a grant, under § 1345.5 shall equal up to 25 percent of the State's 23 U.S.C. 402 apportionment for fiscal year 1997, subject to availability of funds.

(2) In the first and second fiscal years a State receives a grant, it shall be reimbursed for up to 75 percent of the cost of its occupant protection program adopted pursuant to 23 U.S.C. 405.

(3) In the third and fourth fiscal years a State receives a grant, it shall be reimbursed for up to 50 percent of the cost of its occupant protection program adopted pursuant to 23 U.S.C. 405.

(4) In the fifth and sixth fiscal years a State receives a grant, it shall be reimbursed for up to 25 percent of the cost of its occupant protection program adopted pursuant to 23 U.S.C. 405.

§ 1345.5 Requirements for a grant.

To qualify for an incentive grant, a State must adopt and implement effective programs to reduce highway deaths and injuries resulting from individuals riding unrestrained or improperly restrained in motor vehicles. A State must adopt and implement at least four of the following criteria:

(a) *Safety belt use law.* (1) In fiscal years 1999 and 2000, a State must make unlawful throughout the State the operation of a passenger motor vehicle whenever an individual (other than a child who is secured in a child restraint system) in the front seat of the vehicle does not have a safety belt properly secured about the individual's body.

(2) Beginning in fiscal year 2001, a State must make unlawful throughout the State the operation of a passenger motor vehicle whenever an individual (other than a child who is secured in a child restraint system) in any seating position in the vehicle does not have a safety belt properly secured about the individual's body.

(3) To demonstrate compliance with this criterion, a State shall submit a copy of the State's safety belt use law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of paragraphs (a)(1) or (a)(2), as appropriate, of this section. The State is also required to identify any exemptions to its safety belt use law.

(b) *Primary safety belt use law.* (1) A State must provide for primary enforcement of its safety belt use law.

(2) To demonstrate compliance with this criterion, the State shall submit a copy of its law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of paragraph (b)(1) of this section.

(c) *Minimum fine or penalty points.* (1) A State must provide for the imposition of a minimum fine of not less than $25.00 or one or more penalty points on the driver's license of an individual:

(i) For a violation of the State's safety belt use law; and

(ii) for a violation of the State's child passenger protection law.

(2)(i) To demonstrate compliance with this criterion, a Law State shall submit a copy of the law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of paragraph (c)(1) of this section.

(ii) For purposes of this paragraph, a ''Law State'' means a State that has a law, regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of the minimum fines or penalty points criterion including the imposition of a minimum fine of not less than $25.00 or one or more penalty points for a violation of the State's safety belt use and child passenger protection laws.

(3)(i) To demonstrate compliance with this criterion, a Data State shall submit data covering a period of at least three months during the past twelve months showing the total number of persons who were convicted of a safety belt use or child passenger protection law violation and that 80 percent or more of all such persons were required to pay at least $25 in fines, fees or court costs or had one or more penalty points assessed against their driver's license. The State can provide the necessary data based on a representative sample.

(ii) For purposes of this paragraph, a ''Data State'' means a State that does not require the mandatory imposition of a minimum fine of not less than $25.00 or one or more penalty points for a violation of the State's safety belt use and child passenger protection laws.

(d) *Special traffic enforcement program.* (1) A State must establish a statewide Special Traffic Enforcement Program for occupant protection that emphasizes publicity for the program. The program must provide for periodic enforcement efforts. Each enforcement effort must include the following five elements, in chronological order:

(i) A seat belt observed use survey conducted before any enforcement wave;

(ii) A media campaign to inform the public about the risks and costs of traffic

crashes, the benefits of increased occupant protection use, and the need for traffic enforcement as a way to manage those risks and costs.

(iii) Local media events announcing a pending enforcement wave;

(iv) A wave of enforcement effort consisting of checkpoints, saturation patrols or other enforcement tactics.

(v) A post-wave observed use survey coupled with a post-wave media event announcing the results of the survey and the enforcement effort.

(2) The State's program must provide for at least two enforcement efforts each year and must require the participation of State and local police in each effort.

(3) The State's program must cover at least 70% of the State's population.

(4) To demonstrate compliance with this criterion in the first year the State receives a grant based on this criterion, the State shall submit a plan to conduct a program that covers each element identified in paragraphs (d)(1) through (d)(3) of this section. Specifically, the plan shall:

(i) Provide the approximate dates, durations and locations of the efforts planned in the upcoming year;

(ii) Specify the types of enforcement methods that will be used during each enforcement effort and provide a listing of the law enforcement agencies that will participate in the enforcement efforts along with an estimate of the approximate cumulative percentage of the State's population served by those agencies or the approximate percentage of the traffic volume on roadways covered by the enforcement program; and

(iii) Document the activities the State plans to conduct to provide the public with information on the importance of occupant restraints and to publicize each enforcement effort and its results. This information should include a sample or synopsis of the content of the public information messages that will accompany the enforcement efforts and the strategy that the State intends to use to deliver each message to its target audience.

(5) To demonstrate compliance with this criterion in subsequent fiscal years the State receives a grant based on this criterion, the State shall submit an updated plan for conducting a special traffic enforcement program in the following year and information documenting that the prior year's plan was effectively implemented. The information shall document that enforcement efforts were conducted; which police agencies were involved; and the dates, duration and location of each enforcement effort. The State must also submit samples of materials used, and document activities that took place to reach the target population.

(e) *Child passenger protection education program*. (1) A State must provide an effective system for educating the public about the proper use of child safety seats. The program must, at a minimum:

(i) Provide information to the public about proper seating positions for children in air bag equipped motor vehicles, the importance of restraint use, and instruction on how to reduce the improper use of child restraint systems;

(ii) Provide for child passenger safety (CPS) training and retraining to establish or update child passenger safety technicians, police officers, fire and emergency personnel and other educators to function at the community level for the purpose of educating the public about proper restraint use and to teach child care givers how to install a child safety seat correctly. The training should encompass the goals and objectives of NHTSA's Standardized Child Passenger Safety Technician Curriculum;

(iii) Provide periodic child safety seat clinics conducted by State and local agencies (health, medical, hospital, enforcement, etc.); and

(iv) The State's program activities (with the exception of the training and retraining activities) must cover at least 70% of the State's population; that is, the program activities must take place in counties or other subdivisions of the State that collectively contain at least 70% of the State's population.

(2) To demonstrate compliance with this criterion in the first fiscal year the State receives a grant based on this criterion, the State shall submit a plan to conduct a child passenger protection education program that covers each element identified in paragraph (e) (1) of this section. The information shall include:

(i) A sample or synopsis of the content of the planned public information program and the strategy that will be used to reach 70% of the targeted population;

(ii) A description of the activities that will be used to train and retrain child passenger safety technicians, police officers, fire and emergency personnel and other educators and provide the durations and locations of such training activities;

(iii) An estimate of the approximate number of people who will participate in the training and retraining activities; and

(iv) A plan to conduct clinics that will serve at least 70% of the targeted population.

(3) To demonstrate compliance with this criterion in subsequent fiscal years the State receives a grant based on this criterion, the State shall submit an updated plan for conducting a child passenger protection education program in the following year and information documenting that the prior year's plan was effectively implemented. The information shall document that a public information program, training and child safety seat clinics were conducted; which agencies were involved; and the dates, durations and locations of these programs.

(f) *Child passenger protection law*. (1) The State must make unlawful the operation of a passenger motor vehicle whenever an individual who is less than 16 years of age is not properly secured in a child safety seat or other appropriate restraint system.

(2) To demonstrate compliance with this criterion, a State shall submit a copy of the law(s), regulation or binding policy directive interpreting or implementing the law or regulation that provides for each element of paragraph (f)(1) of this section. In addition, the State must identify any exemptions to its child passenger protection law(s).

(g) *Certifications in subsequent years*. (1) To demonstrate compliance in subsequent years the State receives a grant based on criteria in paragraphs (a), (b), (c) or (f) of this section, if the State's law, regulation or binding policy directive has not changed, the State, in lieu of resubmitting its law, regulation or binding policy directive as provided in paragraphs (a)(3), (b)(2), (c)(2)(i) or (f)(2) of this section, may submit a statement certifying that there have been no substantive changes in the State's laws, regulations or binding policy directives.

(2) The certifying statement shall be worded as follows:

(Name of certifying official), (position title), of the (State or Commonwealth) of _____, do hereby certify that the (State or Commonwealth) of _____ has not changed and is enforcing a law, that conforms to 23 U.S.C. 405 and 23 CFR 1345.5 (insert reference to section and paragraph), (citations to State law).

§ 1345.6 Award procedures.

(a) In each Federal fiscal year, grants will be made to eligible States upon submission and approval of the application required by § 1345.4(a) and subject to the limitation in § 1345.4(b). The release of grant funds under this part shall be subject to the availability of funding for that fiscal year. If there are expected to be insufficient funds to award full grant amounts to all eligible

States in any fiscal year, NHTSA may release less than the full grant amounts upon initial approval of the State's application and documentation and the remainder of the full grant amounts, up to the State's proportionate share of available funds, before the end of that fiscal year. Project approval, and the contractual obligation of the Federal government to provide grant funds, shall be limited to the amount of funds released.

(b) If any amounts authorized for grants under this part for a fiscal year are expected to remain unobligated in that fiscal year, the Administrator may transfer such amounts to the programs authorized under 23 U.S.C. 410 and 23 U.S.C. 411, to ensure to the extent possible that each State receives the maximum incentive funding for which it is eligible.

(c) If any amounts authorized for grants under 23 U.S.C. 410 and 23 U.S.C. 411 are transferred to the grant program under this part in a fiscal year, the Administrator shall distribute the transferred amounts so that each eligible State receives a proportionate share of these amounts, subject to the conditions specified in § 1345.4.

Issued on: September 25, 1998.

Ricardo Martinez,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 98–26243 Filed 9–28–98; 12:12 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8784]

RIN 1545–AV89

Substantiation of Business Expenses—Use of Mileage Allowances To Substantiate Automobile Expenses

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary and final regulations.

SUMMARY: This document contains temporary and final regulations relating to the use of mileage allowances to substantiate automobile business expenses. The regulations affect payors who make payments and employees who receive payments under reimbursement or other expense allowance arrangements for the business use of an automobile.

DATES: *Effective date:* These regulations are effective October 1, 1998.

Applicability date: These regulations apply to transportation expenses paid or incurred after December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Donna M. Crisalli, (202) 622–4920 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Section 274(d) provides that a taxpayer is not allowed a deduction or credit for certain expenses unless the expense is substantiated. These substantiation requirements apply to the expenses of use of any listed property (defined in section 280F(d)(4)), which includes any passenger automobile and any other property used as a means of transportation. The Secretary may issue regulations that provide that some or all of the substantiation requirements will not apply to expenses that do not exceed a prescribed amount.

Section 1.274(d)–1 provides, in part, that the Commissioner may prescribe rules under which mileage allowances reimbursing ordinary and necessary expenses of local travel and transportation while traveling away from home will satisfy the substantiation requirements of § 1.274–5T(c), and the requirements of an adequate accounting to the employer for purposes of § 1.274–5T(f)(4). However, § 1.274(d)–1(a)(3) provides that such mileage allowances are available only to the owner of a vehicle.

New § 1.274(d)–1T applies these substantiation rules to mileage allowances for business use of an automobile after December 31, 1997, without the limitation in § 1.274(d)–1(a)(3) that a mileage allowance is available only to the owner of a vehicle. See Rev. Proc. 97–59 (1997–52 I.R.B. 24), for rules that implement these regulations. The regulations also adopt new § 1.62–2T(e)(2) to incorporate this new rule.

Special Analyses

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

Drafting Information

The principal authors of these regulations are Edwin B. Cleverdon and Donna M. Crisalli of the Office of the Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding entries in numerical order to read as follows:

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

Section 1.274(d)–1 also issued under 26 U.S.C. 274(d).

Section 1.274(d)–1T also issued under 26 U.S.C. 274(d). * * *

Par. 2. In § 1.62–2, paragraph (m) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 1.62–2 Reimbursement and other expense allowance arrangements.

* * * * *

(m) * * * Paragraph (e)(2) of this section applies to payments made under reimbursement or other expense allowance arrangements received by an employee with respect to expenses paid or incurred on or before December 31, 1997. For payments with respect to expenses paid or incurred after December 31, 1997, see § 1.62–2T(e)(2).

Par. 3. Section 1.62–2T is added to read as follows:

§ 1.62–2T Reimbursement and other expense allowance arrangements (temporary).

(a) through (e)(1) [Reserved]. For further guidance, see § 1.62–2(a) through (e)(1).

(e)(2) *Expenses governed by section 274(d).* For further guidance, see § 1.62–2(e)(2) except that each reference to § 1.274(d)–1 is deemed to be a reference to § 1.274(d)–1T.

(e)(3) through (l) [Reserved]. For further guidance, see § 1.62–2(e)(3) through (l).

(m) *Effective dates.* Paragraph (e)(2) of this section applies to payments made under reimbursement or other expense

allowance arrangements received by an employee with respect to expenses paid or incurred after December 31, 1997. For payments with respect to expenses paid or incurred on or before December 31, 1997, see § 1.62–2(e)(2).

Par. 4. Section 1.274(d)–2 is amended by adding paragraph (b) to read as follows:

§ 1.274(d)–1 Substantiation requirements.

* * * * *

(b) *Effective date.* This section applies to allowances described in paragraph (a)(2) of this section for expenses paid or incurred on or before December 31, 1997. For allowances for expenses paid or incurred after December 31, 1997, see § 1.274(d)–1T.

Par. 5. Section 1.274(d)–1T is added to read as follows:

§ 1.274(d)–1T Substantiation requirements (temporary).

(a) (1) and (2) [Reserved]. For further guidance, see § 1.274(d)–1(a)(1).

(a)(3) [Reserved].

(b) *Effective date.* This section applies to allowances described in § 1.274(d)–1(a)(2) for expenses paid or incurred after December 31, 1997. For allowances for expenses paid or incurred on or before December 31, 1997, see § 1.274(d)–1(a).

Approved: September 14, 1998.

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 98–26226 Filed 9–30–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 53

[T.D. ATF–404; Ref: Notice No. 836]

RIN 1512–AB49

Firearms and Ammunition Excise Taxes, Parts and Accessories (97R–1457P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule amends regulations relating to the manufacturers excise tax on firearms and ammunition. Under 26 U.S.C. 4181, a tax is imposed on the sale by the manufacturer, importer or producer of firearms, shells, and cartridges. The tax is 10 percent of the sale price for pistols and revolvers, 11 percent for firearms (other than pistols and revolvers), and 11 percent for shells and cartridges. Current regulations provide that no tax is imposed by section 4181 on the sale of parts or accessories of firearms, pistols, revolvers, shells, and cartridges when sold separately or when sold with a complete firearm. This final rule amends the regulations to clarify which parts and accessories must be included in the sale price when calculating the tax on firearms.

DATES: Effective November 30, 1998.

FOR FURTHER INFORMATION CONTACT: Marsha D. Baker, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, N.W., Washington, D.C. 20226 (202–927–8476).

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Alcohol, Tobacco and Firearms (ATF) is responsible for collecting the firearms and ammunition excise tax imposed by section 4181. The Pittman-Robertson Wildlife Restoration Act, 16 U.S.C. 669 et seq., requires that an amount equal to all of the revenue collected under section 4181 be deposited into the Federal Aid to Wildlife Restoration Fund. This Fund is apportioned to the States for hunter safety programs, maintenance of public target ranges, and wildlife and wetlands conservation.

The current regulation provides that no tax is imposed by section on the sale of parts or accessories of firearms, pistols, revolvers, shells, and cartridges when sold separately or when sold with a complete firearm. This regulation was at issue in *Auto-Ordnance Corp.* v. *United States,* 822 F.2d 1566 (Fed. Cir. 1987). In this case a manufacturer of firearms sued to recover excise taxes paid on sights and compensator units sold with rifles it manufactured. The manufacturer claimed that these parts were nontaxable accessories that should not be included in the taxable sale price of the rifles. The Internal Revenue Service (IRS), the agency responsible for administering the tax on firearms at that time, contended that the sights and compensator units were component parts of the rifles that must be included in the taxable sale price.

The court noted that the position of the IRS that all component parts of a ''commercially complete'' firearm must be included in the sale price was a concept that was not found in the regulations. Since the regulations did not specify which parts are component parts of a firearm nor define the term ''accessories,'' the court found that it was appropriate to look beyond the language of the regulation. The court discussed several dictionary definitions of the term ''accessories'' as well as tariff and customs classification cases. The court held that the sights and compensator units were nontaxable accessories since they were readily removable and of secondary or subordinate importance to the function of the firearm.

Since taking over the administration of the firearms and ammunition excise tax from the IRS in 1991, ATF has issued numerous rulings on parts and accessories. ATF has found it increasingly difficult to apply the regulation on parts and accessories as interpreted by the court in *Auto-Ordnance.* For example, the ''secondary or subordinate importance'' test is difficult to apply to parts that are essential for the safe operation of the firearm. Arguably, such parts are essential to the function of the firearm and should be included in the taxable sale price. However, if such parts are not needed to fire the firearm, it is possible that a Federal court, applying the rationale of *Auto-Ordnance,* would hold that such parts are nontaxable accessories.

Notice of Proposed Rulemaking

On August 29, 1996, ATF published in the **Federal Register** a notice of proposed rulemaking (Notice No. 836, 61 FR 45377) proposing to provide definitions for ''component parts'' that must be included in the taxable sale price and ''nontaxable parts'' and ''nontaxable accessories'' that are excluded from the taxable sale price. The notice stated that the purpose of the proposed definitions is to reinstate the longstanding ''commercial completeness'' test of the IRS in a manner that will withstand judicial scrutiny. The notice stated that the effect of the definitions would be to replace the readily removable/essential to the function test of the *Auto-Ordnance* case with a more objective, predictable standard to use in determining whether items sold with a firearm are includible in the tax basis.

Analysis of Comments

ATF received nine (9) written comments during the comment period in response to Notice No. 836. These comments were submitted by three (3) members of the public, four (4) Federal firearm licensees, and two (2) firearms industry organizations. All nine respondents opposed the proposed regulations.

One commenter felt that ATF lacks the authority to impose a tax and should restrict itself to enforcement matters. The authority to administer the excise tax provisions of 26 U.S.C. 4181 was transferred from the IRS to ATF on January 1, 1991, by Treasury Order No. 120–03 (55 FR 47422, November 13, 1990). The order gave ATF the authority to issue regulations with respect to the administration, collection and enforcement of firearms and ammunition excise taxes.

One commenter requested that ATF modify the payment schedule for excise taxpayers to a quarterly basis. Current regulations require bimonthly deposits for most taxpayers. The commenter stated that some manufacturers provide economic incentives to dealers by providing an extended payment schedule of three, six, or nine months for those accepting products early in the year. This process may cause some manufacturers to borrow money with which to pay excise tax. The commenter suggested that quarterly payments reflecting seasonal fluctuations in consumer demands would assist in alleviating this problem.

The deposit system for payment of the taxes imposed by section 4181 was not one of the issues raised for public comment by Notice No. 836. Moreover, a change in the current system would require a statutory amendment. Accordingly, ATF is not adopting this comment.

Five (5) commenters opposed the proposed regulations on the basis that they would overturn the *Auto-Ordnance* decision and result in more tax being paid by taxpayers and consumers. The commenters believe that by reinstating the commercial completeness test of the IRS, ATF is trying to circumvent the court's finding in *Auto-Ordnance.* The commenters are opposed to replacing the readily removable/essential to the function test with the commercial completeness test, because they consider the court to have already repudiated the application of a commercial completeness test.

The *Auto-Ordnance* case makes it clear that the Federal Circuit rejected the IRS ''commercial completeness'' test only because that test was not clear in the regulations. The court did not hold that the IRS position was an impermissible interpretation of the statute. Accordingly, ATF does not believe the *Auto-Ordnance* case precludes ATF from establishing a for parts and accessories different from that used by the court.

Four (4) commenters expressed opposition to proposed section 53.61(b)(5), which provides that when taxable firearms are sold by a manufacturer or importer without component parts, the separate sale of the component parts to the same vendee will be considered, in the absence of evidence to the contrary, to have been made in connection with the sale of the basic article even though the component parts are shipped separately.

These four respondents stated that the implementation of this provision will result in confusing and complex recordkeeping requirements. They stated that recordkeeping requirements would become more difficult and complex for the manufacturers since customer requests for mounts and other accessories on a separate invoice to the dealer would become taxable. The commenters noted that a manufacturer who ships a firearm without sights but provides the retailer with the opportunity to add them at a later date does so for market-driven reasons rather than for evading the small amount of tax on the sights.

ATF's intent in proposing the separate sales provision of ''53.61(b)(5) was to include in the regulations the longstanding position that tax cannot be evaded through separate shipment and sale of component parts. However, ATF did not intend to impose a continuing obligation on firearms importers and manufacturers to keep records of their sales of parts to vendors and attempt to match them up with previous sales of firearms. Accordingly, ATF is adopting this comment and deleting proposed ''53.61(b)(5) from the final regulations.

In addition, ATF is amending wording in proposed ''53.61(b)(6)(ii) to remove the term ''parts in a partially completed state.'' ATF believes this language is unnecessary.

Eight (8) commenters expressed opposition to the proposed regulation because they believed it may be more costly for the manufacturers by increasing their taxes and driving up retail prices. There was also concern that this would force taxpayers to borrow money to meet tax payments in advance of receipt of trade receivables. The commenters stated that this would lead to a negative impact on sales, reduction of the market, and reduction of revenues. They stated that such a change in the regulations would increase costs incurred by the regulated industry.

ATF does not believe that the implementation of this regulation will place an undue financial burden on excise taxpayers or have a significant impact on sales, the market, or revenues. This regulation will, however, make it easier for the taxpayer to understand the excise taxes for parts and accessories. A better understanding of the distinction between taxable and nontaxable items will lead to fewer mistakes in computing tax. In addition, the clarified definitions of parts and accessories will make it easier for the government to administer the regulation.

Two (2) commenters stated that the burden of supporting the Aid to Wildlife Restoration Fund should be placed upon those who benefit from the Fund, such as hunters, campers, and hikers as well as businesses whose activities (i.e., pollution, timber cutting, etc.) are detrimental to wildlife. Since the taxes paid into the Fund are imposed by statute on manufacturers and importers of firearms and ammunition, legislation would be necessary to require contribution to the Fund by other persons. This final rule also adds a definition of the term ''knockdown condition'' to the regulations in § 53.11. Since the new definition of ''parts and accessories'' uses this term, the definition of ''knockdown condition'' is added for clarity.

Regulatory Flexibility Act

It is hereby certified under the provisions of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this final rule will not have a significant economic impact on a substantial number of small entities. This rule merely clarifies existing regulations. A copy of the proposed rule was submitted to the Chief Counsel for Advocacy of the Small Business Administration in accordance with 26 U.S.C. 7805(f). No comments were received.

Executive Order 12866

It has been determined that this regulation is not a significant regulatory action as defined by Executive Order 12866. Accordingly, the final rule is not subject to the analysis required by this Executive Order.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because there are no new reporting or recordkeeping requirements.

Disclosure

Copies of the notice of proposed rulemaking, the written comments, and this final rule will be available for public inspection during normal business hours at: ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW, Washington, D.C. 20226.

Drafting Information

The author of this document is Marsha D. Baker, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 53

Administrative practice and procedure, Arms and munitions, Authority delegations, Export, Imports, Penalties, Reporting and recordkeeping requirements.

Authority and Issuance

Accordingly, 27 CFR Part 53, Manufacturers Excise Taxes—Firearms and Ammunition, is amended as follows:

PART 53—MANUFACTURERS EXCISE TAXES—FIREARMS AND AMMUNITION

Paragraph 1. The authority citation for 27 CFR part 53 continues to read as follows:

Authority: 26 U.S.C. 4181, 4182, 4216–4219, 4221–4223, 4225, 6001, 6011, 6020, 6021, 6061, 6071, 6081, 6091, 6101–6104, 6109, 6151, 6155, 6161, 6301–6303, 6311, 6402, 6404, 6416, and 7502.

Par. 2. Section 53.11 is amended by adding a new definition for the term ''knockdown condition'' to read as follows:

§ 53.11 Meaning of terms

* * * * *

Knockdown condition. A taxable article that is unassembled but complete as to all component parts.

* * * * *

Par. 3. Section 53.61(b) is revised to read as follows:

§ 53.61 Imposition and rates of tax.

* * * * *

(b) *Parts or accessories.* (1) *In general.* No tax is imposed by section 4181 of the Code on the sale of parts or accessories of firearms, pistols, revolvers, shells, and cartridges when sold separately or when sold with a complete firearm for use as spare parts or accessories. The tax does attach, however, to sales of completed firearms, pistols, revolvers, shells, and cartridges, and to sale of such articles that, although in knockdown condition, are complete as to all component parts.

(2) *Component parts.* Component parts are items that would ordinarily be attached to a firearm during use and, in the ordinary course of trade, are packaged with the firearm at the time of sale by the manufacturer or importer. All component parts for firearms are includible in the price for which the article is sold.

(3) *Nontaxable parts.* Parts sold with firearms that duplicate component parts that are not includible in the price for which the article is sold.

(4) *Nontaxable accessories.* Items that are not designed to be attached to a firearm during use or that are not, in the ordinary course of trade, provided with the firearm at the time of the sale by the manufacturer or importer are not includible in the price for which the article is sold.

(5) *Examples.* (i) *In general.* The following examples are provided as guidelines and are not meant to be all inclusive.

(ii) *Component parts.* Component parts include items such as a frame or receiver, breech mechanism, trigger mechanism, barrel, buttstock, forestock, handguard, grips, buttplate, fore end cap, trigger guard, sight or set of sights (iron or optical), sight mount or set of sight mounts, a choke, a flash hider, a muzzle brake, a magazine, a set of sling swivels, and/or an attachable ramrod for muzzle loading firearms when provided by the manufacturer or importer for use with the firearm in the ordinary course of commercial trade. Component parts also include any part provided with the firearm that would affect the tax status of the firearm, such as an attachable shoulder stock.

(iii) *Nontaxable parts.* Nontaxable parts include items such as extra barrels, extra sights, optical sights and mounts (in addition to iron sights), spare magazines, spare cylinders, extra choke tubes, and spare pins.

(iv) *Nontaxable accessories.* Nontaxable accessories include items such as cleaning equipment, slings, slip on recoil pads (in addition to standard buttplate), tools, gun cases for storage or transportation, separate items such as knives, belt buckles, or medallions. Nontaxable accessories also include optional items purchased by the customer at the time of retail sale that do not change the tax classification of the firearm, such as telescopic sights and mounts, recoil pads, slings, sling swivels, chokes, and flash hiders/muzzle brakes of a type not provided by the manufacturer or importer of the firearm in the ordinary course of commercial trade.

* * * * *

Signed: May 28, 1998.

John W. Magaw,

Director.

Approved: August 3, 1998.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 98–26133 Filed 9–30–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD 13–98–023]

RIN 2115–AE84

Regulated Navigation Area, Strait of Juan de Fuca and Adjacent Coastal Waters of Washington; Makah Whale Hunting

AGENCY: Coast Guard, DOT.

ACTION: Interim rule; request for comments.

SUMMARY: The Coast Guard, after consultation with the Department of Justice, Department of Interior and the Department of Commerce, is establishing a permanent Regulated Navigation Area (RNA) along the northwest Washington coast and in a portion of the entrance of the Strait of Juan de Fuca. The RNA will reduce the danger to life and property in the vicinity of Makah whale hunt activities. Within the RNA, a Moving Exclusionary Zone around a Makah whale hunt vessel will be in effect during actual whale hunt operations.

DATES: The interim rule becomes effective upon publication in the **Federal Register**. Comments regarding this rule must be received by March 1, 1999.

ADDRESSES: You may mail comments to: Thirteenth Coast Guard District (m), (CGD 13–98–023), 915 Second Avenue, Seattle, WA 98174, or deliver them to room 3506 at the same address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (206) 220–7210.

The Thirteenth Coast Guard District Marine Safety Division maintains the public docket for this rulemaking. Comments and documents as indicated in this preamble will become part of this docket and will be available for inspection or copying at room 3506, Thirteenth Coast Guard District Offices, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Jim Peschel (206) 220–7210.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Migrating gray whales are expected in the Regulated Navigation Area (RNA) after October 1, 1998. The Makah tribe's whaling plan indicates they may begin hunting these whales in October 1998. There has been substantial publicity and debate concerning the hunt. An early effective date for this rule will help

ensure safety of persons and property at sea should whale hunting operations commerce during October. For these reasons, the Coast Guard finds good cause, under 5 U.S.C. 553(d)(3), that this rule should be made effective in less than 30 days after publication.

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. persons submitting comments should include their names and addresses, identify this rulemaking (CGD 13–98–023) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgement of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard is accepting comments on this interim rule until March 1, 1999. The Coast Guard will consider all comments received during the comment period and may change this interim rule in view of the comments. Changes may be made to this rule during the comment period if warranted by circumstances. The Coast Guard plans to issue a final rule after observing hunt operations.

The Coast Guard has not scheduled a public hearing at this time. Persons may request a public hearing by writing to the Thirteenth Coast Guard District at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial to this rulemaking. If it determines that an opportunity for oral presentations will aid this rulemaking, the Coast Guard will schedule a public hearing at a time and place announced in a separate notice published in the **Federal Register**.

Regulatory History

On July 22, 1998, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled ''Regulated Navigation Area; Strait of Juan de Fuca and Adjacent Coastal Waters of Washington; Makah Whale Hunting'' in the **Federal Register** (63 FR 39256) The Coast Guard received 243 letters regarding the proposed rule during a 45 day comment period. No public hearing was held.

Background and Purpose

The Makah Tribe has a federally recognized treaty right to hunt whales and has received permission from the International Whaling Commission to kill up to five gray whales annually in the Makah's usual and accustomed fishing area off the northwest coast of Washington and in the entrance of the Strait of Juan de Fuca. The hunts will likely be accomplished using a harpoon and a .50 caliber rifle, fired from a small boat. This rule will reduce the dangers to persons and vessels in the vicinity of whale hunts. The uncertain reactions of a pursued or wounded whale and the inherent dangers in firing a hunting rifle from a pitching and rolling small boat could endanger life and property if persons and vessels are not excluded from the immediate vicinity of a hunt.

Discussion of Comments and Changes

The Coast Guard received a total of 243 documents containing comments to the proposed rule. The documents included letters from 12 organizations, 1 federal agency, the Makah tribe, and 5 petitions with multiple signatures. Responses to these comments and changes made in the proposed rule are discussed in the following paragraphs.

The most frequent comment was that the RNA violated first amendment rights. Generally, these comments raised the concern that the 500 yard Moving Exclusionary Zone distance prevents appropriate documentation and recording of an event that is of significant public interest. One comment said the regulation would prevent effective protests. Another proposed that licenses be issued to the media. The Coast Guard recognizes that a significant public interest exists in recording and documenting this event by the media, and will accommodate this request consistent with appropriate safety concerns. The Coast Guard intends to allow a single press pool vessel within the Moving Exclusionary Zone under certain restrictions spelled out in the interim rule. Requiring other members of the public, including potential protesters, to remain 500 years away from the hunt is a reasonable, content neutral restriction in light of the serious safety concerns presented by a whale hunt. The carefully tailored interim rule and the allowance for a press pool vessel within the Moving Exclusionary Zone balances significant public safety concerns, tribal treaty rights, and first amendment rights.

Numerous comments opposed any whaling. A petition with several signatures requested that the Coast Guard stay neutral and only issue warnings and guidelines. The Coast Guard has not been involved in the decisions leading up to authorization of this hunt, but has been informed by the Department of Interior and Department of Justice that physical interference with the Makah whale hunt is inconsistent with federal law. The Coast Guard is very concerned about public safety aspects of the Makah whale hunt and, through implementation of this rule, is taking some carefully tailored precautions without unconstitutionally infringing on public activities.

Numerous comments opposed the use of any nontraditional weapons by the Makah, particularly the .50 caliber weapons. Comments also stated the Coast Guard should force the hunt further out to sea. Numerous comments disagreed with the U.S. Government's position that the Makah have International Whaling Commission permission to whale. Some comments also indicated that the hunt is inconsistent with international law and compromises the U.S. position on international whaling. Several comments expressed that the hunt would not promote the Tribe's well being, that the hunt would lead to commercial whaling on a world-wide basis, and that whale hunting violates the Marine Mammal Protection Act. One comment stated that the RNA could result in killing ''JJ the whale.'' These comments involve matters outside the scope of this rule and are primarily the concern of other federal and international bodies. The Coast Guard is working with other agencies to ensure its efforts are consistent with federal law.

Some comments opposed the RNA because similar exclusion zones are not established for other hunting activities, including whaling by Native Americans in Alaska. This RNA involves the largest species to be hunted in the nation. The Makah's intended use of .50 caliber weapons, the unpredictable actions of a whale once struck, and the unforgiving nature of a cold ocean environment call for the carefully tailored safety measures in this interim rule. Other federal agencies have enacted similar zones around dangerous activities (e.g. the U.S. Forest Service for timber harvests).

Many comments noted that ricochets and stray rifle fire could travel well beyond the proposed 500 yards. Some of these comments suggested that the Moving Exclusionary Zone was too small. One comment said the hunt would jeopardize the safety of small vessels because of the presence of wounded whales throughout the area. The Coast Guard agrees that dangers exist within the 500 yard zone—and beyond—and urges mariners to maintain a distance well beyond 500 yards during whaling operations as an additional safety measure. A .50 caliber rifle could send a bullet beyond 7000

years with the proper trajectory and environmental conditions. The Makah have indicated that they intend to aim their rifle at a downward angle when shooting at a whale. The closer a vessel is to the weapons and whale, the greater the treat to safety of those aboard. The Coast Guard will review its interim decision to maintain a 500 year Moving Exclusionary Zone after evaluating it during actual whale hunts. The zone may be expanded or contracted in the final rule based on lessons learned.

Some comments raised concerns that the proposed SECURITE broadcasts would not give vessels adequate notice of the Moving Exclusionary Zone. The Moving Exclusionary Zone is activated when a Makah whaling vessel displays the international numeral pennant five (5) flag. Additionally, the rule has been adjusted to require that the Makah whalers provide a Channel 16 VHF–FM SECURITE notice one hour prior to whale hunt operations and every half hour following that until completion of the hunt. In addition, all vessels transiting the RNA are urged to keep an operating marine radio tuned to Channel 16 VHF–FM.

Numerous comments requested a public hearing, and others requested that the comment period be extended. The Coast Guard is proceeding with an interim rule, and comments are invited until March 1, 1999 for consideration prior to issuance of a final rule. The Coast Guard may hold a public hearing, if appropriate, prior to adoption of a permanent rule. Based on all the comments received to date, there has been an adequate forum and sufficient time for the public to express its concerns.

Several comments have been received opposing the proposed rule because a portion of the RNA lies within the Olympic Coast National Marine Sanctuary (Sanctuary). The administrative agency responsible for the Sanctuary is the Department of Commerce/National Oceanic and Atmospheric Administration (NOAA). The Coast Guard has been in frequent contact with NOAA on this matter, including consultations regarding the Sanctuary. NOAA requested that the RNA be expanded to include a greater portion of the Sanctuary, but the Coast Guard is declining to do so at this time.

Some comments disputed the Coast Guard's statement that a wounded whale presents a danger to safety. The Coast Guard disagrees based on information received from NOAA and historical data included in the public file. This information suggests that a large, strong, wounded whale may thrash about and that this could present a significant hazard to vessels and people. Violent encounters with wounded whales are quite possible and this presents a potentially lethal danger to humans.

Some comments stated that there was no evidence supporting the finding that physical interference with the hunt is inconsistent with federal law. Another comment asks that the proposed rule acknowledge that it was being adopted pursuant to the U.S. Government's obligation to prevent third parties from interfering with the Makah's exercise of whaling rights under the Neah Bay Treaty. The Department of the Interior (DOI) is the agency tasked with determination of tribal treaty rights. In DOI's view, the Makah Tribe's right to engage in the harvest of whales is protected by federal law, and the federal government has legal authority to protect the exercise of that right. The central purpose of this regulation, however, is to enhance safety at sea.

A comment requested that the permanent rule include a map of the regulated area. This is an illustration of the RNA:

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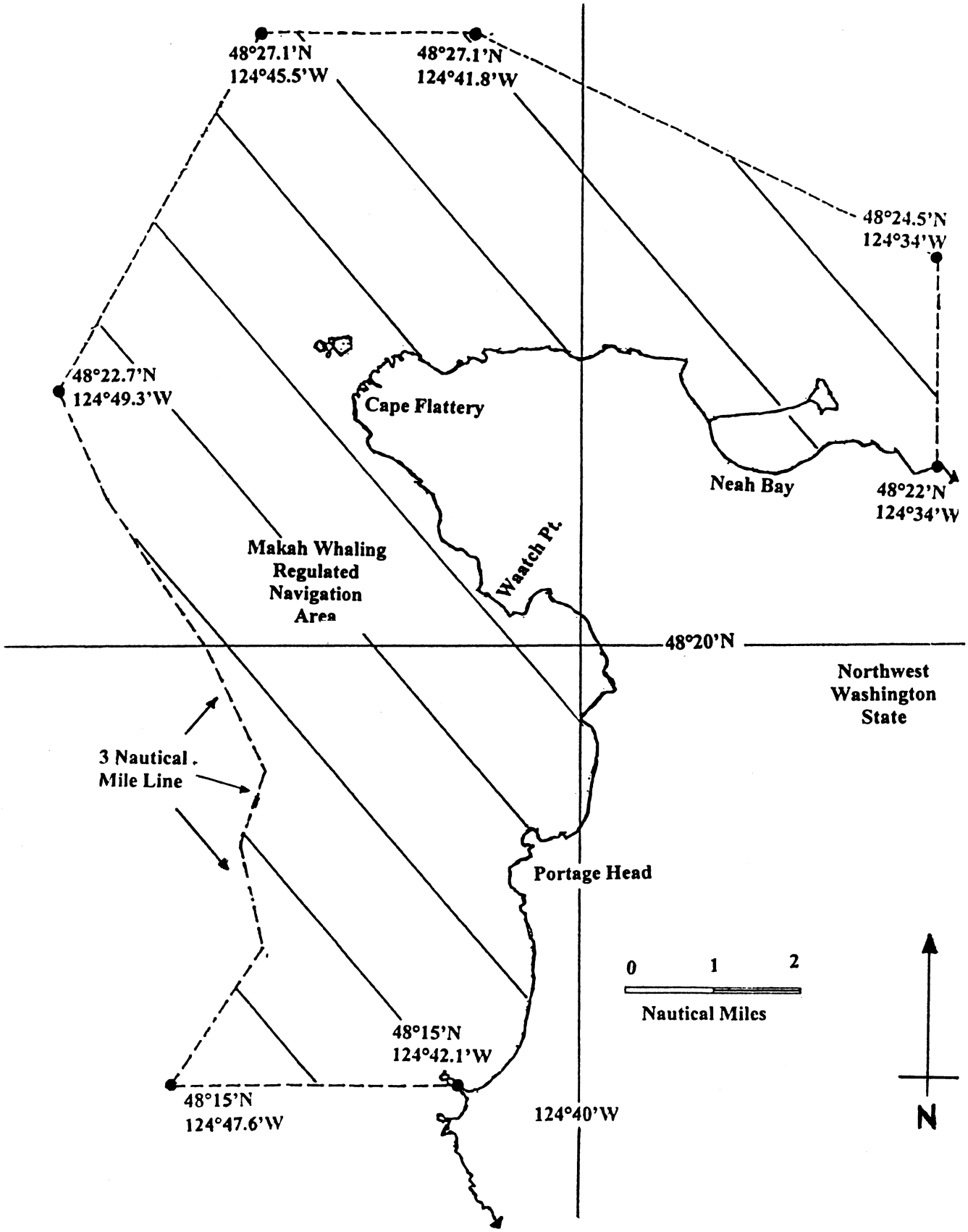

BILLING CODE 4910–15–C

Some comments questioned the extension of the Moving Exclusionary Zone to the seabed. A reason for including the subsurface environment in the zone is that bullets and wounded whales create safety hazards both upon and below the surface of the water. Additionally, subsurface traffic within the Moving Exclusionary Zone poses a potential for collision with surface vessels maneuvering various courses to track and hunt whales. Finally, in the event of any problems under the surface of the water, subsurface search and rescue assets are almost non-existent in the RNA locale.

Some comments requested clarification regarding the size of the Moving Exclusionary Zone when more than one Makah vessel was present for a hunt. The Makah whaling plan calls for use of a canoe working with a motorized vessel. Under new language in the interim rule, only one Moving Exclusionary Zone may exist within the RNA at any one time. In other words, if a Makah canoe and a Makah motorized vessel are working together during a whale hunt, only one of these vessels may fly international numeral pennant five (5); other vessels must maintain a distance of 500 or more yards from the vessel flying this pennant.

Some comments objected to the continuation of the Moving Exclusionary Zone after the whale is killed. The Coast Guard has little information regarding the hazards of towing a whale that may or may not be dead, but predicts that the initial whale towing efforts by the Makah will likely involve non-routine hazards. The Coast Guard will assess this matter during the initial hunts and will reconsider the duration of the Moving Exclusionary Zone prior to issuing a final rule.

Some comments asked that the RNA be extended out to three miles, or beyond, even if it overlaps the traffic separation scheme because a wounded whale might flee into this area. The Coast Guard's authority for establishing an RNA ends at three miles under current law. The interim rule does not extend the RNA into the traffic scheme because of countervailing safety concerns raised by interruption of charted international maritime traffic routes. A wounded whale could flee into areas outside the jurisdiction of any possible RNA. To maintain a 360-degree Moving Exclusionary Zone the Makah hunt vessel would have to stay at least 500 yards inside the boundary of the RNA.

Comments were received which asked that the RNA be extended southward to the full breadth of the Makah Tribe's usual and accustomed fishing area at 48°02′15″N. Based on the whaling plan of the Makah Tribe and the location of Coast Guard assets, the RNA will actually cover a smaller area than originally proposed in the NPRM. Because the Makah have indicated that whale strikes will commence west of line drawn between Tatoosh Island and Bonilla Point, the interim rule moves the RNA line further west to 124°34′W. Because the Coast Guard's primary rescue and law enforcement assets for this operation are located at Station Neah Bay, the RNA's southern border is being moved north to a line drawn west from the Point of Arches (at 48°15′N).

Several comments objected to the taxpayer expense involved in implementing this rule. Some suggested that the costs associated with enforcement of the RNA be borne by the Makah Tribe, not with federal funds. RNA's, safety zones and limited access areas nationwide are enforced using the Coast Guard's operating expense account. For example, a city fire works display often requires a safety zone around it and federal funds are expended in implementing and enforcing such zones. Moreover, the creation of an RNA does not require that the Coast Guard be on scene for the rule to be in effect; the Coast Guard has the discretion to place units on scene with or without a rule.

Comments were received which requested that the burden of safety be shifted to those choosing to shoot the rifle. Unsafe use of a rifle at sea may give rise to criminal or civil law remedies; the time, place, and manner of the whale hunt is being monitored by other agencies.

One comment indicated that the RNA was blatantly racist because only tribal members are allowed to hunt whales. The tribal treaty whaling rights of the Makah permit whale hunting by members of the tribe only.

A comment stated that the proposed rule violates the constitutional prohibition on bills of attainder. This is not the case; violations of this rule can result in legal procedures and penalties well accepted as constitutional.

Comments raised a concern that the RNA conflicted with NOAA ''requirements'' that the hunt not extend east of the Tatoosh-Bonilla line. The Tribe's whaling plan indicates an intent to hunt whales west of the Tatoosh-Bonilla line. The interim rule has moved the RNA boundary within the Strait of Juan de Fuca westward. However, because a wounded whale may travel east once struck, a portion of the RNA still extends east of the Tatoosh-Bonilla line.

Some comments stated that if the Coast Guard was trying to protect bystanders from wounded or pursued whales, the Moving Exclusionary Zone would have been centered around the whale, not the Makah whale hunt vessel. Again, the Coast Guard recommends that mariners keep a distance far greater than 500 yards from whaling activities. Due to an inability to adequately mark a struck whale, the location of a Makah whale hunt vessel is a better Moving Exclusionary Zone indicator. The Makah's whale hunt plan indicates that the hunt vessels will be maneuvering in close proximity to wounded or pursued whales.

Comments suggested that the Moving Exclusionary Zone be limited to a cone emanating from the bow of the hunting canoe because the Makah would only be firing forward off the bow of the canoe. This is an incorrect assumption. The rifle may be pointed in a direction other than forward. Additionally, the canoe is highly maneuverable and may turn faster than vessels in the cone could adjust. Therefore, a circle around the whale hunt vessel is the preferred method for enhancing safety.

Some comments stated that the Government could not prohibit public use of the waterways due to a presumption of danger. Ample statutory authority to implement this rule exists under 33 U.S.C. 1231, 33 CFR Part 165 and other federal law.

Comments expressed a concern that the Moving Exclusionary Zone was not content neutral because Makah tribal members who support the hunt could enter the zone while protestors could not. The Makah Tribe will decide who is involved with the hunt. This is a content neutral rule based on safety, not on the views of the participants.

One comment expressed concern that the Moving Exclusionary Zone could easily overtake smaller, slower craft. Small slow craft are on notice by publication of this rule that they need to maintain heightened vigilance during whaling seasons. If a small craft is overtaken by whaling activities, Federal authorities enforcing the RNA will take appropriate action based on the circumstances involved on a case by case basis in determining what, if any, enforcement actions are appropriate.

Some comments objected to the proposed RNA because it gave the Makah the exclusive right to decide who can enter the Moving Exclusionary Zone and that this was an unlawful delegation of the Coast Guard's law enforcement authority. While the Makah may have several vessels participating in the whale hunt operations within the Moving Exclusionary Zone, the Coast

Guard makes all other determinations regarding presence of vessels in the Moving Exclusionary Zone. Under the interim rule, any vessel not actually involved in whale hunt operations is required to have Coast Guard authorization prior to entering the Moving Exclusionary Zone.

Some comments supported the RNA as drafted.

Discussion of Interim Rule

The interim rule establishes an RNA. The RNA will extend out three nautical miles from shore along the Washington Coast from Point of Arches, then north to Cape Flattery, and then east to 124°34′ west longitude. The RNA will extend from shore to the traffic separation scheme where the traffic separation scheme lies closer than three nautical miles from shore. The total area covered by the interim rule is smaller than the area described in the NPRM, and the area of the RNA located within the Olympic National Marine Sanctuary (Sanctuary) has been reduced. The regulation will not affect normal transit or navigation in the RNA except during, and in the immediate vicinity of, a hunt. Within the RNA, an MEZ will surround one Makah whale hunt vessel engaged in whale hunting. Except for Makah whaling vessels, a media pool vessel, and vessels with Coast Guard authority to navigate within the Moving Exclusionary Zone, vessels operating in the RNA during a Makah whale hunt may not enter, and must avoid being overtaken by, the Moving Exclusionary Zone. The interim rule imposes no other restrictions on navigation.

The RNA is being implemented in order to reduce dangers to nearby vessels and persons during Makah whale hunting operations by minimizing the risks from the uncertain movements of a pursued, wounded, or towed whale and from the dangers of high powered rifle fire.

For the duration of each hunt, vessels and persons will be excluded from the column of water from the surface to the seabed within a radius of 500 yards centered on a Makah whale hunt vessel. A single media pool vessel will be allowed to operate within the Moving Exclusionary Zone. All expenses, liabilities and risks associated with operation of the media pool vessel lie with members of the pool and the pool vessel owners and operators. Should more than one media pool notification be received by Coast Guard Public Affairs, an attempt to coordinate the requests will be made.

The activation of the Moving Exclusionary Zone will be signaled by the flying of the international numeral pennant five (5) from a Makah whale hunt vessel. Only one Makah vessel actually engaged in pursuing, harpooning, shooting, securing, or towing whales is authorized to fly international numeral pennant five (5) within the RNA at any one time. In order for an Moving Exclusionary Zone to take effect, the Makah Tribe must notify mariners regarding the activation of the Moving Exclusionary Zone by means of a SECURITE broadcast made at half-hour intervals on channel 16 VHF–FM beginning at least one hour before each hunt. The Moving Exclusionary Zone is only active while whaling operations are ongoing and the international numeral pennant five (5) is flown.

Vessels not actually involved in whale hunt operations are required to have Coast Guard authorization prior to entering the Moving Exclusionary Zone.

Regulatory Evaluation

Although some public comments stated that this action constitutes a significant regulatory action, the Coast Guard disagrees based on controlling law, the minor portion of the navigable waters affected, and the brief time actual whale hunt operations involve. This interim rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department Transportation (DOT) (44 FR 11040; February 26, 1979). Because of the limited number of whales that can be taken annually and the small size of the Moving Exclusionary Zone, the Coast Guard expects the economic impact of this interim rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Several comments were received stating that the impact on small entities had not been quantified. Some of these comments indicated that both the media as an economic entity and recreational fishing vessels would be harmed by this rule. One comment stated that Mexican businesses would be adversely affected by whale hunting. The media will be allowed to document the hunt using a media pool vessel. Small entities and recreational vessels such as fishing vessels and whale watching boats need to maintain prudent distances from whale hunts as a safety precaution whether this rule exists or not. As discussed above, the Coast Guard recommends that all mariners, including small entities, maintain a distance well in excess of 500 yards during whale hunt activities.

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this interim rule, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

Small entities that might be affected could include whale-watching ventures, tugboats and their tows, small passenger vessels, and commercial fishermen. The very small size and duration of the Moving Exclusionary Zone minimizes the effects, if any from this rule on small entities.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this interim rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this interim rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this interim rule will economically affect it.

Collection of Information

This interim rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

A public comment stated a belief that the Makah would be allowed to determine the boundaries of the RNA, and therefore a Federalism Assessment is necessary. The Coast Guard has determined the size of the RNA, not the tribe. Whale hunt locations are determined by the Makah tribe and their treaty with the U.S.; the hunts could occur within or outside the RNA. The Makah tribe has asked for an RNA larger than that stated in this rule. One of the primary missions of the Coast Guard is to enhance safety at sea, and this action does not interfere with local authority. This rule does not raise Federalism concerns.

The Coast Guard has analyzed this interim rule under the principles and criteria contained in Executive Order 12612 and has determined that this

interim rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment.

Environment

Some public comments stated that the proposed rule would violate NEPA. The Coast Guard considered comments that raised environmental concerns with the application of a categorical exclusion. The Coast Guard has reviewed its determination, and concluded that this regulation is properly categorically excluded. The Coast Guard considered the potential environmental impacts of this interim rule and concluded that there were no potential effects that preclude application of the categorical exclusion found at figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1C. The ''Categorical Exclusion Determination'' is available in the docket for inspection or copying as indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Interim Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. Add § 165.1310 to read as follows:

§ 165.1310 Strait of Juan de Fuca and adjacent coastal waters of Northwest Washington; Makah Whale Hunting—Regulated Navigation Area.

(a) The following area is a Regulated Navigation Area (RNA): From 48°10.0′ N, 124°42.1′ W northward along the mainland shoreline of Washington State to Cape Flattery and thence eastward along the mainland shoreline of Washington State to 48°22′ N, 124°34′ W; thence due north to 48°24.5′ N, 124°34′ W; thence northwesterly to 48°27.1′ N, 124°41.8′ W; thence due west to 48°27.1′ N, 124°45.5′ W; thence southwesterly to 48°22.7′ N, 124°49.3′ W; thence southerly along the three nautical mile line to 48°15′ N, 124°47.6′ W; thence due east back to the shoreline of Washington at 48°15′ N, 124°42.1′ W. Datum: NAD 1983.

(b) During a whale hunt, while the international numeral pennant five (5) is flown by a Makah whale hunt vessel, the following area within the RNA is a Moving Exclusion Zone: The column of water from the surface to the seabed with a radius of 500 yards centered on the Makah whale hunt vessel displaying international numeral pennant five (5). This Moving Exclusionary Zone is activated only when surface visibility exceeds one nautical mile, between sunrise and sunset, and the Makah whale hunt vessel displays the international numeral pennant five (5). The Moving Exclusionary Zone is deactivated upon sunset, visibility is reduced to less than one nautical mile, or when the Makah hunt vessel strikes international numeral pennant five (5).

(c) Unless otherwise authorized by the Commander, Thirteenth Coast Guard District or his or her representative, no person or vessel may enter the active Moving Exclusionary Zone except for:

(1) Authorized Makah whale hunt vessel actively engaged in hunting operations under direction of the master of the Makah vessel flying international numeral pennant five (5), and

(2) A single authorized media pool vessel operating in accordance with paragraph (f) of this section.

(d) The international numeral pennant five (5) is only authorized to be displayed from one Makah whale hunt vessel during actual whale hunt operations. No other vessels may display this pennant within the RNA at any time. Whale hunt operations commence when a whale hunt vessel is underway and its master intends to have a whale killed during the voyage. Whale hunt operations cease once this intent is abandoned, a whale is landed, or when the international numeral pennant five (5) is struck.

(e) The Makah Tribe shall make SECURITE Broadcasts beginning one hour before the commencement of a hunt and every half hour thereafter until hunting activities are concluded. This broadcast shall be made on channel 16 VHF–FM and state:

A whale hunt is proceeding today within the Regulated Navigation Area established for Makah whaling activities. The (name of vessel) is a (color and description of vessel) and will be flying international numeral pennant five (5) while engaged in whaling operations. This pennant is yellow and blue in color. Mariners are required by federal regulations to stay 500 yards away from (name of vessel), and are strongly urged to remain even further away from whale hunt activities as an additional safety measure.

(f)(1) Credentialed members of the media interested in entering the Moving Exclusionary Zone may request permission to operate a single media vessel in the Moving Exclusionary Zone by telephoning Coast Guard Public Affairs, as soon as practicable at (206) 220–7237 during normal working hours, and (206) 220–7001 after hours. Coast Guard preauthorization is required prior to entry into the Moving Exclusionary Zone by a single media pool vessel.

(2) The media pool vessel must be a U.S. documented vessel. The media pool vessel must be under command at all times within the Moving Exclusionary zone by a master licensed in the U.S. to carry passenger for hire. All expenses, liabilities and risks associated with operation of the media pool vessel lie with members of the pool and the pool vessel owners and operators.

(3) The master of the media pool vessel shall maneuver to avoid positioning the pool vessel between whales and hunt vessel(s), out of the line of fire, at a prudent distance and location relative to whale hunt operations, and in a manner that avoids hindering the hunt or path of the whale in any way.

(4) Although permitted to maneuver within the Moving Exclusionary Zone, personnel aboard the media pool vessel are still required to follow safety and law enforcement related instructions of Coast Guard personnel.

Dated: September 24, 1998.

Paul M. Blayney,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 98–26340 Filed 9–28–98; 4:55 pm]

BILLING CODE 4910–15–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 980713170–8247–02]

RIN 0651–AA96

Revision of Patent Fees for Fiscal Year 1999

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule; Delay of effective date.

SUMMARY: The Patent and Trademark Office (PTO) published a final rule in the **Federal Register** of July 24, 1998, that revised certain patent fee amounts for fiscal year 1999. Since then, a continuing resolution appropriations bill has been passed by the Congress and signed by the President. The continuing resolution maintains patent fees at their September 1998 (fiscal year 1998) rates through October 9, 1998. This document delays the effective date

of the PTO's final rule until October 10, 1998, unless it is superseded by law.

DATES: The effective date of the final rule published at 63 FR 46891, July 24, 1998, and corrected at 63 FR 46981, September 3, 1998, is delayed until October 10, 1998, unless it is superseded by law. If this date is superseded by law, PTO will publish further notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Matthew Lee by telephone at (703) 305–8051, fax at (703) 305–8007, or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Office of Finance, Crystal Park 1, Suite 802, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: The Patent and Trademark Office (PTO) published a final rule in the **Federal Register** of July 24, 1998, that revised certain patent fee amounts for fiscal year 1999 (63 FR 39731). See also 63 FR 46891 (September 3, 1998) (correcting one of the fee amounts specified in the July 24, 1998 final rule). Since then, a continuing resolution appropriations bill was passed by the Congress and signed by the President on September 25, 1998. See H.J. Res. 128, P.L. 105–240 (1998). It maintains patent fees at their September 1998 (fiscal year 1998) rates through the period of the continuing resolution enacted on September 25, 1998, which expires October 9, 1998. The continuing resolution supersedes the July 24, 1998, final rule on revision of patent fees for fiscal year 1999. Accordingly, this notice delays the effective date of the final rule until October 10, 1998. Additional continuing resolutions could further extend the fiscal year 1998 fee rates into fiscal year 1999.

Legislation is still pending in the Congress to set new patent fees for fiscal year 1999. If an appropriations or authorization bill authorizing new patent fees is enacted prior to the expiration of a continuing resolution, it will supersede the continuing resolution. Patent customers should refer to the official PTO website (www.uspto.gov), or call the PTO General Information Services Division at (703) 308–4357 or (800) PTO–9199, for the most current fee amounts and information.

Dated: September 28, 1998.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 98–26428 Filed 9–30–98; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICE

Health Care Financing Administration

42 CFR Parts 400, 403, 410, 411, 417, and 422

[HCFA–1030–CN]

RIN 0938–A129

Medicare Program; Establishment of the Medicare+Choice Program

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of interim final rule with comment period.

SUMMARY: On June 26, 1998, we published in the **Federal Register**, at 63 FR 34968. an interim final rule with comment period that explains and implements those provisions of the Balanced Budget Act of 1997 that established the Medicare+Choice program. This notice corrects errors made in the June 26 document.

EFFECTIVE DATE: July 27, 1998.

FOR FURTHER INFORMATION CONTACT: Anthony Culotta (410) 786–4661.

SUPPLEMENTARY INFORMATION:

Background

In drafting **Federal Register** Document 98–16731, we attempted to avoid setting forth identical provisions in two CFR parts. Our plan was to replace certain existing provisions in part 417 with a cross-reference to identical (in effect, if not wording) provisions being established in part 422. In doing this, however, we inadvertently and incorrectly applied the marketing activity provisions of § 422.80 and the beneficiary appeals and grievance procedures of subpart M of part 422 to health maintenance organizations and competitive medical plans with contracts under section 1876 of the Social Security Act (the Act). This notice corrects this error by removing amendatory items 5, 10, and 11. Thus organizations with contracts under section 1876 of the Act remain subject to subpart K, which includes marketing, and subpart Q, which includes beneficiary appeals, of part 417.

In some cases, an M+C organization that has both a Medicare contract and a contract with an employer group health plan arranges for the employer to process election forms for Medicare-entitled group members who wish to enroll under the Medicare contract. However, there can be a delay between the time the beneficiary enrolls through the employer and he or she becomes entitled to receive services from the M+C organization, and when the election form is actually received by the M+C organization. The statute at section 1853(a)(2)(B) of the Act allows for adjustments in payment to account for these situations. We inadvertently failed to address this situation in the June 26, 1998, interim final rule. This notice corrects that by adding §§ 422.60(f) and 422.66(f), and revising § 422.250(b) to allow for adjustments in effective dates to conform with the payment adjustments.

We inadvertently omitted the statutory limitation at section 1854(a)(5)(A) of the Act on cost sharing for supplemental benefits offered by M+C private fee-for-service plans. Therefore, we are correcting § 422.308(b) by adding that, for supplemental benefits, the actuarial value of its cost-sharing may not exceed the amounts approved in the ACR for those benefits, as determined under § 422.310 on an annual basis. Also, to clarify that additional adjustments are not limited to a reduction in the adjusted community rate ''in addition'' was added to the beginning of the second sentence of § 422.310(c)(4).

In addition, we are also making a number of clarifying changes and technical corrections to paragraph designations and cross-references.

Correction of Errors

Preamble

1. On page 34984, in column 3, in the first full paragraph, in the ninth line, ''1854(h)(4)'' is corrected to read ''1851(h)(4)''.

2. On page 35011, in column 2, in the heading of section I.1, ''§ 422.500'' is corrected to read ''§ 422.400''.

3. On page 35012, in column 1, in the heading of section I.2, ''§ 422.502'' is corrected to read ''§ 422.402''.

4. On page 35034, in column 2, in the third full paragraph, in the 14th line, ''§ 422.58(d)(2)'' is corrected to read ''§ 422.62(b)''.

5. On page 35034, in column 3, 22 lines from the top of the column, ''§ 422.110(b)(2)(ii)'' is corrected to read ''§ 422.111(b)(2)(ii)''.

6. On page 35034, in column 3, in the heading of section D.1, ''§ 422.102'' is corrected to read ''§ 422.103''.

7. On page 35034, in column 3, in the first full paragraph, in the first line, ''§ 422.102'' is corrected to read ''§ 422.103''.

8. On page 35034, in column 3, in the first full paragraph, in the fifth line, ''§ 422.102(a)'' is corrected to read ''§ 422.103(a)''.

9. On page 35034, in column 3, in the second full paragraph, in the first line,

''§ 422.102(b)'' is corrected to read ''§ 422.103(b)''.

10. On page 35035, in column 1, in the first full paragraph, ''§ 422.102(c)'' is corrected to read ''§ 422.103(c)'' each time it appears (twice).

11. On page 35035, in column 3, in the heading of section D.2., ''422.103'' is corrected to read ''422.104''.

12. On page 35035, in column 3, in the first full paragraph, in the ninth line, ''§ 422.103(a)'' is corrected to read ''§ 422.104(a)''.

13. On page 35035, in column 3, in the first full paragraph, the reference to ''§ 422.103(a)(2)'' is corrected to read ''§ 422.104(b)'' each time it appears (twice).

14. On page 35036, in column 2, in the first full paragraph ''§ 422.154(b)(1)'' is corrected to read ''§ 422.154(c)''.

15. On page 35038, in column 2, in the first full paragraph, in the first line, ''§ 422.500(b)(2)'' is corrected to read ''§ 422.502(b)''.

16. On page 35062, in column 1, in the fourth full paragraph, ''but no later than 30 calendar days'' is corrected to read ''but no later than 14 calendar days''.

17. On page 35062, in column 1, the fourth full paragraph is corrected by adding the following sentence at the end: ''The M+C organization may extend the 14-day deadline by up to 14 calendar days if the enrollee requests the extension or if the organization justifies a need for additional information and how the delay is in the interest of the enrollee (for example, the receipt of additional medical evidence may change an M+C organization's decision to deny).''

18. On page 35062, in column 2, in the first full paragraph, ''using the 30-calendar-day timeframe'' is corrected to read ''using the 14 calendar-day timeframe''.

19. On page 35062, in column 2, in the fifth full paragraph, beginning in the fourth line, ''if the organization finds that it needs additional information and the delay'' is corrected to read ''if the organization justifies a need for additional information and how the delay''.

20. On page 35063, in column 1, in the third full paragraph, beginning in the second line, ''or a health care professional'' is corrected to read ''or a physician''.

21. On page 35063, in column 1, in the fourth full paragraph, the phrase ''the 45-day timeframe'' is corrected to read ''the 30-day timeframe'' each time it appears (twice).

22. On page 35063, in column 1, in the seventh full paragraph, ''If the M+C organization makes'' is corrected to read ''For service requests, if the M+C organization makes''.

23. On page 35063, in column 1, in the seventh full paragraph, ''but no later than 45 calendar days'' is corrected to read ''but no later than 30 calendar days''.

24. On page 35063, in column 1, the seventh full paragraph is corrected by adding a sentence after the end of the first sentence to read: ''The M+C organization may extend the 30-day deadline by up to 14 calendar days if the enrollee requests the extension or if the organization justifies a need for additional information and how the delay is in the interest of the enrollee.''

25. On page 35063, in column 1 and continuing into column 2, the eighth full paragraph that begins with ''If the M+C organization affirms, * * *'' and ends with ''to the independent entity'' is corrected to read: ''If the M+C organization affirms, in whole or in part, its adverse organization determination, it must prepare a written explanation and send the case file to the independent entity contracted by us no later than 30 calendar days from the date it receives the request for a standard reconsideration (or no later than the expiration of an extension described in § 422.590(a)(1)). The organization must make reasonable and diligent efforts to assist in gathering and forwarding information to the independent entity.''

26. On page 35063, in column 2, in the first full paragraph, beginning in the fifth line, ''or to obtain a good cause extension described in paragraph (e) of this section,'' is removed.

27. On page 35063, in column 2, in the second full paragraph, beginning in the fourth line, ''if the organization finds that it needs additional information and the delay'' is corrected to read ''if the organization justifies a need for additional information and how the delay''.

Regulations Text

1. On page 35065, in the third column, amendatory instruction ''2.'' is corrected to read as follows: ''In § 400.200, the definition for ''PRO'' is revised, the definition for ''Utilization and Quality Control Peer Review Organization'' is removed, and the following definitions are added in alphabetical order.''

2. On page 35066, in column 3 and continuing on page 35067, column 1, amendatory instruction 5 is removed.

3. On page 35067, in column 1, amendatory instructions 6, 7, 8, and 9 are renumbered as amendatory instructions 5, 6, 7, and 8, respectively.

4. On page 35067, renumbered amendatory instruction 6 is corrected to read as follows:

''Sections 417.520, 417.522, and 417.523 of subpart M are redesignated as §§ 422.550, 422.522, and 422.553, respectively, in a new subpart L in part 422, and the heading for the new subpart L to part 422 is added to read 'Effect of Change of Ownership or Leasing of Facilities During Term of Contract'.''

5. On page 35067, in column 1, amendatory instruction 10 is removed.

6. On page 35067, in column 2, amendatory instruction 11 is removed, and amendatory instruction 12 is renumbered as amendatory instruction 9.

§ 417.800 [Corrected]

7. On page 35067, in column 2, the definition of ''Health care prepayment plan'' is corrected to read as follows:

§ 417.800 Payment to HCPPS: Definitions and basic rules.

* * * * *

Health care prepayment plan (HCPP) means an organization that meets the following conditions:

(1) Effective January 1, 1999, (or on the effective date of the HCPP agreement in the case of a 1998 applicant) either—

(A) Is union or employer sponsored; or

(B) Does not provide, or arrange for the provision of, any inpatient hospital services.

(2) Is responsible for the organization, financing, and delivery of covered Part B services to a defined population on a prepayment basis.

(3) Meets the conditions specified in paragraph (b) of this section.

(4) Elects to be reimbursed on a reasonable cost basis.

* * * * *

8. On page 35071, in column 1, in the subpart heading, ''Subpart B'' is corrected to read ''Subpart B''.

§ 422.50 [Corrected]

9. In § 422.50 the following changes are made:

a. On page 35071, in the first column, in paragraph (a) introductory text, the first ''an'' is corrected to read ''An''.

b. On page 35071, in the first column, in paragraph (a)(1), the second appearance of ''may continue to be enrolled in the M+C organization'' is removed.

§ 422.54 [Corrected]

10. On page 35071, in the second column, in § 422.54, in paragraph (d)(2)(i), ''meet requirements'' is corrected to read ''meet the requirement''.

§ 422.56 [Corrected]

11. On page 35071, in the third column, in § 422.56, in paragraph (d), ''§ 422.103'' is corrected to read ''§ 422.104''.

§ 422.60 [Corrected]

12. In § 422.60, the following changes are made:

a. On page 35072, in the first column, in paragraph (a)(1), ''plan that M+C organization'' is corrected to read ''plan that the M+C organizaton''.

b. On the same page, in the same column, in paragraph (b)(1), ''§ 422.306(a)(2)'' is corrected to read ''§ 422.306(a)(1)''.

c. On the same page, in the same column, in paragraph (c)(1), in the second sentence, the word ''beneficiary'' is removed.

d. On the same page, in the second column, in paragraph (3)(4)(i), ''Promptly informs'' is corrected to read ''Informs''.

e. On the same page, in the second column, § 422.60 is further corrected by adding a new paragraph (f) to read as follows:

§ 422.60 Election process.

* * * * *

(f) *Exception for employer group health plans.* (1) In cases in which an M+C organization has both a Medicare contract and a contract with an employer group health plan, and in which the M+C organization arranges for the employer to process election forms for Medicare-entitled group members who wish to enroll under the Medicare contract, the effective date of the election may be up to, but may not exceed, 90 days before the date the M+C organization received the election from the employer. Any adjustment in effective date must conform with adjustments in payment, as described under § 422.250(b).

(2) In order to obtain the effective date described in paragraph (f)(1) of this section, the beneficiary must certify that, at the time of enrollment in the M+C organization, he or she received the disclosure statement specified in § 422.111.

(3) The M+C organization must submit the enrollment within 30 days from receipt of the election form from the employer.

§ 422.62 [Corrected]

13. In § 422.62, the following changes are made:

a. On page 35073, in the first column, in paragraph (b), introductory text, beginning in the second line, ''for M+C plans, and as of January 1, 2002, for all MSA other types of M+C MSA plans,'' is corrected to read ''for M+C MSA plans, and as of January 1, 2002, for all other types of M+C plans,''.

b. On the same page, in the same column, in paragraph (c), in the fifth line, ''coverage election'' is corrected to read ''enrollment''.

c. On the same page, in the second column, in paragraph (d), in the heading, ''M+C plans'' is corrected to read ''M+C MSA plans''.

d. On the same page, in the same column, in paragraph (d)(1), ''M+C plan'' is corrected to read ''M+C MSA plan''.

e. On the same page, in the same column, in paragraph (d)(2) introductory text, ''M+C plan'' is corrected to read ''M+C MSA plan''.

§ 422.66 [Corrected]

14. On page 35074, in the third column, § 422.66 is corrected by adding a new paragraph (f) to read as follows:

§ 422.66 Coordination of enrollment and disenrollment through M+C organizations.

(f) *Exception for employer group health plans.* (1) In cases when an M+C organization has both a Medicare contract and a contract with an employer group health plan, and when the M+C organization arranges for the employer to process election forms for Medicare-entitled group members who wish to disenroll from the Medicare contract, the effective date of the election may be up to, but may not exceed, 90 days before the date the M+C organization received the election from the employer. Any adjustment in effective date must conform with adjustments in payment, as described under § 422.250(b).

(2) The M+C organization must submit a disenrollment notice to NCFA within 15 days of receipt of the notice from the employer.

§ 422.74 [Corrected]

15. On page 35075, in the first column, in § 422.74, in paragraph (b)(3), ''reduces service'' is corrected to read ''reduces the service''.

§ 422.80 [Corrected]

16. In § 422.80, the following changes are made:

a. On page 35076, in the third column, in paragraph (c)(3) ''the organization'' is corrected to read ''the M+C organization''.

b. On the same page, in the same column, in paragraph (d) the word ''material'' is corrected to read ''materials''.

c. On the same page, in the same column, in paragraph (e)(1)(iv), in teh fourth line, ''organization, the'' is corrected to read ''organization. The''.

d. On page 35077, in the first column, in paragraph (e)(3)(i), ''Demonstrate the HCFA's'' is corrected to read ''Demonstrate to HCFA's''.

e. On the same page, in the same column, in paragraph (f), ''potions'' is corrected to read ''portions''.

§ 422.110 [Corrected]

17. On page 35079, in the third column, in § 422.110, in paragraph (c), ''(see § 422.501(h))'' is corrected to read ''(see § 422.502(h))''.

§ 422.112 [Corrected]

18. Beginning on page 35080, in the second column, in order to make numerous paragraph redesignations and other corrections, § 422.112 is corrected to read as follows:

§ 422.112 Access to services.

(a) *Rules for coordinated care plans and network M+C MSA plans.* An M+C organization that offers an M+C coordinated care plan or network M+C MSA plan may specify the networks of providers from whom enrollees may obtain services if the M+C organization ensures that all covered services, including additional or supplemental services contracted for by (or on behalf of) the Medicare enrollee, are available and accessible under the plan. To accomplish this, the M+C organization must meet the following requirements:

(1) *Provider network.* Maintain and monitor a network of appropriate providers that is supported by written agreements and is sufficient to provide adequate access to covered services to meet the needs of the population served. These providers are typically utilized in the network as primary care providers (PCPs), specialists, hospitals, skilled nursing facilities, home health agencies, ambulatory clinics, and other providers.

(2) *PCP panel.* Establish the panel of PCPs from which the enrollee selects a PCP.

(3) *Specialty care.* Provide or arrange for necessary specialty care, and in particular give women enrollees the option of direct access to a women's health specialist within the network for women's routine and preventive health care services provided as basic benefits (as defined in § 422.2) notwithstanding that the plan maintains a PCP or some other means for continuity of care.

(4) *Serious medical conditions.* Ensure that each plan has in effect HCFA-approved procedures that enable the plan to—

(i) Identify individuals with complex or serious medical conditions;

(ii) Assess those conditions, and use medical procedures to diagnose and monitor them on an ongoing basis; and

(iii) Establish and implement a treatment plan that—

(A) Is appropriate to those conditions;

(B) Includes an adequate number of direct access visits to specialists consistent with the treatment plan; and

(C) Is time-specific and updated periodically by the PCP.

(5) *Involuntary termination.* If the M+C organization terminates an M+C plan or any specialists for a reason other than for cause, the M+C organization must do the following:

(i) Inform beneficiaries, at the time of termination, of their right to maintain access to specialists.

(ii) Provide the names of other M+C plans in the area that contract with specialists of the beneficiary's choice.

(iii) Explain the process the beneficiary would need to follow should he or she decide to return to original Medicare.

(6) *Service area expansion.* If seeking a service area expansion for an M+C plan, demonstrate that the number and type of providers available to plan enrollees are sufficient to meet projected needs of the population to be served.

(7) *Credentialed providers.* Demonstrate to HCFA that its providers in an M+C plan are credentialed through the process set forth at § 422.204(a).

(8) *Written standards.* Establish written standards for the following:

(i) Timeliness of access to care and member services that meet or exceed standards established by HCFA. Timely access to care and member services within a plan's provider network must be continuously monitored to ensure compliance with these standards, and the M+C organization must take corrective action as necessary.

(ii) Policies and procedures (coverage rules, practice guidelines, payment policies, and utilization management) that allow for individual medical necessity determinations.

(iii) Provider consideration of beneficiary input into the provider's proposed treatment plan.

(9) *Hours of operation.* Ensure, for each M+C plan, that—

(i) The hours of operation of its M+C plan providers are convenient to the population served by the plan and do not discriminate against Medicare enrollees; and

(ii) The plan makes plan services available 24 hours a day, 7 days a week, when medically necessary.

(10) *Cultural considerations.* (i) Ensure that services are provided in a culturally competent manner to all enrollees, including those with limited English proficiency or reading skills, diverse cultural and ethnic backgrounds, and physical or mental disabilities.

(ii) Provide coverage for emergency and urgent care services in accordance with paragraph (c) of this section.

(b) *Rules for all M+C organizations to ensure continuity of care.* The M+C organization must ensure continuity of care and integration of services through arrangements that include, but are not limited to the following—

(1) Use of a practitioner who is specifically designated as having primary responsibility for coordinating the enrollee's overall health care.

(2) Policies that specify whether services are coordinated by the enrollee's primary care practitioner or through some other means.

(3) An ongoing source of primary care, regardless of the mechanism adopted for coordination of services.

(4) Programs for coordination of plan services with community and social services generally available through contracting or noncontracting providers in the area served by the M+C plan, including nursing home and community-based services.

(5) Procedures to ensure that the M+C organization and its provider network have the information required for effective and continuous patient care and quality review, including procedures to ensure that—

(i) An initial assessment of each enrollee's health care needs is completed within 90 days of the effective date of enrollment;

(ii) Each provider, supplier, and practitioner furnishing services to enrollees maintains an enrollee health record in accordance with standards established by the M+C organization, taking into account professional standards; and

(iii) That there is appropriate and confidential exchange of information among provider network components.

(6) Procedures to ensure that enrollees are informed of specific health care needs that require follow-up and receive, as appropriate, training in self-care and other measures they may take to promote their own health; and

(7) Systems to address barriers to enrollee compliance with prescribed treatments or regimens.

(c) *Special rules for all M+C organizations for emergency and urgently needed services*—(1) *Coverage.* The M+C organization covers emergency and urgently needed services—

(i) Regardless of whether the services are obtained within or outside the organization; and

(ii) Without required prior authorization.

(2) *Financial Responsibility.* The M+C organization may not deny payment for a condition—

(i) That is an emergency medical condition as defined in § 422.2; or

(ii) For which a plan provider or other M+C organization representative instructs an enrollee to seek emergency services within or outside the plan.

(3) *Stabilized condition.* The physician treating the enrollee must decide when the enrollee may be considered stabilized for transfer or discharge, and that decision is binding on the M+C organization.

(4) *Limits on charges to enrollees.* For emergency services obtained outside the M+C plan's provider network, the organization may not charge the enrollee more than $50 or what it would charge the enrollee if he or she obtained the services through the organization, whichever is less.

19. On page 35090, in the third column, in § 422.250, paragraph (b) is corrected to read as follows:

§ 422.250 general provisions.

* * * * *

(b) *Adjustment of payments to reflect number of Medicare enrollees—(1) General rule.* HCFA adjusts payments retroactively to take into account any difference between the actual number of Medicare enrollees and the number on which it based an advance monthly payment.

(2) *Special rules for certain enrollees.* (i) Subject to paragraph (b)(2)(ii) of this section, HCFA may make adjustments, for a period (not to exceed 90 days) that begins when a beneficiary elects a group health plan (as defined in § 411.101 of this chapter) offered by an M+C organization, and ends when the beneficiary is enrolled in an M+C plan offered by the M+C organization.

(ii) HCFA does not make an adjustment unless the beneficiary certifies that, at the time of enrollment under the M+C plan, he or she received from the organization the disclosure statement specified in § 422.111.

* * * * *

§ 422.268 [Corrected]

20. On page 35093, in the third column, in § 422.268, in paragraph (b), in the third line, ''§§ 422.105'' is corrected to read ''§§ 422.109''.

§ 422.308 [Corrected]

21. In § 422.308 the following corrections are made:

a. On the same page, in the same column, the text of paragraph (b) is redesignated as paragraph (b)(1) and a new paragraph (b)(2) is added to read as follows:

§ 422.308 Limits on premiums and cost sharing amounts.

* * * * *

(b) * * *

(2) For supplemental benefits, the actuarial value of its cost-sharing may not exceed the amounts approved in the ACR for those benefits, as determined under § 422.310 on an annual basis.

* * * * *

§ 422.310 [Corrected]

22. On page 35096, in the second column, in § 422.310 (that section begins on page 35095), in paragraph (c)(4), ''component. Adjustments will be'' is corrected to read ''component. In addition, adjustments will be''.

§ 422.502 [Corrected]

23. In § 422.502, the following corrections are made:

a. On page 35100, in the third column, in paragraph (a)(2), ''§ 422.108'' is corrected to read ''§ 422.110''.

b. On the same page, in the same column, in paragraph (a)(3)(i), ''§ 422.100'' is corrected to read ''§ 422.101'', and ''§ 422.101'' is corrected to read ''§ 422.102''.

c. On page 35101, in the first column, in paragraph (a)(4), ''§ 422.110'' is corrected to read ''§ 422.111''.

d. On page 35103, in the second column, paragraph (m) is redesignated as paragraph (1)(4) and is corrected to read as follows:

§ 422.502 Contract provisions.

* * * * *

(l) * * *

(4) The CEO or CFO must certify that the information in its ACR submission is accurate and fully conforms to the requirements in § 422.310.

§ 422.550 [Corrected]

24. On page 35106, in the second column, amendatory instruction ''19. a.'' is corrected to read as follows:

a. In paragraph (b)(1), the following sentence is added at the end: ''The M+C organization must also provide updated financial information and a discussion of the financial and solvency impact of the change of ownership on the surviving organization.''

§ 422.608 [Corrected]

25. On page 35111, in the third column, in § 422.608, in the heading, the acronym ''(DAB)'' is corrected to read ''(the Board)'' and in the text ''DAB'' is corrected to read ''Board'' each time it appears (twice).

§ 422.612 [Corrected]

26. In § 422.612, the following corrections are made:

a. On page 35111, in the third column, in paragraph (a)(1) ''DAB'' is corrected to read ''Board''.

b. On the same page, in the same column, in the heading of paragraph (b), ''DAB'' is corrected to read ''Board''.

c. On the same page, in the same column, in the text of paragraph (b) introductory text, ''DAB'' is corrected to read ''Board''.

§ 422.616 [Corrected]

27. On page 35111, in the third column that continues on page 35112, in § 422.616(a), ''DAB'' is corrected to read ''Board''.

§ 422.620 [Corrected]

28. On page 35112, in the second column, in § 422.620, in paragraph (a), ''§ 422.112(b)'' is corrected to read ''§ 422.112(c)''.

§ 422.622 [Corrected]

29. On page 35112, in the third column, in § 422.622, in paragraph (c)(1)(i) ''§ 422.112(b)'' is corrected to read ''§ 422.112(c)'' each time it appears (twice).

§ 422.752 [Corrected]

30. On page 35115, in the second column, in § 422.752, in paragraph (a)(6), ''§ 422.204'' is corrected to read ''§ 422.206''.

(Catalog of Federal Domestic Assistance Program No. 93,773, Medicare—Hospital Insurance; and Program No. 93.766, Medicare—Supplementary Medical Insurance Program)

Dated: September 25, 1998.

Neil J. Stillman,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 98–26242 Filed 9–30–98; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 412, and 413

[HCFA–1003–CN]

RIN 0938–AI22

Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 1999 Rates; Corrections

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule; correction notice.

SUMMARY: In the July 31, 1998 issue of the **Federal Register** (63 FR 40594), we published a final rule revising the Medicare hospital inpatient prospective payment systems for operating costs and capital-related costs to implement applicable statutory requirements, including the Balanced Budget Act of 1997 (BBA), as well as changes arising from our continuing experience with the system. In addition, in the addendum to that final rule, we announced the amounts and factors for determining prospective payment rates for Medicare hospital inpatient services for operating costs and capital-related costs applicable to discharges occurring on or after October 1, 1998, and set forth rate-of-increases limits for hospitals and hospital units excluded from the prospective payment systems. This document corrects errors made in that document.

FOR FURTHER INFORMATION CONTACT: Shawn Braxton (410) 786–7292.

SUPPLEMENTARY INFORMATION: The July 31, 1998 final rule contained technical and typographical errors. Therefore, we are making the following corrections:

1. On page 40983, at the top of the page, the second column of the table is replaced with the following:

209
$8,400.32
$1,714.35
$5,914.51
$6,771.69
$7,628.87
$8,400.32

2. On page 40983, at the top of the page, the second footnote, the first line, the second parenthetical figure ''($2,048.86)'' is corrected to read ''($1,714.35)''.

3. On page 41019, in Table 1A—National Adjusted Operating Standardized Amounts, Labor/Nonlabor, the figure for Nonlabor-related share of the Large Urban Areas standardized amount ''1,313.41'' is corrected to read ''1,131.38''.

4. On page 41053, in Table 4A—Wage Index and Capital Geographic Adjustment Factor (GAF) for Urban Areas, the first set of columns, first column, tenth line from the bottom, the footnote number ''[2]'' (for Cincinnati, OH–KY–IN) is corrected to read ''[1]''.

5. On pages 41123, 41124, 41128, 41129, 41130, and 41131, in Appendix D—DRG Charts, the last graph titled—Costs and Payments by Length of Stay (Using Current Transfer Methodology), in the legend, the label ''Costs'' is corrected to read ''Payments'' and the label ''Payments'' is corrected to read ''Costs''.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance; and No. 93.774, Medicare—Supplementary Medical Insurance)

Dated: August 25, 1998.

Neil J. Stillman,

Deputy Assistant, Secretary for Information Resource Management.

[FR Doc. 98–26241 Filed 9–30–98; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 2200, 2210, 2240, 2250, and 2270

[WO–420–1050–00–24 1A]

RIN 1004–AC58

Exchanges: General Procedures; State Exchanges; National Park Exchanges; Wildlife Refuge Exchanges; Miscellaneous Exchanges

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) is streamlining its exchange regulations at 43 CFR group 2200 by amending § 2200.0–7 of part 2200 and by removing parts 2210, 2240, 2250, and 2270. Section 2200.0–7 states that, apart from the Federal Land Policy and Management Act (FLPMA), the Secretary of the Interior administers various statutes authorizing land exchanges, and that those exchanges may involve BLM-managed lands. If BLM-managed lands are involved, the other statutes will prevail over the regulations in part 2200 to the extent they are inconsistent with the regulations in part 2200. BLM is simultaneously removing parts 2210, 2240, 2250, and 2270 because the regulations in those parts largely restate the substance of the exchange statutes referenced in them and are, in that respect, redundant and unnecessary.

EFFECTIVE DATE: November 2, 1998.

ADDRESSES: You may send inquiries or suggestions to: Administrative Record (630), Bureau of Land Management, 1849 C Street, NW, Room 401LS, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Chris Fontecchio, Bureau of Land Management, 1849 C Street, N.W., Room 401LS, Washington, DC 20240; Telephone: 202–452–5012.

SUPPLEMENTARY INFORMATION:

I. Background
II. Final Rule as Adopted
III. Responses to Comments
IV. Procedural Matters

I. Background

Land exchanges involving BLM-managed lands and interest in lands are generally governed by FLPMA of 1976, as amended, 43 U.S.C. 1701 *et seq.*, and the implementing regulations at 43 CFR part 2200. However, various other statutes authorize certain site- and type-specific land exchanges that may involve BLM-managed lands or interests in lands. The terms of these statutes may not be fully consistent with BLM's general land exchange regulations in part 2200. To the extent that an exchange of BLM-managed lands involves such inconsistencies, the conflicting terms of the site- or type-specific statute will prevail over the part 2200 regulations. Provisions currently found at 43 CFR parts 2210, 2240, 2250, and 2270 refer to some of these other site- and type-specific exchange statutes.

In light of the regulatory reform initiative's goals of streamlining the Code of Federal Regulations, this final rule removes the parts which in large measure restate statutory terms and, also, amends section 2200.0–7 to generally advise the public that other statutes governing certain site- and type-specific exchanges will preempt the exchange regulations at part 2200, to the extent that the terms of the statute and the part 2200 regulations conflict. This can be accomplished without significantly affecting the rights of the United States, BLM's customers, or the public at large. This rule finalizes a proposed rule which was published on December 6, 1996, in the **Federal Register** at 61 FR 64658.

II. Final Rule as Adopted

The parts which this rule removes, 43 CFR parts 2210, 2240, 2250, and 2270, are almost entirely devoted to repeating statutory provisions. To the extent that they are duplicative, these regulations serve only to provide information that can be found in the statutes themselves. Furthermore, the few provisions in these parts which go beyond the statutes are provisions which can and should be removed.

For example, removing section 2240.0–3(f) deletes: (1) the requirement that States, political subdivisions thereof, or interested parties requesting public hearings to consider an exchange do so in writing; and (2) the definitions of National Park System and miscellaneous areas. These provisions constitute substance beyond that already contained in the Act of July 15, 1968, 16 U.S.C. 460*l*–22. However, BLM has determined that deleting these provisions does not meaningfully alter its administration of the Act's exchange provisions or significantly affect the rights of the United States or the public. BLM believes the benefits of streamlining and deleting unnecessary material such as part 2240 outweigh the impact of these minor substantive changes.

Next, removing part 2250 eliminates regulatory language stating that lands eligible for exchange under the Act of August 22, 1957, 16 U.S.C. 696, include federally owned property in Florida classified by the Secretary as suitable for exchange or disposal. In fact, the statute requires that lands be ''federally owned property in the State of Florida under [the Secretary of the Interior's] jurisdiction . . . .'' Therefore, any suggestion by the existing 43 CFR 2250.0–3(c) that the land need only be Federal land in Florida, regardless of the Secretary's jurisdiction, contradicts the law. Removing part 2250 will eliminate this confusion and will delete otherwise unnecessary language.

Similarly, removing part 2270 will eliminate a few minor inconsistencies with the governing statutes, but in each case our intention is that these deletions will not have any substantive effect. For example, section 2271.0–3(a) adds the word ''approximately'' to the requirement that exchanges of Indian Reservation land under the Act of April 21, 1904, 43 U.S.C. 149, must be ''equal'' in area and value. In this particular statutory context, BLM has generally interpreted the word ''equal'' to mean ''approximately equal'' to allow the exchanging parties some flexibility in making the exchange as close to equal as is reasonably possible, without risking failure over negligible differences. Although removing part 2270 will eliminate this interpretation from the CFR, BLM advises that it will continue to interpret the term ''equal'' in this way. BLM also advises that eliminating part 2270 will cause several other minor changes, but none that involve any significant substance. To sum up, BLM believes that there are no variances between the statute and the regulations being removed which are significant enough to justify continued publication of these otherwise redundant and unnecessary regulations.

In place of these redundant parts, this rule amends 43 CFR 2200.0–7(b) to include a general provision rather than a reference to the deleted parts. The amended section informs the public that the rules in part 2200 will apply to all exchanges involving BLM-managed lands unless a statute authorizes an exchange to be conducted under different requirements or procedures. As amended, the regulation gives several examples of land exchanges, such as National Park System and National Wildlife Refuge System exchanges, which may require complying with

statutory terms that are not entirely consistent with the part 2200 regulations. The final rule simply recognizes the manner in which BLM has conducted exchanges all along. The only difference is that you will need to look directly to the relevant site- or type-specific statutes to determine if there are inconsistencies, rather than depending upon regulations, if any, that may echo a relevant statute's terms.

Finally, please note that BLM is proposing to remove 43 CFR subpart 2202 in a separate rulemaking. Subpart 2202 is concerned with proposals relating to National Forest land exchanges administered by the Secretary of Agriculture through the Forest Service.

III. Responses to Comments

BLM received two comments to the proposed rule. One commenter had two specific concerns, and asked BLM to withdraw the rule, while the second expressed support and offered a minor suggestion.

The first commenter felt that BLM should offer greater analysis of the statutes which in some respects may take precedence over the general exchange regulations at part 2200. BLM declines this suggestion to offer a lengthy analysis of all relevant statutes, because the existing statutes are numerous, because Congress may pass additional statutes or amendments in the future, and because any analysis of them is beside the point. The purpose of the general language added by this rule to 43 CFR 2200.0–7(b) is simply to point out that the regulations found at 43 CFR part 2200 describe how BLM will conduct certain exchanges unless a statute directs otherwise. It is axiomatic that statutes always take precedence over regulations, and regulations are ineffective to the extent that they conflict with governing statutory law. This final rule does nothing to change how various authorities interact to govern the conduct of land exchanges that the Secretary of the Interior may make.

This first commenter also expressed a concern that by removing subpart 2240 BLM was eliminating protection of local residents' rights to a conveniently-located public hearing concerning exchanges affecting their community. Specifically, the existing language of 43 CFR 2240.0–3(f)(1) says, ''[p]ublic hearings will be held in the area where the lands to be exchanged are located, if a written request therefor is submitted to the Secretary or his authorized officer prior to such exchange, by a State or a political subdivision thereof or by a party in interest.''

This language will be removed, but BLM does not believe this will in any way deprive local residents of the meaningful and conveniently situated public hearing they may seek. The statute from which this provision derives, the Act of July 15, 1968 (16 U.S.C. 460L–22), contains the following language: ''Upon request of a State or a political subdivision thereof, or of a party in interest, prior to such exchange the Secretary or his designee shall hold a public hearing in the area where the lands to be exchanged are located.'' The statute continues to protect the right to public hearings that previously was recognized under the eliminated regulations. We therefore decline to act on this suggestion.

The second comment suggests that BLM retain the language of existing 43 CFR 2271.0–3(a), which states that exchanged lands must be ''approximately'' equal to each other in value and area. This provision derives from the Act of April 21, 1904 (43 U.S.C. 149), which says that exchanges must be ''equal'' in value. BLM declines to act on this suggestion. The proposed rule explained that while we feel that ''approximately equal'' is a permissible interpretation of the statutory term ''equal,'' we do not feel that additional regulations are required to this effect. The regulations at part 2200.6(c) already govern when BLM may interpret ''equal'' to mean ''approximately equal,'' as well as when equalization payments must be made to complete the exchange. Removing part 2270 will not alter the rules in part 2200 for equalizing exchange values.

IV. Procedural Matters

National Environmental Policy Act

The BLM has prepared an environmental assessment (EA) and has found that the rule would not constitute a major federal action significantly affecting the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). The BLM has placed the EA and the Finding of No Significant Impact on file in the BLM Administrative Record for this rule at the address listed in the preamble.

Paperwork Reduction Act

The final rule does not contain information collection requirements which the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (RFA) of 1980, 5 U.S.C. 601 *et seq.*, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. Based on the discussion contained in the preamble above, this action will not have significant impact on small entities. Because it is limited to removing repetitive and unnecessary regulations, BLM anticipates that this final rule will not substantially burden any member of the public at large. Therefore, BLM has determined under the RFA that this final rule would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

These proposed regulations are not a ''major rule'' as defined by the Small Business Regulatory Enforcement Fairness Act, at 5 U.S.C. § 804(2). The rule will not have a significant impact on the economy, or on small businesses in particular. As discussed above, this rule is limited to removing regulations which duplicate provisions found in existing statutes and adding an explanatory paragraph.

Unfunded Mandates Reform Act

Amending 43 CFR section 2200.0–7 and removing parts 2210, 2240, 2250, and 2270 will not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year; nor do these proposed regulations have a significant or unique effect on State, local, or tribal governments or the private sector. As discussed above, this rule is limited to removing regulations which duplicate provisions found in existing statutes and adding an explanatory paragraph. Therefore, BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*)

Executive Order 12612, Federalism

The final rule will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, BLM has determined that this final rule does not have sufficient federalism

implications to warrant preparation of a Federalism Assessment.

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

The final rule does not represent a government action capable of interfering with constitutionally protected property rights. Section 2(a)(1) of Executive Order 12630 specifically exempts actions abolishing regulations or modifying regulations in a way that lessens interference with private property use from the definition of ''policies that have takings implications.'' Since the primary function of the final rule is to abolish unnecessary regulations, there will be no private property rights impaired as a result. Therefore, BLM has determined that the rule would not cause a taking of private property or require further discussion of takings implications under the Executive Order.

Executive Order 12866, Regulatory Planning and Review

According to the criteria listed in section 3(f) of Executive Order 12866, BLM has determined that the final rule is not a significant regulatory action and was not subject to review by Office of Management and Budget. This final rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This final rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients; nor does it raise novel legal or policy issues.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Office of the Solicitor has determined that this final rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Author

The principal author of this proposed rule is Christopher D. Fontecchio, Regulatory Management Team, Bureau of Land Management, 1849 C Street, NW, Room 401LS, Washington, DC 20240; Telephone 202–452–5012.

List of Subjects

43 CFR Part 2200

National forests; Public lands.

43 CFR Part 2210

Public lands.

43 CFR Part 2240

National parks; Recreation and recreation areas; Seashores.

43 CFR Part 2250

Wildlife refuges.

43 CFR Part 2270

Indians-lands; National trails system; National wild and scenic rivers system; Public lands.

Dated: September 25, 1998.

Bob Armstrong,

Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, and under the authority of 43 U.S.C. 1740, parts 2200, 2210, 2240, 2250, and 2270, subchapter B, chapter II of Title 43 of the Code of Federal Regulations are amended as set forth below:

PART 2200—EXCHANGES: GENERAL PROCEDURES

1. The authority for part 2200 continues to read as follows:

Authority: 43 U.S.C. 1716, 1740.

2. Section 2200.0–7 is amended by revising paragraph (b) to read as follows:

§ 2200.0–7 Scope.

* * * * *

(b) The rules contained in this part apply to all land exchanges, made under the authority of the Secretary, involving Federal lands, as defined in 43 CFR 2200.0–5(i). Apart from the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, 43 U.S.C. 1701 *et seq.*, there are a variety of statutes, administered by the Secretary, that authorize land trades which may include Federal lands, as for example, certain National Wildlife Refuge System and National Park System exchange acts. The procedures and requirements associated with or imposed by any one of these other statutes may not be entirely consistent with the rules in this part, as the rules in this part are intended primarily to implement the FLPMA land exchange provisions. If there is any such inconsistency, and if Federal lands are involved, the inconsistent procedures or statutory requirements will prevail. Otherwise, the regulations in this part will be followed. The rules in this part also apply to the exchange of interests in either Federal or non-Federal lands including, but not limited to, minerals, water rights, and timber.

* * * * *

PARTS 2210, 2240, 2250, 2270—[REMOVED]

3. Parts 2210, 2240, 2250, and 2270 are removed in their entirety.

[FR Doc. 98–26290 Filed 9–30–98; 8:45 am]

BILLING CODE 4310–84–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[DA 98–1906]

List of Office of Management and Budget Approved Information Collections Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action revises the Commission's list of Office of Management and Budget (OMB) approved public information collection requirements with expiration dates. This list will provide the public with a current list of public information collection requirements approved by OMB and their associated control numbers and expiration dates.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Judy Boley, Office of the Managing Director, (202)418–0214.

SUPPLEMENTARY INFORMATION:

Order

By the Managing Director:

Adopted: September 23, 1998.

Released: September 25, 1998.

1. Section 3507(a)(3) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(3), requires agencies to display a current control number assigned by the Director of the Office of Management and Budget (''OMB'') for each agency information collection requirement.

2. Section 0.408 of the Commission's Rules displays the OMB control numbers assigned to the Commission's public information collection requirements that have been reviewed and approved by OMB.

3. Authority for this action is contained in Section 4(i) of the Communications Act of 1934 (47 U.S.C. 154(i)), as amended, and Section 0.231(b) of the Commission's Rules. Since this amendment is a matter of

agency organization procedure or practice, the notice and comment and effective date provisions of the Administrative Procedure Act do not apply. See 5 U.S.C. Section 553(b)(A)(d).

4. Accordingly, IT IS ORDERED, THAT Section 0.408 of the Rules is REVISED as set forth in the revised text, effective on October 1, 1998.

6. Persons having questions on this matter should contact Judy Boley at (202) 418–0214.

List of Subjects in 47 CFR Part 0

Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

PART 0—[AMENDED]

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Part 0—The authority for the citation for Part 0 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as revised; 47 U.S.C. 154, 303 unless otherwise noted.

2. Section 0.408 is revised to read as follows:

§ 0.408 OMB control numbers and expiration dates assigned pursuant to the Paperwork Reduction Act.

(a) Purpose. This section collects and displays the control numbers and expiration dates for the Commission information collection requirements assigned by the Office of Management and Budget (''OMB'') pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. The Commission intends that this section comply with the requirement that agencies display current control numbers and expiration dates assigned by the Director of OMB for each approved information collection requirement. Not withstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to the Associate Managing Director—Performance Evaluation and Records Management, Federal Communications Commission, Washington, DC 20554.

(b) Display

OMB control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0003	FCC 610	10/31/99
3060–0004	Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation, ET Doc. 96–62.	06/31/01
3060–0009	FCC 316	05/31/99
3060–0010	FCC 323	09/30/98
3060–0012	Parts 21, 23, 25 and 101 and FCC 701	05/31/00
3060–0016	FCC 346	07/31/00
3060–0017	FCC 347	07/31/00
3060–0020	FCC 406	05/31/99
3060–0021	FCC 480	12/31/00
3060–0022	FCC 610A	06/30/01
3060–0024	Sec. 76.29	08/31/01
3060–0025	FCC 755	07/31/00
3060–0027	FCC 301	12/31/00
3060–0028	FCC 313	02/28/99
3060–0029	FCC 302–TV	12/31/00
3060–0031	FCC 314	10/31/98
3060–0032	FCC 315	10/31/98
3060–0034	FCC 340	12/31/00
3060–0035	FCC 313–R	04/30/00
3060–0040	FCC 404/404–R	08/31/00
3060–0041	FCC 301–A	02/28/00
3060–0048	FCC 704	05/31/00
3060–0049	FCC 753	06/30/00
3060–0051	FCC 405–B	08/31/00
3060–0053	FCC 703	11/30/99
3060–0054	FCC 820	02/28/99
3060–0055	FCC 327	04/30/00
3060–0056	FCC 730	03/31/00
3060–0057	FCC 731	09/30/99
3060–0059	FCC 740	12/31/98
3060–0061	FCC 325	07/31/01
3060–0062	FCC 330	11/31/98
3060–0065	FCC 422	09/30/98
3060–0066	FCC 330–R	07/31/00
3060–0068	FCC 702	08/31/00
3060–0069	FCC 756	09/30/99
3060–0072	FCC 409	08/31/01
3060–0075	FCC 345	12/31/99
3060–0076	FCC 395	12/31/99
3060–0079	FCC 610–B	08/31/99
3060–0084	FCC 323–E	04/30/99
3060–0089	FCC 503	09/30/98
3060–0093	FCC 405	05/31/00
3060–0095	FCC 395–A, 395–AS	06/30/99
3060–0096	FCC 506, 506–A	08/31/99

OMB control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0099	FCC M	08/31/99
3060–0104	FCC 572	05/31/00
3060–0105	FCC 430	09/30/00
3060–0106	Sec. 43.61, FCC 43.61	05/31/01
3060–0107	FCC 405–A	01/31/00
3060–0108	FCC 201	05/31/01
3060–0110	FCC 303–S	05/31/01
3060–0113	FCC 396	01/31/00
3060–0119	Sec. 90.145	12/31/99
3060–0120	FCC 396–A	10/31/99
3060–0126	Sec. 73.1820	08/31/99
3060–0127	FCC 1046	03/31/00
3060–0128	FCC 574	08/31/01
3060–0132	FCC 1068A	12/30/00
3060–0134	FCC 574–R	05/31/99
3060–0136	FCC 574–T	12/31/00
3060–0139	FCC 854/854–R	12/31/98
3060–0141	FCC 402–R	06/30/00
3060–0147	Sec. 64.804	01/31/00
3060–0149	Part 63, Sec. 214, 63.01–63.601	12/31/98
3060–0157	Sec. 73.99	02/28/00
3060–0160	Sec. 73.158	02/28/99
3060–0161	Sec. 73.61	12/31/99
3060–0165	Part 41 Sec. 41.31	01/31/00
3060–0166	Part 42	11/30/98
3060–0168	Sec. 43.43	12/31/99
3060–0169	Sec. 43.51, 43.53	11/30/98
3060–0170	Sec. 73.1030	01/31/99
3060–0171	Sec. 73.1125	12/31/00
3060–0173	Sec. 73.1207	05/31/00
3060–0174	Sec. 73.1212	03/31/99
3060–0175	Sec. 73.1250	10/31/99
3060–0176	Sec. 73.1510	12/31/99
3060–0178	Sec. 73.1560	12/31/99
3060–0179	Sec. 73.1590	06/30/01
3060–0180	Sec. 73.1610	01/31/99
3060–0181	Sec. 73.1615	12/31/99
3060–0182	Sec. 73.1620	02/28/01
3060–0184	Sec. 73.1740	01/31/99
3060–0185	Sec. 73.3613	07/31/01
3060–0187	Sec. 73.3594	02/28/01
3060–0188	Sec. 73.3550	07/31/00
3060–0190	Sec. 73.3544	02/28/01
3060–0192	Sec. 87.103	01/31/01
3060–0194	Sec. 74.21	01/31/99
3060–0202	Sec. 87.37	12/31/00
3060–0204	Sec. 90.38(B)	04/30/99
3060–0206	Part 21	05/31/01
3060–0207	Section 11.52	12/31/98
3060–0208	Sec. 73.1870	01/31/00
3060–0209	Sec. 73.1920	10/31/99
3060–0210	Sec. 73.1930	06/30/01
3060–0211	Sec. 73.1943	07/31/01
3060–0212	Sec. 73.2080	12/31/99
3060–0213	Sec. 73.3525	11/30/00
3060–0214	Sec. 73.3526	12/31/99
3060–0215	Sec. 73.3527	12/31/99
3060–0216	Sec. 73.3538	11/30/98
3060–0219	Sec. 90.49(b)	10/31/99
3060–0221	Time in which stations must be placed in operation (exceptions)	04/30/01
3060–0222	Sec. 97.213	12/31/00
3060–0223	Sec. 90.129(B)	05/31/99
3060–0224	Sec. 90.151	2/28/01
3060–0225	Sec. 90.131(B)	09/30/99
3060–0226	Sec 90.135(d) & (e)	02/28/01
3060–0228	Sec 80.59	08/31/01
3060–0233	Part 36	07/31/99
3060–0236	Sec 74.703	07/31/99
3060–0240	Sec 74.651	02/28/00
3060–0241	Sec 74.633	02/28/00
3060–0242	Sec 74.604	02/28/00
3060–0243	Sec 74.551	05/31/99
3060–0245	Sec 74.537	05/31/99

OMB control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0246	Sec 74.452	07/31/00
3060–0248	Sec 74.751	07/31/99
3060–0249	Sec 74.781	01/31/00
3060–0250	Sec 74.784	01/31/00
3060–0251	Sec 74.833	10/31/99
3060–0253	Part 68 Sec 68.106, 68.108, 68.110	04/30/01
3060–0254	Sec 74.433	07/31/00
3060–0258	Sec 90.176	10/31/99
3060–0259	Sec 90.263	12/31/00
3060–0261	Sec 90.215	12/31/00
3060–0262	Sec 90.179	11/30/98
3060–0263	Sec 90.177	09/30/99
3060–0264	Sec 80.413	12/31/00
3060–0270	Sec 90.443	01/31/00
3060–0280	Sec 90.633(F) & (G)	05/31/99
3060–0281	Sec 90.651	02/28/01
3060–0286	Sec 80.302	04/30/01
3060–0287	Sec 78.69	11/30/98
3060–0288	Sec 78.33	12/31/99
3060–0289	Sec 76.601	02/28/99
3060–0290	Sec 90.517	05/31/99
3060–0291	Sec 90.477	02/28/01
3060–0292	Part 69	09/30/00
3060–0295	Sec 90.607(b)(1) & (c)(1)	12/31/00
3060–0297	Sec 80.503	12/31/00
3060–0298	Part 61	10/31/00
3060–0307	Sec 90.629(A)	04/30/99
3060–0308	Sec 90.505	03/31/01
3060–0309	Sec 74.1281	09/30/99
3060–0310	Sec 76.12	12/31/99
3060–0311	Sec 76.54	09/30/99
3060–0313	Sec 76.207	07/31/01
3060–0314	Sec 76.209	03/31/01
3060–0315	Sec 76.221	09/30/99
3060–0316	Sec 76.305	07/31/01
3060–0318	FCC 489	12/31/00
3060–0319	FCC 490	09/30/00
3060–0320	Sec 73.1350	04/30/01
3060–0321	Sec 73.68	02/28/99
3060–0325	Sec 80.605	06/30/99
3060–0326	Sec 73.69	09/30/99
3060–0329	Sec. 2.955	04/30/99
3060–0330	Part 62	04/30/01
3060–0331	Sec. 76.615	05/31/01
3060–0332	Sec. 76.614	09/30/98
3060–0340	Sec. 73.51	08/31/00
3060–0341	Sec. 73.1680	08/31/00
3060–0342	Sec. 74.1284	07/31/00
3060–0344	Sec. 1.1705	08/31/00
3060–0345	Sec. 1.1709	08/31/00
3060–0346	Sec. 78.27	03/31/01
3060–0347	Sec. 97.311	11/30/00
3060–0348	Sec. 76.79	02/28/01
3060–0349	Sec. 76.73 and 76.75	02/28/01
3060–0355	FCC 492 and FCC 492A	07/31/01
3060–0357	Sec. 63.701	08/31/01
3060–0360	Sec. 80.409(c)	10/31/98
3060–0361	Sec. 80.29	04/30/01
3060–0362	Sec. 80.401	08/31/99
3060–0364	Sec. 80.409 (d) and (e)	10/31/98
3060–0368	Sec. 97.523	08/31/00
3060–0370	Part 32	12/31/00
3060–0374	Sec. 73.1690	11/30/98
3060–0384	Sec. 64.904	02/28/99
3060–0386	Sec. 73.1635	05/31/99
3060–0387	Sec 15.201(d)	05/31/99
3060–0390	FCC 395B	12/31/99
3060–0391	Monitoring Program for Impact of Federal State Joint Board Decisions	11/30/98
3060–0392	Sec. 1.1401–1.1416	07/31/01
3060–0393	Sec. 73.45	10/31/99
3060–0394	Sec. 1.420	10/31/99
3060–0395	Sec. 43.21 and 43.22 FCC 43–02, FCC 43–05 and FCC 43–07	09/30/98
3060–0397	Sec. 15.7(A)	04/30/00

OMB control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0398	Sec. 2.948, 15.117(G)(2), 80.1053	10/31/99
3060–0400	Tariff Review Plan	09/30/99
3060–0404	FCC 350	02/28/00
3060–0405	FCC 349	09/30/98
3060–0407	FCC 307	06/30/00
3060–0410	FCC 495A and FCC 495B	03/31/00
3060–0411	Sec. 1.720–1.735	02/28/01
3060–0414	Terrain Shielding Policy	09/30/00
3060–0419	Sec. 76.94, 76.95, 76.155, 76.156, 76.157, 76.159	09/30/98
3060–0421	New Service Reporting Requirements under Price Cap Regulation	02/28/99
3060–0422	Sec. 68.5	11/31/98
3060–0423	Sec. 73.3588	10/31/99
3060–0425	Sec. 74.913	07/31/01
3060–0427	Sec. 73.3523	09/30/00
3060–0430	Sec. 1.1206	09/30/01
3060–0433	FCC 320	01/31/99
3060–0434	Sec. 90.19(F)(7)	05/31/99
3060–0435	Sec. 80.361	10/31/99
3060–0436	Sec. 15.214 and 68.200	05/31/99
3060–0438	FCC 464	12/31/00
3060–0439	Regulations Concerning Indecent Communications by Telephone	03/31/01
3060–0441	Sec. 90.621(B)(4)	08/31/99
3060–0443	FCC 572C	05/31/99
3060–0444	FCC 800A	06/30/01
3060–0448	Sec. 63.07	08/31/00
3060–0449	Sec. 1.65(c)	01/31/99
3060–0452	Sec. 73.3589	10/31/99
3060–0454	Regulation of International Accounting Rates	07/31/01
3060–0461	Sec. 90.173	12/31/99
3060–0463	Telecommunications Services for Individuals with Hearing and Speech Disabilities	07/31/00
3060–0465	Sec. 74.985	12/31/99
3060–0466	Sec. 74.1283	01/31/00
3060–0470	Computer III Remand Proceeding: BOC Safeguards and Tier 1 LEC Safeguards and Implementation of Further Costs, CC Docket 90–623.	11/30/98
3060–0473	Sec. 74.1251	12/31/99
3060–0474	Sec. 74.1263	02/28/00
3060–0475	Sec. 90.713	12/31/98
3060–0478	Informational Tariffs	04/30/00
3060–0481	FCC 452R	08/31/00
3060–0483	Sec. 73.687	07/31/00
3060–0484	Sec. 63.100	02/28/99
3060–0488	Sec. 73.30	02/28/01
3060–0489	Sec. 73.37	02/28/01
3060–0490	Sec. 74.902	03/31/01
3060–0491	Sec. 74.991	03/31/01
3060–0492	Sec. 74.992	02/28/01
3060–0493	Sec. 74.986	02/28/01
3060–0494	Sec. 74.990	02/28/01
3060–0496	FCC Report 43–08	09/30/98
3060–0500	Sec. 76.607	07/31/01
3060–0501	Sec. 76.206	07/31/01
3060–0502	Sec. 73.1942	07/31/01
3060–0504	Sec. 90.658	11/30/98
3060–0506	FCC 302–FM	12/31/00
3060–0508	Rewrite and Update of Part 22, of the Public Mobile Service Rules, CC Docket 92–115.	01/31/01
3060–0511	FCC Report 43–04	09/30/98
3060–0512	ARMIS Annual Summary Report, FCC Report 43–01	09/30/98
3060–0513	FCC Report 43–03	09/30/98
3060–0514	Sec. 43.21(c)	02/28/00
3060–0515	Sec. 43.21(d)	11/30/98
3060–0516	Revision of Radio Rules and Policies, Time Brokerage Ruling	11/30/98
3060–0519	Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991.	09/30/98
3060–0520	Sec. 90.127(E)	02/28/99
3060–0526	Density Pricing Zone Plans, Expanded Interconnection with Local Telephone Facilities (CC Docket 91–141).	01/31/99
3060–0531	Local Multipoint Distribution Service (LMDS)	06/30/00
3060–0532	Sec. 2.975(A)(8) and 2.1033(B)(12)	05/31/99
3060–0536	FCC 431	09/30/00
3060–0537	Sec. 13.217	05/31/99
3060–0540	Tariff Filing Requirement for Nondominant Common Carriers	02/28/99
3060–0541	FCC 464–A	02/28/99

OMB control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0543	Signal Booster Stations, Sec 21.913	07/31/99
3060–0544	Sec. 76.701	10/31/00
3060–0546	Sec. 76.59	06/30/99
3060–0547	Sec. 76.61 and 76.7	09/30/98
3060–0548	Sec. 76.302 and 76.56	09/30/98
3060–0549	FCC 329	09/30/98
3060–0550	FCC 328	08/31/99
3060–0551	Sec. 76.1002 & 76.1004	05/31/00
3060–0552	Sec. 76.1003 & 76.1004	05/31/00
3050–0554	Section 87.199	06/30/99
3060–0556	Sec. 80.1061	06/30/99
3060–0560	Sec. 76.911	07/31/01
3060–0561	Sec. 76.913	08/31/00
3060–0562	Sec. 76.916	04/30/01
3060–0563	Sec. 76.915	06/30/00
3060–0564	Sec. 76.924	08/31/99
3060–0565	Sec. 76.944	08/31/00
3060–0567	Sec. 76.962	11/30/98
3060–0568	Commercial Leased Access Rates, Terms, & Conditions, Sec. 76.970	04/30/00
3060–0569	Sec. 76.975	06/30/00
3060–0570	Sec. 76.982	04/30/01
3060–0572	Filing Manual for Annual International Circuit Status Reports, Sec. 43.82	05/31/99
3060–0573	FCC 394	09/30/99
3060–0574	FCC 395-M	06/30/99
3060–0576	FCC 610R	08/31/99
3060–0577	Expanded Interconnection with Local Telephone Company Facilities	09/30/00
3060–0579	Expanded Interconnection with Local Telephone Company Facilities for Interstate Switched Transport Service.	09/30/00
3060–0580	Sec. 76.504	06/30/00
3060–0581	Sec. 76.503	01/31/00
3060–0582	Sec. 76.1302	03/31/00
3060–0584	FCC 45 FCC 44	07/31/99
3060–0589	FCC 159, and 159C	12/31/00
3060–0594	FCC 1220	05/31/01
3060–0595	FCC 1210	07/31/01
3060–0599	Implementation of Sections 3(n) and 322 of the Communications Act, GN 93–253	06/30/00
3060–0600	FCC 175 and 175–S	11/30/98
3060–0601	FCC 1200	05/31/01
3060–0602	Sec. 76.917	04/30/00
3060–0607	Sec. 76.922	08/31/00
3060–0609	Sec. 76.934(D)	04/30/01
3060–0610	Sec. 76.958	04/30/01
3060–0611	Sec. 74.783	07/31/00
3060–0613	Expanded Interconnection with Local Telephone Company Facilities, CC Docket 91–141.	09/30/98
3060–0621	FCC 401, 405, 430, 489, 490 and 854	01/31/01
3060–0623	FCC 600	02/28/99
3060–0624	Amendment of the Commission's Rules to Establish New Narrowband Personal Communications Services, ET Docket 92–100 and GN Docket 90–314.	10/31/00
3060–0625	Amendment of the Commission's Rules to Establish New Personal Communications Services, GN Docket 90–314.	11/30/00
3060–0626	Implementation of Sections 3(N) and 332 of the Communications Act, GN Docket 93–252.	12/31/00
3060–0627	FCC 302–AM	04/30/01
3060–0629	Sec. 76.987(G)	05/31/01
3060–0630	Sec. 73.62	06/30/01
3060–0633	Sec. 73.1230, 74.165, 74.432, 74.564, 74.664, 74.765, 74.832, 74.965 and 74.1265.	06/30/01
3060–0634	Sec. 73.691	04/30/01
3060–0635	FCC 610–V	03/31/01
3060–0636	Part 2 and 18	09/30/98
3060–0638	Sec. 76.934(F)(1)	11/30/98
3060–0639	Implementation of Section 309(J) of the Communications Act Competitive Bidding, PP 93–253.	10/31/98
3060–0640	FCC 800I	10/31/98
3060–0641	FCC 218–I	09/30/99
3060–0644	FCC 1230	11/30/98
3060–0645	Antenna Registration, Part 17	02/28/99
3060–0646	Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers: CC Docket 94–129.	01/31/01
3060–0647	FCC Annual Survey of Cable Industry Prices (1997 Price Survey)	12/31/98
3060–0648	Sec. 21.902	09/30/98
3060–0649	Sec. 76.58	09/30/98

OMB control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0650	Sec. 76.502	09/30/98
3060–0651	Sec. 76.9	09/30/98
3060–0652	Sec. 76.309 and 76.964	09/30/98
3060–0653	Sec. 64.703(b)	09/30/98
3060–0654	FCC 304	09/30/98
3060–0655	Request for Waivers of Regulatory Fees Predicated on Allegations of Financial Hardship, MM Docket 94–19.	09/30/98
3060–0656	FCC 175–M	09/30/98
3060–0657	Sec. 21.956	09/30/98
3060–0658	Sec. 21.960	09/30/98
3060–0660	Sec. 21.937	09/30/98
3060–0661	Sec. 21.931	09/30/98
3060–0662	Sec. 21.930	09/30/98
3060–0663	Sec. 21.934	09/30/98
3060–0664	FCC 304A	09/30/98
3060–0665	Sec. 64.707	09/30/98
3060–0666	Sec. 64.703(a)	09/30/98
3060–0667	Sec. 76.630	09/30/98
3060–0668	Sec. 76.936	09/30/98
3060–0669	Sec. 76.946	09/30/98
3060–0673	Sec. 76.956	09/30/98
3060–0674	Sec. 76.931 and 76.932	09/30/98
3060–0676	Sec. 64.1100	09/30/98
3060–0678	FCC 312	05/31/01
3060–0679	Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures.	09/30/98
3060–0681	Toll-Free Access Codes	09/30/00
3060–0682	Sec. 63.16	01/31/99
3060–0683	Direct Broadcast Satellite Service	01/31/99
3060–0684	Cost Sharing Plan for Microwave Relocation	08/31/99
3060–0685	FCC 1240	05/31/01
3060–0686	Streamlining the International Section 214 Authorization Process and Tariff Requirements.	06/30/01
3060–0687	Access to Telecommunications Equipment and Services by Persons with Disabilities.	02/28/99
3060–0688	FCC 1235	02/28/99
3060–0690	ET Docket 95–183, FCC 402, FCC 494	06/30/01
3060–0691	Amendment to Part 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896–901 MHZ Bands Allotted to Specialized Mobile.	06/30/99
3060–0692	Sec. 76.802	03/31/01
3060–0695	WT Docket No. 96–1	04/30/99
3060–0697	Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems.	04/30/99
3060–0698	Amendment of the Commission's Rules to Establish a Radio Astronomy Coordination Zone in Puerto Rico.	01/31/01
3060–0699	Streamlining Broadcast EEO Rules and Policies, Vacating the EEO Forfeiture Policy Statement and Amending Section 1.80 of the Commission's Rules—MM Doc. 96–16.	05/31/99
3060–0700	FCC 1275	07/31/00
3060–0701	CC Docket 96–23	05/31/99
3060–0702	Amendment to Part 20 and 24 of the Commission's Rules Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap.	05/31/99
3060–0703	FCC 1205	06/30/99
3060–0704	Policy and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934, as amended—CC Doc. 96–61.	03/31/01
3060–0706	Order and NPRM on Cable Reform: Implementation of the Telecommunications Act of 1996.	10/31/98
3060–0707	Restriction on Over-the Air Reception Devices (NPRM)	10/31/99
3060–0708	NPRM in MM Docket 96–58, Amendments of Parts 73 and 74 of the Commission's Rules to Permit Certain Minor Changes in Broadcast Facilities Without a Construction Permit.	07/31/99
3060–0709	Revision to Part 22 and Part 90 to Facilitate Future Development of the Paging System and Implementation of Section 309(j) of the Communications Act.	01/31/00
3060–0710	Policy and Rules Concerning the Implementation of the Local Competition Provisions in the Telecommunications Act of 1996—CC Doc. 96–98.	02/28/00
3060–0711	Implementation of Section 34(a)(1) of the Public Utility Holding Act of 1935, as amended by the Telecommunications Act of 1996—GC Doc. 96–101.	07/31/99
3060–0712	Petition for Declaratory Ruling by Inmate Calling Services Providers Task Force	07/31/99
3060–0713	Alternative Broadcast Inspection Program	07/31/99
3060–0714	Antenna Registration Number Required as Supplement to Application Forms	09/30/99

OMB control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0715	Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information—CC Doc. 96–115.	06/30/01
3060–0716	Section 73.1630	08/31/99
3060–0717	CC Docket No. 92–77d	05/31/01
3060–0718	Part 101 Governing the Terrestrial Microwave Fixed Radio Service	09/30/99
3060–0719	Quarterly Report of IntraLATA Carriers Listing Pay Phone Automatic Numbering Identifications (ANIs).	12/31/99
3060–0720	Proposed Report of Bell Operating Companies of Modified Comparably Efficient Interconnection Plans.	09/30/99
3060–0721	One-Time Report of Local Exchange Companies of Cost Accounting Studies	12/31/99
3060–0722	Proposed Initial Report of Bell Operating Companies of Comparably Efficient Interconnect Plans.	08/31/99
3060–0723	Public Disclosure of Network Information by Bell Operating Companies	12/31/99
3060–0724	Annual Report of Interexchange Carriers Listing the Compensation Amount Paid to Pay Phone Providers and the Number of Payees.	12/31/99
3060–0725	Proposed Annual Filing of Nondiscrimination Reports (On Quality of Service, Installation, and Maintenance) by BOC's.	08/31/99
3060–0726	Proposed Quarterly Report of Interexchange Carriers Listing the Number of Dial-Around Calls for which Compensation is Being Paid to Pay Phone Owners.	12/31/99
3060–0727	Sec. 73.213	11/30/00
3060–0728	Supplemental Information Requesting Taxpayer Identifying Numbers for Debt Collection.	05/31/00
3060–0729	Bell Operating Provision of Out-of-Region Interexchange Services (Affiliated Company Recordkeeping Requirements).	12/31/99
3060–0730	Toll-Free Service Access Codes, 800/888 Number Release Procedures	02/28/00
3060–0731	Telecommunications Relay Services (TRS)	09/30/99
3060–0732	Consumer Education Concerning Wireless 911	10/31/98
3060–0734	Implementation of the Telecommunications Act of 1996: Accounting Safeguards under the Telecommunications Act of 1996.	03/31/00
3060–0735	Partitioning and Disaggregation	09/30/99
3060–0736	Implementation of the Non-Accounting Safeguards of Section 271 and 272 of the Communications Act of 1934, as amended—CC Docket 96–149.	09/30/99
3060–0737	Disclosure Requirements for Information Services Provided under a Presubscription or Comparable Arrangement.	09/30/99
3060–0738	Implementation of the Telecommunications Act of 1996: Electronic Publishing and Alarm Monitoring Services.	04/30/00
3060–0739	Amendment of the Commission's Rules to Establish Competitive Service Safeguards for Local Exchange Carrier Provisions of Commercial Mobile Radio Service.	01/31/01
3060–0740	Sec. 95.1015	10/31/99
3060–0741	Implementation of the Local Competition Provisions on the Telecommunications Act of 1996—CC Docket No. 96–96, Second Report and Order and Memorandum Opinion and Order.	10/31/99
3060–0742	Part 52, Subpart C, Sec. 52.21—52.31	12/31/99
3060–0743	Implementation of the Local Competition Provisions on the Telecommunications Act of 1996—CC Docket No. 96–128.	12/31/99
3060–0745	Implementation of the Local Exchange Carrier Tariff Streamlining Provisions in the Telecommunications Act of 1996—CC Docket No. 96–187.	12/31/00
3060–0746	FCC 900	06/30/00
3060–0747	FCC 415	12/31/99
3060–0748	Sec. 64.1504, CC Docket No. 96–146	12/31/99
3060–0749	Sec. 64.1509	01/31/00
3060–0750	Sec. 73.673	12/31/99
3060–0751	Regulation of International Accounting Rates: CC Docket No. 90–337	01/31/00
3060–0752	Billing Disclosure Requirements for Pay-Per-Call and Other Information Services, 47 CFR 64.1510.	01/31/00
3060–0753	Policy and Rules Concerning the Interstate, Interexchange Marketplace, CC Docket 9661 (Integrated Rate Plans).	01/31/00
3060–0754	FCC 398	12/31/99
3060–0755	Infrastructure Sharing—CC Docket 96–237	05/31/00
3060–0756	Procedural Requirements and Policies for Commission Processing of Bell Operating Company Applications for the Provision of In-Region, InterLATA Services under Section 271 of the Communications Act.	06/30/01
3060–0757	FCC Auctions Customer Survey	09/30/00
3060–0758	Amendment of Part 5 of the Commission's Rules to Revise the Experimental Radio Service Regulations—ET Docket No. 96–256 (Proposed Rule).	03/31/00
3060–0759	Implementation of Section 273 of the Communications Act of 1934, as Amended by the Telecommunications Act of 1996.	04/30/00
3060–0760	Access Charge Reform—CC Docket No. 96–272 (First Report and Order)	10/31/98
3060–0761	Closed Captioning of Video Programming	12/31/00
3060–0762	Sec. 274 (b)(3)(B), CC Docket No. 96–152 (FNPRM)	04/30/00
3060–0763	ARMIS Customer Satisfaction Report, FCC 43–06	09/30/98

OMB control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0764	Regulation of International Accounting Rates—CC Docket No. 90–337	10/31/00
3060–0765	Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems (Further Notice of Proposed Rulemaking).	05/31/00
3060–0767	Auction Forms and License Transfer Disclosures; Supplement Fifth Notice of Proposed Rulemaking in CC Docket No. 92–297.	10/31/98
3060–0768	28 GHz Band Segmentation Plan Amending the Commission's Rules to Redesignate the 27.5—29.5 GHz Frequency Band, to Reallocate the 29.5—30.0 GHz Frequency Band, and to Establish.	06/30/00
3060–0769	Aeronautical Services Transition Plan	06/30/00
3060–0770	Price Cap Performance Review for Local Exchange Carriers—CC Docket No. 94–1	06/30/00
3060–0771	Sec. 5.56	10/31/00
3060–0773	Sec. 2.803	07/31/00
3060–0774	Federal-State Joint Board on Universal Service—CC Docket No. 96–45, 47 CFR 36.611—36.612 and 47 CFR Part 54.	11/30/98
3060–0775	47 CFR 64.1901—64.1903	07/31/00
3060–0777	Access Charge Reform—CC Docket No. 92–262 (Further Notice of Proposed Rulemaking.	08/31/00
3060–0779	Amendment to Part 90 of the Commission's Rules to Provide for Use of the 220–222 MHz Band by the Private Land Mobile Radio Service, PR Doc. 89–552.	08/31/00
3060–0780	Uniform Rate-Setting Methodology	09/30/00
3060–0782	Petitions for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations.	01/31/01
3060–0783	Coordination Notification Requirements on Frequencies Below 512 MHz—Sec. 90.176.	09/30/00
3060–0785	FCC 457	01/31/99
3060–0786	Petitions for LATA Association Changes by Independent Telephone Companies	01/31/01
3060–0787	Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996.	10/31/00
3060–0788	DTV Showings/Interference Agreements	07/31/01
3060–0789	Modified Alternative Plan, CC Doc. 90–571, Order (''1997 Suspension Order'')	06/30/01
3060–0790	Section 68.110(c)	11/30/00
3060–0791	CC Docket No. 93–240	11/30/00
3060–0793	Procedures for State Regarding Lifeline Consent, Adoption of Intrastate Discount Matrix for Schools and Libraries, and Designation of Eligible Telecommunications Carriers.	07/31/01
3060–0794	DTV Report on Construction Progress	11/30/00
3060–0795	ULS TIN Registration and FCC 606	02/28/01
3060–0796	Administration of the North American Numbering Plan, Carrier Identification Codes (CICs), CC Docket No. 92–237.	12/31/00
3060–0797	FCC 604	11/30/00
3060–0798	FCC 601	05/31/01
3060–0799	FCC 602	11/30/00
3060–0800	FCC 603	11/30/00
3060–0801	Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees.	10/31/98
3060–0802	Administration of the North American Numbering Plan, Order on Reconsideration, Message Intercept Requirement, CC Docket No. 92–237.	08/31/01
3060–0804	FCC 465, 466, 467, and 468	07/31/01
3060–0805	Development of Operational, Technical, and Spectrum Requirements for Meeting Federal, State, and Local Public Safety Agency Communications Requirements through the Year 2010.	01/31/01
3060–0806	Universal Service: Schools and Libraries Program, FCC 470 and 471	06/30/01
3060–0807	Petitions for Preemption—47 CFR 51.803 and Supplemental Procedures for Petitions to Section 252(e)(5) of the Communications Act of 1934, as amended.	04/30/01
3060–0808	Amendments to Uniform System of Accounts for Interconnection, CC Docket No. 97–212.	02/28/01
3060–0809	Communications Assistance for Law Enforcement Act (CALEA), CC Docket No. 97–213.	02/28/01
3060–0810	Procedures for Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended.	05/31/01
3060–0811	Implementation of Section 309(j) of the Communications Act, MM Docket No. 97–234.	02/28/01
3060–0813	Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems.	06/30/01
3060–0814	Local Switching Support and Local Switching Support Data Collection Form and Instructions, Section 54.301.	09/30/98
3060–0815	FCC 496	10/31/98
3060–0816	Local Competition in the Local Exchange Telecommunications Services Report	02/28/99
3060–0817	Computer III Further Remand Proceedings: BOC Provision of Enhanced Services (ONA Requirements), CC Docket No. 95–20.	05/31/01
3060–0818	Geocode Data Request	09/30/98
3060–0819	Lifeline Assistance/Lifeline Connection Assistance (Link Up) Reporting Worksheet and Instructions, 47 CFR 54.400–54.417, FCC 497.	09/30/98

OMB control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0820	Amendment to Parts 22, 24, 27, 90 and 101 of the Commission's Rules Concerning Non-Substantial Assignments of Wireless Licenses and Transfers of Control Involving Telecommunications.	09/30/98
3060–0821	DTV Engineering Analysis for De Minimis Standards	09/30/98
3060–0823	Pay Telephone Reclassification, Memorandum Opinion and Order, CC Docket No. 96–128.	09/30/98
3060–0824	FCC 498	09/30/98
3060–0825	Requirements for Toll-Free Service Access Codes 888/877	10/31/98
3060–0827	Request for Radio Station License Update	10/31/98
3060–0828	State Forward-Looking Cost Studies for Federal Universal Service Support (Public Notice).	10/31/98
3060–0829	Streamlining of Mass Media Applications, Rules and Processes	07/31/01
3060–0830	Year 2000 Data Request	10/31/98
983060–0831	MDS and ITFS Two-Way Transmissions	07/31/01
3060–0832	Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance, CC Docket No. 98–56.	07/31/01
3060–0834	Reconsideration of Rules and Policies for the 220–222 MHz Radio Service	12/31/98
3060–0835	Ship Inspection Certificates, FCC 806, 824, 827 and 829	12/31/98
3060–0836	Network Preempted Children's Television Education and Informational Programming.	12/31/98
3060–0839	Study of the Nexus Between Broadcast Ownership by Minorities and Non-Minorities and News Public Affairs Content.	11/30/98

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–98–4483]

RIN 2127–AG82, RIN 2127–AH02

Federal Motor Vehicle Safety Standards; Child Restraint Systems

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

ACTION: Final rule, correction.

SUMMARY: This document adopts as final most of the amendments made by interim final rules to the air bag warning label requirement in Standard No. 213, ''Child Restraint Systems'' (49 CFR 571.213). The required label warns that a rear-facing child restraint must never be placed in a vehicle front seat with an air bag. The interim final rules modified the label to allow the phrase ''unless air bag is off'' to be added to the end of the warning, if the child seat is equipped with a device that deactivates the air bag and provides a signal that the air bag has been disabled. This document adopts the amendments of the interim rules, except that the signal that the air bag is deactivated must be provided for a longer duration than that specified in the interim rules.

This document also corrects a labeling provision in Standard 213 that required child restraints to provide an installation diagram showing the child restraint system installed in the ''right front'' outboard seating position equipped with a continuous-loop lap/shoulder belt and the ''center rear'' seating position equipped with only a lap belt. The agency is removing the references to ''right front'' and ''center rear'' as being unnecessary and potentially confusing.

DATES: *Effective date:* March 30, 1999. Because this final rule revises a provision of the June 1997 interim rule, a 180 day effective date is adopted to provide manufacturers with sufficient leadtime to implement any needed changes to their vehicles or child restraint systems as a result of this rule.

Petitions for Reconsideration: Petitions for reconsideration of this rule must be received by the agency not later than November 16, 1998.

ADDRESSES: Petitions for reconsideration should refer to the docket number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

For nonlegal issues: Mary Versailles, Office of Safety Performance Standards, NPS–31, telephone (202) 366–2057.

For legal issues: Deirdre Fujita, Office of Chief Counsel, NCC–20, telephone (202) 366–2992.

Both can be reached at the National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C., 20590.

SUPPLEMENTARY INFORMATION: This document amends Standard No. 213, ''Child Restraint Systems,'' on a permanent basis to modify the air bag warning label which rear-facing child seats have been required to bear from May 1997. This document adopts all but one of the amendments made in interim final rules published on April 17, 1997 (62 FR 18723) and June 4, 1997 (62 FR 30464). The one amendment that differs from the interim final rule relates to the length of time a signal that the air bag is deactivated must operate after deactivation. Rather than operate for at least 10 seconds after deactivation, the signal must operate for at least 60 seconds after deactivation.

Original Final Rule

The requirement for the air bag warning label was adopted in a November 27, 1996 final rule (61 FR 60206) [1], which also adopted new warning label requirements for vehicles with air bags. The requirement for the enhanced child seat label is set forth in S5.5.2(k) of Standard 213. The requirement specifies, among other things, the exact content of the message that must be provided on the label. The message of the label must be preceded by a heading (''WARNING''), with an alert symbol, and state the following:

DO NOT place rear-facing child seat on front seat with air bag.

DEATH OR SERIOUS INJURY can occur.

[1] Corrected December 4, 1996 (61 FR 64297), December 11, 1996 (61 FR 65187), and January 2, 1997 (62 FR 31).

The back seat is the safest place for children 12 and under. Also required on the label is a pictogram showing a rear-facing child seat being impacted by an air bag, surrounded by a red circle with a slash across it. Flexibility as to the content of the label is not provided; thus, wording other than that specified in the standard is not permitted.

First Interim Final Rule

On April 17, 1997 (62 FR 18723), NHTSA amended S5.5.2(k) to permit, for some child restraints, the addition of the phrase ''unless air bag is off'' after the sentence stating ''DO NOT place rear-facing child seat on front seat with air bag.'' The amendment responded to a request from Mercedes-Benz concerning rear-facing child seats that have features enabling the seat to deactivate the passenger-side air bag.

Mercedes developed a rear-facing child seat with a device that automatically turns off the passenger-side air bag in vehicles designed to respond to such a device. The cutoff feature makes it possible to use a child restraint system on the front seat of these vehicles without subjecting the child to risk of injury from an air bag deployment. Mercedes believed that the first statement (''DO NOT place rear-facing child seat on front seat with air bag'') was inappropriate for child restraints with a feature that turns off the air bag, and could be potentially confusing to owners of child restraints that are marketed as compatible with a complementary air bag system. Mercedes suggested that the amended label should be permitted on a child restraint that is equipped with a cutoff device, if the cutoff device automatically deactivates the passenger-side air bag and activates a telltale light in the vehicle that complies with S4.5.4.3 of Standard No. 208, ''Occupant Crash Protection'' (49 CFR § 571.208). S4.5.4.3 states:

> A telltale light on the dashboard shall be clearly visible from all front seating positions and shall be illuminated whenever the passenger air bag is deactivated. The telltale light: (a) Shall be yellow; (b) Shall have the identifying words ''AIR BAG OFF'' on the telltale or within 25 millimeters of the telltale; (c) Shall remain illuminated for the entire time that the passenger air bag is deactivated; (d) Shall not be illuminated at any time when the passenger air bag is not deactivated; and, (e) Shall not be combined with the readiness indicator required by S4.5.2 of [Standard 208].

In the April 17, 1997 interim final rule, NHTSA agreed with Mercedes that adding the phrase ''unless air bag is off'' would clarify the message of the label and reduce the likelihood of confusing owners of child seats that are intended for use on and marketed as appropriate for front seat positions on vehicles equipped with air bag cutoff devices. The agency tentatively agreed that the conditions of (a) automatic deactivation and (b) a telltale meeting S4.5.4.3 of Standard 208, ''reduce[d] the likelihood that a child restraint would be used with an active air bag.'' Because NHTSA saw no diminution of safety resulting from the change, the agency amended the standard to accommodate Mercedes' request.

Second Interim Rule

After the April 17, 1997 interim final rule was issued, Porsche contacted the agency asking whether the conditions for automatic deactivation and a telltale meeting S4.5.4.3 were necessary requisites to allowing the phrase ''unless air bag is off'' to be added to the child seat warning label.

Porsche had also developed a rear-facing child seat with a device that turns off the passenger-side air bag in vehicles designed to respond to such a device. However, unlike Mercedes', the device is not automatic. To turn off the passenger-side air bag, a specialized buckle tongue on the child seat must be inserted into a buckle receiver installed under the front passenger seat. The Porsche system does not include a telltale light complying with S4.5.4.3 of Standard No. 208. Instead, the air bag readiness indicator flashes for 10 seconds to inform the driver that the child seat has properly cut off the passenger-side air bag. If the vehicle ignition is on when the special buckle is inserted in the receiver, the warning light flashes upon insertion of the buckle. If the vehicle ignition is off when the special buckle is inserted, the warning light flashes each time the ignition is turned on. Porsche believed that its design, while different from the Mercedes design, also warrants the addition of the phrase ''unless air bag is off'' to the child seat warning label on Porsche's rear-facing child seats.

NHTSA reexamined the first interim final rule and determined that the phrase ''unless air bag is off'' may appropriately be added to a child seat that can deactivate an air bag, whether or not the deactivation is automatic. In addition, the agency determined that specified telltale requirements are unnecessary so long as a signal is provided to the driver that the air bag has been disabled.

NHTSA explained that if an air bag were deactivated by a device incorporated into a child safety seat, the danger that the label on the seat warns against (i.e., an active air bag) will not be present. This result can be achieved as effectively by non-automatic means as by automatic means. The question raised by a non-automatic device such as Porsche's is whether a person installing the seat in a vehicle will install it correctly. If the likelihood of correct installation is very high, allowing the addition of the phrase ''unless air bag is off'' to the label would help resolve any confusion on the part of the person installing the seat.

The agency noted:

> In the case of the device employed by Porsche, the child safety seat is equipped with a single buckle that fits into a buckle receiver under the vehicle's seat. The buckle fits no other part of the vehicle. The correctness of its installation is evident, both by the click of the buckle upon its insertion into the receiver and by the activation of a visual signal on the vehicle's dash. These features offer sufficient assurance of correct installation, in the agency's view, to warrant the modification of the label.

62 FR at 30465.

The agency also addressed the issue of the nature of the visual signal. NHTSA determined that it is essential to have a means of notifying the driver that the air bag has been disabled. In the first interim rule, NHTSA said that the phrase may be added if the child seat has a device that activates a telltale complying with S4.5.4.3 of Standard 208. Upon reexamining the need for notifying the driver, the agency determined that the telltale requirements of Standard 208 are not necessary, as stated in the first interim final rule, to ''reduce the likelihood that a child restraint would be used with an active air bag.'' NHTSA stated that the telltale requirements were originally specified for a cutoff device that operates in a way that could allow an adult to use the front passenger seating position with the air bag deactivated. The requirements ensure that there is a reminder that the cutoff device should be reset whenever the vehicle's front seat is no longer carrying an infant, so that the air bag would be ready when needed. The telltale requirements are intended to inform an adult passenger, to enable him or her to see the warning light and understand that the air bag is not activated. The agency explained:

> In contrast, air bag deactivation systems of the types developed by Mercedes and Porsche deactivate the air bag when and only when a child restraint is present and reactivate the air bag when the child restraint is removed. Such systems render it highly unlikely that an unknowing adult could be seated in the front seating position with the air bag deactivated. Because of this difference, a telltale meeting S4.5.4.3 of Standard 208 does not appear needed.

NHTSA decided, however, that the driver should be alerted as to whether the child seat has deactivated the air bag. The agency concluded that the signal must continue for at least 10 seconds after deactivation of the air bag. A visual signal could include a dashboard light. Because the rule did not require that a dashboard light must remain illuminated for the entire time that the passenger air bag is deactivated, the agency believed that the light may be combined with the readiness indicator required by S4.5.2 of Standard 208, provided that such combination does not affect the compliance of the readiness indicator with S4.5.2.

Response and Analysis

The agency received one comment responding to the first interim final rule (''Mercedes rule''), from the Center for Auto Safety (CAS). Four commenters, CAS, the Insurance Institute for Highway Safety (IIHS), Advocates for Highway and Auto Safety (Advocates), and National Association of Pediatric Nurse Associates & Practitioners, Inc. (''NAP'') responded to the second (''Porsche rule''). All commenters opposed the amendments.

CAS and NAP believed that adding the phrase ''unless air bag is off'' confuses the warning label and may lead consumers to place a rear-facing child seat in the front seat of a vehicle that is not equipped with the on-off device. CAS said that confusion will also result from allowing two child seat systems, Mercedes' and Porsche's, that are not compatible with each other. The commenter was concerned that a consumer may use a Mercedes child seat in a Porsche, or vice versa, and may not know that the child restraint has not deactivated the air bag.

NHTSA does not agree that the phrase leads to confusion. On the contrary, the phrase clarifies the message for owners of child seats that are intended for use on and marketed as appropriate for front seat positions on vehicles equipped with complementary air bag cutoff devices. These owners know that their child restraints can be placed on the front seat with an air bag, so the added conditional language, ''unless air bag is off,'' corrects an inconsistency that could cause them to doubt or question that warning or the other messages on the label. NHTSA does not agree that the added phrase will result in owners of rear-facing child seats that do not have a cut off device erroneously placing the restraint in a position with an active air bag. Those restraints lacking a cut-off device are not permitted by the amendment to have the phrase in their labels. NAP stated that NHTSA should not permit the amendment ''for a commonly-purchased device simply because a few luxury automobile manufacturers, whose vehicles are purchased by a small number of Americans, have made technological advances making the warning imperfect for them.'' The commenter appeared to believe that the amendment would permit the phrase ''unless air bag is off'' to be placed on the warning labels of all child seats, not just those that are equipped with a device that deactivates the air bag when the child restraint is installed in the vehicle. As stated above, that understanding is incorrect. Only seats that have a cut-off feature are permitted to have the added phrase.

The agency does not agree with CAS that the phrase should not be permitted because owners of a Mercedes child restraint may use a Mercedes seat in a Porsche vehicle, or vice versa, and not realize that the child restraint did not deactivate the air bag. NHTSA believes that such an intermix will rarely, if ever, occur. Mercedes' child restraints can only be purchased from Mercedes dealers or directly from Britax, the child restraint manufacturer. Porsche's restraints can only be purchased from Porsche dealers. Because these child restraints are only sold by specialized retailers, persons buying these seats are likely to know that the restraints are intended for a specialized vehicle and cannot deactivate the air bag in vehicles other than their Mercedes or Porsche, as the case may be.

CAS, Advocates and NAP expressed concern that the amendment dilutes the safety message that children are safer riding in the rear seat than in front. The purpose of the child restraint air bag warning label is to stop parents from installing a rear-facing restraint on a seat with an active air bag. The warning label is required to have the statement ''The back seat is the safest place for children 12 and under'' after the warning against placing a rear-facing restraint on the front seat with an air bag to provide an alternative seating position to the front. For child restraints that turn off the air bag, the particular danger necessitating the warning label (the dangers of an active air bag) will not be present and thus the immediate need for an alternative seating position to the front does not arise. The agency agrees that the back seat is the safest for the child in the rear-facing restraint, as it is for all passengers. However, the general message that back seats are safer is made and reinforced a number of different ways other than by the child seat air bag warning label, including by way of conspicuous air bag alert labels required to be on the vehicle itself (S4.5.1 of Standard 208) and by way of warnings required to be in the vehicle owner's manuals (S6(b) of Standard 210) and child restraint manufacturers' instructions (S5.6.1.1 of Standard 213). The primary message of the air bag warning label is to warn against using a rear-facing seat with an active air bag. The need to make the primary message as clear as possible weighs in favor of permitting the phrase ''unless air bag is off'' to be added to the label of those child restraints that can cut off the air bag.

IIHS believed that the Porsche system provides inadequate warning of the status of the passenger airbag. The commenter believed that there should be a separate signal that remains on for the duration that the airbag is deactivated and that clearly indicates airbag status. IIHS argued that a parent could be distracted during the 10 second period that the Porsche warning light is flashing and thus would not know that the air bag was in fact deactivated. Advocates also expressed concern that the signal that the Porsche system uses may not adequately inform the driver that the air bag is off. Advocates said:

> Only those drivers who are aware of that fact will be likely to understand the meaning of that particular signal. There are also many situations in which an inattentive driver will not see the blinking indicator light when flashing and misperceive the subsequent lack of any light indication as confirmation that the air bag is deactivated.

NHTSA agrees that the 10-second duration that the signal indicating that the air bag is deactivated may be too short and has increased the minimum duration to 60 seconds. This is the same duration as what is required by Standard 208 for the warning light that warns the driver that his or her belt is not buckled.

NHTSA believes that a driver of a Porsche will know that a blinking light is the signal that the air bag has been deactivated. Unlike the Mercedes system, Porsche owners have to go to the dealership and have the vehicle component installed in their vehicle. In general, our consumer research shows that the most motivated group to seek out safety information are parents or others transporting children. Thus, we believe that a Porsche owner wanting the system installed will read up on how the system works and will know to look for the blinking light and will know what the signal means.

Correction

This document also makes a correction to S5.5.2(l) of Standard 213,

which requires each child restraint system to show, on a label, an installation diagram showing the system ''installed in the right front outboard seating position equipped with a continuous-loop lap/shoulder belt and in the center rear seating position as specified in the manufacturer's instructions.'' The agency is removing the reference to the ''right front outboard'' seating position because the phrase is unnecessary. The requirement, adopted in 1979, was intended to ensure that consumers were shown how to use a continuous-loop lap/shoulder belt because of the prevalence of the system and because a locking clip had to be installed on the belt to safely secure the child restraint. Consumers unfamiliar with child restraints are generally unfamiliar with what locking clips are and how to use them. In 1979, continuous-loop lap/shoulder belts were generally not in rear seating positions, and so S5.5.2(l) referenced the ''right front outboard'' seating position to identify the seating position most likely to have the belts and to show the child seat in the seating position likely to have the belts. With the advent of these belts in seating positions other than the front outboard positions, the need to reference ''right front outboard'' is no longer relevant. Similarly, the agency is removing reference to the ''center rear'' seating position as unnecessary. While it is important to depict the child restraint installed by way of a lap belt due to the presence of lap belts in center rear seating positions, specifying the exact location as ''center rear'' is unneeded. Accordingly, S5.5.2(l) is revised to read:

(l) An installation diagram showing the child restraint system installed in (1) a seating position equipped with a continuous-loop lap/shoulder belt and (2) a seating position equipped with only a lap belt, as specified in the manufacturer's instructions.

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This action has been determined to be ''nonsignificant'' under the Department of Transportation's regulatory policies and procedures. The amendments pertain to optional label changes that are minor in nature. The agency concludes that the impacts of the amendments are so minimal that a full regulatory evaluation is not required.

B. Regulatory Flexibility Act

NHTSA has also considered the impacts of this rule under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

This final rule will primarily affect vehicle and child restraint manufacturers. As described above, there will be no significant economic impact on any vehicle manufacturer, whether large or small. Even if the rule were to have a significant economic impact, there is not a substantial number of small entities that manufacture vehicles. The Small Business Administration's (SBA's) size standards are organized according to Standard Industrial Classification Codes (SIC). SIC Code 3711 ''Motor Vehicles and Passenger Car Bodies'' has a small business size standard of 1,000 employees or fewer. For passenger car and light truck manufacturers (manufacturers of vehicle most likely to be affected by this rule), NHTSA estimates there are at most five small manufacturers of passenger cars in the U.S. Because each manufacturer serves a niche market, often specializing in replicas of ''classic'' cars, production for each manufacturer is fewer than 100 cars per year. Thus, there are at most five hundred cars manufactured per year by U.S. small businesses. In contrast, in 1996, there are approximately nine large manufacturers manufacturing passenger cars and light trucks in the U.S. Total U.S. manufacturing production per year is approximately 15 to 15 and a half million passenger cars and light trucks per year. NHTSA does not believe small businesses manufacture even 0.1 percent of total U.S. passenger car and light truck production per year.

SIC Code 3714 ''Motor Vehicle Parts and Accessories'' has a small business size standard of 750 employees or fewer. The agency has considered the small business impacts of this proposed rule based on this criterion. NHTSA does not believe this rule will have a significant economic impact on these entities. The rule will not impose any new requirements or costs on child restraint manufacturers, but instead will permit a manufacturer to use an optional label on its child restraint if conditions on the use of the label are met.

The cost of new passenger cars and light trucks and of child restraints will not be affected by the final rule. Because no price increases will be associated with the rule, small organizations and small governmental units will not be affected in their capacity as purchasers of new vehicles or as purchasers of child restraints.

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96–511), there are no requirements for information collection associated with this rule.

D. National Environmental Policy Act

NHTSA has also analyzed this rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

E. Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

F. Unfunded Mandates Reform Act

This rule does not impose any unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995.

G. Civil Justice Reform

This rule has no retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, the interim final rule amending 49 CFR part 571 which was published at 62 FR 18723 on April 17, 1997, and amended as published at 62 FR 30464 on June 4, 1997, is adopted as a final rule with the following change:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 continues to read as follows:

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

2. Section 571.213 is amended by revising S5.5.2(k)(5) to read as follows:

§ 571.213 Standard No. 213, child restraint systems.

* * * * *

S5.5.2 * * *

(k) * * *

(5) If a child restraint system is equipped with a device that deactivates the passenger-side air bag in a vehicle when and only when the child restraint is installed in the vehicle and provides a signal, for at least 60 seconds after deactivation, that the air bag is deactivated, the label specified in Figure 10 may include the phrase ''unless air bag is off'' after ''on front seat with air bag.''

* * * * *

3. In § 571.213, paragraph S5.5.2(l) is revised to read as follows:

§ 571.213 Standard No. 213; child restraint systems.

* * * * *

(l) An installation diagram showing the child restraint system installed in:

(1) A seating position equipped with a continuous-loop lap/shoulder belt; and

(2) A seating position equipped with only a lap belt, as specified in the manufacturer's instructions.

* * * * *

Issued on September 22, 1998.

Ricardo Martinez,

Administrator.

[FR Doc. 98–25818 Filed 9–30–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 580

[NHTSA–98–4438]

RIN 2127–AG83

Odometer Disclosure Requirements; Exemptions

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Final rule.

SUMMARY: This document amends an exemption from the odometer disclosure requirements for vehicles ''ten years old or older'' to clarify that the term ''years'' refers to ''model years.'' 49 CFR 580.17(a)(3). The rule also amends the exemption by including a formula for calculating the most recent model year to which the exemption applies.

The agency is taking this action following its consideration of comments received from the public on the interim final rule that was published in the **Federal Register** on September 11, 1997. 62 FR 47763, Sept. 11, 1997.

This document is published as a final rule to be effective on its publication in the **Federal Register**.

DATES: This rule is effective October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Eileen Leahy, Office of the Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Room 5219, Washington, DC 20590 (Telephone: 202–366–5263).

SUPPLEMENTARY INFORMATION:

Background

On September 11, 1997, the National Highway Traffic Safety Administration (NHTSA) published in the **Federal Register** an interim final rule, 62 FR 47763, that repromulgated the exemptions to the odometer disclosure requirements of 49 CFR Part 580 under the new authority provided by Section 332 of the Transportation and Related Agencies Appropriations Act for Fiscal Year 1997. That notice also solicited public comment on the exemptions themselves. In response to that notice, the agency received comments from the following entities: the State of South Dakota Department of Revenue; the National Auto Auction Association (''NAAA''); ADT Automotive, Inc. (''ADT'') (an auto auction owner/operator); the Colorado Independent Automobile Dealers Association (''CIADA''); the State of Tennessee Department of Safety, Titling & Registration Division; the State of Idaho Transportation Department; the State of Texas Department of Public Safety; the State of Washington Department of Licensing: the Secretary of State of the State of Illinois; the Colorado Department of Public Safety; the Oklahoma Tax Commission of the State of Oklahoma; the Oregon Independent Auto Dealers Association (''OIADA''), the State of Georgia Department of Revenue, Motor Vehicle Division; and the State of California Department of Motor Vehicles. For convenience, the commenters that are state motor vehicle administrators or titling agencies will be referred to simply by the name of the state; and state agency commenters collectively will be referred to as ''the States'' or ''the State commenters.''

Discussion

The comments focused on a single area of concern: the confusion that exists about how to apply the exemption for vehicles ''ten years old or older.'' 49 CFR 580.17(a)(3). Of the fourteen commenters, seven (NAAA, ADT, ID, CIADA, OIADA, Oklahoma and Georgia) expressed the view that there was a need to make a change to clear up existing confusion; while one (California) stated that changing the wording to ''ten model years or older'' instead of ten years old or older would have only a minimal impact, and two (Colorado and Washington State) stated that changing the language of the regulation would have no impact on their operations. Texas opposed changing the number of years from ten. Illinois, South Dakota and Tennessee opposed making any change to the status quo.

None of those advocating an amendment suggested a change in the age that would qualify a vehicle for the exemption. However, all of them expressed a need to clear up confusion about when a vehicle becomes ''10 years old'' and thus eligible for the exemption from the odometer disclosure requirements, either by adding language to the rule, or by changing the agency's interpretation setting forth the formula to be applied to decide which vehicles are exempt. Three commenters, NAAA, ADT and Idaho, supported a change of the wording of the exemption, to ''10 model years old or older.'' CIADA and OIADA advocated that NHTSA revise its interpretation of the exemption, from ''current calendar year minus 10 equals the first model year for [which] a vehicle is exempt'' to ''current calendar year minus 11 equals the first model year for [which] a vehicle is exempt.''

Two states, Oklahoma and Georgia, suggested that the best means of eliminating the confusion that currently exists concerning the coverage of the exemption would be to include the method of calculating the newest model year to which the exemption would apply in the language of the exemption itself, without changing the words now used to describe qualifying vehicles: ten years old or older.

Upon evaluating the comments, NHTSA concludes that the best way to ensure that the exemption is understood correctly and applied uniformly is to include the method of calculation as part of the exemption, as Oklahoma and Georgia suggested. In this way, the means of calculating the model year to which the exemption applies will be

readily available to anyone by reading the regulation, without having to go to any outside source, such as the agency's interpretation letters, for further information. Accordingly, the agency has decided to include in section 580.17(a)(3) a statement that the current calendar year minus 10 equals the most recent model year that is exempt from disclosure requirements.

After considering all of the comments, the agency has also decided to amend section 580.17(a)(3) by changing the words ''vehicles 10 years old or older'' to ''vehicles 10 model years old or older.'' Changing ''year'' to ''model year'' does not effect a change from the applicable NHTSA interpretations, which conclude that eligibility for the exemption is to be based on a vehicle's model year rather than on its actual chronological age based on the time that has elapsed since its date of production.

In the rule as amended today, the formula announced in that interpretation remains the same. The formula arrives at the most recent model year (i.e, the newest vehicles) to which the exemption applies by subtracting ten model years from the current calendar year. For example, during calendar year 1998 (i.e., from January 1 through December 31, 1998), vehicles with a model year designation of 1988 or earlier are exempt from the odometer disclosure requirements: 1998(current calendar year)—10 = 1988 (most recent model year exempt).

Some commenters expressed concern that a formula that mixes model year and calendar year might be confusing. However, the agency has decided, after considering the alternatives, that this method is actually easier to apply, because it avoids the need to determine the date on which the model year begins (which, as some commenters pointed out, can change from year to year, or from manufacturer to manufacturer) or to ascertain the date on which an individual vehicle was produced. Assigning the current calendar year as the base year means that the states do not have to ascertain the beginning dates of every manufacturer's model year before calculating whether a particular vehicle is ten years old within the meaning of the exemption; using the calendar year as the base also makes it easier to administer the exemption because it eliminates potential confusion arising from variations among the states in which month they use as the beginning date of the vehicle registration year. Likewise, making the exemption available by whole model year rather than according to the vehicle's actual chronological age based on date of production means that states and others involved in processing vehicle transfers will not need to take the time to ascertain the date a vehicle was produced in order to decide whether the exemption applies.

By making no change in the substance of the exemption, this rule also addresses the concerns of several state commenters who opposed making any change in the language of the regulation because they believe that this would result in a change in the scope of the exemption, which would impose burdens in terms of costly changes in computer systems, retraining of employees, and re-educating the public. To the contrary, by including the formula in the rule, the amendment should clear up the apparent confusion about which vehicles are in fact entitled to the exemption. Under both the old wording (as elaborated in NHTSA's interpretations) and the wording adopted in this rule, model year 1988 is the most recent model year that is exempt from odometer disclosure during calendar year 1998.

The only circumstance in which a state would have to make changes such as altering the computer system or retraining employees would be if the state had not previously been performing the calculation correctly. NHTSA believes that there are only three or four states in which improper calculation of the exemption is a problem; and that even in those states, the erroneous application of the exemption is often localized in some Department of Motor Vehicles branch offices rather than being statewide. In the latter case, the only action that the state would need to take is retraining its employees; no changes to its titling system would be necessary. The agency believes that the positive impact that the new rule will have—improving the efficiency of the process of titling vehicles by eliminating state-to-state variation in the applicability of the ten-year-old vehicle exemption—more than outweighs the small burden that may be incurred by a handful of states.

The agency decided not to adopt the suggestion of CIADA to change the calculation from ''current calendar year minus 10'' to ''current calendar year minus 11.'' CIADA correctly points out that this change would ensure that only vehicles whose chronological age (based on date of manufacture) is at least 10 years old are exempt from the disclosure requirements. However, the drawback of the CIADA proposal is that it is a change from the previous NHTSA interpretation and, as such, would require all the states to change their current systems for determining which vehicles are exempt. Such a change would, as pointed out above, require expenditure of resources for retraining employees, changing computer systems and educating the public. It would also be likely to continue the confusion that apparently exists about the proper method of calculating the exemption. NHTSA concludes that the benefit to be realized from requiring disclosure for a relatively small population of additional vehicles is small and is far outweighed by the costs that would be incurred by the states in implementing this proposal.

Finally, the agency acknowledges the concerns of a number of the state commenters who opposed adding the words ''model year'' to the exemption. The major concerns expressed about this change were that it would create, rather than reduce, confusion about how to apply the exemption; and that it would require states, even those who are properly applying the current exemption according to NHTSA's interpretation, to make costly expenditures to re-educate their staff and the public and to change their computer systems. As one commenter said, this appears to penalize those states that were applying the exemption properly.

In response to these expressions of concern, NHTSA wishes to reiterate that the changes it is making today will not require those states that are already applying the exemption properly to alter their current approach. The purpose of this rule is to make clear the law that was already in effect for those who have not understood it correctly. The addition of the words ''model year'' to the exemption simply makes explicit in the wording of the exemption itself that which was already implied (as evidenced by NHTSA's interpretation): that the determination of whether a vehicle is exempt is to be based on the model year of the vehicle rather than its chronological age. Contrary to the fears expressed by some commenters, this approach does not require a state titling office, or anyone else involved in the transfer of a motor vehicle, to ascertain the vehicle's actual date of manufacture to determine whether it is exempt.

Statutory Authority

The agency published the interim final rule under the authority of Section 332 of the Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 1997, P.L. 104–205. Section 332 provided that funds provided by the Act could be used for the purpose of permitting exemptions from the odometer disclosure requirements of Part 580.

Subsequently, Congress addressed the issue of exemptions more completely in the Transportation Equity Act for the 21st Century, P.L. 105–178 (TEA 21). To resolve any lingering uncertainties about the validity of exemptions issued under Part 580, Section 7105(b) of TEA 21 amended Section 32705(a) of title 49, United States Code, by adding the following new paragraph:

(5) The Secretary may exempt such classes or categories of vehicles as the Secretary deems appropriate from these requirements. Until such time as the Secretary amends or modifies the regulations set forth in 49 CFR 580.6, such regulations shall have full force and effect.

In making final the transition from section 580.6 to section 580.17, which was initiated by the interim final rule, the agency's repromulgation of the exemptions implements the provisions of paragraph 32705(a)(5). The amendments relating to ''model years,'' and to the method for calculating the most recent model year to which an exemption applies, are made under the authority provided by the paragraph to amend or modify exemptions.

Federalism Assessment

The agency has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The final rule merely clarifies the scope of the existing exemption from the odometer disclosure requirements, and does not alter the effect on the states of existing statutory or regulatory requirements.

Rulemaking Analyses

A. Executive Order 12886 and DOT Regulatory Policies and Procedures

NHTSA has analyzed this rule and determined that it is neither ''major'' nor ''significant'' within the meaning of Executive Order 12866 or of Department of Transportation regulatory policies and procedures. Because the agency estimates that this rule would not have a significant impact, it has not prepared a regulatory evaluation.

B. Regulatory Flexibility Act

The agency has also considered the effects of this action under the Regulatory Flexibility Act. I certify that this action will not have substantial economic impact on a substantial number of small entities. Because it merely clarifies an existing exemption from agency regulations, it does not affect the impact of those regulations on small businesses.

C. National Environmental Policy Act

The agency has analyzed this rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment. Accordingly, it has not prepared an environmental impact statement.

D. Paperwork Reduction Act

The final rule is not a collection of information as that term is defined by OMB in 5 CFR part 1320. It clarifies one of the existing exemptions to the odometer disclosure requirements in 49 CFR part 580. That exemption does not require the collection of any information. The information collection requirements established by part 580 have been approved by OMB (OMB 2127–0047).

E. Civil Justice Reform Act

This rule will not have any retroactive effect. States may not adopt laws on disconnecting, altering or tampering with an odometer with intent to defraud that are inconsistent with 49 U.S.C. Chapter 327. 49 U.S.C. Chapter 327 does not exempt persons from complying with disconnecting, altering or tampering with an odometer with an intent to defraud. Agency regulations issued under 49 U.S.C. Chapter 327 are subject to judicial review pursuant to 5 U.S.C. 704. There is no requirement for a petition for reconsideration or other administrative proceeding before a party may file a suit in court challenging regulations promulgated under Chapter 327.

List of Subjects in 49 CFR Part 580

Consumer protection, Motor vehicles, Odometers.

In consideration of the foregoing, the interim rule amending 49 CFR part 580 that was published at 62 FR 47763 on September 11, 1998, is adopted as a final rule with the following change:

PART 580—ODOMETER DISCLOSURE REQUIREMENTS

1. Revise the authority citation for Part 580 to read as follows:

Authority: 49 U.S.C. 32705; delegation of authority at 49 CFR 1.50(f) and 501.8(e)(1).

2. Amend § 580.17 to revise paragraph (a)(3) to read as follows:

§ 580.17 Exemptions.

* * * * *

(a) * * *

(3) A vehicle that was manufactured in a model year beginning at least ten years before January 1 of the calendar year in which the transfer occurs; or

Example to paragraph (a)(3): For vehicle transfers occurring during calendar year 1998, model year 1988 or older vehicles are exempt.

* * * * *

Issued on: September 24, 1998.

Ricardo Martinez,

Administrator.

[FR Doc. 98–26263 Filed 9–30–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 2, 10, 13, 14, 15, 16, 17, 21, 22, and 23

RIN 1080–AF07

An Update of Addresses and OMB Information Collection Numbers for Fish and Wildlife Service Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service or we) amends the regulations for wildlife and plant permits to update the addresses for submission of permit applications. Recently revised Office of Management and Budget information collection numbers also are provided.

DATES: This rule is effective October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Enright, Division of Endangered Species, (703) 358–2106.

SUPPLEMENTARY INFORMATION: The purpose of this rule is to update the addresses to send wildlife and plant permit applications for processing by the Service. The Service has variously moved office locations, transferred program responsibility to other Service offices, or delegated authority from the Washington office to its regional offices. We have delegated some permits for native species listed under the Endangered Species Act to the Regional Directors. Regional offices handle migratory bird permits, bald and golden eagle permits, import/export licenses, and permits for exception to designated ports. Permits for international movement of all endangered and threatened species and all activities affecting nonnative endangered and threatened species, permits under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), injurious wildlife permits, and permits under the Wild Bird Conservation Act remain with the Office of Management Authority in Washington.

This document was not subject to Office of Management and Budget review under Executive Order 12866. This rule itself does not contain any information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* However, this rule documents revised control numbers assigned by OMB for the information collected pursuant to the rules in 50 CFR parts 13–23.

For those rules promulgated before OMB clearance was required, language has been added to advise the public that such clearance has been obtained. Since this rule merely reflects changes made to addresses used to receive wildlife and plant permit applications, impacts on small business entities are minimal. Therefore, this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We have determined and certify pursuant to the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this rule will not impose a cost of $100 million or more in any given year on local or State governments or private entities. In accordance with Executive Order 12630, this rule does not have significant takings implications. In accordance with Executive Order 12612, this rule does not have significant Federalism effects. The Department has determined that these final regulations meet the applicable requirements provided in Section 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform). We have reviewed this rule under E.O. 12372 (Intergovernmental Review of Federal Programs) and the Presidential Memorandum of April 29, 1994 (Government-to-Government Relations with Native American and Tribal Governments), and find such consultations unnecessary as this rule only updates mailing addresses and OMB control numbers for information collection. This action is categorically excluded from NEPA documentation by 516 DM 2, Appendix 1.10 in the Department of the Interior Manual. This action is not likely to adversely affect species listed under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

This is an agency organization matter that reflects the physical and mailing addresses of Service administrative offices for different classes of permits, therefore, the Service, for good cause, finds that notice and public comment are unnecessary and for similar reason is waiving the 30-day effective date under 5 U.S.C. 553(d).

List of Subjects

50 CFR Part 2

Organization and functions (Government agencies).

50 CFR Part 10

Exports, Fish, Imports, Law enforcement, Plants, Transportation, Wildlife.

50 CFR Part 13

Administrative practice and procedure, Exports, Fish, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

50 CFR Part 14

Animal welfare, Exports, Fish, Imports, Labeling, Reporting and recordkeeping requirements, Transportation, Wildlife.

50 CFR Part 15

Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

50 CFR Part 16

Fish, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

50 CFR Part 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

50 CFR Part 22

Exports, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

50 CFR Part 23

Endangered and threatened species, Exports, Imports, Treaties.

Regulation Promulgation

For the reasons set out in the preamble, the Service amends title 50, chapter 1, subchapters A and B of the Code of Federal Regulations as set forth below:

SUBCHAPTER A—GENERAL PROVISIONS

PART 2—FIELD ORGANIZATION

1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 301.

2. Section 2.2 is amended by revising paragraphs (a), (c), (d), and (e) to read as follows:

§ 2.2 Locations of regional offices.

* * * * *

(a) Portland Regional Office (Region 1—comprising the States of California, Hawaii, Idaho, Nevada, Oregon, and Washington; the Commonwealth of the Northern Mariana Islands; and American Samoa, Guam and other Pacific possessions), Eastside Federal Complex, 911 N.E. 11th Avenue, Portland, Oregon 97232.

* * * * *

(c) Twin Cities Regional Office (Region 3—comprising the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin), One Federal Drive, Bishop Henry Whipple Federal Building, Fort Snelling, MN 55111.

(d) Atlanta Regional Office (Region 4—comprising the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee; the Commonwealth of Puerto Rico; and the Virgin Islands and Caribbean possessions), 1875 Century Center Boulevard, Suite 200, Atlanta, Georgia 30345.

(e) Hadley Regional Office (Region 5—comprising the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia; and the District of Columbia), 300 Westgate Center Drive, Hadley, Massachusetts 01035.

* * * * *

SUBCHAPTER B—TAKING POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION AND IMPORTATION OF WILDLIFE AND PLANTS

PART 10—GENERAL PROVISIONS

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

Authority: 18 U.S.C. 42; 16 U.S.C. 703–712; 16 U.S.C. 668a–d; 19 U.S.C. 1202; 16 U.S.C. 1531–1543; 16 U.S.C. 1361–1384, 1401–1407; 16 U.S.C. 742a–742j–l; 16 U.S.C. 3371–3378.

4. Section 10.21 is amended by revising paragraph (b) to read as follows:

§ 10.21 Director.

* * * * *

(b) Mail sent to the Director regarding permits for the Convention on International Trade in Endangered Species of Wild Fauna and Fauna (CITES), injurious wildlife, Wild Bird Conservation Act species, international movement of all ESA-listed endangered or threatened species, and scientific research on, exhibition of, or interstate commerce in nonnative ESA-listed

endangered and threatened species should be addressed to: Director, U.S. Fish and Wildlife Service, (Attention: Office of Management Authority), 4401 N. Fairfax Drive, Room 700, Arlington, VA 22203. Address mail for the following permits to the Regional Director. In the address include one of the following: for import/export licenses and exception to designated port permits (Attention: Import/export license); for native endangered and threatened species (Attention: Endangered/threatened species permit); and for migratory birds and eagles (Attention: Migratory bird permit office). You can find addresses for regional offices at 50 CFR 2.2.

PART 13—GENERAL PERMIT PROCEDURES

5. The authority citation for part 13 continues to read as follows:

Authority: 16 U.S.C. 668a, 704, 712, 742j–l, 1382, 1538(d), 1539, 1540(f), 3374. 4901–4916; 18 U.S.C. 42; 19 U.S.C. 1202; E.O. 11911, 41 FR 15683, 31 U.S.C. 9701.

6. Section 13.5 is revised to read as follows:

§ 13.5 Information collection requirements.

(a) The Office of Management and Budget approved the information collection requirements contained in this part 13 under 44 U.S.C. and assigned OMB Control Number 1018–0092. The Service may not conduct or sponsor, and you are not required to respond, to a collection of information unless it displays a currently valid OMB control number. We are collecting this information to provide information necessary to evaluate permit applications. We will use this information to review permit applications and make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance, suspension, revocation, or denial permits. You must respond to obtain or retain a permit.

(b) We estimate the public reporting burden for these reporting requirements to vary from 15 minutes to 4 hours per response, with an average of 0.803 hours per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the forms. Direct comments regarding the burden estimate or any other aspect of these reporting requirements to the Service Information Collection Control Officer, MS–222 ARLSQ, U.S. Fish and Wildlife Service, Washington, D.C. 20240, or the Office of Management and Budget, Paperwork Reduction Project (1018–0092), Washington, D.C. 20603.

PART 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

7. The authority citation for part 14 is amended to read as follows:

Authority: 16 U.S.C. 704, 712, 1382, 1538(d)–(f), 1539, 1540(f), 3371–3378, 4223–4244, and 4901–4916; 18 U.S.C. 42; 31 U.S.C. 9701.

8. Section 14.3 is revised to read as follows:

§ 14.3 Information collection requirements.

The Office of Management and Budget approved the information collection requirements contained in this part 14 under 44 U.S.C. 3507 and assigned OMB Control Number 1018–0092. The Service may not conduct or sponsor, and you are not required to respond, to a collection of information unless it displays a currently valid OMB control number. We are collecting this information to provide information about wildlife imports or exports, including product and parts, and to facilitate enforcement of the Endangered Species Act of 1973 as amended (16 U.S.C. 1531 *et seq.*) and to carry out the provisions of the convention on International Trade in Endangered Species of Wild Fauna and Flora. We estimate the public reporting burden for these reporting requirements to vary from 10 to 15 minutes per response. Direct comments regarding the burden estimate or any other aspect of these reporting requirements to the Service Information Collection Control Officer, MS–222 ARLSQ, U.S. Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project (1018–0092), Washington, DC 20603.

PART 15—WILD BIRD CONSERVATION ACT

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

Authority: 61 U.S.C. 4901–4916.

10. A new section 15.4 is added to subpart A to read as follows:

§ 15.4 Information collection requirements.

(a) The Office of Management and Budget approved the information collection requirements contained in this part 15 under 44 U.S.C. 3507 and assigned OMB Control Number 1018–0093. The Service may not conduct or sponsor, and you are not required to respond, to a collection of information unless it displays a currently valid OMB control number. We are collecting this information to provide information necessary to evaluate permit applications. We will use this information to review permit applications and make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance, suspension, revocation, or denial of permits. You must respond to obtain or retain a permit.

(b) We estimate the public reporting burden for these reporting requirements to vary from 1 to 4 hours per response, with an average of 2 hours per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the forms. Direct comments regarding the burden estimate or any other aspect of these reporting requirements to the Service Information Collection Control Officer, MS–222 ARLSQ, U.S. Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project (1018–0093), Washington, DC 20603.

11. Section 15.21 is amended by revising paragraph (c) to read as follows:

§ 15.21 General application procedures.

* * * * *

(c) A person wishing to obtain a permit under this subpart or approval of cooperative breeding programs under this subpart submits an application to the Director, U.S. Fish and Wildlife Service (Attention: Office of Management Authority), 4401 N. Fairfax Drive, Room 700, Arlington, VA 22203. Each application must contain the general information and certification required in § 13.12(a) of this subchapter, and all of the information specified in the applicable section §§ 15.22 through 15.26.

PART 16—INJURIOUS WILDLIFE

12. The authority citation for part 16 continues to read as follows:

Authority: 18 U.S.C. 42.

13. Section 16.22 is amended by revising paragraphs (a) and (d) to read as follows:

§ 16.22 Injurious wildlife permits.

* * * * *

(a) *Application requirements.* Submit applications for permits to import, transport or acquire injurious wildlife for such purposes to the Director, U.S. Fish and Wildlife Service, (Attention: Office of Management Authority), 4401 N. Fairfax Drive, Room 700, Arlington, VA 22203. Submit applications in writing on a Federal Fish and Wildlife License/Permit application (Form 3–

200) and attach all of the following information:

* * * * *

(d) The Office of Management and Budget approved the information collection requirements contained in this part 16 under 44 U.S.C. 3507 and assigned OMB Control Number 1018–0093. The Service may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. We are collecting this information to provide information necessary to evaluate permit applications. We will use this information to review permit applications and make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance, suspension, revocation, or denial of permits. You must respond to obtain or retain a permit. We estimate the public reporting burden for these reporting requirements to average 2 hours per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the forms. Direct comments regarding the burden estimate or any other aspect of these reporting requirements to the Service Information Collection Control Officer, MS–222 ARLSQ, U.S. Fish and Wildlife Service, Washington, D.C. 20240, or the Office of Management and Budget, Paperwork Reduction Project (1018–0093), Washington, D.C. 20603.

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

14. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

15. Subpart A is amended by adding a new section 17.8 to read as follows:

§ 17.8 Permit applications and information collection requirements.

(a) Address permit applications for activities affecting species listed under the Endangered Species Act, as amended, as follows:

(1) Address activities affecting endangered and threatened species that are native to the United States to the Regional Director for the Region in which the activity is to take place. You can find addresses for the Regional Directors in 50 CFR 2.2. Send applications for interstate commerce in native endangered and threatened species to the Regional Director with lead responsibility for the species. To determine the appropriate region, call the nearest Regional Office:

Region 1 (Portland, OR): 503–231–6241

Region 2 (Albuquerque, NM): 505–248–6920

Region 3 (Twin Cities, MN): 612–713–5343

Region 4 (Atlanta, GA): 404–679–7313

Region 5 (Hadley, MA): 413–253–8628

Region 6 (Denver, CO): 303–236–8155, ext 263

Region 7 (Anchorage, AK): 907–786–3620

Headquarters (Washington, D.C.): 703–358–2106

(2) Submit permit applications for activities affecting native endangered and threatened species in international movement or commerce, and all activities affecting nonnative endangered and threatened species to the Director, U.S. Fish and Wildlife Service, (Attention Office of Management Authority), 4401 N. Fairfax Drive, Room 700, Arlington, VA 22203.

(b) The Office of Management and Budget approved the information collection requirements contained in this part 17 under 44 U.S.C. 3507 and assigned OMB Control Numbers 1018–0093 and 1018–0094. The Service may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. We are collecting this information to provide information necessary to evaluate permit applications. We will use this information to review permit applications and make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance, suspension, revocation, or denial of permits. You must respond to obtain or retain a permit. We estimate the public reporting burden for these reporting requirements to vary from 2 to 2½ hours per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the forms. Direct comments regarding the burden estimate or any other aspect of these reporting requirements to the Service Information Collection Control Officer, MS–222 ARLSQ, U.S. Fish and Wildlife Service, Washington, D.C. 20240, or the Office of Management and Budget, Paperwork Reduction Project (1018–0093/0094), Washington, D.C. 20603.

16. Section 17.22 is amended by removing paragraphs (a)(1)(ix) and (b)(1)(iv), and revising the introductory texts of paragraphs (a)(1) and (b)(1) to read as follows:

§ 17.22 Permits for scientific purposes, enhancement of propagation or survival, or for incidental taking.

* * * * *

(a)(1) *Application requirements for permits for scientific purposes or for the enhancement of propagation or survival.* A person wishing to get a permit for an activity prohibited by § 17.21 submits an application for activities under this paragraph. The Service provides Form 3–200 for the application to which all of the following must be attained:

* * * * *

(b)(1) *Application requirements for permits for incidental taking.* A person wishing to get a permit for an activity prohibited by § 17.21(c) submits an application for activities under this paragraph. The Service provides Form 3–200 for the application to which all of the following must be attached:

* * * * *

17. Section 17.32 is amended by removing paragraphs (a)(1)(ix) and (b)(1)(iv), and by revising paragraphs (a)(1) introductory text and (b)(1)(i) to read as follows:

§ 17.32 Permits—general.

* * * * *

(a)(1) *Application requirements for permits for scientific purposes, or the enhancement of propagation or survival, or economic hardship, or zoological exhibition, or educational purposes, or special purposes consistent with the purposes of the Act.* A person wishing to get a permit for an activity prohibited by § 17.31 submits an application for activities under this paragraph. The Service provides Form 3–200 for the application to which as much of the following information relating to the purpose of the permit must be attached:

* * * * *

(b)(1) *Application requirements for permits for incidental taking.* (i) A person wishing to get a permit for an activity prohibited by § 17.31 submits an application for activities under this paragraph.

* * * * *

18. Section 17.62 is amended by removing paragraph (a)(3)(iii), and by revising paragraphs (a) introductory text and (a)(4) to read as follows:

§ 17.62 Permits for scientific purposes or for the enhancement of propagation or survival.

* * * * *

(a) *Application* requirements. A person wishing to get a permit for an activity prohibited by § 17.61 submits an application to conduct activities under this paragraph. For interstate

commerce activities the seller gets the permit for plants coming from cultivated stock and the buyer gets the permit if the plants are taken from the wild. The Service provides application Form 3–200, or you may submit the general information and certification required by § 13.12(a) of this subchapter. Application requirements differ for permits issued for plants taken from the wild (excluding seeds), seeds and cultivated plants, or herbarium specimens. You must attach the following information and any other information requested by the Director.

* * * * * * *

(4) When the activity applied for involves a species also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, additional requirements of § 23.15(c) of this subchapter must be met. For your convenience, § 23.15(c) is repeated here.

Application requirements for permits or certificates to import, export or re-export wildlife or plants listed in appendix I, II or III that are not subject to the regulations in part 17 or part 18 of this subchapter. Any person subject to the jurisdiction of the United States who wishes to get such a permit or certificate submits an application under this section to the Director, U.S. Fish and Wildlife Service, (Attention: Office of Management Authority), 4401 N. Fairfax Drive, Room 700, Arlington, VA 22203. The Service provides Form 3–200 for the application to which as much of the following information relating to the purpose of the permit or certificate must be attached.

(1) The scientific and common names of the species (or taxa to the rank listed in Appendix I, II, or III) sought to be covered by the permit. the number of wildlife or plants, and the activity sought to be authorized (such as importing, exporting, re-exporting, etc.);

(2) A statement as to whether the wildlife or plant, at the time of application, (i) is living in the wild, (ii) is living, but not in the wild, or (iii) is dead;

(3) A description of the wildlife or plant, including (i) size, (ii) sex (if known), and (iii) type of goods, if it is a part or derivative;

(4) In the case of living wildlife or plants, (i) a description of the type, size, and construction of any container the wildlife or plant will be placed in during transportation, and (ii) the arrangements for watering and otherwise caring for the wildlife or plant during transportation;

(5) The name and address of the person in a foreign country to whom the wildlife or plant is to be exported from the United States, or from whom the wildlife or plant is to be imported into the United States;

(6) The country and place where the wildlife or plant was or is to be taken from the wild;

(7) In the case of wildlife or plants listed in Appendix I to be imported into the United States, (i) a statement of the purposes and details of the activities for which the wildlife or plant is to be imported; (ii) a brief resume of the technical expertise of the applicant or other persons who will care for the wildlife or plant; (iii) the name, address, and description, including diagrams or photographs, of the facility where the wildlife or plant will be maintained; and (iv) a description of all mortalities, in the two years preceding the date of this application, including any wildlife species covered in the application (or any species of the same genus or family) held by the applicant, including the causes and steps taken to avoid such mortalities; and

(8) Copies of documents, sworn affidavits, or other evidence showing that either (i) the wildlife or plant was acquired prior to the date the Convention applied to it, or (ii) the wildlife or plant was bred in captivity, or artificially propagated, or was part of or derived therefrom, or (iii) the wildlife or plant is an herbarium specimen, or live plant material to be imported, exported, or re-exported as a noncommercial loan, donation, or exchange between scientists or scientific institutions.

* * * * *

19. Section 17.72 is amended by removing paragraph (a)(3)(iii), and by revising paragraphs (a) introductory text and (a)(4) to read as follows:

§ 17.72 Permits—general.

* * * * *

(a) *Application requirements.* A person wishing to get a permit for an activity prohibited by § 17.71 submits an application to conduct activities under this paragraph. For interstate commerce activities the seller gets the permit for plants coming from cultivated stock and the buyer gets the permit if the plants are taken from the wild. The Service provides Form 3–200 for the application or you may submit the general information and certification required by § 13.12(a) of this subchapter. Application requirements differ for permits issued for plants taken from the wild (excluding seeds), seeds and cultivated plants, or herbarium specimens. You must attach the following information and any other information requested by the Director.

* * * * *

(4) When the activity applied for involves a species also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, additional requirements of § 23.15(c) of this subchapter must be met. For your convenience, § 23.15(c) is repeated here.

Application requirements for permits or certificates to import, export or re-export wildlife or plants listed in Appendix I, II or III that are not subject to the regulations in part 17 or part 18 of this subchapter. Any person subject to the jurisdiction of the United States who wishes to get such a permit or certificate submits an application under this section to the Director, Fish and Wildlife Service (Attention: Office of Management Authority), 4401 N. Fairfax Drive, Room 700, Arlington, VA 22203. The Service provides Form 3–200 for the application to which as much of the following information relating to the purpose of the permit or certificate must be attached:

(1) The scientific and common names of the species (or taxa to the rank listed in Appendix I, II, or III) sought to be covered by the permit, the number of wildlife or plants, and the activity sought to be authorized (such as importing, exporting, re-exporting, etc.);

(2) A statement as to whether the wildlife or plant, at the time of application, (i) is living in the wild, (ii) is living, but not in the wild, or (iii) is dead;

(3) A description of the wildlife or plant, including (i) size, (ii) sex (if known), and (iii) type of goods, if it is a part or derivative;

(4) In the case of living wildlife or plants, (i) a description of the type, size, and construction of any container the wildlife or plant will be placed in during transportation, and (ii) the arrangements for watering and otherwise caring for the wildlife or plant during transportation;

(5) The name and address of the person in a foreign country to whom the wildlife or plant is to be exported from the United States, or from whom the wildlife or plant is to be imported into the United States;

(6) The country and place where the wildlife or plant was or is to be taken from the wild;

(7) In the case of wildlife or plants listed in Appendix I to be imported into the United States, (i) a statement of the purposes and details of the activities for which the wildlife or plant is to be imported; (ii) a brief resume of the technical expertise of the applicant or other persons who will care for the wildlife or plant; (iii) the name, address, and description, including diagrams or photographs, of the facility where the wildlife or plant will be maintained; and (iv) a description of all mortalities, in the two years preceding the date of this application, including any wildlife species covered in the application (or any species of the same genus or family) held by the applicant, including the causes and steps taken to avoid such mortalities; and

(8) Copies of documents, sworn affidavits, or other evidence showing that either (i) the wildlife or plant was acquired prior to the date the Convention applied to it, or (ii) the

wildlife or plant was bred in captivity, or artificially propagated, or was part of or derived therefrom, or (iii) the wildlife or plant is an herbarium specimen, or live plant material to be imported, exported, or re-exported as a noncommercial loan, donation, or exchange between scientists or scientific institutions.

* * * * *

PART 21—MIGRATORY BIRD PERMITS

20. The authority citation for part 21 continues to read as follows:

Authority: Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712(2)).

21. Section 21.4 is revised to read as follows:

§ 21.4 Information collection requirements.

(a) The Office of Management and Budget approved the information collection requirements contained in this part 21 under 44 U.S.C. 3507 and assigned OMB Control Number 1018–0022. The Service may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. We are collecting this information to provide information necessary to evaluate permit applications. We will use this information to review permit applications and make decisions, according to criteria established in the Migratory Bird Treaty Act, 16 U.S.C. 703–712 and its regulations, on the issuance, suspension, revocation, or denial of permits. You must respond to obtain or retain a permit.

(b) We estimate the public reporting burden for these reporting requirements to vary from 15 minutes to 4 hours per response, with an average of 0.803 hours per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the forms. Direct comments regarding the burden estimate or any other aspect of these reporting requirements to the Service Information Collection Control Officer, MS–222 ARLSQ, U.S. Fish and Wildlife Service, Washington, D.C. 20240, or the Office of Management and Budget, Paperwork Reduction Project (1018–0022), Washington, D.C. 20603.

22. Section 21.23 is amended by revising paragraph (b) introductory text to read as follows:

§ 21.23 Scientific collecting permits.

* * * * *

(b) *Application procedures.* Submit applications for scientific permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in § 13.12(a) of this subchapter, and the following additional information:

* * * * *

23. Section 21.24 is amended by revising paragraph (b) introductory text to read as follows:

§ 21.24 Taxidermist permits.

* * * * * *

(b) *Application procedures.* Submit application for taxidermist permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in § 13.12(a) of this subchapter, and the following additional information:

* * * * *

24. Section 21.25 is amended by revising paragraph (b) introductory text to read as follows:

§ 21.25 Waterfowl sale and disposal permits.

* * * * *

(b) *Application procedures.* Submit application for waterfowl sale and disposal permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in § 13.12(a) of this subchapter, and the following additional information:

* * * * *

25. Section 21.27 is amended by revising paragraph (b) introductory text to read as follows:

§ 21.27 Special purpose permits.

* * * * *

(b) *Application procedures.* Submit application for special purpose permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in § 13.12(a) of this subchapter, and the following additional information:

* * * * *

26. Section 21.30 is amended by revising paragraph (b) introductory text to read as follows:

§ 21.30 Raptor propagation permits.

* * * * *

(b) *Application procedures.* Submit application for raptor propagation permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in § 13.12(a) of this subchapter, and the following additional information:

* * * * *

27. Section 21.41 is amended by revising paragraph (b) introductory text to read as follows:

§ 21.41 Depredation permits.

* * * * *

(b) *Application procedures.* Submit application for depredation permits to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in § 13.12(a) of this subchapter, and the following additional information:

* * * * *

PART 22—EAGLE PERMITS

28. The authority citation for part 22 continues to read as follows:

Authority: Sec. 2, Eagle Protection Act of June 8, 1940, Chapter 278, 54 Stat. 251; Pub. L. 87–884, 76 Stat. 1246; sec. 2, Pub. L. 92–535, 86 Stat. 1065; sec. 9, Pub. L. 95–616, 92 Stat. 3114 (16 U.S.C. 668a).

29. A new section 22.4 is added to subpart A to read as follows:

§ 22.4 Information collection requirements.

(a) The Office of Management and Budget approved the information collection requirements contained in this part 22 under 44 U.S.C. 3507 and assigned OMB Control Number 1018–0022. The Service may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. We are collecting this information to provide information necessary to evaluate permit applications. We will use this information to review permit applications and make decisions, according to criteria established in the Bald and Golden Eagle Protection Act and its regulations, on the issuance, suspension, revocation, or denial of permits. You must respond to obtain or retain a permit.

(b) We estimate the public reporting burden for these reporting requirements to vary from 1 to 4 hours per response, with an average of 1 hour per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the forms. Direct comments regarding the

burden estimate or any other aspect of these reporting requirements to the Service Information Collection Control Officer, MS–222 ARLSQ, U.S. Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project (1018–0022), Washington, DC 20603.

30. Section 22.21 is amended by revising paragraph (a) introductory text to read as follows:

§ 22.21 Permits for scientific or exhibition purposes.

* * * * *

(a) *Application* procedures. Submit applications for permits to take, possess, or transport bald or golden eagles, their parts, nests or eggs for scientific or exhibition purposes to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in § 13.12(a) of this subchapter, and the following additional information:

* * * * *

31. Section 22.22 is amended by revising paragraph (a) introductory text to read as follows:

§ 22.22 Permits for Indian religious purposes.

* * * * *

(a) *Application procedures.* Submit applications for permits to take, possess, or transport bald or golden eagles, their parts, nests or eggs for the religious use of Indians to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Only applications from individual Indians will be accepted. Each application must contain the general information and certification required in § 13.12(a) of this subchapter, and the following additional information.

* * * * *

32. Section 22.23 is amended by revising paragraph (a) introductory text to read as follows:

§ 22.23 Permits to take depredating eagles.

* * * * *

(a) *Application procedures.* Submit applications for permits to take depredating bald or golden eagles to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in § 13.12(a) of this subchapter, and the following additional information:

* * * * *

33. Section 22.24 is amended by revising paragraph (a) introductory text to read as follows:

§ 22.24 Permits for falconry purposes.

* * * * *

(a) *Application procedures.* Submit applications for permits to possess and transport golden eagles for falconry purposes to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Each application must contain the general information and certification required in § 13.12(a) of this subchapter, and the following additional information:

* * * * *

34. Section 22.25 is amended by revising paragraph (a) introductory text to read as follows:

§ 22.25 Permits to take golden eagle nests.

* * * * *

(a) *Application procedures.* Submit applications for permits to take golden eagle nests to the appropriate Regional Director (Attention: Migratory bird permit office). You can find addresses for the Regional Directors in 50 CFR 2.2. Applications are accepted only from persons engaged in a resource activity or recovery operation, including the planning and permitting stages of an operation. Each application must contain the general information and certification required in § 13.12(a) of this subchapter, and the following additional information:

* * * * *

PART 23—ENDANGERED SPECIES CONVENTION

35. The authority citation for part 23 continues to read as follows:

Authority. Sec. 2, Eagle Protection Act of June 8, 1940, Chapter 278, 54 Stat. 251; Pub. L. 87–884, 76 Stat. 1246; sec. 2, Pub. L. 92–535, 86 Stat. 1065; sec. 9, Pub. L. 95–616, 92 Stat. 3114 (16 U.S.C. 668a); and Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

36. Section 23.15 is amended by revising paragraph (c) introductory text and adding a new paragraph (g) to read as follows:

§ 23.15 Permits and certificates.

* * * * *

(c) Application requirements for permits or certificates to import, export or reexport wildlife or plants listed in appendix I, II or III that are not subject to the regulations in part 17 or part 18 of this subchapter. Any person subject to the jurisdiction of the United States who wishes to get such a permit or certificate submits an application under this section to the Director, U.S. Fish and Wildlife Service, (Attention: Office of Management Authority), 4401 N. Fairfax Drive, Room 700, Arlington, VA 22203 by any person subject to the jurisdiction of the United States who wishes to get a permit for the activity. The Service provides Form 3–200 for the application to which as much of the following information relating to the purpose of the permit or certificate must be attached.

* * * * *

(g) Information collection requirements. The Office of Management and Budget approved the information collection requirements contained in this part 23 under 44 U.S.C. 3507 and assigned OMB Control Number 1018–0093. The Service may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number. We are collecting this information to provide information necessary to evaluate permit applications. We will use this information to review permit applications and make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance, suspension, revocation, or denial of permits. You must respond to obtain or retain a permit. We estimate the public reporting burden for these reporting requirements to vary from 20 minutes to 2 hours per response, with an average of 1 hour per response, including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the forms. Direct comments regarding the burden estimate or any other aspect of these reporting requirements to the Service Information Collection Control Officer, MS–222 ARLSQ, U.S. Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project (1018–0093), Washington, DC 20603.

Dated: September 16, 1998.

Donald Barry,

Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 98–25763 Filed 9–30–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 980414095–8240–02; I.D. 040798C]

RIN 0648–AJ37

Fisheries of the Northeastern United States; Dealer and Vessel Reporting Requirements

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to amend the dealer reporting requirements for the summer flounder, scup, black sea bass, surf clam, ocean quahog, Northeast (NE) multispecies, Atlantic sea scallop, Atlantic mackerel, squid, and butterfish fisheries and the vessel reporting requirements for the summer flounder and scup fisheries. This rule requires dealers of quota-managed species to report their purchases weekly via an Interactive Voice Response (IVR) system, modifies the submission schedule of written dealer reports, modifies the reporting requirements for certain vessels in the summer flounder or scup fisheries, and clarifies existing reporting requirements. Quota-managed species required to be reported via the IVR system include summer flounder, scup, black sea bass, regulated NE multispecies, Atlantic mackerel, squid, and butterfish. These revisions are necessary to collect more timely and accurate data to enhance immediate and long-term management of the fisheries, maintain the harvesting of these fisheries at sustainable levels, promote compliance with existing regulations, ensure consistency in reporting requirements among fisheries, and clarify existing regulatory text.

DATES: Effective November 1, 1998.

ADDRESSES: Copies of the Regulatory Impact Review supporting this action are available from Jon Rittgers, Acting Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930. Comments regarding the collection-of-information requirements contained in this final rule should be sent to the Acting Regional Administrator and to the Office of Management and Budget (OMB), Washington, D.C. 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Kelley McGrath, (978) 281–9307, or Gregory Power, (978) 281–9304.

SUPPLEMENTARY INFORMATION:

Background

This rule revises the dealer reporting requirements in the summer flounder, scup, black sea bass, Atlantic mackerel, squid and butterfish, surf clam and ocean quahog, NE multispecies, and Atlantic sea scallop fisheries and revises the vessel reporting requirements in the summer flounder and scup fisheries. Regulations implementing the fishery management plans (FMP) for these species were prepared under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and are found at 50 CFR part 648. Details concerning the development of these revisions were discussed in the preamble to the proposed rule (63 FR 27550, May 19, 1998).

Revisions to the dealer and vessel reporting requirements contained in this rule were developed primarily as a result of the management measures that have been incorporated into several FMPs. For instance, in an effort to achieve the goals of the Magnuson-Stevens Act, certain species are now being managed by quota, annual target total allowable catch (TAC), or domestic annual harvest(DAH) limits. Many species have short seasons or require in-season management measures, such as closures or trip limits, to ensure that the harvest levels established in each FMP are not exceeded. Management measures must be based on the best available information, which includes monitoring the weekly landings of these species through dealer reports.

While dealers are currently required to complete comprehensive written reports accounting for purchases of all species, it is difficult to collect and process the written forms within the timeframe needed for effective management. Therefore, NMFS is requiring dealers to use an IVR system to report their purchases of quota-managed species on a weekly basis. This will allow for better compliance with the quotas, fewer overages, and more accurate predictions of closure dates.

Species managed by quota, TAC, or DAH and subject to IVR reporting include summer flounder, scup, black sea bass, Atlantic mackerel, *Loligo* and *Illex* squid, butterfish and regulated NE multispecies. The IVR system uses a toll-free number that dealers must call within 3 days following the end of the reporting week to report the following information: dealer permit number; dealer code; pounds purchased by species; reporting week in which purchases were made; and state of landing for each species purchased. If no purchases of any IVR-monitored species were made during the reporting week, the dealer must submit a report so stating through the IVR system.

The Administrator, Northeast Region, NMFS (Regional Administrator) has the authority to defer any species from the weekly IVR reporting requirements if landings are not expected to reach levels that would cause the applicable target exploitation rate specified in the FMP for that species to be exceeded. Deferral determinations will be based on the purchases reported, by species, in the comprehensive written reports submitted by dealers and on other available information. If data subsequently indicate that landing levels have increased to the extent that this determination ceases to be valid, the Regional Administrator will terminate the deferral by publishing a notification in the **Federal Register**. Therefore, it is conceivable that a deferral from IVR reporting requirements and a withdrawal of a given deferral could occur in any fishing year for a given quota-managed species.

Concurrent with the implementation of the IVR system, the submission deadline for written reports is extended from within 3 days following the end of the reporting week, to within 16 days following the end of the reporting week. In addition to providing dealers with the convenience of having more time to complete and submit the written reports, this change will result in more accurate pricing information being collected on the written reports. Such pricing information, often unavailable to dealers within 3 days following the end of the reporting week, becomes available within 16 days following the end of the reporting week. The written reports submitted by dealers will continue to provide the comprehensive data that are necessary for successful long-term management of each fishery. Dealers retain the option of submitting the required information electronically, if authorized in writing to do so by the Regional Administrator.

The reporting period for negative written reports (reports stating that no fish were purchased) is changed from weekly to monthly. If no fish were purchased during the reporting month, dealers are required to report that on the required form, which must be submitted within 16 days following the end of the reporting month.

Dealers are currently required to report the Federal permit number of the vessel from which fish are purchased or landed. However, because many of the

species purchased by dealers are not subject to Federal management and are caught by vessels that hold no Federal permits, dealers may report either the Federal permit number or the hull number (USCG documentation number or state registration number, as appropriate) of the vessels from which fish are purchased or landed.

The existing reporting form, NOAA Form 88–30, specifies market categories for several species. This rule clarifies to dealers that species must be reported by market category, when applicable.

NMFS is adding language to allow for the collection of biological data (fish lengths) and of samples (scales and otoliths for aging) that are necessary to characterize the composition of the landed catch. While most dealers have historically and voluntarily allowed access to their premises for the collection of these vital data, NMFS is revising the regulations to make it explicit that federally permitted dealers are required to grant such access.

Existing regulations require shellfish processors to notify the Regional Administrator whether the plant processing capacities change by more than 10 percent during any year. NMFS is specifying that the processor must notify the Regional Administrator in writing within 10 days after this change.

Reporting requirements for any party or charter vessel issued a Federal summer flounder or scup permit, other than a moratorium permit, are revised to require these vessels to submit reports for each trip, regardless of the species fished for or retained. Currently, vessels in this category are required to submit an accurate daily fishing log report only for those trips landing summer flounder or scup, respectively. This change will make the requirements for party/charter vessels in the summer flounder and scup fisheries consistent with those in the black sea bass, NE multispecies, and Atlantic mackerel, squid, and butterfish fisheries and allow for the collection of more comprehensive data.

Comments and Responses

No comments were received during the public comment period for the proposed rule, which closed on June 18, 1998.

Classification

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

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

This final rule contains collection-of-information requirements subject to the PRA, and clarifies or makes minor modifications to requirements previously approved under OMB control number 0648–0229 (2 minutes per response), OMB control number 0648–0212 (5 minutes per response), OMB control no. 0648–0018 (6 minutes per response), and OMB control no. 0648–0235 (5 minutes per response). The requirement to use an IVR system for weekly dealer reporting has been approved by OMB under OMB control no. 0648–0229 and is estimated to take 4 minutes per response.

The estimated response time includes the time needed for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding any of these burden estimates or any other aspect of the collection of information to NMFS and to OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 25, 1998.

Andrew A. Rosenberg,

Acting Assistant Administrator, for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. Section 648.2 is amended by adding definitions for ''Dealer code'', ''IVR system'', and ''Quota-managed species'' in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

Dealer code means a confidential five-digit number assigned to each dealer required to submit purchases using the IVR system for the purpose of maintaining the integrity of the data reported through the IVR system.

* * * * *

IVR system means the Interactive Voice Response dealer reporting system established by the Regional Administrator for the purpose of monitoring dealer purchases.

* * * * *

Quota-managed species means any species of finfish managed under this part by an annual or seasonal quota, by annual target or actual TAC, or by DAH limits.

* * * * *

3. In § 648.7 paragraph (a)(2) is redesignated as paragraph (a)(3), new paragraphs (a)(2) and (g) are added, paragraph (b)(1)(iii) is removed, the heading and the first sentence of paragraph (a)(1) introductory text, and paragraphs (a)(1)(i), (a)(3)(i), (a)(3)(ii), (b)(1)(i) and (f)(1) are revised to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

(a) *Dealers*—(1) *Detailed weekly report*. Federally permitted dealers must submit to the Regional Administrator or to the official designee a detailed weekly report, within the time periods specified in paragraph (f) of this section, on forms supplied by or approved by the Regional Administrator and a report of all fish purchases, except surf clam and ocean quahog dealers or processors who are required to report only surf clam and ocean quahog purchases. * * *

(i) Summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, Atlantic mackerel, squid and butterfish dealers must provide: Dealer name and mailing address; dealer permit number; name and permit number or name and hull number (USCG documentation number or state registration number, whichever is applicable) of vessels from which fish are landed or received; trip identifier for a trip from which fish are landed or received; dates of purchases; pounds by species (by market category, if applicable); price per pound by species (by market category, if applicable) or total value by species (by market category, if applicable); port landed; and any other information deemed necessary by the Regional Administrator. All report forms must be signed by the dealer or other authorized individual. If no fish are purchased during a reporting week, no written report is required to be submitted. If no fish are purchased during an entire reporting month, a

report so stating on the required form must be submitted.

* * * * *

(2) *Weekly IVR system reports.* (i) Federally permitted dealers purchasing quota-managed species not deferred from coverage by the Regional Administrator pursuant to paragraph (a)(2)(ii) of this section must submit, within the time period specified in paragraph (f) of this section, the following information, and any other information required by the Regional Administrator, to the Regional Administrator or to an official designee, via the IVR system established by the Regional Administrator: Dealer permit number; dealer code; pounds purchased, by species; reporting week in which species were purchased; and state of landing for each species purchased. If no purchases of quota-managed species not deferred from coverage by the Regional Administrator pursuant to paragraph (a)(2)(ii) of this section were made during the week, a report so stating must be submitted through the IVR system in accordance with paragraph (f) of this section.

(ii) The Regional Administrator may defer any quota-managed species from the IVR system reporting requirements if landings are not expected to reach levels that would cause the applicable target exploitation rate corresponding to a given domestic annual harvest limit, target or actual TAC, or annual or seasonal quota specified for that species to be exceeded. The Regional Administrator shall base any such determination on the purchases reported, by species, in the comprehensive written reports submitted by dealers and other available information. If the Regional Administrator determines that any quota-managed species should be deferred from the weekly IVR system reporting requirements, the Regional Administrator shall publish notification so stating in the **Federal Register**. If data indicate that landing levels have increased to an extent that this determination ceases to be valid, the Regional Administrator shall terminate the deferral by publishing notification in the **Federal Register**.

(3) * * *

(i) Summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, Atlantic mackerel, squid, and butterfish dealers must complete the ''Employment Data'' section of the Annual Processed Products Report; completion of the other sections of that form is voluntary. Reports must be submitted to the address supplied by the Regional Administrator.

(ii) Surf clam and ocean quahog processors and dealers must provide the average number of processing plant employees during each month of the year just ended; average number of employees engaged in production of processed surf clam and ocean quahog products, by species, during each month of the year just ended; plant capacity to process surf clam and ocean quahog shellstock, or to process surf clam and ocean quahog meats into finished products, by species; an estimate, for the next year, of such processing capacities; and total payroll for surf clam and ocean quahog processing, by month. If the plant processing capacities required to be reported in this paragraph (a)(3)(ii) change more than 10 percent during any year, the processor shall notify the Regional Administrator in writing within 10 days after the change.

(b) *Vessel owners*—(1) *Fishing Vessel Trip Reports*—(i) *Owners of vessels issued a summer flounder, scup, black sea bass, Atlantic sea scallop, NE multispecies, or Atlantic mackerel, squid, and butterfish permits.* The owner or operator of any vessel issued a permit for summer flounder, scup, black sea bass, Atlantic sea scallops, NE multispecies, Atlantic mackerel, squid or butterfish must maintain on board the vessel, and submit, an accurate daily fishing log report for all fishing trips, regardless of species fished for or taken, on forms supplied by or approved by the Regional Administrator. If authorized in writing by the Regional Administrator, vessel owners or operators may submit reports electronically, for example by using a VTS or other system. At least the following information, and any other information required by the Regional Administrator, must be provided: Vessel name; USCG documentation number (or state registration number, if undocumented); permit number; date/time sailed; date/time landed; trip type; number of crew; number of anglers (if a party or charter boat); gear fished; quantity and size of gear; mesh/ring size; chart area fished; average depth; latitude/longitude (or loran station and bearings); total hauls per area fished; average tow time duration; pounds (or count, if a party or charter vessel), by species, of all species landed or discarded; dealer permit number; dealer name; date sold, port and state landed; and vessel operator's name, signature, and operator permit number (if applicable).

* * * * *

(f) *Submitting reports*—(1) *Dealer or processor reports.* (i) Detailed weekly trip reports, required by paragraph (a)(1) of this section, must be postmarked or received within 16 days after the end of each reporting week. If no fish are purchased during a reporting month, the report so stating required under paragraph (a)(1)(i) of this section must be postmarked or received within 16 days after the end of the reporting month.

(ii) Weekly IVR system reports required in paragraph (a)(2) of this section must be submitted via the IVR system by midnight, Eastern time, each Tuesday for the previous reporting week.

(iii) Annual reports for a calendar year must be postmarked or received by February 10 of the following year. Contact the Regional Administrator (see Table 1 to § 600.502) for the address of NMFS Statistics.

* * * * *

(g) *Additional data and sampling.* Federally permitted dealers must allow access to their premises and make available to an official designee of the Regional Administrator any fish purchased from vessels for the collection of biological data. Such data include, but are not limited to, length measurements of fish and the collection of age structures such as otoliths or scales.

4. In § 648.14 paragraph (a)(8) is revised to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(8) Assault, resist, oppose, impede, harass, intimidate, or interfere with or bar by command, impediment, threat, or coercion any NMFS-approved observer or sea sampler aboard a vessel conducting his or her duties aboard a vessel, or any authorized officer conducting any search, inspection, investigation, or seizure in connection with enforcement of this part, or any official designee of the Regional Administrator conducting his or her duties, including those duties authorized in § 648.7(g).

* * * * *

[FR Doc. 98–26303 Filed 9–30–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 970703166–8209–04; I.D. 060997A3]

RIN 0648–AH65

Fisheries of the Exclusive Economic Zone Off Alaska; License Limitation Program

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule implementing part of Amendment 39 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area (BSAI), Amendment 41 to the FMP for Groundfish of the Gulf of Alaska (GOA), and Amendment 5 to the FMP for the Commercial King and Tanner Crab Fisheries in the BSAI. These amendments, submitted by the North Pacific Fishery Management Council (Council), establish the License Limitation Program (LLP). The LLP limits the number, size, and specific operation of vessels that may be deployed in the groundfish fisheries in the exclusive economic zone (EEZ) off Alaska, except for demersal shelf rockfish east of 140° W. long. and sablefish managed under the Individual Fishing Quota (IFQ) Program. The LLP also limits the number, size, and specific operation of vessels that may be deployed in the crab fisheries managed pursuant to the FMP for the Commercial King and Tanner Crab Fisheries in the BSAI.

DATES: Effective January 1, 2000, except for definitions added to § 679.2 and paragraphs (i)(3), (i)(4), (i)(5), (i)(6), (i)(8)(iii), and (i)(8)(iv) added to § 679.4, which are effective January 1, 1999.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) for this action may be obtained from the Division of Sustainable Fisheries, Alaska Region, NMFS, 709 West 9th Street, Room 453, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel.

FOR FURTHER INFORMATION CONTACT: John Lepore, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the U.S. groundfish fisheries of the GOA and the BSAI in the EEZ pursuant to the FMPs for groundfish in the respective management areas. With Federal oversight, the State of Alaska manages the commercial king crab and Tanner crab fisheries in the BSAI pursuant to the FMPs for those fisheries, which the Council developed pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801, *et seq.*. Regulations implementing the FMPs appear at 50 CFR part 679. General regulations at 50 CFR part 600 also apply.

License Limitation Program—Background Information

The LLP is the first stage in fulfilling the Council's commitment to develop a comprehensive and rational management program for the fisheries in and off Alaska. The Council first considered the comprehensive rationalization plan (CRP) at its meeting in November 1992. Experts on limited-entry programs were invited to testify at that meeting, and the Council reviewed initial CRP proposals from the fishing industry. In December 1992, the Council approved a problem statement describing the need for and purpose of the CRP.

The problem statement articulated the Council's concern that the domestic harvesting fleet had expanded beyond the size necessary to harvest efficiently the optimum yield (OY) of the fisheries within the EEZ off Alaska. Further, it confirmed the Council's commitment to the long-term health and productivity of the fisheries and other living marine resources in the North Pacific and Bering Sea ecosystems. To fulfill that commitment, the Council intended to design a program that would efficiently manage the resources under its authority, reduce bycatch, minimize waste, and improve utilization so that the maximum benefit of these resources would be provided to present and future generations of fishermen, associated fishing industry sectors, fishing communities, consumers, and the Nation as a whole. The Council also committed itself to support the stability, economic well-being, and diversity of the seafood industry and to provide for the economic and social needs of communities dependent on that industry.

At its meeting in January 1993, the Council began evaluating the effectiveness of different alternatives to determine which ones would best meet the objectives of the CRP. The Council evaluated 11 different alternatives, each of which had qualities that would have helped achieve some of the objectives of the CRP. After comparing the strengths and weaknesses of all the alternatives, the Council identified license limitation and transferable IFQ as the most viable alternatives.

Although transferable IFQ was identified as the alternative with the greatest potential for solving the most issues in the problem statement for the CRP, several problems prevented the Council from choosing this alternative as the first step in the CRP process. Also, the IFQ program for halibut and sablefish had not yet been implemented; therefore, any information or experience that would have been gained from the operation of that program was not then available. For these reasons, the Council, at its September 1993 meeting, raised LLP to a level of equal consideration with transferable IFQ as a management regime designed to meet the objectives of the CRP.

In January 1994, the Council adopted its Advisory Panel's recommendations to expedite the LLP alternative. This decision was based in part on the facts that the industry lacked a consensus on what specific form of a transferable IFQ alternative would be most appropriate, and because of concerns regarding the amount of time that would be necessary to produce an analysis and implement a transferable IFQ program. The transferable IFQ alternative was not dropped completely; rather, the Council considered it to be a potential second step in the overall CRP process. Advocates for the LLP argued that the LLP was a necessary first step in the CRP process because it could be implemented more expeditiously and because it would provide stability in the fishing industry while a transferable IFQ system was analyzed and implemented.

At its meeting in April 1994, the Council received an LLP/IFQ proposal from its State of Alaska representative. This proposal contained an integrated, step-wise approach consisting of an LLP followed by an IFQ program. This proposal became the basis for subsequent Council actions that culminated in June 1995 with the Council's adoption of the LLP. The Council transmitted Amendments 39, 41, and 5, which are the basis of the LLP, to NMFS on June 9, 1997. NMFS published a notice of availability (NOA) for Amendments 39, 41, and 5 on June 16, 1997 (62 FR 32579) and a proposed rule to implement Amendments 39, 41, and 5 on August 15, 1997 (62 FR 43865). Public comments on the amendments were accepted through August 15, 1997, and on the proposed rule through September 29, 1997. NMFS received 263 comments on the amendments and 67 comments on the proposed rule. The public comments concerning the LLP portion of the amendments and

proposed rule were consolidated into 21 specific issues to which NMFS provided responses (see Response to Comments on the LLP Portion of Amendments 39, 41, and 5). Amendments 39, 41, and 5 were approved by NMFS on September 12, 1997.

By providing stability in the fishing industry and by identifying the field of participants in the groundfish and crab fisheries, the LLP will act as an interim step toward a more comprehensive solution to the conservation and management problems of an open access fishery. Although the LLP is an interim step, it addresses some of the important issues in the problem statement developed for the CRP. By limiting the number of vessels that are eligible to participate in the affected fisheries, the LLP places an upper limit on the amount of capitalization that may occur in those fisheries. This upper limit will prevent future overcapitalization in those fisheries at levels that could occur if such a constraint was not present. The LLP will replace the current Vessel Moratorium, a program approved by NMFS in 1995 and implemented in 1996 (60 FR 40763, August 10, 1995).

License Limitation Program—Operational Aspects

1. General

The LLP limits access to the commercial groundfish fisheries in the EEZ off Alaska, except for demersal shelf rockfish east of 140° W. long. and sablefish managed under the IFQ program (license limitation groundfish). The demersal shelf rockfish fishery east of 140° W. long. is excluded from the LLP because general management of this fishery is deferred to the State of Alaska. The State of Alaska is currently considering an alternative management program for this fishery. The fixed gear fishery for sablefish is excluded because that fishery is managed under the IFQ Program. The LLP also limits access to the commercial crab fisheries in the BSAI, managed pursuant to the FMP for the Commercial King and Tanner Crab Fisheries in the BSAI.

2. Nature of Licenses and Qualification Periods

A license for license limitation groundfish will be issued to an eligible applicant based on fishing that occurred from an eligible applicant's qualifying vessel in management areas (i.e., BSAI, GOA, or BSAI/GOA, or state waters shoreward of those management areas) during the general qualification period (GQP), and in endorsement areas defined by these regulations (i.e., Aleutian Islands, Bering Sea, Western Gulf, Central Gulf, and Southeast Outside, or state waters shoreward of those endorsement areas) during the endorsement qualification period (EQP). A license will authorize a license holder to deploy a vessel from which directed fishing for license limitation groundfish species can be conducted in the endorsement areas designated on that license. This license also will be transferable. The GQP for license limitation groundfish is January 1, 1988, through June 27, 1992, except for a vessel under 60 ft (18.3 m) from which a documented harvest of license limitation groundfish was made with pot or jig gear prior to January 1, 1995. For those vessels, the GQP is extended through December 31, 1994. The Council recommended this extension so that a vessel could be used for qualification, although that vessel was deployed in the groundfish fisheries after June 27, 1992, because the gear that was used from that vessel minimized bycatch loss and waste due to discard mortality. Qualification under this extension will be limited to one endorsement area to limit the extent to which capacity might be increased. Minimizing bycatch loss and waste due to discard mortality is an important objective of the CRP. Additionally, an eligible applicant, whose qualifying vessel ''crossed-over'' to groundfish from crab under the provisions of the current Vessel Moratorium by June 17, 1995, also will qualify under the GQP for license limitation groundfish.

The EQP for license limitation groundfish is January 1, 1992, through June 17, 1995. The area endorsement(s) designated on a groundfish license will authorize a license holder to deploy a vessel from which directed fishing can be conducted in the following areas: (1) Bering Sea Subarea; (2) Aleutian Islands Subarea; (3) Western Area of the Gulf of Alaska; (4) Central Area of the Gulf of Alaska and the West Yakutat District; and (5) Southeast Outside District.

The dual qualification periods (i.e., the GQP and the EQP) are designed to account for past and recent participation in the affected fisheries. The GQP, which includes the qualification period for the current Vessel Moratorium, accounts for past fishing participation, and the EQP accounts for the recent fishing participation that occurred up to the Council's final action on the LLP (June 17, 1995). NMFS concurs with the Council's recommendation that a vessel must have a fishing history in both periods in order for the vessel owner to qualify for a license. The requirement that vessels have fishing histories during both periods is intended to ensure that only those vessel owners with both past dependence and recent participation in the fishery qualify. The dual qualification periods for crab species licenses serve the same purpose.

Licenses for crab species will be issued to eligible applicants based on fishing that occurred from the qualifying vessel in the BSAI during the GQP, and for a specific species in an endorsement area (i.e., Aleutian Islands brown king, Aleutian Islands red king, Bristol Bay red king, Norton Sound red king and Norton Sound blue king, Pribilof red king and Pribilof blue king, St. Matthew blue king, and *Chionoecetes opilio* and *C. bairdi* (Tanner crab)) during the EQP. A license will authorize the license holder to deploy a vessel from which directed fishing for specific crab species can be conducted in Federal waters of the specific areas designated on each license. This license also will be transferable. The GQP for crab species is January 1, 1988, through June 27, 1992. Vessels that participated in the Norton Sound king crab fisheries and the Pribilof king crab fisheries are exempt from the harvesting requirements of the GQP because (1) the Norton Sound king crab fisheries began to be managed by the State of Alaska under a system of super-exclusive registration in 1993 and (2) the Pribilof king crab fisheries were closed from 1988 through 1992. Eligibility for those fisheries will be based exclusively on participation during a separate EQP as discussed below. Additionally, an eligible applicant, whose qualifying vessel ''crossed-over'' to crab from groundfish under the provisions of the current Vessel Moratorium by December 31, 1994, will also qualify under the GQP for crab species.

The EQP for crab species varies among seven area/species endorsements. The EQP for (1) Pribilof red and Pribilof blue king and (2) Norton Sound red and Norton Sound blue king is January 1, 1993, through December 31, 1994. The EQP for (3) *C. opilio* and *C. bairdi* (Tanner crab), (4) St. Matthew blue king, (5) Aleutian Islands brown king, and (6) Aleutian Islands red king is January 1, 1992, through December 31, 1994. The EQP for (7) Bristol Bay red king is January 1, 1991, through December 31, 1994. The Council designed these varying endorsement periods to accommodate the different patterns of season openings and closures for specific crab species. For example, the Bristol Bay red king crab fishery was not open in 1994; therefore, a 3-year participation window is provided by using a January 1, 1991, start date. The variations in the EQP for the Norton Sound king crab fisheries and the Pribilof king crab fisheries are

explained in the preceding GQP discussion.

3. License Designations and Vessel Length Categories

All licenses for license limitation groundfish and crab species will have a designation prescribing the activities the license holder is authorized to conduct on a deployed vessel. A catcher vessel designation on a groundfish license will authorize a license holder to deploy a vessel from which directed fishing for license limitation groundfish species can be conducted. A catcher vessel designation on a crab species license will authorize a license holder to deploy a vessel from which directed fishing for crab species can be conducted. The catcher vessel designation on a groundfish license will not authorize the processing of license limitation groundfish or crab species on board the vessel. A catcher/processor vessel designation on a groundfish license will authorize a license holder to deploy a vessel from which directed fishing for license limitation groundfish can be conducted and on which license limitation groundfish may be processed. Similarly, a catcher/processor designation on a crab species license will authorize a license holder to deploy a vessel from which directed fishing for crab species can be conducted and on which crab species may be processed. A license with a catcher/processor designation will also authorize a license holder to deploy a vessel for the purpose of directed fishing only for license limitation groundfish or crab species (i.e., processing that catch is not required).

Also, a license holder can change the vessel designation on a license from a catcher/processor vessel designation to a catcher vessel designation. This change in designation would be permanent. Once a vessel designation on a license is changed from a catcher/processor vessel designation to a catcher vessel designation, the license holder would no longer be able to process license limitation groundfish or crab species on that vessel.

The length overall (LOA) of a vessel is defined at 50 CFR § 679.2 as the horizontal distance between the foremost part of the stem and the aftermost part of the stern, excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments, measured in linear feet and rounded to the nearest foot. The size categories were selected to be consistent with the size categories in other programs; in addition, some observer requirements vary with vessel size, and these categories are consistent with those observer requirements. The following convention will be used when rounding the LOA to the nearest foot:

(1) When the amount exceeding a whole foot measurement is less than 6 inches (15.2 cm), the LOA is equal to that whole foot measurement. For example, if the horizontal distance of a vessel is 124 ft, 5 3/4 inches (37.9 m), the LOA of the vessel is 124 ft (37.8 m).

(2) When the amount exceeding a whole foot measurement is greater than 6 inches (15.2 cm), the LOA is equal to the next whole foot measurement. For example, if the horizontal distance of a vessel is 124 ft, 6 1/8 inches (38.0 m), the LOA of the vessel is 125 ft (38.1 m).

(3) When the amount exceeding a whole foot measurement is exactly 6 inches (15.2 cm), the LOA is equal to that whole foot measurement if the number is even; however, if the number is odd, the LOA is equal to the next whole foot measurement. For example, if the horizontal distance of a vessel is 124 ft, 6 inches (37.9 m), the LOA of the vessel is 124 ft (37.8 m), but, if the horizontal distance of the vessel is 59 ft, 6 inches (18.1 m), the LOA of the vessel is 60 ft (18.3 m).

Eligibility for a license will be based on a determination that the minimum number of documented harvests of license limitation groundfish and crab species for a specific vessel length category were made from a qualifying vessel. These categories are as follows: (1) Category ''A'', which comprises vessels with an LOA of 125 ft (37.8 m) or greater; (2) category ''B'', which comprises vessels with an LOA from 60 ft (18.3 m) to 124 ft (37.5 m); and (3) category ''C'', which are vessels with an LOA of 59 ft (18 m) or less. A vessel's length category will be determined based on the vessel's LOA on June 17, 1995, or, if the vessel was under reconstruction on that date, on the vessel's LOA on the date that reconstruction was completed.

A vessel that is participating under the current Vessel Moratorium may be lengthened to the maximum length overall (MLOA) specified on the vessel's Moratorium Qualification. The MLOA is determined by the following: For a vessel that was less than 125 ft (37.8 m) on June 24, 1992, its MLOA is 1.2 times the LOA of the vessel on June 24, 1992, or 125 ft (37.8 m), whichever is less. For a vessel that was 125 ft (37.8 m) or greater on June 24, 1992, its MLOA is the LOA of the vessel on June 24, 1992. Finally, for a vessel that was being reconstructed on June 24, 1992, its MLOA is determined as above but using the vessel's LOA on the date that reconstruction was completed, rather than its LOA on June 24, 1992.

The vessel lengthening provisions of the current Vessel Moratorium explained here provide some flexibility to lengthen a vessel under the LLP. Under the LLP, a vessel may be lengthened to its MLOA as determined by the rules under the current Vessel Moratorium, provided the vessel was lengthened before June 17, 1995, or, if not, provided the lengthening does not cause the vessel to exceed the maximum length allowed by the vessel's length category determined under the LLP. For example, a vessel that was 58 ft (17.7 m) on June 24, 1992, could be lengthened to 70 ft (21.4 m) under the provisions of the current Vessel Moratorium. If the reconstruction that resulted in the lengthening of the vessel to 70 ft (21.4 m) began before June 17, 1995, then the vessel will be classified in the ''B'' vessel length category, which applies to a vessel with an LOA equal to or greater than 60 ft (18.3 m) but less than 125 ft (38.1 m). However, if the reconstruction that resulted in the lengthening of the vessel began after June 17, 1995, the vessel will be classified in the ''C'' vessel length category (based on its LOA on June 17, 1995), which applies to a vessel with an LOA of 59 ft (18 m) or less. Therefore, although a vessel may be lengthened under the provisions of the current Vessel Moratorium, a vessel that is reconstructed after June 17, 1995, may not be lengthened beyond the maximum length of its vessel length category based on that vessel's LOA on June 17, 1995 (or the vessel's LOA on the date reconstruction was completed if the vessel was under reconstruction on June 17, 1995), and still be eligible to be deployed for LLP fishing by the license holder based on a license resulting from the documented harvests that occurred from that vessel. For a vessel that was lengthened before June 17, 1995, or that was under reconstruction on June 17, 1995, NMFS will require evidence of the date the vessel was lengthened, and the LOA of the vessel before and after that date. In addition, NMFS will require evidence of the vessel's LOA on June 17, 1995. In such circumstances, evidence bearing upon the vessel's LOA on the relevant dates could consist of a past marine survey, an original builder's certificate, any admeasurement documents submitted to the U.S. Coast Guard National Vessel Documentation Center, a certificate of registration that states the vessel's length, or other credible evidence. For the convenience of initial issuees and future transferees, an LLP license will be designated with an MLOA, which will limit the maximum

length of a vessel that can be deployed by the license holder.

4. Harvest Requirements—Groundfish

The number of documented harvests that must have been made by a vessel for an eligible applicant to qualify for a particular area endorsement for a groundfish license vary according to vessel length category, the area, and vessel designation. These different requirements are designed to account for differences in the operational characteristics of the fisheries, differences in the geographical areas in which the fisheries are prosecuted, and differences in the social and economic conditions that affect participants in the fisheries from various coastal areas. For instance, the dependence of fishing communities around the GOA on small vessel fleets is accounted for by requiring only a single harvest during the appropriate time periods for a vessel less than 60 ft (18.3 m) LOA to qualify for an endorsement. The single harvest requirement is extended to the Western Gulf for a vessel that qualifies for a catcher vessel designation and is less than 125 ft (37.8 m) LOA because public testimony during Council consideration of the LLP indicated that local fleets did not participate in that area during the earlier portion of the EQP. Consequently, excluding those fleets from adjacent fishing grounds through more stringent harvesting requirements would have significantly harmed local communities currently dependent on those fisheries. A vessel in the Western Gulf that qualifies for a catcher/processor vessel designation and that is from 60 ft (18.3 m) to less than 125 ft (37.8 m) LOA has the same documented harvesting requirements as do all vessels of similar length in the Central Gulf area and Southeast Outside district because of its fishing capacity. Also, NMFS determined that requiring a single documented harvest would best reflect the operational characteristics of the fisheries in those areas. This determination was based on information in the EA/RIR indicating that requiring more than one documented harvest in the Bering Sea subarea and Aleutian Islands subarea would unduly burden small vessels but would not affect larger vessels. The larger vessels contributed to the largest portion of capacity for the fishing fleet in those areas. Finally, public testimony during consideration of the LLP indicated that some vessels that qualified under the current Vessel Moratorium entered into the fishery during the latter portion of the EQP. Also, based on the Council's recommendation, NMFS added a provision to the EQP requirements that, in certain areas, four documented harvests made from a vessel between January 1, 1995, and June 17, 1995, are sufficient for an area endorsement. NMFS believes that four documented harvests will be sufficient to show that a person intended to remain in the fishery and that his or her participation was not merely speculative and opportunistic. Based on these considerations, NMFS establishes the following harvesting requirements:

For a vessel classified in any of the three vessel length categories (''A,'' ''B,'' or ''C''), at least one documented harvest of a license limitation groundfish species made from that vessel in the appropriate area during the EQP is necessary to qualify an eligible applicant for an Aleutian Islands area endorsement or for a Bering Sea area endorsement.

For a vessel classified in vessel length category ''C,'' at least one documented harvest of license limitation groundfish species made from that vessel in the appropriate area during the EQP is necessary to qualify an eligible applicant for a Western Gulf area endorsement, a Central Gulf area endorsement, and a Southeast Outside area endorsement.

For a vessel classified in vessel length category ''B'' and eligible for a catcher vessel designation, at least one documented harvest of license limitation groundfish species made by that vessel in the appropriate area during the EQP is necessary to qualify an eligible applicant for a Western Gulf area endorsement.

For a vessel classified in vessel length category ''B,'' at least one documented harvest of license limitation groundfish species made by that vessel in the appropriate area in each of any 2 calendar years from January 1, 1992, through June 17, 1995, or four documented harvests of license limitation groundfish species made from that vessel in the appropriate area between January 1, 1995, through June 17, 1995, is necessary to qualify an eligible applicant for a Central Gulf area endorsement or a Southeast Outside area endorsement. This documented harvest requirement also will apply to a Western Gulf area endorsement for a vessel eligible for a catcher/processor vessel designation and classified in vessel length category ''B.''

For a vessel classified in vessel length category ''A,'' at least one documented harvest of license limitation groundfish species made from that vessel in the appropriate area in each of any 2 calendar years from January 1, 1992, through June 17, 1995, is necessary to qualify an eligible applicant for a Central Gulf area endorsement, a Southeast Outside area endorsement, or a Western Gulf area endorsement.

5. Harvest Requirements—Crab Species

The number of documented harvests made from a vessel that an eligible applicant must demonstrate to qualify for a particular area/species endorsement for a crab species license varies according to the crab species. The Council recommended different requirements so that incidental catches would not qualify a person for a license (e.g., incidentally caught Tanner crab with red or blue king), but, in fisheries where a single harvest may have indicated that a person intended to remain in a fishery (e.g., the Pribilof red and blue king crab fishery that was closed from 1988 through 1992), minimal participation would be recognized. The following requirements were recommended by the Council and approved by NMFS: (1) For a red and blue king crab license, at least one documented harvest of the appropriate crab species made from a vessel in the appropriate fishery during the EQP; and (2) for a brown king and Tanner crab license, at least three documented harvests of the appropriate crab species made from a vessel in the appropriate fishery during the EQP.

The appropriate fishery is the area, as defined in the regulations, that corresponds to the area/species endorsement for which the eligible applicant is seeking qualification. Only documented harvests will qualify the applicant. As defined in the regulations, a documented harvest means a lawful harvest that was recorded in compliance with Federal and state commercial fishing regulations in effect at the time of harvest.

6. License Recipients

A license will be issued only to an eligible applicant. An eligible applicant must have been eligible on June 17, 1995 (the date of final Council action on the LLP), to document a fishing vessel under Chapter 121 of Title 46, U.S.C. As defined by these regulations, an eligible applicant is (1) the owner, on June 17, 1995, of a qualified vessel or (2) the person to whom the qualified vessel's fishing history was transferred or retained by written contract provided that the express terms of that contract clearly and unambiguously indicate that the qualified vessel's fishing history was transferred or retained. NMFS will recognize written contracts to the extent practicable; however, in the event of a dispute concerning the disposition of the fishing history by written contract, NMFS will not issue a license until the

dispute is resolved by the parties involved. The following presumptions will be used to determine the qualification for a license in the absence of a written contract provision addressing the vessel's fishing history: First, if a vessel was sold on or before June 17, 1995, it will be presumed that the vessel's fishing history and license qualification were transferred with the vessel. Second, if a vessel was sold after June 17, 1995, it will be presumed that the vessel's fishing history and license qualification remained with the seller. Furthermore, only one license will be issued based on the fishing history of any qualified vessel. For instance, a vessel's fishing history cannot be divided so that multiple licenses would be issued. Also, if there were multiple owners of a qualified vessel on June 17, 1995, then one license will be issued in the names of the multiple owners or of the appropriate successors in interest. A qualified vessel is one from which documented harvests were made during the appropriate qualifying periods listed in 50 CFR § 679.4(i)(4) and (5) of this rule.

Also, an otherwise qualified individual who can demonstrate eligibility pursuant to the provisions of the Rehabilitation Act of 1973 would be considered an eligible applicant.

7. Application and Transfer Processes for the LLP

NMFS is currently developing a notice of proposed rule making to explain and formalize the process for applying for a license and transferring a license under the LLP. Consequently, issues related to the application and transfer processes will be addressed in that notice of proposed rulemaking.

8. License Severability and Ownership Caps

A vessel designation, an MLOA, and area endorsements (groundfish) or area/species endorsements (crab species) are constituent parts of, and not severable from, a license. For example, a license holder who has a groundfish license with two endorsements (e.g., a Southeast Outside area endorsement and a Central Gulf area endorsement) cannot request that the single license with two endorsements be split into two licenses with one endorsement each thus making it possible to retain one license (with one endorsement) and transfer the other (with the other endorsement). All endorsements must be transferred with the license because endorsements are not severable from the license.

Also, for at least 3 years after the effective date of the LLP, a groundfish license and crab species license initially issued to a person are not severable if those licenses resulted from documented harvests made from the same qualifying vessel. The Council intends to review the issue of severability 3 years after implementation of the LLP. The Council may remove the prohibition on severing initially issued groundfish and crab species licenses if, after its review, the Council decides that the reason for non-severability (i.e., excess effort in the fisheries) has been ameliorated.

A person is limited to a maximum of 10 groundfish licenses and a maximum of five crab species licenses, unless that person is initially issued more than those numbers of licenses, in which case the person can hold more licenses than the specified maximum. However, a person who has more groundfish licenses than the specified maximum for groundfish licenses cannot receive a groundfish license by transfer until that person's number of groundfish licenses which that person has is less than the specified maximum. The same is true for crab species licenses. After obtaining transfer eligibility by dropping below the specified maximum, a person cannot exceed that specified maximum, notwithstanding the earlier status of being allowed to exceed the specified maximum on initial issuance. These limits prevent any person from obtaining an excessive share of harvest privileges in the affected fisheries as required by national standard 4 of the Magnuson-Stevens Act.

9. Other Provisions

Several other provisions are included in the LLP. First, persons who target species not included in the groundfish portion of the LLP and who were allowed to land incidentally taken license limitation groundfish species prior to the implementation of the LLP are authorized, under the LLP, to continue landing bycatch amounts of license limitation groundfish species without a groundfish license. This provision will reduce the waste that occurs when bycatch is required to be discarded and is consistent with the objectives of national standard 9 of the Magnuson-Stevens Act. This is especially true for programs like the IFQ program for sablefish and halibut, where the targeted species and license limitation groundfish species may be found in the same habitat area.

Second, an eligible applicant who qualifies for a license based on the documented harvests of a vessel that was lost or destroyed before the application process will be eligible for the license and accompanying endorsements. This license could not be used for harvesting applicable species unless the vessel on which the license is used conforms with all the requirements of the license, including MLOA and vessel designation.

Third, an ''unavoidable circumstances'' provision is included in the LLP. Through this provision, an applicant may be found eligible to receive a license, even though the vessel fishing history on which that eligibility is based does not meet the standard eligibility criteria for a license. To be issued a license under the unavoidable circumstances provision, an applicant's eligibility must be based on a vessel which can document a harvest of license limitation groundfish species or of crab species, if applicable, between January 1, 1988, and February 9, 1992. The applicant must also provide evidence that the vessel was subsequently lost, damaged, or unable to qualify the applicant for a license under the criteria in 50 CFR § 679.4(i)(4) or (5) due to factors beyond the control of the owner (or owners, if applicable) of the vessel at time the vessel was lost, damaged, or otherwise unable to meet the qualifying criteria. Furthermore, the applicant must demonstrate that:

(1) The owner(s) of the vessel at time the vessel was lost, damaged, or otherwise unable to meet the qualifying criteria held a specific intent to conduct directed fishing for license limitation groundfish (or for crab species, if applicable) with that vessel during a specific time period in a specific area.

(2) The specific intent to conduct directed fishing for license limitation groundfish (crab species) with that vessel was thwarted by a circumstance that was–

(a) Unavoidable;

(b) Unique to the owner(s) of that vessel or unique to that vessel; or

(c) Unforeseen and reasonably unforeseeable to the owner(s) of the vessel.

(3) The circumstance that prevented the owner(s) from conducting directed fishing for license limitation groundfish (crab species) actually occurred.

(4) Under the circumstances, the owner(s) of the vessel took all reasonable steps to overcome the circumstance that prevented the owner from conducting directed fishing for license limitation groundfish (crab species).

(5) A documented harvest of license limitation groundfish (crab species) was made from the vessel, or its replacement, in the specific area that corresponds to the area endorsement (or area/species endorsement, if applicable) for which the claimant is applying after

the vessel was prevented from participating by the unavoidable circumstance but before June 17, 1995.

If all these criteria are met to the satisfaction of NMFS, a license may be issued for the relevant fishery and endorsement area. This provision is not designed to be a ''loop hole'' through which an eligible applicant that does not meet the qualification requirements can be issued a license. If an eligible applicant fails to demonstrate that an unavoidable circumstance prevented the vessel from meeting the qualifications in § 679.4(i)(4) or (5), NMFS will not issue a license.

Fourth, a license will be issued to an eligible applicant whose eligibility for a license is based on a vessel which can document a harvest of license limitation groundfish during the GQP in one management area and the required minimum number of documented harvests of license limitation groundfish were made during the EQP in an endorsement area in the other management area. For example, suppose an eligible applicant is basing his or her eligibility on a vessel in length category ''C'' from which only two documented harvests of license limitation groundfish species were made. The first documented harvest was of license limitation groundfish species that occurred in the BSAI on December 31, 1991, and the second documented harvest was of license limitation groundfish species that occurred in the Central Gulf endorsement area on June 16, 1995. Although the eligible applicant would not qualify for a license under the standard eligibility criteria (i.e., by basing eligibility on documented harvests of license limitation groundfish species made from a vessel during the GQP and the EQP in the same management area), this eligible applicant would qualify for a license under this alternative method of eligibility. Section 679.4(i)(4)(iv) and (v) provides that if a documented harvest of license limitation groundfish is made from a vessel during the GQP (and not the EQP) in one management area and a documented harvest of license limitation groundfish is made from that same vessel during the EQP (and not the GQP) in the other management area, then the eligible applicant who is basing his or her eligibility on that vessel would qualify for a license for the management area in which the documented harvests were made during the EQP. The eligible applicant in the example above would receive a license for the Gulf of Alaska with a Central Gulf area endorsement.

Consistency With Section 303(b)(6) of the Magnuson-Stevens Act

Any FMP or FMP amendment that establishes a system of limited access to achieve OY must meet the guidelines established in Section 303(b)(6) of the Magnuson-Stevens Act. These guidelines state that the preparers must take into account (1) present participation in the fishery; (2) historical fishing practices in, and dependence on, the fishery; (3) the economics of the fishery; (4) the capability of fishing vessels in the fishery to engage in other fisheries; (5) the cultural and social framework relevant to the fishery; and (6) any other relevant considerations.

The administrative record for the LLP is replete with examples of the Council considering the issues enumerated in the Section 303(b)(6) guidelines of the Magnuson-Stevens Act. The two-part qualification period (i.e., the GQP and the EQP) is an example of the Council balancing present participation in the fishery (EQP) and historical practices in, and dependence on, the fishery (GQP). The economics of the fishery was a primary consideration in the development of the LLP. Some of the factors considered included overcapitalization in the industry, too many vessels chasing too few fish (overcapacity), and the gradual shifting from an artisanal fleet to an industrial fleet. This final factor was a major concern because it had the potential of adversely affecting small coastal communities dependent on an artisanal fleet.

The current state of overcapitalization in most U.S. fisheries makes the fourth guideline seem like an anomaly. The concern for the capability of a vessel displaced from one fishery to enter another fishery, however, is for the individual owner of that displaced vessel and not for the fishery as a whole. Most vessels in the affected fisheries are not so unique as to make these modifications prohibitive. In fact, certain provisions of the LLP are specifically included because of the flexibility of fishing vessels used in waters off Alaska (e.g., 32–foot or 9.7 meter vessel exemption in the BSAI).

The Council carefully evaluated the cultural and social framework relevant to the fishery. For instance, the Council commissioned the development of community profiles for over 130 communities in Alaska and in the Pacific Northwest, a sector description and preliminary social impact assessment, and a final social impact assessment for its evaluation. Several aspects of the LLP are a direct result of the cultural and social framework of the fisheries. For example, the Multispecies Community Development Quota (CDQ) Program was developed by the Council and approved by NMFS concurrent with the LLP. Also, the no-trawl zone east of 140° W. long, which was designed to preserve artisanal fishermen and the small coastal communities in SE. Alaska that depend on them, is a prime example of the Council considering the cultural and social framework of the affected fisheries.

Fisheries Impact Statement

Section 303(a)(9) of the Magnuson-Stevens Act requires that Councils in every FMP or FMP amendment they submit to the NMFS for approval include a fishery impact statement (FIS) that assesses, specifies, and describes the likely effects of the proposed conservation and management measures on participants in the affected fisheries and participants in fisheries in adjacent areas. The following is a summary of the FIS found in the EA/RIR for this action:

The LLP will place limitations on current participants in the affected fisheries. First, current participants will be limited to deploying a vessel in areas for which they hold a license and an area endorsement. Second, vessel replacements and upgrades will be limited by length and designation specified on the license. Third, current participants will have to meet the specific eligibility criteria of the LLP to receive a license authorizing participation in the affected fisheries.

Although the LLP will exclude some current participants who did not fish during the GQP, these excluded persons can gain access to the affected fisheries by obtaining a license through transfer. Also, the total allowable catches (TAC) for the affected fisheries are not expected to change based on implementation of the LLP. Nor will the implementation of the LLP affect fishery product flow, total revenues derived from the affected fisheries, or regional distribution of vessel ownership. The LLP will ameliorate, but not totally eliminate, overcapacity, overcapitalization, and vessel safety concerns perpetuated under status quo management.

Due to the geographical location of the affected fisheries, there are no adjacent areas under the authority of other Regional Fishery Management Councils. However, participants in fisheries in other areas could face increased pressures from new entrants excluded from the affected fisheries. This increased pressure is expected to be nominal, in any case, because of the increasingly small number of open

access fisheries available in the EEZ off the west coast of the United States. In fact, the LLP is intended to prevent just the opposite effect (i.e., a surge of new entrants to the fisheries in the EEZ off Alaska from among those persons that have been excluded from newly limited fisheries in the EEZ off the west coast of the contiguous United States).

Changes to the Final Rule

The following addresses all substantive changes to the final rule. Editorial changes are not discussed.

A definition for the term ''documented harvest'' is added to the final rule. The term ''documented harvest'' replaces ''legal landing'' throughout the final rule. The new term more accurately describes the activity necessary for eligibility. Included in the proposed definition of legal landing was the activity of off-loading. Off-loading is not necessary for eligibility. Further, the area endorsement(s) a person is issued should reflect the area in which fishing occurred, not the area in which the fish was delivered.

Any references to designating a specific vessel on a license is eliminated in the final rule. A license can be used on any vessel that complies with the MLOA designated on the license and that meets other regulatory requirements. Designating a specific vessel on a license would mean that a license holder would need to request a transfer before that license could be used on a vessel different from the one designated on the license. Making a transfer necessary for such behavior would constrain the flexibility of the license holder and increase the administrative costs to NMFS. Therefore, this requirement is eliminated.

The definition of ''eligible applicant'' is revised to add a paragraph to accommodate individuals that can demonstrate eligibility for the LLP pursuant to the provisions of the Rehabilitation Act of 1973 at 29 U.S.C. 794(a). This addition clarifies that otherwise qualified individuals may avail themselves of the appropriate provisions of the Rehabilitation Act of 1973 when applying for licenses under the LLP.

The rule is revised to require that the ''maximum length overall (MLOA)'' be designated on the license. NMFS determined that the MLOA, and not the vessel length category, is the constraining factor on what size vessel can be used based on the license; therefore, designating the vessel length category is unnecessary and can be confusing because general vessel lengths, under the vessel length categories, can exceed a specific vessel's MLOA. Despite these changes, vessel length categories are still in the final rule because they are used to determine the minimum documented harvest requirements for area endorsements.

The crab species designations of Adak red king, Adak brown king, and Dutch Harbor brown king crab are eliminated from the final rule. These designations are eliminated because the Alaska Department of Fish and Game has combined the crab management areas of Adak and Dutch Harbor into a new Aleutian Islands Area (State of Alaska Registration Area O). Those persons who would have qualified for an Adak red king area/species endorsement, under the provisions of the proposed rule, will be issued an Aleutian Islands red king area/species endorsement, and those persons who would have qualified for an Adak brown king area/species endorsement or a Dutch Harbor brown king area/species endorsement, under the provisions of the proposed rule, will be issued an Aleutian Islands brown king area/species endorsement. Also, the area/species endorsement definitions for Adak red king crab, Adak brown king crab, and Dutch Harbor brown king have been eliminated from the final rule, and new area/species endorsement definitions for Aleutian Islands red king and Aleutian Islands brown king have been added to the final rule to reflect this combination.

In § 679.4(i)(2)(iv), the term ''CDQ'' is removed and replaced with the term ''CDP.'' This correction is consistent with the original intent of the proposed rule. The publication in the proposed rule of CDQ, rather than CDP, was a typographical error.

In § 679.4(i)(3)(ii), paragraph (i)(*3*) is added to describe the forms of evidence that can be used to verify the processing activity of a vessel for purposes of establishing eligibility for a catcher/processor designation.

In § 679.4(i)(4), text is added to describe the forms of evidence that can be used to verify a documented harvest for purposes of establishing eligibility for a groundfish license.

In § 679.4, paragraphs (i)(4)(iv) and (v) are changed to increase the reader's understanding of the criteria necessary for receiving a license based on participating in different fishery management areas during the GQP and the EQP. The changes are stylistic and not substantive; therefore, none of the criteria has changed from the proposed rule.

The regulatory text in § 679.4(i)(6) *Application for a groundfish license or a crab species license* and in § 679.4(i)(7) *Transfers* is removed, and these paragraphs are reserved. NMFS is currently developing a notice of proposed rulemaking regarding the application and transfer processes. When the rulemaking for the application and transfer processes is completed, regulatory text will be added to these reserved paragraphs.

In § 679.7(j)(2), (3), (4), and (5), the terms ''original'' and ''valid'' are added in front of the terms ''groundfish license'' and ''crab species license,'' respectively. This change was made to clarify that nothing other than an original valid license will be accepted as proof of authority to deploy a vessel in the affected fisheries.

Response to Comments on the LLP Portion of Amendments 39, 41, and 5

Comment 1: The LLP fails to address the overcapitalization problem in the Federal fisheries off Alaska.

Response: The LLP is intended to be part of a step-wise approach toward eliminating excess capital investment in the Federal fisheries off Alaska. Although the LLP does not totally solve the overcapitalization problem, as was clearly indicated in the analysis for the LLP, the LLP does define and limit the field of participants in these Federal fisheries. This step is critical to the further development of management programs that will more fully address the overcapitalization issues. Also, the LLP will limit license holders to discrete management areas for which the license is authorized based on past participation, unlike the current Vessel Moratorium, which allowed permit holders unrestricted movement throughout the EEZ off Alaska.

The LLP is designed to be a framework program to which other programs (e.g., vessel and license buyback, individual bycatch accountability, and individual fishing quotas) could be added to reduce capitalization in the future. The LLP will be available as a future basis for further addressing overcapitalization. Substantial interest in establishing an industry-sponsored buyback for the crab portion of the LLP has already been expressed by industry participants and the Council. As stated earlier, by identifying the field of participants in the groundfish and crab fisheries and, thereby, providing stability in the fishing industry, the LLP is an interim step toward a more comprehensive solution to the conservation and management problems inherent in an overcapitalized fishery. Although the LLP is an interim step, it addresses some of the important issues in the problem statement developed for the CRP. The LLP, through the limits it

places on the number of vessels that can be deployed in the affected fisheries, places an upper limit on the amount of capitalization that could occur in those fisheries. This upper limit will prevent overcapitalization in those fisheries at levels that could occur in the future if such a constraint was not present.

Comment 2: The Council did not consider all reasonable alternatives when choosing the LLP option.

Response: At its meeting in January 1993, the Council began evaluating the effectiveness of different alternatives to determine which ones would best meet the objectives of the an CRP developed for the Federal groundfish and crab fisheries off Alaska. These alternatives included (1) exclusive area registration, (2) seasonal allocations, (3) license limitation, (4) gear allocations, (5) inshore/offshore allocations, (6) CDQ allocations, (7) trip limits, (8) IFQ for prohibited species catch, (9) non-transferable IFQ, (10) transferable IFQ, and (11) harvest privilege auctions. All the alternatives had qualities that would have helped achieve some of the objectives of the CRP; however, after comparing the strengths and weaknesses of the alternatives, the Council identified license limitation and transferable IFQ as the most viable alternatives.

Although transferable IFQ was identified as the alternative with the greatest potential for solving the most issues in the problem statement for the CRP, several problems prevented the Council from choosing this alternative as the first step in the CRP process. For example, determinations about who should be found eligible to receive an initial allocation of quota or how much initial quota should be issued to each eligible applicant would have been exceedingly difficult. Also, since the IFQ program for halibut and sablefish had not yet been implemented, any information or experience that would have been gained from the operation of that program was not then available. For these reasons, the Council, at its meeting in September 1993, raised LLP to a level of equal consideration with transferable IFQ as a management regime designed to meet the objectives of the CRP.

In January 1994, the Council adopted its Advisory Panel's recommendations to expedite the LLP alternative. This decision was made because the industry lacked a consensus on the specific form of a transferable IFQ alternative and a concern about the amount of time that would be necessary to produce an analysis and implement a transferable IFQ program. The transferable IFQ alternative was not dropped completely; rather, it was considered by the Council as a potential future step in the overall CRP process. Advocates for the LLP argued that the LLP was a necessary first step in the CRP process because it could be implemented more quickly than a transferable IFQ system, and because it would provide stability in the fishing industry while a transferable IFQ system was analyzed and implemented. The above discussion demonstrates that the Council did review and consider reasonable alternatives before deciding that the LLP was the best choice for the next step in the CRP process.

Comment 3: Amendments 39, 41, and 5 are not fair and equitable by providing different criteria for license qualification by management area and vessel class.

Response: National standard 4 of the Magnuson-Stevens Act in pertinent part requires that, if it becomes necessary to allocate or assign fishing privileges among various U.S. fishermen, such allocation shall be fair and equitable to all such fishermen and reasonably calculated to promote conservation.

The different criteria for license qualification accounts for differences in the operational characteristics of the fisheries, differences in the geographical areas in which the fisheries are prosecuted, and differences in the social and economic conditions that affect participants in the fisheries from various coastal areas. For instance, the dependence of many fishing communities around the Gulf of Alaska on small vessel fleets is accounted for by requiring that only one documented harvest be made from a vessel less than 60 ft (18.3 m) LOA during the appropriate time periods to qualify for an endorsement. The single documented harvest requirement is extended to catcher vessels less than 125 ft (37.8 m) LOA in the Western Gulf because public testimony during Council consideration of the LLP indicated that local fleets did not participate in that area during the earlier portion of the EQP. Consequently, the Council concluded that excluding those fleets from adjacent fishing grounds through more stringent harvesting requirements would cause significant harm to local communities dependent on those fisheries. Catcher/processor vessels in the Western Gulf area that are from 60 ft (18.3 m) to less than 125 ft (37.8 m) LOA also have the same documented harvest requirements like vessels of similar length in the Central Gulf area and Southeast Outside district because of their fishing capacity. Further, based on information in the LLP analysis indicating that multiple harvest requirements in the Bering Sea subarea and Aleutian Islands subarea would unduly burden small vessels but would not affect larger vessels, which contributed to the largest portion of capacity in the fishing fleet in those areas, NMFS has concluded that a single documented harvest requirement best reflects the operational characteristics of the fisheries in those areas. Finally, the Council received public testimony during consideration of the LLP that some vessels that qualified under the current Vessel Moratorium entered into the fishery during the latter portion of the EQP. Based on that testimony, the Council recommended, and NMFS approved, a four documented harvest provision to the EQP harvest requirements in certain areas to account for participation from these vessels. NMFS believes that requiring four-documented harvests is sufficient to show that a person intended to remain in the fishery and that his or her participation was not merely speculative and opportunistic. The LLP complies with national standard 4.

Comment 4: The license caps are arbitrary and capricious and will not prevent any particular individual, corporation, or other entity from acquiring an excessive share of privileges under the LLP.

Response: National standard 4 of the Magnuson-Stevens Act in pertinent part requires that, if it becomes necessary to allocate or assign fishing privileges among various U.S. fishermen, such allocation shall be carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges. NMFS analyzed the number of participants that would be licensed in each endorsement area if maximum consolidation occurred (i.e., if all participants in a specific area held the maximum number of licenses allowed under the proposed license cap—10 licenses for groundfish and 5 licenses for crab), and concluded that those numbers did not result in any particular individual, corporation, or other entity acquiring an excessive share of privileges under the LLP.

Comment 5: Although it was purported to be an interim step, no sunset date was included in the LLP.

Response: The Council did not have an established timetable for the next step in the CRP process. The Magnuson-Steven Act mandated a studies of quota-based systems, which are being conducted by the National Research Council. Until those studies are concluded, the Council would be unable to properly analyze the next step toward CRP, especially if that step ends up being a quota-based management program. A sunset date for a portion of a step-wise comprehensive program is

potentially dangerous if the succeeding step for that program is not under development and may lead to the premature recission of a necessary management measure. Furthermore, the absence of a sunset date does not preclude the Council from recommending a substitute for the LLP at any time in the future.

Comment 6: The LLP allows the qualification of groundfish vessels that participated only in state waters.

Response: Most FMP groundfish species in and off Alaska are considered a single stock with total allowable catches that are based on data from fisheries in the federally managed EEZ (3–200 miles or 2.6–261 nautical miles) and in the territorial waters of the State of Alaska (0–3 miles or 0–2.6 nautical miles). Therefore, any catch made by fishermen exclusively in territorial waters was already included in the annual specifications for FMP groundfish fisheries. Furthermore, vessels qualified under the Vessel Moratorium, the current limited access program, with harvests exclusively in state waters. Allowing state water harvests to qualify a vessel under the LLP takes into account current and past participation and is consistent with the Vessel Moratorium.

Comment 7: Amendments 39, 41, and 5 are not fair and equitable by allowing a quota system for certain Western Alaska communities and not allowing a quota system for groundfish fishermen.

Response: The use of a quota-based system for Western Alaska communities was already in existence for certain species (i.e., pollock, sablefish, and halibut) when the Council proposed a 7.5–percent allocation of other species to the CDQ program as part of the LLP. An allocation was specifically required by the Magnuson-Stevens Act, whereas using individual quota-based management for other fisheries was specifically banned by the Magnuson-Stevens Act until further study. Approving the LLP does not preclude the use of quota-based management in the future if Congress decides that its current ban on using quota-based management systems for fisheries should be removed.

Comment 8: NMFS should ban the use of all factory trawlers in Federal waters off Alaska.

Response: Banning all factory trawlers in Federal waters off Alaska was not an alternative analyzed during the development of the LLP. Any vessel for which sufficient participation in, and dependence, on the basis for the affected fisheries can be demonstrated can be eligible for a license under the LLP.

Comment 9: NMFS should reduce bycatch and waste resulting from bycatch.

Response: National standard 9 of the Magnuson-Stevens Act requires conservation and management measures, to the extent practicable, to minimize bycatch and, to the extent bycatch cannot be avoided, to minimize the mortality of such bycatch. In compliance with this requirement, the LLP includes a provision that specifically provides that a person who does not hold an LLP license may keep up to the maximum retainable bycatch amount of a license limitation groundfish species caught while participating in another fishery not covered by the LLP. This provision was included in the LLP to minimize discard mortality of these species through utilization.

Also, through a separate rulemaking, NMFS has implemented an Improved Retention/Improved Utilization Program for certain groundfish species in the GOA and the BSAI (62 FR 65379, December 12, 1997). The IR/IU Program is designed to reduce discard mortality by requiring fishermen to retain and utilized a specified percentage of fish product that was previously discarded. NMFS anticipates that combined efforts of the LLP and the IR/IU program will assist in reducing bycatch.

Comment 10: NMFS should protect critical habitat.

Response: Protection and preservation of critical habitat is a top priority for NMFS. However, none of the alternatives analyzed for the LLP pertained to critical habitat, nor does the LLP.

Comment 11: The LLP does not contain a provision to allow for a small amount of processing on a vessel that is deployed based on a license with a catcher vessel designation.

Response: One of the motions considered by the Council when it adopted the LLP was to allow a vessel deployed based on a license with a catcher vessel designation to process limited amounts of LLP groundfish. This motion included daily processing limits of up to 18 mt per vessel. After Council discussion, the motion was disapproved primarily because of enforcement concerns about monitoring the processing limits. Also, the Council concluded that a person who desires to process fish at sea but who has a license with a catcher vessel designation could obtain through transfer a license with a catcher/processor designation.

Comment 12: Licenses issued under the LLP program are not gear specific (i.e., a vessel deployed based on a license can use any legal gear, despite the type of gear used to qualify for the license). This lack of gear specificity may contribute to overcapacity in the affected fisheries.

Response: During the development of the LLP, the Council considered a motion to make licenses gear specific. The motion was withdrawn after Council staff informed the Council that gear specificity was not an alternative that had been thoroughly analyzed. The concept of gear specificity raises issues about making gear specificity apply by area, as opposed to the overall license, criteria for determining what gear to assign, and the number of potential gear changes. These issues should be analyzed and evaluated before a specific gear provision is added to the LLP.

The LLP is designed to ameliorate, but not totally eliminate, overcapacity and overcapitalization, as perpetuated under status quo management. While developing the LLP, the Council contemplated that further steps would need to be taken in the future to meet the goals of the CRP. At its February 1998 meeting, the Council directed staff to consider adding a specific gear provision to the LLP. If adopted, a specific gear provision may be one of the steps used to further rationalize the groundfish fisheries in the EEZ off Alaska.

Comment 13: The LLP contains an exemption for vessels that, after November 18, 1992, were specifically constructed for and used exclusively in accordance with a Community Development Plan (CDP) approved by NMFS. Accordingly, these vessels do not exceed 125 ft (38.1 m), and are designed and equipped to meet specific needs that are described in the approved CDP. This exemption may contribute to overcapacity in the affected fisheries.

Response: This exemption, which was also included in the current Vessel Moratorium, is intended to assist Community Development Quota (CDQ) groups in recovering the costs for vessels built specifically for prosecuting CDQ fisheries. NMFS does not anticipate that a significant number of vessels will be built to use this exemption. In fact, no vessel used the similar exemption provided in the current Vessel Moratorium. Also, vessels no longer connected with a CDQ group (i.e., no longer used in accordance with a CDP) would not be exempt from the requirements of the LLP.

Comment 14: The suggestion by NMFS of using documented length, rather than actual length, for LOA is not feasible. Documented length has no consistency among vessels of the same actual length. Also, vessel owners who availed themselves of the ‘‘20 percent

rule'' under the current Vessel Moratorium could be disqualified from participation under the LLP if LOA is based on documented length.

Response: NMFS concurs. In the notice of proposed rule- making, NMFS requested comments about the possibility of using documented length rather than actual length because of difficulties that had been reported with at-sea monitoring for compliance with existing vessel length categories, thereby, impairing at-sea enforcement of fishery regulations. However, all the comments received on this issue supported the current method of determining LOA by actual length. Based on these comments, NMFS has decided to not change the current definition of LOA at § 679.2 and to enforce LOA rules on shore or in port.

Comment 15: A license issued on the basis of past participation to an eligible applicant who is not currently participating in a fishery is a ''latent license.'' Latent licenses will be issued under the LLP because the time periods used to determine eligibility for a license and the time period between the development and the implementation of the LLP will mean that a person can receive a license even if that person has not deployed a vessel in 1996 and 1997. The issuance of latent licenses will contribute to overcapacity in the affected fisheries.

Response: The time periods established to determine eligibility (i.e., the GQP and the EQP, as well as the June 17, 1995, eligibility date) are fixed in the FMP language approved by NMFS and, therefore, cannot be changed through the regulatory process. When the time periods and the eligibility date were selected, they were contemporaneous with the date of final action by the Council. A provision to require participation in 1996 or 1997 as a prerequisite for a license would require FMP amendments to change the current language in the relevant FMPs. At its February 1998 meeting, the Council directed staff to analyze adding more recent participation (e.g., documented harvests in 1995, 1996, and/or 1997) as a prerequisite to eligibility for a crab species license. If adopted, a more recent participation requirement may ameliorate the impacts of latent licenses on the affected fisheries.

Comment 16: Overcapacity and overcapitalization can be reduced by instituting a license buyback program for the LLP.

Response: The Council discussed the merits of a license buyback program during the development of the LLP; however, a buyback program was not included in the LLP because the funding method analyzed was determined to be beyond the authority of the Council (i.e., requiring all license recipients to pay a fee) without a referendum by the recipients authorizing such action.

Since that determination, the Magnuson-Stevens Act has been amended to include a Fishing Capacity Reduction Program, that specifically authorizes the development of a license buyback program. A buyback program for crab licenses currently is being developed by a crab industry organization for consideration by the Council.

Comment 17: Limiting the use of the unavoidable circumstances provision to a person whose eligibility is based on a vessel, or its replacement, whose documented harvest before June 15, 1995. was unavailable after that vessel was lost, damaged, or otherwise unable to participate in a qualifying fishery, is unfair to a person who could have used the provision except that he or she did not have a documented harvest before prior to June 17, 1995.

Response: Based on the approved recommendation of the Council, NMFS narrowly crafted the unavoidable-circumstances provision to grant eligibility only when the minimum requirements for eligibility under the EQP would have been met except that circumstances beyond the control of the owner of the vessel at that time prevented that vessel from meeting those requirements. However, the unavoidable-circumstances provision was never intended to extend the EQP. Unless a person can demonstrate his or her intent to remain an active participant in the groundfish fisheries through a documented harvest made from a vessel, or its replacement, and submitted after that vessel was lost, damaged, or unable to participate but before June 17, 1995, that person cannot use the unavoidable-circumstances provision. A harvest before June 17, 1995, indicated a participant's good faith effort to remain in the groundfish fisheries. This requirement is not unfair because any participation after June 17, 1995, the date of final Council action, is not considered a qualifying harvest under the LLP.

Comment 18: The Council indicated that a person who would not qualify because he or she deployed a vessel from which documented harvests were made during the GQP and the EQP in different management areas would receive a license with an area endorsement for the area in which that person had met the minimum requirements during the EQP. However, a provision to allow this method of eligibility was not in the FMP language. How will this issue be addressed?

Response: The record shows that the Council did indicate that this method of eligibility would be allowed. Section 679.4(i)(4)(iv) and (v) provides for this method of eligibility. These provisions implement the Council's FMP amendments on this issue.

Comment 19: NMFS should consider reducing the amount of pollock available for harvest in the North Pacific.

Response: Harvest reduction is beyond the scope of the LLP analysis; however, this comment would be appropriate for the specifications process, a process during which the allowable biological catch and the TAC for each species is determined.

Comment 20: The LLP does not solve the race for fish. The race for fish contributes to safety hazards of fishing; therefore, the LLP does not meet the requirements of national standard 10.

Response: National standard 10 requires conservation and management measures, to the extent practicable, to promote the safety of human life at sea. The U.S. Coast Guard reviewed the LLP and determined that all safety concerns had been adequately addressed. No management program can totally eliminate the inherent risks of fishing. Fishing vessel operators, as they have been throughout history, will be faced with the many inherent risks of earning a living at sea. The LLP will not increase that peril.

Comment 21: Is a person that owns a vessel that was ''grandfathered'' under the provisions of Chapter 121, Title 46, U.S.C., included in the definition of ''qualified person?''

Response: Research of the record, Council transcripts, and the EA/RIR, indicate that the Council intended to include a person that owned a vessel that was ''grandfathered'' under the provisions of Chapter 121, Title 46, U.S.C., in the definition of ''qualified person.'' Such a person would need to demonstrate that his or her vessel was eligible to be documented as a fishing vessel under the ''grandfather'' provision of Chapter 121, Title 46, U.S.C., to be found eligible for a license under the LLP.

Classification

The Administrator, Alaska Region, NMFS, (Regional Administrator) determined that the FMP Amendments 39, 41, and 5 are necessary for the conservation and management of the groundfish fisheries of the EEZ off Alaska and the crab fisheries of the BSAI. The Regional Administrator also determined that these amendments are

consistent with the Magnuson-Stevens Act and other applicable laws.

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

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. NMFS received four comments concerning that certification; however, these comments were directed at the CDQ portion of the proposed rule and are summarized and responded to in the separate final rule action (63 FR 8356, February 19,

1998). These comments did not cause NMFS to change its determination regarding the certification. As a result, a regulatory flexibility analysis was not prepared.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB control number.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by the Office of Management and Budget, OMB control number 0648–0334. The public reporting burden for these requirements is estimated to be two hours for a permit application and one hour for a permit transfer application. These estimates include 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 these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and to the Office of Information and Regulatory Affairs, OMB, Washington, DC 20503, Attention: NOAA Desk Officer.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: September 24, 1998.

Andrew A. Rosenberg,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 679 is amended to read as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.1, paragraph (j) is added to read as follows:

§ 679.1 Purpose and scope.

* * * * *

(j) *License Limitation Program*. (1) Regulations in this part implement the license limitation program for the commercial groundfish fisheries in the EEZ off Alaska and for the commercial crab fisheries in the Bering Sea and Aleutian Islands Area.

(2) Regulations in this part govern the commercial fishing for license limitation groundfish by vessels of the United States using authorized gear within the GOA and the BSAI and the commercial fishing for crab species by vessels of the United States using authorized gear within the Bering Sea and Aleutian Islands Area.

3. In § 679.2, the definitions for ''Legal Landing'', ''Maximum LOA'', ''Processing or to process'', and ''Qualified Person'', are revised; and definitions for ''Area Endorsement'', ''Area/Species Endorsement'', ''Catcher/Processor Vessel Designation'', ''Catcher Vessel Designation'', ''Crab Species'', ''Crab Species License'', paragraph (3) for ''Directed Fishing'', ''Documented Harvest'', ''Eligible Applicant'', ''Groundfish License'', ''License Holder'', ''License Limitation Groundfish'', ''State'', and ''Vessel Length Category'' are added in alphabetical order to read as follows:

§ 679.2 Definitions.

* * * * *

Area endorsement means a designation on a license that authorizes a license holder to deploy a vessel to conduct directed fishing for license limitation groundfish in the designated area, subarea, or district. Area endorsements, which are inclusive of, but not necessarily the same as, management areas, subareas, or districts defined in this part, are as follows:

(1) Aleutian Islands area endorsement. Authorizes the license holder to deploy a vessel to conduct directed fishing for license limitation groundfish in the Aleutian Islands Subarea;

(2) Bering Sea area endorsement. Authorizes the license holder to deploy a vessel to conduct directed fishing for license limitation groundfish in the Bering Sea Subarea;

(3) Central Gulf area endorsement. Authorizes the license holder to deploy a vessel to conduct directed fishing for license limitation groundfish in the Central Area of the Gulf of Alaska and the West Yakutat District;

(4) Southeast Outside area endorsement. Authorizes the license holder to deploy a vessel to conduct directed fishing for license limitation groundfish in the Southeast Outside District; and

(5) Western Gulf area endorsement. Authorizes the license holder to deploy a vessel to conduct directed fishing for license limitation groundfish in the Western Area of the Gulf of Alaska.

Area/species endorsement means a designation on a license that authorizes a license holder to deploy a vessel to conduct directed fishing for the designated crab species in Federal waters in the designated area. Area/species endorsements for crab species licenses are as follows:

(1) Aleutian Islands brown king in waters with an eastern boundary the longitude of Scotch Cap Light (164° 44' W. long.), a western boundary of the U.S.-Russian Convention Line of 1867, and a northern boundary of a line from the latitude of Cape Sarichef (54° 36' N. lat.) westward to 171° W. long., then north to 55° 30' N. lat., then west to the U.S.-Russian Convention line of 1867.

(2) Aleutian Islands red king in waters with an eastern boundary the longitude of Scotch Cap Light (164° 44' W. long.), a western boundary of the U.S.-Russian Convention Line of 1867, and a northern boundary of a line from the latitude of Cape Sarichef (54° 36' N. lat.) westward to 171° W. long., then north to 55° 30' N. lat., and then west to the U.S.-Russian Convention line of 1867.

(3) Bristol Bay red king in waters with a northern boundary of 58° 39' N. lat., a southern boundary of 54° 36' N. lat., and a western boundary of 168° W. long. and including all waters of Bristol Bay.

(4) Bering Sea and Aleutian Islands Area *C. opilio* and *C. bairdi* in Pacific Ocean and Bering Sea waters east of the U.S.-Russian Convention Line of 1867, excluding all Pacific Ocean waters east of a boundary line extending south (180°) from Scotch Cap Light.

(5) Norton Sound red king and Norton Sound blue king in waters with a western boundary of 168° W. long., a southern boundary of 61° 49' N. lat., and a northern boundary of 65° 36' N. lat.

(6) Pribilof red king and Pribilof blue king in waters with a northern boundary of 58° 39' N. lat., an eastern boundary of 168° W. long., a southern boundary line from 54° 36' N. lat., 168° W. long., to 54° 36' N. lat., 171° W. long., to 55° 30' N. lat., 171° W. long., to 55° 30' N.

lat., 173° 30' E. lat., and then westward to the U.S.-Russian Convention line of 1867.

(7) St. Matthew blue king in waters with a northern boundary of 61° 49' N. lat., a southern boundary of 58° 39' N. lat., and a western boundary of the U.S.-Russian Convention line of 1867.

Catcher/processor vessel designation means, for purposes of the license limitation program, a license designation that authorizes the license holder:

(1) Designated on a groundfish license to deploy a vessel to conduct directed fishing for license limitation groundfish and process license limitation groundfish on that vessel or to conduct only directed fishing for license limitation groundfish; or

(2) Designated on a crab species license to deploy a vessel to conduct directed fishing for crab species and process crab species on that vessel or to conduct only directed fishing for crab species.

Catcher vessel designation means, for purposes of the license limitation program, a license designation that authorizes the license holder:

(1) Designated on a groundfish license to deploy a vessel to conduct directed fishing for, but not process, license limitation groundfish on that vessel; or

(2) Designated on a crab species license to deploy a vessel to conduct directed fishing for, but not process, crab species on that vessel.

* * * * *

Crab species means all crab species covered by the Fishery Management Plan for the Commercial King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands, including, but not limited to, red king crab (*Paralithodes camtschatica*), blue king crab (*Paralithodes platypus*), brown or golden king crab (*Lithodes aequispina*), scarlet or deep sea king crab (*Lithodes couesi*), Tanner or bairdi crab (*Chionoecetes bairdi*), opilio or snow crab (*Chionoecetes opilio*), grooved Tanner crab (*Chionoecetes tanneri*), and triangle Tanner crab (*Chionoecetes angulatus*).

Crab species license means a license issued by NMFS that authorizes the license holder designated on the license to deploy a vessel to conduct directed fishing for crab species.

* * * * *

Directed fishing means:

* * * * *

(3) With respect to license limitation groundfish species, directed fishing as defined in paragraph (1) of this definition, or, with respect to license limitation crab species, the catching and retaining of any license limitation crab species.

* * * * *

Documented harvest means a lawful harvest that was recorded in compliance with Federal and state commercial fishing regulations in effect at the time of harvesting.

* * * * *

Eligible applicant means a qualified person who submitted an application during the application period announced by NMFS and:

(1) Who owned a vessel on June 17, 1995, from which the minimum number of documented harvests of license limitation groundfish or crab species were made in the relevant areas during the qualifying periods specified in § 679.4(i)(4) and (i)(5), unless the fishing history of that vessel was transferred in conformance with the provisions in paragraph (2) of this definition; or

(2) To whom the fishing history of a vessel from which the minimum number of documented harvests of license limitation groundfish or crab species were made in the relevant areas during the qualifying periods specified in § 679.4(i)(4) and (i)(5) has been transferred or retained by the express terms of a written contract that clearly and unambiguously provides that the qualifications for a license under the LLP have been transferred or retained; or

(3) Who was an individual who held a State of Alaska permit for the Norton Sound king crab summer fishery in 1993 and 1994, and who made at least one harvest of red or blue king crab in the relevant area during the period specified in § 679.4(i)(5)(ii)(G), or a corporation that owned or leased a vessel on June 17, 1995, that made at least one harvest of red or blue king crab in the relevant area during the period in § 679.4(i)(5)(ii)(G), and that was operated by an individual who was an employee or a temporary contractor; or

(4) Who is an individual that can demonstrate eligibility pursuant to the provisions of the Rehabilitation Act of 1973 at 29 U.S.C. 794(a).

* * * * *

Groundfish license means a license issued by NMFS that authorizes the license holder designated on the license to deploy a vessel to conduct directed fishing for license limitation groundfish.

* * * * *

Legal landing means a landing in compliance with Federal and state commercial fishing regulations in effect at the time of landing.

* * * * *

License holder means the person who is named on a currently valid groundfish license or crab species license.

License limitation groundfish means target species and the ''other species'' category, specified annually pursuant to § 679.20(a)(2), except that demersal shelf rockfish east of 140° W. longitude and sablefish managed under the IFQ program are not considered license limitation groundfish.

* * * * *

Maximum LOA (MLOA) means:

(1) Applicable through December 31, 1998, with respect to a vessel's eligibility for a moratorium permit:

(i) Except for a vessel under reconstruction on June 24, 1992, if the original qualifying LOA is less than 125 ft (38.1 m) LOA, 1.2 times the original qualifying LOA or 125 ft (38.1 m), whichever is less.

(ii) Except for a vessel under reconstruction on June 24, 1992, if the original qualifying LOA is equal to or greater than 125 ft (38.1 m), the original qualifying LOA.

(iii) For an original qualifying vessel under reconstruction on June 24, 1992, the LOA on the date reconstruction was completed, provided that maximum LOA is certified under § 679.4(c)(9).

(2) With respect to the license limitation program, the LOA of the vessel on June 24, 1992, unless the vessel was less than 125 ft (38.1 m) on June 24, 1992, then 1.2 times the LOA of the vessel on June 24, 1992, or 125 ft (38.1 m), whichever is less. However, if the vessel was under reconstruction on June 24, 1992, then the basis for the MLOA will be the LOA of the vessel on the date that reconstruction was completed and not June 24, 1992. The following exceptions apply regardless of how the MLOA was determined.

(i) If the vessel's LOA on June 17, 1995, was less than 60 ft (18.3 m), or if the vessel was under reconstruction on June 17, 1995, and the vessel's LOA on the date that reconstruction was completed was less than 60 ft (18.3 m), then the vessel's MLOA cannot exceed 59 ft (18 m).

(ii) If the vessel's LOA on June 17, 1995, was greater than or equal to 60 ft (18.3 m) but less than 125 ft (38.1 m), or if the vessel was under reconstruction on June 17, 1995, and the vessel's LOA on the date that reconstruction was completed was greater than or equal to 60 ft (18.3 m) but less 125 ft (38.1 m), then the vessel's MLOA cannot exceed 124 ft (37.8 m).

(iii) If the vessel's LOA on June 17, 1995, was 125 ft (38.1 m) or greater, then the vessel's MLOA is the vessel's LOA on June 17, 1995, or if the vessel was under reconstruction on June 17,

1995, and the vessel's LOA on the date that reconstruction was completed was 125 ft (38.1 m) or greater, then the vessel's MLOA is the vessel's LOA on the date reconstruction was completed.

* * * * *

Processing, or *to process*, means the preparation of, or to prepare, fish or crab to render it suitable for human consumption, industrial uses, or long-term storage, including but not limited to cooking, canning, smoking, salting, drying, freezing, or rendering into meal or oil, but does not mean icing, bleeding, heading, or gutting.

* * * * *

Qualified Person means:

(1) With respect to the IFQ program, see IFQ Management Measures at § 679.40(a)(2).

(2) With respect to the license limitation program, a person who was eligible on June 17, 1995, to document a fishing vessel under Chapter 121, Title 46, U.S.C.

* * * * *

State means the State of Alaska.

* * * * *

Vessel length category means the length category of a vessel, based on the assigned MLOA, used to determine eligibility.

* * * * *

4. In § 679.4, paragraphs (a)(6) and (k) are added to read as follows:

§ 679.4 Permits.

(a) * * *

(6) *Harvesting privilege*. Quota shares, permits, or licenses issued pursuant to this part are neither a right to the resource nor any interest that is subject to the ''takings'' provision of the Fifth Amendment to the U.S. Constitution. Rather, such quota shares, permits, or licenses represent only a harvesting privilege that may be revoked or amended subject to the requirements of the Magnuson-Stevens Act and other applicable law.

* * * * *

(i) *Licenses for license limitation groundfish or crab species*—(1) *General requirements*. (i) In addition to the permit and licensing requirements prescribed in this part, and except as provided in paragraph (i)(2) of this section, each vessel within the GOA or the BSAI must have a groundfish license on board at all times it is engaged in fishing activities defined in § 679.2 as directed fishing for license limitation groundfish. This groundfish license, issued by NMFS to a qualified person, authorizes a license holder to deploy a vessel to conduct directed fishing for license limitation groundfish only in the specific area(s) designated on the license and may only be used on a vessel that complies with the vessel designation and MLOA specified on the license.

(ii) In addition to the permit and licensing requirements prescribed in this part, and except as provided in paragraph (i)(2) of this section, each vessel within the Bering Sea and Aleutian Islands Area must have a crab species license on board at all times it is engaged in fishing activities defined in § 679.2 as directed fishing for crab species. This crab species license, issued by NMFS to a qualified person, authorizes a license holder to deploy a vessel to conduct directed fishing for crab species only for the specific species and in the specific area(s) designated on the license, and may be used only on a vessel that complies with the vessel designation and MLOA specified on the license.

(2) *Exempt vessels*. Notwithstanding the requirements of paragraph (i)(1) of this section,

(i) A catcher vessel or catcher/processor vessel that does not exceed 26 ft (7.9 m) LOA may conduct directed fishing for license limitation groundfish in the GOA without a groundfish license;

(ii) A catcher vessel or catcher/processor vessel that does not exceed 32 ft (9.8 m) LOA may conduct directed fishing for license limitation groundfish in the BSAI without a groundfish license and may conduct directed fishing for crab species in the Bering Sea and Aleutian Islands Area without a crab species license;

(iii) A catcher vessel or catcher/processor vessel that does not exceed 60 ft (18.3 m) LOA may use a maximum of 5 jig machines, one line per jig machine, and a maximum of 15 hooks per line, to conduct directed fishing for license limitation groundfish in the BSAI without a groundfish license; or

(iv) A catcher vessel or catcher/processor vessel that does not exceed 125 ft (38.1 m) LOA, and that was, after November 18, 1992, specifically constructed for and used exclusively in accordance with a CDP approved by NMFS under Subpart C of this part, and is designed and equipped to meet specific needs that are described in the CDP may conduct directed fishing for license limitation groundfish in the GOA and in the BSAI area without a groundfish license and for crab species in the Bering Sea and Aleutian Islands Area without a crab species license.

(3) *Vessel designations and vessel length categories*—(i) *General*. A license can be used only on a vessel that complies with the vessel designation specified on the license and that has an LOA less than or equal to the MLOA specified on the license.

(ii) *Vessel designations*—(A) *Catcher/processor vessel*. A license will be assigned a catcher/processor vessel designation if:

(*1*) For license limitation groundfish, license limitation groundfish were processed on the vessel that qualified for the groundfish license under paragraph (i)(4) of this section during the period January 1, 1994, through June 17, 1995, or in the most recent calendar year of participation during the area endorsement qualifying period specified in paragraph (i)(4)(ii) of this section; or

(*2*) For crab species, crab species were processed on the vessel that qualified for the crab species license under paragraph (i)(5) of this section during the period January 1, 1994, through December 31, 1994, or in the most recent calendar year of participation during the area endorsement qualifying period specified in paragraph (i)(5)(ii) of this section.

(*3*) For purposes of paragraphs (i)(3)(ii)(A)(*1*) and (i)(3)(ii)(A)(*2*) of this section, evidence of processing must be demonstrated by Weekly Production Reports or other valid documentation demonstrating that processing occurred on the vessel during the relevant period.

(B) *Catcher vessel*. A license will be assigned a catcher vessel designation if it does not meet the criteria in paragraph (i)(3)(ii)(A)(*1*) or (i)(3)(ii)(A)(*2*) of this section to be assigned a catcher/processor vessel designation.

(C) *Changing a vessel designation*. A person who holds a groundfish license or a crab species license with a catcher/processor vessel designation may, upon request to the Regional Administrator, have the license reissued with a catcher vessel designation. The vessel designation change to a catcher vessel will be permanent, and that license will be valid for only those activities specified in the definition of catcher vessel designation at § 679.2.

(iii) *Vessel length categories*. A vessel's eligibility will be determined using the following three vessel length categories, which are based on the vessel's LOA on June 17, 1995, or, if the vessel was under reconstruction on June 17, 1995, the vessel's length on the date that reconstruction was completed.

(A) Vessel length category ''A'' if the LOA of the qualifying vessel on the relevant date was equal to or greater than 125 ft (38.1 m) LOA.

(B) Vessel length category ''B'' if the LOA of the qualifying vessel on the relevant date was equal to or greater than 60 ft (18.3 m) but less than 125 ft (38.1 m) LOA.

(C) Vessel length category ''C'' if the LOA of the qualifying vessel on the relevant date was less than 60 ft (18.3 m) LOA.

(4) *Qualifications for a groundfish license.* A groundfish license will be issued to an eligible applicant that meets the criteria in paragraphs (i)(4)(i) and (i)(4)(ii) of this section. For purposes of the license limitation program, evidence of a documented harvest must be demonstrated by a state catch report, a Federal catch report, or other valid documentation that indicates the amount of license limitation groundfish harvested, the groundfish reporting area in which the license limitation groundfish was harvested, the vessel and gear type used to harvest the license limitation groundfish, and the date of harvesting, landing, or reporting. State catch reports are Alaska, California, Oregon, or Washington fish tickets. Federal catch reports are Weekly Production Reports required under § 679.5.

(i) *General qualification periods (GQP).* (A) At least one documented harvest of any amount of license limitation groundfish species must have been made from a vessel to qualify for one or more of the area endorsements in paragraphs (i)(4)(ii)(A) and (i)(4)(ii)(B) of this section. This documented harvest must have been of license limitation groundfish species caught and retained in the BSAI or in the State waters shoreward of the BSAI and must have occurred during the following periods:

(*1*) January 1, 1988, through June 27, 1992;

(*2*) January 1, 1988, through December 31, 1994, provided that the harvest was of license limitation groundfish using pot or jig gear from a vessel that was less than 60 ft (18.3 m) LOA; or

(*3*) January 1, 1988, through June 17, 1995, provided that the vessel qualified for a gear endorsement under the Vessel Moratorium based on criteria specified at § 679.4(c)(5)(ii)(B) or § 679.4(c)(5)(iv)(B).

(B) At least one documented harvest of any amount of license limitation groundfish species must have been made from a vessel to qualify for one or more of the area endorsements in paragraphs (i)(4)(ii)(C) through (i)(4)(ii)(E) of this section. This documented harvest must have been of fish caught and retained in the GOA or in the State waters shoreward of the GOA and must have occurred during the following periods:

(*1*) January 1, 1988, through June 27, 1992;

(*2*) January 1, 1988, through December 31, 1994, provided that the harvest was of license limitation groundfish using pot or jig gear from a vessel that was less than 60 ft (18.3 m) LOA; or

(*3*) January 1, 1988, through June 17, 1995, provided that the vessel qualified for a gear endorsement under the Vessel Moratorium based on criteria specified at § 679.4(c)(5)(ii)(B) or § 679.4(c)(5)(iv)(B).

(ii) *Endorsement qualification periods (EQP).* A groundfish license will be assigned one or more area endorsements based on the criteria in paragraphs (i)(4)(ii)(A) through (i)(4)(ii)(E) of this section.

(A) *Aleutian Islands area endorsement.* For a license to be assigned an Aleutian Islands endorsement, at least one documented harvest of any amount of license limitation groundfish must have been made from a vessel in any vessel length category (vessel categories ''A'' through ''C'') between January 1, 1992, and June 17, 1995, and in the Aleutian Islands Subarea or in State waters shoreward of that subarea.

(B) *Bering Sea area endorsement.* For a license to be assigned a Bering Sea area endorsement, at least one documented harvest of any amount of license limitation groundfish must have been made from a vessel in any vessel length category (vessel categories ''A'' through ''C'') between January 1, 1992, and June 17, 1995, and in the Bering Sea Subarea or in State waters shoreward of that subarea.

(C) *Western Gulf area endorsement—* (*1*) *Vessel length category ''A''.* For a license to be assigned a Western Gulf area endorsement based on the participation from a vessel in vessel length category ''A'', at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel from January 1, 1992, through June 17, 1995, in the Western Area of the Gulf of Alaska or in State waters shoreward of that area.

(*2*) *Vessel length category ''B'' and catcher vessel designation.* For a license to be assigned a Western Gulf area endorsement based on the participation from a vessel in vessel length category ''B'' and that would qualify for a catcher vessel designation under this section, at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel from January 1, 1992, through June 17, 1995, in the Western Area of the Gulf of Alaska or in State waters shoreward of that area.

(*3*) *Vessel length category ''B'' and catcher/processor vessel designation.* For a license to be assigned a Western Gulf area endorsement based on the participation from a vessel in vessel length category ''B'' and that would qualify for a catcher/processor vessel designation under this section, at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel in each of any 2 calendar years from January 1, 1992, through June 17, 1995, in the Western Area of the Gulf of Alaska or in State waters shoreward of that area, or at least four documented harvests of any amount of license limitation groundfish harvested from January 1, 1995, through June 17, 1995, in the Western Area of the Gulf of Alaska or in State waters shoreward of that area.

(*4*) *Vessel length category ''C''.* For a license to be assigned a Western Gulf area endorsement based on the participation from a vessel in vessel length category ''C'', at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel from January 1, 1992, through June 17, 1995. This documented harvest must have recorded a harvest occurring in the Western Area of the Gulf of Alaska or in State waters shoreward of that area for a Western Gulf area endorsement.

(D) *Central Gulf area endorsement—* (*1*) *Vessel length category ''A''.* For a license to be assigned a Central Gulf area endorsement based on the participation of a vessel in vessel length category ''A'', at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel in each of any 2 calendar years from January 1, 1992, through June 17, 1995. These documented harvests must have recorded harvests occurring in the Central Area of the Gulf of Alaska or in State waters shoreward of that area, or in the West Yakutat District or in state waters shoreward of that district.

(*2*) *Vessel length category ''B''.* For a license to be assigned a Central Gulf area endorsement based on the participation from a vessel in vessel length category ''B'', at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel in each of any 2 calendar years from January 1, 1992, through June 17, 1995, or at least four documented harvests from January 1, 1995, through June 17, 1995. These documented harvests must have recorded harvests occurring in the Central Area of the Gulf of Alaska or in State waters shoreward of that area, or in the West Yakutat District or in state waters shoreward of that district.

(*3*) *Vessel length category ''C''.* For a license to be assigned a Central Gulf area endorsement based on the participation from a vessel in vessel

length category ''C'', at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel from January 1, 1992, through June 17, 1995. This documented harvest must have recorded a harvest occurring in the Central Area of the Gulf of Alaska or in State waters shoreward of that area, or in the West Yakutat District or in state waters shoreward of that district.

(E) *Southeast Outside area endorsement*—(*1*) *Vessel length category ''A''*. For a license to be assigned a Southeast Outside area endorsement based on the participation from a vessel in vessel length category ''A'', at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel in each of any 2 calendar years from January 1, 1992, through June 17, 1995. These documented harvests must have recorded harvests occurring in the Southeast Outside District or in State waters shoreward of that district.

(*2*) *Vessel length category ''B''*. For a license to be assigned a Southeast Outside area endorsement based on the participation from a vessel in vessel length category ''B'', at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel in each of any 2 calendar years from January 1, 1992, through June 17, 1995, or at least four documented harvests from January 1, 1995, through June 17, 1995. These documented harvests must have recorded harvests occurring in the Southeast Outside District or in State waters shoreward of that district.

(*3*) *Vessel length category ''C''*. For a license to be assigned a Southeast outside area endorsement based on the participation from a vessel in vessel length category ''C'', at least one documented harvest of any amount of license limitation groundfish must have been made from that vessel from January 1, 1992, through June 17, 1995. This documented harvest must have recorded a harvest occurring in the Southeast Outside District or in State waters shoreward of that district.

(iii) An eligible applicant that is issued a groundfish license based on a vessel's qualifications under paragraph (i)(4)(i)(A)(*2*) or (i)(4)(i)(B)(*2*) of this section must choose only one area endorsement for that groundfish license even if the vessel qualifies for more than one area endorsement.

(iv) Notwithstanding the provisions in paragraph (i)(4) of this section, a license with the appropriate area endorsements will be issued to an eligible applicant whose vessel meets the requirements of paragraph (i)(4)(i)(A), and the requirements of paragraph (i)(4)(ii)(C), (i)(4)(ii)(D), or (i)(4)(ii)(E) of this section, but

(A) From whose vessel no documented harvests were made in the GOA or state waters shoreward of the GOA between January 1, 1988, and June 27, 1992, and

(B) From whose vessel no documented harvests were made in the BSAI or state waters shoreward of the BSAI between January 1, 1992, and June 17, 1995.

(v) Notwithstanding the provisions of paragraph(i)(4) of this section, a license with the appropriate area endorsements will be issued to an eligible applicant whose vessel meets the requirements of paragraph (i)(4)(i)(B) of this section, and the requirements of paragraph (i)(4)(ii)(A) or (i)(4)(ii)(B) of this section, but

(A) From whose vessel no documented harvests were made in the BSAI or state waters shoreward of the BSAI between January 1, 1988, and June 27, 1992, and

(B) From whose vessel no documented harvests were made in the GOA or state waters shoreward of the GOA between January 1, 1992, and June 17, 1995.

(5) *Qualifications for a crab species license*. A crab species license will be issued to an eligible applicant who owned a vessel that meets the criteria in paragraphs (i)(5)(i) and (i)(5)(ii) of this section, except that vessels are exempt from the requirements in paragraph (i)(5)(i) of this section for the area/species endorsements in paragraph (i)(5)(ii)(A) and (i)(5)(ii)(G) of this section.

(i) *General qualification period (GQP)*. To qualify for one or more of the area/species endorsements in paragraph (i)(5)(ii) of this section:

(A) At least one documented harvest of any amount of crab species must have been made from a vessel between January 1, 1988, and June 27, 1992; or

(B) At least one documented harvest of any amount of crab species must have been made from a vessel between January 1, 1988, and December 31, 1994, providing that the vessel from which the documented harvest was made qualified for a gear endorsement under the Vessel Moratorium based on criteria specified at § 679.4(c)(5)(i)(B).

(ii) *Area/Species Endorsements*. A crab species license will be assigned one or more area/species endorsements specified at § 679.2 based on the criteria in paragraphs (i)(5)(ii)(A) through (G) of this section.

(A) *Pribilof red king and Pribilof blue king*. At least one documented harvest of any amount of red king or blue king crab harvested in the area described in the definition for the Pribilof red king and Pribilof blue king area/species endorsement in § 679.2 must have been made from a vessel between January 1, 1993, and December 31, 1994, to qualify for a Pribilof red king and Pribilof blue king area/species endorsement.

(B) *Bering Sea and Aleutian Islands Area C. opilio and C. bairdi*. At least three documented harvests of any amount of *C. opilio* or *C. bairdi* crab harvested in the area described in the definition for the Bering Sea and Aleutian Islands Area *C. opilio* or *C. bairdi* area/species endorsement in § 679.2 must have been made from a vessel between January 1, 1992, and December 31, 1994, to qualify for a *C. opilio* and *C. bairdi* area/species endorsement.

(C) *St. Matthew blue king*. At least one documented harvest of any amount of blue king crab harvested in the area described in the definition for the St. Matthews blue king area/species endorsement in § 679.2 must have been made from a vessel between January 1, 1992, and December 31, 1994, to qualify for a St. Matthew blue king area/species endorsement.

(D) *Aleutian Islands brown king*. At least three documented harvests of any amount of brown king crab harvested in the area described in the definition for the Aleutian Islands brown king area/species endorsement in § 679.2 must have been made from a vessel between January 1, 1992, and December 31, 1994, to qualify for a Aleutian Islands brown king area/species endorsement.

(E) *Aleutian Islands red king*. At least one documented harvest of any amount of red king crab harvested in the area described in the definition for the Aleutian Islands red king area/species endorsement in § 679.2 must have been made from a vessel between January 1, 1992, and December 31, 1994, to qualify for a Aleutian Islands red king area/species endorsement.

(F) *Bristol Bay red king*. At least one documented harvest of any amount of red king crab harvested in the area described in the definition for the Bristol Bay red king area/species endorsement in § 679.2 must have been made from a vessel between January 1, 1991, and December 31, 1994, to qualify for a Bristol Bay red king area/species endorsement.

(G) *Norton Sound red king and Norton Sound blue king*. At least one documented harvest of any amount of red king or blue king crab harvested in the area described in the definition for the Norton Sound red king and Norton Sound blue king area/species endorsement in § 679.2 must have been

made from a vessel between January 1, 1993, and December 31, 1994, to qualify for a Norton Sound red king and Norton Sound blue king area/species endorsement.

(6) *Application for a groundfish license or a crab species license.* [Reserved].

(7) *Transfers.* [Reserved].

(8) *Other provisions.* (i) Any person committing, or a fishing vessel used in the commission of, a violation of the Magnuson-Stevens Fishery Conservation and Management Act or any regulations issued pursuant thereto, is subject to the civil and criminal penalty provisions and the civil forfeiture provisions of the Magnuson-Stevens Fishery Conservation and Management Act, part 621 of this chapter, 15 CFR part 904 (Civil Procedure), and other applicable law. Penalties include, but are not limited to, permanent or temporary sanctions to licenses.

(ii) Notwithstanding the provisions of the license limitation program in this part, vessels fishing for species other than license limitation groundfish as defined in § 679.2 that were authorized under Federal regulations to incidentally catch license limitation groundfish without a Federal fisheries permit described at § 679.4(b) will continue to be authorized to catch the maximum retainable bycatch amounts of license limitation groundfish as provided in this part without a groundfish license.

(iii) An eligible applicant, who qualifies for a groundfish license or crab species license but whose vessel on which the eligible applicant's qualification was based was lost or destroyed, will be issued a license. This license:

(A) Will have the vessel designation of the lost or destroyed vessel.

(B) Cannot be used to conduct directed fishing for license limitation groundfish or to conduct directed fishing for crab species on a vessel that has an LOA greater than the MLOA designated on the license.

(iv) A qualified person who owned a vessel on June 17, 1995, that made a documented harvest of license limitation groundfish, or crab species if applicable, between January 1, 1988, and February 9, 1992, but whose vessel was unable to meet all the criteria in paragraph (i)(4) of this section for a groundfish license or paragraph (i)(5) of this section for a crab species license because of an unavoidable circumstance (i.e., the vessel was lost, damaged, or otherwise unable to participate in the license limitation groundfish or crab fisheries) may receive a license if the qualified person is able to demonstrate that:

(A) The owner of the vessel at the time of the unavoidable circumstance held a specific intent to conduct directed fishing for license limitation groundfish or crab species with that vessel during a specific time period in a specific area.

(B) The specific intent to conduct directed fishing for license limitation groundfish or crab species with that vessel was thwarted by a circumstance that was:

(*1*) Unavoidable.

(*2*) Unique to the owner of that vessel, or unique to that vessel.

(*3*) Unforeseen and reasonably unforeseeable to the owner of the vessel.

(C) The circumstance that prevented the owner from conducting directed fishing for license limitation groundfish or crab species actually occurred.

(D) Under the circumstances, the owner of the vessel took all reasonable steps to overcome the circumstance that prevented the owner from conducting directed fishing for license limitation groundfish or crab species.

(E) Any amount of license limitation groundfish or appropriate crab species was harvested on the vessel in the specific area that corresponds to the area endorsement or area/species endorsement for which the qualified person who owned a vessel on June 17, 1995, is applying and that the license limitation groundfish or crab species was harvested after the vessel was prevented from participating by the unavoidable circumstance but before June 17, 1995.

(v) A groundfish license or a crab species license may be used on a vessel that complies with the vessel designation on the license and that does not exceed the MLOA on the license.

5. In § 679.7, paragraph (i) is added to read as follows:

§ 679.7 Prohibitions.

* * * * *

(j) *License Limitation Program*—(1) *Number of licenses.* (i) Hold more than 10 groundfish licenses in the name of that person at any time, except as provided in paragraph (j)(1)(iii) of this section;

(ii) Hold more than five crab species licenses in the name of that person at any time, except as provided in paragraph (j)(1)(iii) of this section; or

(iii) Hold more licenses than allowed in paragraphs (j)(1)(i) and (j)(1)(ii) of this section unless those licenses were issued to that person in the initial distribution of licenses. Any person who receives in the initial distribution more licenses than allowed in paragraphs (j)(1)(i) and (j)(1)(ii) of this section shall have no transfer applications for receipt of additional licenses approved until the number of licenses in the name of that person is less than the numbers specified in paragraphs (j)(1)(i) and (j)(1)(ii) of this section; furthermore, when a person becomes eligible to receive licenses by transfer through the provisions of this paragraph, that person is subject to the provisions in paragraphs (j)(1)(i) and (j)(1)(ii) of this section;

(2) Conduct directed fishing for license limitation groundfish without an original valid groundfish license, except as provided in § 679.4(i)(2);

(3) Conduct directed fishing for crab species without an original valid crab species license, except as provided in § 679.4(i)(2);

(4) Process license limitation groundfish on board a vessel without an original valid groundfish license with a Catcher/processor designation;

(5) Process crab species on board a vessel without an original valid crab species license with a Catcher/processor designation;

(6) Use a license on a vessel that has an LOA that exceeds the MLOA specified on the license;

(7) Lease a groundfish or crab species license.

6. In § 679.43, a new paragraph (p) is added to read as follows:

§ 679.43 Determinations and appeals.

* * * * *

(p) *Issuance of a non-transferable license.* A non-transferable license will be issued to a person upon acceptance of his or her appeal of an initial administrative determination denying an application for a license for license limitation groundfish or crab species under § 679.4(i). This non-transferable license authorizes a person to conduct directed fishing for groundfish or directed fishing for crab species and will have specific endorsements and designations based on the person's claims in his or her application for a license. This non-transferable license expires upon the resolution of the appeal.

[FR Doc. 98–26186 Filed 9–30–98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297–8054–02; I.D. 092598A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 in the Gulf of Alaska

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

ACTION: Modification of a closure, inseason adjustment, and request for comments.

SUMMARY: NMFS is opening directed fishing for pollock in Statistical Area 630 in the Gulf of Alaska (GOA). This action is necessary to fully utilize the total allowable catch (TAC) of pollock in that area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t), September 26, 1998, until 2400 hrs, A.l.t, September 26, 1998. Comments must be received at the following address no later than October 13, 1998.

ADDRESSES: Comments may be sent to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, 709 West 9th Room 543, Juneau, AK 99801 or P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel.

FOR FURTHER INFORMATION CONTACT: Nick Hindman, 907–581–2062.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(a)(5)(ii)(A), the allowance for the pollock TAC apportioned to Statistical Area 630 in the GOA was established by the Final 1998 Harvest Specifications for Groundfish (63 FR 12027, March 12, 1998) as 39,315 metric tons (mt). The Administrator, Alaska Region, NMFS (Regional Administrator), has established a directed fishing allowance of 38,815 mt, and set aside 500 mt as bycatch to support other anticipated groundfish fisheries. The fishery for pollock in Statistical Area 630 was closed to directed fishing under § 679.20(d)(1)(iii) on September 16, 1998 (63 FR 50170, September 21, 1998), in order to reserve amounts anticipated to be needed for incidental catch in other fisheries.

NMFS has determined that as of September 24, 1998, 1,824 mt remain in the directed fishing allowance. Therefore, NMFS is terminating the previous closure and is opening directed fishing for pollock in Statistical Area 630 of the GOA effective 1200 hrs, A.l.t, September 26, 1998.

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Section 679.23(b) specifies that the time of all openings and closures of fishing seasons other than the beginning and end of the calendar year is 1200 hrs, A.l.t. The Regional Administrator has determined that the remaining portion of the pollock TAC in Statistical Area 630 would be underharvested if the fishery remained closed, but would likely be overharvested if a 24–hour fishery were allowed to occur. Therefore NMFS is adjusting the duration of the fishery to 12 hours.

In accordance with § 679.25(a)(1)(i), NMFS is adjusting the season for pollock in Statistical Area 630 of the GOA. NMFS is prohibiting directed fishing for pollock in Statistical Area 630 at 2400 hrs, A.l.t, September 26, 1998.

NMFS is taking this action to prevent the underharvest of the pollock TAC in Statistical Area 630 as authorized by § 679.25(a)(2)(i)(C). In accordance with § 679.25(a)(2)(iii), NMFS has determined that closing the season at 2400 hrs, A.l.t, September 26, 1998, is the least restrictive management adjustment to harvest the pollock TAC in Statistical Area 630 and will allow other fisheries to continue in noncritical areas and time periods.

Classification

The Assistant Administrator for Fisheries, NOAA, finds for good cause that providing prior notice and public comment or delaying the effective date of this action is impractical and contrary to the public interest. Without this inseason adjustment, the pollock TAC in Statistical Area 630 would be underharvested, resulting in an economic loss to the groundfish industry. Under § 679.25 (c)(2), interested persons are invited to submit written comments on this action to the above address until October 13, 1998.

All other closures remain in full force and effect.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: September 25, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–26224 Filed 9–25–98; 4:30 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208298–8055–02; I.D. 092898E]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Trawl Vessels Using Nonpelagic Trawl Gear in Bycatch Limitation Zone 1 of the Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for pollock by trawl vessels using nonpelagic trawl gear in Bycatch Limitation Zone 1 (Zone 1) of the Bering Sea and Aleutian Islands management area (BSAI) except for the red king crab savings subarea. This action is necessary to prevent exceeding the 1998 bycatch allowance of red king crab apportioned to the trawl pollock/Atka mackerel/ ''other species'' fishery category in Zone 1.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 28, 1998, until 2400 hrs, A.l.t., December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The bycatch allowance of red king crab for the BSAI trawl pollock/Atka mackerel/''other species'' fishery category, which is defined at

§ 679.21(e)(4)(iv)(F), was established as 6,938 animals by the Final 1998 Harvest Specifications of Groundfish for the BSAI (63 FR 12689, March 16, 1998).

The red king crab savings subarea as described at § 679.21 (e)(3)(ii)(B), is located within Zone 1 and is apportioned a separate allocation of red king crab bycatch. That subarea is not affected by this action.

In accordance with § 679.21(e)(7), the Administrator, Alaska Region, NMFS, has determined that the 1998 bycatch allowance of red king crab apportioned to the trawl pollock/Atka mackerel/''other species'' fishery in Zone 1 has been caught. Consequently, NMFS is closing directed fishing for pollock by trawl vessels using nonpelagic trawl gear in Zone 1 except for the red king crab savings subarea.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent exceeding the 1998 bycatch allowance of red king crab specified for the trawl pollock/Atka mackerel/''other species'' fishery category in Zone 1. Providing prior notice and an opportunity for public comment on this action is impracticable and contrary to the public interest. The fleet will soon take the bycatch allowance. Further delay would only result in the bycatch allowance of red king crab being exceeded and disrupt the FMP's objective of limiting the bycatch of trawl red king crab. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under E.O. 12866.

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

Dated: September 28, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–26289 Filed 9–28–98; 2:03 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208298–8055–02; I.D. 092898A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Trawl Vessels Using Nonpelagic Trawl Gear in Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for pollock by trawl vessels using nonpelagic trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 1998 Pacific halibut bycatch allowance specified for the trawl pollock/Atka mackerel/''other species'' fishery category.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 28, 1998, until 2400 hrs, A.l.t., December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.21(e)(3)(iv)(F), the Final 1998 Harvest Specifications of Groundfish for the BSAI (63 FR 12689, March 16, 1998) established the 1998 Pacific halibut bycatch allowance specified for the BSAI pollock/Atka mackerel/''other species'' fishery category as 324 metric tons.

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS, has determined that the 1998 Pacific halibut bycatch allowance specified for the trawl pollock/Atka mackerel/''other species'' fishery in the BSAI has been caught. Consequently, NMFS is closing directed fishing for pollock by trawl vessels using nonpelagic trawl gear in the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent exceeding the 1998 Pacific halibut bycatch allowance specified for the trawl pollock/Atka mackerel/''other species'' fishery category in the BSAI. A delay in the effective date is impracticable and contrary to the public interest. The fleet will soon take the Pacific halibut bycatch allowance specified for the trawl pollock/Atka mackerel/''other species'' fishery category in the BSAI. Further delay would only result in exceeding the Pacific halibut bycatch allowance. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under E.O. 12866.

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

Dated: September 28, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–26288 Filed 9–28–98; 2:03 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 190
Thursday, October 1, 1998

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

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–251698–96]

RIN 1545–AU77

S Corporation Subsidiaries; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the treatment of corporate subsidiaries of S corporations. In addition, this document announces that persons wishing to testify in the Los Angeles area will be able to make their presentations at an Internal Revenue Service remote videoconference site.

DATES: The public hearing will be held October 14, 1998, beginning at 1 p.m. (EDT). Requests to speak and outlines of oral comments must be received by October 7, 1998.

ADDRESSES: The public hearing will be held in room 3411, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The videoconference site for persons testifying in Los Angeles is room 5003 of the Federal Building at 300 N. Los Angeles Street, Los Angeles, CA.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations issued under sections 1361, 1362, 1368, and 1374 of the Internal Revenue Code. These proposed regulations (REG–251698–96) appeared in the **Federal Register** (63 FR 19864) and the Internal Revenue Bulletin (1998–20 IRB 14 (see § 601.601 (d)(2)(ii)(*b*))), Wednesday, April 22, 1998.

The hearing was originally scheduled for September 9, 1998, but was postponed (63 FR 47455, September 8, 1998). The original hearing was also scheduled to be broadcast to a videoconference site in St. Louis. However, because of scheduling conflicts and the withdrawal of the St. Louis speaker, there will not be a videoconference site available for the hearing in St. Louis.

The rules of § 601.601(a)(3) of the ''Statement of Procedural Rules'' (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the oral comments/testimony to be presented at the hearing as well as the time they wish to devote to each subject. Submissions must be made no later than October 7, 1998.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the government panel and answers to those questions.

Because of controlled access restrictions, attendants cannot be admitted beyond the lobby of the Internal Revenue Building until 12:30 p.m. Hearing times at the Los Angeles videoconference site will be concurrent with the hearing in Washington, DC. (i.e., 10 a.m. PDT).

Due to limited seating capacity at the Los Angeles site, no more than 12 people may be accommodated at any one time in the videoconference room. Seating in the videoconference room will be made available based on the order of presentations. IRS personnel will be available at the Los Angeles videoconference site to assist speakers in using the videoconference equipment.

The Service will prepare and provide, free of charge at the hearing, an agenda showing the scheduling of speakers. Testimony will begin with the speakers at the Los Angeles videoconference site and conclude with presentations by the speakers in Washington, DC.

Cynthia Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 98–26221 Filed 9–25–98; 3:33 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–122488–97]

RIN 1545–AV87

Substantiation of Business Expenses—Use of Mileage Rates To Substantiate Automobile Expenses

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the use of mileage rates to substantiate automobile business expenses. The regulations affect taxpayers who deduct expenses, and payors who make payments and employees who receive payments under reimbursement or other expense allowance arrangements, for the business use of an automobile.

DATES: Written or electronically generated comments and requests for a public hearing must be received by December 30, 1998.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, contact Edwin B. Cleverdon or Donna M. Crisalli, (202) 622–4920 (not a toll-free number).

ADDRESSES: Send submissions to CC:DOM:CORP:R (REG–122488–97), room 5228, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to CC:DOM:CORP:R (REG–122488–97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Additionally, taxpayers may submit comments electronically via INTERNET by selecting the ''Tax Regs'' option on the IRS INTERNET site at: http://www.irs.ustreas.gov/prod/tax_regs/comments.html.

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Section 274(d) provides that a taxpayer is not allowed a deduction or credit for certain expenses unless the expense is substantiated. These substantiation requirements apply to the expenses of use of any listed property

(defined in section 280F(d)(4)), which includes any passenger automobile and any other property used as a means of transportation. The Secretary may issue regulations that provide that some or all of the substantiation requirements will not apply to expenses that do not exceed a prescribed amount.

Section 1.274–5T(b)(6) sets forth the elements of an expenditure or use, i.e., the amount, time, and business purpose, that are required to be substantiated with respect to listed property. Section 1.274(d)–1 provides, in part, that the Commissioner may prescribe rules under which mileage allowances reimbursing ordinary and necessary expenses of local travel and transportation while traveling away from home will satisfy the substantiation requirements of § 1.274–5T(c), and the requirements of an adequate accounting to the employer for purposes of § 1.274–5T(f)(4). However, § 1.274(d)–1(a)(3) provides that such mileage allowances are available only to the owner of a vehicle.

Proposed § 1.274–5(g) applies these substantiation rules to mileage allowances for business use of an automobile without the limitation in § 1.274(d)–1(a)(3) that a mileage allowance is available only to the owner of a vehicle. Proposed § 1.274–5(j)(1) continues to authorize the Commissioner to establish a method for computing meal expenses while traveling away from home (see current § 1.274–5T(j)), while § 1.274–5(j)(2) authorizes the Commissioner to establish a method under which a taxpayer may use mileage rates to determine the amount of the ordinary and necessary business expenses of using an automobile for local transportation and transportation to, from, and at the destination while traveling away from home in lieu of substantiating the actual costs. The mileage rate method may include appropriate limitations and conditions in order to reflect more accurately automobile expenses over the entire period of usage. The taxpayer would not, however, be relieved of substantiating the amount of each business use (i.e., the business mileage) and the time and business purpose of each use. See Rev. Proc. 97–59 (1997–52 I.R.B. 24), for rules for using the mileage rate method. This proposed § 1.274–5(g), (j), and (m) supplement § 1.274–5(c) and (f) as proposed on March 25, 1997, in the **Federal Register** (62 FR 14051). Conforming changes to § 1.62–2 are also proposed.

Special Analyses

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

Comments and Requests for a Public Hearing

Before adopting these proposed regulations as final regulations, consideration will be given to any comments that are submitted timely (and in the manner described in the **ADDRESSES** portion of this preamble) to the IRS. All comments will be available for public inspection and copying. A public hearing will be scheduled and held upon request by any person who submits comments on the proposed rules. Notice of the time and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal authors of these proposed regulations are Edwin B. Cleverdon and Donna M. Crisalli, Office of the Assistant Chief Counsel (Income Tax and Accounting). However, personnel from other offices of the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

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

PART 1—INCOME TAXES

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

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

Par. 2. In § 1.62–2, paragraph (e)(2) is revised to read as follows:

§ 1.62–2 Reimbursement and other expense allowance arrangements.

* * * * *

(e) * * *

(2) *Expenses governed by section 274(d).* An arrangement that reimburses travel, entertainment, use of a passenger automobile or other listed property, or other business expenses governed by section 274(d) meets the requirements of this paragraph (e)(2) if information sufficient to satisfy the substantiation requirements of section 274(d) and the regulations thereunder is submitted to the payor. See § 1.274–5T. Under section 274(d), information sufficient to substantiate the requisite elements of each expenditure or use must be submitted to the payor. For example, with respect to travel away from home, § 1.274–5T(b)(2) requires that information sufficient to substantiate the amount, time, place, and business purpose of the expense must be submitted to the payor. Similarly, with respect to use of a passenger automobile or other listed property, § 1.274–5T(b)(6) requires that information sufficient to substantiate the amount, time, use, and business purpose of the expense must be submitted to the payor. See § 1.274–5(g), however, which grants the Commissioner authority to prescribe rules permitting the amount of certain expenses to be deemed substantiated to the payor (in lieu of substantiating the actual amount of such expenses) by means of per diem or mileage rates for travel away from home or transportation expenses. See also § 1.274–5(j)(1), which grants the Commissioner the authority to establish a method under which a taxpayer may use a specified amount for meals while traveling away from home in lieu of substantiating the actual cost of meals, and § 1.274–5(j)(2), which grants the Commissioner the authority to establish a method under which a taxpayer may use mileage rates to determine the amount of the ordinary and necessary expenses of using an automobile for local transportation and transportation to, from, and at the destination while traveling away from home in lieu of substantiating the actual costs. Substantiation of the amount of a business expense in accordance with rules prescribed pursuant to the authority granted by § 1.274–5(g) or (j) will be treated as substantiation of the amount of such expense for purposes of this section.

* * * * *

§ 1.62–2T [Removed]

Par. 3. Section 1.62–2T is removed.

Par. 4. Section 1.274–5 is added to read as follows:

§ 1.274–5 Substantiation requirements.

(a) through (f) [Reserved]. For further guidance, see § 1.274–5T(a) through (f).

(g) *Substantiation by reimbursement arrangements or per diem, mileage, and other traveling allowances*—(1) *In general.* The Commissioner may, in his or her discretion, prescribe rules in pronouncements of general applicability under which allowances for expenses described in paragraph (g)(2) of this section will, if in accordance with reasonable business practice, be regarded as equivalent to substantiation by adequate records or other sufficient evidence for purposes of § 1.274–5T(c) of the amount of such expenses and as satisfying, with respect to the amount of such expenses, the requirements of an adequate accounting to the employer for purposes of § 1.274–5T(f)(4). If the total allowance received exceeds the deductible expenses paid or incurred by the employee, such excess must be reported as income on the employee's return. See paragraph (j)(1) of this section relating to the substantiation of meal expenses while traveling away from home, and paragraph (j)(2) of this section relating to the substantiation of expenses for the business use of an automobile.

(2) *Allowances for expenses described.* An allowance for expenses is described in this paragraph (g)(2) if it is a—

(i) Reimbursement arrangement covering ordinary and necessary expenses of traveling away from home (exclusive of transportation expenses to and from destination);

(ii) Per diem allowance providing for ordinary and necessary expenses of traveling away from home (exclusive of transportation costs to and from destination); or

(iii) Mileage allowance providing for ordinary and necessary expenses of local transportation and transportation to, from, and at the destination while traveling away from home.

(3) *Limitation.* For expenses paid or incurred on or before December 31, 1997, a mileage allowance described in paragraph (g)(2)(iii) of this section is available only to the owner of a vehicle.

(h) and (i) [Reserved]. For further guidance, see § 1.274–5T(h) and (i).

(j) *Authority for optional methods of computing certain expenses*—(1) *Meal expenses while traveling away from home.* The Commissioner may establish a method under which a taxpayer may use a specified amount or amounts for meals while traveling away from home in lieu of substantiating the actual cost of meals. The taxpayer would not be relieved of the requirement to substantiate the actual cost of other travel expenses as well as the time, place, and business purpose of the travel. See § 1.274–5T(b)(2) and (c).

(2) *Use of mileage rates for automobile expenses.* The Commissioner may establish a method under which a taxpayer may use mileage rates to determine the amount of the ordinary and necessary expenses of using an automobile for local transportation and transportation to, from, and at the destination while traveling away from home in lieu of substantiating the actual costs. Such method may include appropriate limitations and conditions in order to reflect more accurately automobile expenses over the entire period of usage. The taxpayer would not be relieved of the requirement to substantiate the amount of each business use (i.e., the business mileage), or the time and business purpose of each use. See § 1.274–5T(b)(2) and (c).

(k) and (l) [Reserved]. For further guidance, see § 1.274–5T(k) and (l).

(m) *Effective date.* Paragraphs (g) and (j) of this section apply to expenses paid or incurred after December 31, 1997.

§ 1.274–5T [Amended]

Par. 5. Paragraphs (g) and (j) of § 1.274–5T are removed and reserved.

§ 1.274(d)–1 [Amended]

Par. 6. Section 1.274(d)–1 is amended by removing paragraph (a)(3).

§ 1.274(d)–1T [Removed]

Par. 7. Section 1.274(d)–1T is removed.

Michael P. Dolan,

Deputy Commissioner of Internal Revenue.

[FR Doc. 98–26227 Filed 9–30–98; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

[OPPTS–62156B; FRL–6037–7]

RIN 2070–Ac63

Identification of Dangerous Levels of Lead; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: EPA is extending the comment period for a proposed rule establishing standards for lead-based paint hazards in most pre-1978 housing and child-occupied facilities under authority of section 403 of the Toxic Substance Control Act (TSCA). The proposed rule also establishes, under authority of TSCA section 402, residential lead dust cleanup levels and amendments to dust and soil sampling requirements and, under authority of TSCA section 404, amendments to State program authorization requirements.

DATES: Written comments in response to this proposed rule must be received on or before November 30, 1998.

ADDRESSES: Each comment must bear the docket control number OPPTS-62156B. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G–099, East Tower, Washington, DC 20460.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov. Follow the instructions in Unit II. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three copies, sanitized of any comments containing information claimed as CBI, must also be submitted and will be placed in the public record for this rulemaking. Persons submitting information, any portion of which they believe is entitled to treatment as CBI by EPA, must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: National Lead Information Center's Clearinghouse, 1–800–424–LEAD (5323). *For technical and policy questions contact*: Jonathan Jacobson, (202) 260–3779; jacobson.jonathan@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 3, 1998 (63 FR 30302) (FRL–5791–9), EPA issued a proposed rule under Title IV of TSCA. Section 403 of TSCA (15 U.S.C. 2683) directs EPA to promulgate regulations identifying lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil. Section 402 of TSCA (15 U.S.C. 2682) directs EPA to promulgate regulations governing lead-based paint activities. Section 404 of TSCA (15 U.S.C. 2684) requires that any

State that seeks to administer and enforce the requirements established by the Agency under section 402 of TSCA must submit to the Administrator a request for authorization of such a program. The proposed rule originally provided a 90–day public comment period. In response to requests by interested parties to extend the public comment period by 90 days, EPA announced on July 22, 1998 (63 FR 39262) (FRL–6017–4) that it was extending the public comment period by 30 days, until October 1, 1998. The Agency did not grant the request for the full 90 days because, at the time, it felt that a 120–day comment period was adequate. EPA, however, continues to receive requests to extend the comment period. Given the complexity of the proposed rule and the number of requests that the Agency has and continues to receive, EPA now believes that an extension of the public comment period is warranted. The Agency, therefore, is extending the public comment period by 60 days, until November 30, 1998.

II. Public Record and Electronic Submissions

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number OPPTS–62156B (including comments and data submitted electronically as described in this unit). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPPTS–62156B. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

List of Subjects in 40 CFR Part 745

Environmental protection, Hazardous substances, Lead-based paint, Lead poisoning, Reporting and recordkeeping requirements.

Dated: September 29, 1998.

William H. Sanders, III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 98–26476 Filed 9–29–98; 2:28 pm]

BILLING CODE 6560–50–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 416 and 488

[HCFA–1885–2N]

RIN 0938–AH81

Medicare Program; Update of Ratesetting Methodology, Payment Rates, Payment Policies, and the List of Covered Procedures for Ambulatory Surgical Centers Effective October 1, 1998; Reopening of Comment Period and Delay in Adoption of the Proposed Rule as Final

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of reopening of comment period for proposed rule and delay in adoption of provisions of the proposed rule as final.

SUMMARY: This notice reopens the comment period for a proposed rule affecting Medicare payments to ambulatory surgical centers (ASCs) that was originally published in the **Federal Register** on June 12, 1998 (63 FR 32290). This document gives notice of a delay in the adoption of the provisions of the June 12, 1998 ASC proposed rule as a final rule to be concurrent with the adoption as final of the hospital outpatient prospective payment system (PPS) that is the subject of a proposed rule published in the **Federal Register** on September 8, 1998 (63 FR 47551). In addition this document confirms that the current ASC payment rates that are effective for services furnished on or after October 1, 1998, will remain in effect until rebased ASC rates and the provisions of the June 12, 1998 ASC proposed rule are adopted as final to be concurrent with the adoption as final of the Medicare hospital PPS.

DATES: The comment period is reopened to 5 p.m. on November 9, 1998.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1885–P, P.O. Box 26688, Baltimore, MD 21207–5178.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses: Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, or Room C5–09–26, Central Building, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1885–P. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

For comments that relate to information collection requirements, mail a copy of comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Joan H. Sanow (410) 786–5723.

SUPPLEMENTARY INFORMATION: On June 12, 1998, we issued a proposed rule in the **Federal Register** (63 FR 32290) that would—

- Update the criteria for determining which surgical procedures can be appropriately and safely performed in an ambulatory surgical center (ASC);
- Make additions to and deletions from the current list of Medicare covered ASC procedures based on the revised criteria;
- Rebase the ASC payment rates applying cost, charge, and utilization data collected by a 1994 survey of ASCs to a clinically coherent ambulatory payment classification (APC) system of grouping procedures;
- Refine the ratesetting methodology that was implemented by a final notice published on February 8, 1990 in the **Federal Register**;
- Require that ASC payment, coverage, and wage index updates be implemented annually on January 1, rather than having these updates occur randomly throughout the year;
- Reduce regulatory burden; and
- Make several technical policy changes.

The proposed rule would also implement requirements of section

1833(i)(1) and (2) of the Social Security Act (the Act). We indicated that comments would be considered if we received them by August 11, 1998.

Representatives of numerous industry and professional associations and organizations requested additional time to analyze the June 12, 1998 ASC proposed rule to determine its impact on ASCs, physician practices, and hospitals and to allow comparison of the ASC proposed rule with the outpatient PPS rule. We agreed to extend the comment period an additional 30 days, to September 10, 1998.

Members of trade and professional associations also strongly urged us to postpone implementing the changes contained in the June 12, 1998 ASC proposed rule from October 1, 1998 to January 1, 1999, to coincide with implementation of the hospital outpatient prospective payment system (PPS) authorized by the Balanced Budget Act of 1997. They based their argument for delaying implementation of the ASC changes both on the need for more time for cross-analysis of the ASC proposed rule with the hospital outpatient PPS proposed rule and the overlap and interrelationship between the two payment systems.

On September 8, 1998, a proposed rule outlining the provisions of a Medicare prospective payment system for hospital outpatient services was published in the **Federal Register** (63 FR 47551).

The ambulatory payment classification (APC) system introduced in the June 12, 1998 ASC rule is the same classification system we used to set rates that are proposed for surgical services in the September 8, 1998 hospital outpatient PPS rule. In both rules, we explicitly propose a method of setting payment rates for ASC services and for hospital outpatient surgical services that is as consistent as possible, within the constraints imposed by statutory requirements. When we drafted these proposed rules, we did so with the intent of using APC groups as the basis for setting payment rates for surgical services furnished at ASCs to coincide with using APC groups as the basis for prospectively setting payment rates for surgical services furnished in hospital outpatient settings. We assumed that implementation of APCs and the other provisions of the June 12, 1998 ASC proposed rule would be approximately concurrent with implementation on January 1, 1999 of a hospital outpatient prospective payment system and would replace the payment blend required for hospital services under the provisions of section 1833(i)(3) of the Act.

However, when we projected these implementation dates, we did not take into account the emergent challenges posed by year 2000 issues that are now compelling us to delay implementation of some Medicare program changes in order to assure that health care services for Medicare beneficiaries are not affected by computer failures on January 1, 2000. The outpatient PPS is one of the program changes affected by HCFA's Millennium (''Y2K'')compliance project, and, as we explain in the September 8, 1998 proposed rule, the outpatient PPS is now scheduled for implementation as soon as possible after January 1, 2000.

Given the delay in publication of the hospital outpatient PPS proposed rule and our having to postpone for a year or more implementation of the hospital outpatient PPS; given our efforts to relate to the maximum possible extent the provisions of the June 12, 1998 ASC proposed rule with the new hospital outpatient PPS; and given the concerns expressed by members of trade and professional organizations about the financial and systems impact of implementing the provisions of the June 12, 1998 ASC proposed rule separately from implementing the hospital outpatient PPS, we have decided upon the following course of action.

- We are reopening the comment period for the ASC proposed rule. The comment period for the ASC proposed rule published on June 12, 1998, entitled ''Medicare Program; Update of Ratesetting Methodology, Payment Rates, Payment Policies, and the List of Covered Surgical Procedures for Ambulatory Surgical Centers Effective October 1, 1998'' (HCFA–1885–P), is hereby reopened until 5:00 pm on November 9, 1998, concurrent with the end of the comment period for the hospital outpatient PPS proposed rule that was published on September 8, 1998.
- There is considerable, intentional overlap between the payment system for surgical services contained in the June 12, 1998 ASC proposed rule and the payment system for surgical services contained in the September 8, 1998 hospital outpatient PPS proposed rule. We envisioned that implementation of the former would coincide with implementation of the latter. Hospitals are concerned about the impact on their systems of implementing APCs for ASCs without their also implementing APCs for hospital outpatient services. Given the overlap and close relationship between the two payment systems, and the unknown effect of implementing the changes proposed in the June 12, 1998 notice for ASCs, without concurrently implementing the changes proposed in the September 8, 1998 hospital outpatient PPS notice, we are delaying implementation of the provisions of the June 12, 1998 ASC proposed rule until such time as the provisions of the September 8, 1998 hospital outpatient PPS proposed rule are implemented. This means that implementation of the rebased ASC rates using 1994 ASC survey data, of the APC groups, of the additions to and deletions from the ASC list, and of the other technical policy and regulatory changes proposed in the June 12, 1998 are all deferred, pending implementation of the hospital outpatient PPS as early as possible after January 1, 2000.
- During years in which the Secretary has not otherwise updated ASC rates based on a survey of actual audited costs, section 1833(i)(2)(C) of the Act requires application of an inflation adjustment. Section 4555 of the Balanced Budget Act of 1997 amends section 1833(i)(2)(C) of the Act to require that the inflation adjustment be the percentage increase in the consumer price index for all urban consumers (CPI–U) as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved, reduced (but not below zero) by 2.0 percentage points in each of the fiscal years 1998 through 2002. Based on estimates prepared by Data Resources, Inc./McGraw Hill, the rate of increase in the CPI–U forecast for the fiscal year that ends March 31, 1999 is 2.1 percent. Reducing the CPI–U factor by 2.0 percentage points results in an adjustment factor of 0.1 percent. Because applying this factor to the current ASC rates yields a negligible change of less than $1 for each of the payment groups, we elected to keep the current ASC rates in effect for services furnished on or after October 1, 1998 and until rebased ASC rates and other provisions of the June 12, 1998 ASC proposed rule are implemented to be concurrent with implementation of the hospital outpatient PPS. The ASC payment rates for services furnished on or after October 1, 1998 are as follows. These rates remain in effect until rebased ASC rates are implemented concurrent with implementation of the hospital outpatient PPS.

Group 1—$314
Group 2—422
Group 3—482
Group 4—595
Group 5—678
Group 6—789 ($639+$150 for IOL)
Group 7—941
Group 8—928 ($778+150 for IOL)

• Carriers will continue using the same fiscal year 1998 wage index values that they are using currently to standardize ASC payment rates for wage differences, for services furnished on or after October 1, 1998 and until rebased ASC rates are implemented to be concurrent with implementation of the Medicare outpatient PPS.

• Additions to and deletions from the ASC list (other than procedure codes deleted by the American Medical Association from Physicians' Current Procedural Terminology (CPT)) are deferred until APC groups are implemented as the basis for setting payment rates for ASC services, to be concurrent with implementation of APC groups under the hospital outpatient PPS proposed in the September 8, 1998 **Federal Register**.

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

(Catalog of Federal Domestic Assistance No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 10, 1998.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: September 22, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 98–26249 Filed 9–30–98; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[CC Docket No. 94–102; DA 98–1936]

Compatibility of Wireless Services With Enhanced 911

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission seeks additional comment in wireless Enhanced 911 (E911) rulemaking proceeding with respect to an *ex parte* presentation filed by Ad Hoc Alliance for Public Access to 911 (Alliance) on September 17, 1998. In its *ex parte* filing and its accompanying engineering report, Alliance has presented an approach under which the Commission would require that, if the signal from the user's provider is ''inadequate'' at the time a 911 call is placed through the use of an analog cellular handset, then the handset must have the capability to select automatically the strongest available compatible channel of communications for purpose of completing the 911 call. Additional comment is sought to assist the Commission in determining whether to adopt the approach presented by the Alliance in its September 17 *ex parte* filing. The effect of adopting the Alliance approach would be to improve reliability of 911 services to wireless customers.

DATES: Comments must be filed on or before October 7, 1998 and reply comments must be filed on or before October 19, 1998.

ADDRESSES: Federal Communications Commission, 1919 M St. N.W. Room 222, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Won Kim, Policy Division, Wireless Telecommunications Bureau, (202) 418–1310.

SUPPLEMENTARY INFORMATION: On September 17, 1998, Ad Hoc Alliance for Public Access to 911 (Alliance) filed an *ex parte* presentation in the wireless Enhanced 911 (E911) rulemaking proceeding,[1] 61 FR 40348, 40374 (August 2, 1996), 63 FR 2631 (January 16, 1998), accompanied with an engineering report prepared by the Trott Communications Group (Trott). In addition, a letter addressing the Alliance *ex parte* filing was jointly submitted to the Commission on September 21, 1998, by the Association of Public-Safety Communications Officials-International, Inc. (APCO) and the National Association of State Nine-One-One Administration (NASNA). A separate letter addressing the Alliance *ex parte* filing was submitted to the Commission on September 22, 1998, by the National Emergency Number Association (NENA). The full text of the Alliance *ex parte* presentation, its accompanying Trott report, and the letters filed by APCO, NASNA, and NENA are available for inspection and duplication during regular business hours in the FCC Reference Center, Federal Communications Commission, 1919 M Street, N.W., Room 239, Washington, D.C. 20554. Copies may also be obtained from International Transcription Service, Inc. (ITS), 1231 20th Street, N.W., Suite 140, Washington, D.C. 20036, (202) 857–3800.

Pursuant to Section 1.415(d) of the Commission's Rules, 47 CFR. 1.415(d), the Commission seeks additional comment in the wireless Enhanced 911 (E911) rulemaking proceeding with respect to an *ex parte* presentation filed by Alliance on September 17, 1998. In its *ex parte* filing, Alliance has presented an approach under which the Commission would require that, if the signal from the user's provider is ''inadequate'' at the time a 911 call is placed through the use of an analog cellular handset, then the handset must have the capability to select automatically the strongest available compatible channel of communication for purposes of completing the 911 call. Alliance also has provided the Commission with an engineering report regarding the minimum level of signal strength at the cellular handset considered necessary for ''good'' communication.

In the wireless E911 rulemaking proceeding, the Commission established rules requiring wireless carriers to implement basic 911 and E911 services. One of the important issues in the E911 Second NPRM concerned the Alliance proposal to require that all 911 calls be sent to the cellular system with the strongest control channel signal.[2] To address issues raised by Alliance's strongest signal proposal, the Wireless E911 Implementation Ad Hoc Committee (WEIAD) recommended to the Commission, in an *ex parte* report, the use of an ''A over B,'' or ''B over A'' option in the case of all analog cellular phones.[3] Public safety organizations have expressed concerns about Alliance's original proposal because, they have maintained, the strongest signal would be selected even if there is a reliable communications channel available from the user's provider.[4]

In its *ex parte* filing, Alliance states that it commissioned a report by Trott to address two aspects of its proposed solution. Trott has recommended a signal strength threshold of −80 dBm as being necessary to establish and maintain a ''good'' channel of communication between a handset and the cellular system. Trott also has concluded that minimal effort and cost would be required to provide handsets with the capability to make such a threshold determination and to enable strongest compatible signal selection

[1] See Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94–102, Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 18676 (1996) (E911 First Report and Order) (E911 Second NPRM); Memorandum Opinion and Order, 12 FCC Rcd 22665 (1997).

[2] *See* E911 Second NPRM, 11 FCC Rcd at 18746–48 (paras. 144–148).

[3] *See* Report of the Cellular Telecommunications Industry Association (CTIA), the Personal Communications Industry Association (PCIA), APCO, NENA, NASNA, and Alliance, filed Jan. 30, 1998 (1997 E911 Annual Joint Status Report).

[4] *See* Public Safety Organizations (NENA, APCO, NASNA) response to Alliance's January 27, 1998, Trott Communications Group Report, filed Feb. 23, 1998.

when the handset receives a signal below this level upon dialing 9–1–1.

Additional comment hereby is sought to assist the Commission in determining whether to adopt the approach presented by the Alliance in its September 17 *ex parte* filing. Interested parties may file comments no later than October 7, 1998, and reply comments no later than October 19, 1998. To file formally in this proceeding, participants must file an original and five copies of all comments. If participants want each Commissioner to receive a personal copy of their comments, an original and nine copies must be filed. All comments should be filed with the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, referencing CC Docket No. 94–102. This proceeding is a permit-but-disclose proceeding governed by the provisions of Section 1.1206 of the Commission's Rules, 47 CFR 1.1206.

For further information, contact Won Kim at (202) 418–1310, Wireless Telecommunications Bureau, Policy Division.

Federal Communications Commission.

Kathleen O'Brien Ham,

Deputy Chief, Wireless Telecommunications Bureau.

[FR Doc. 98–26233 Filed 9–30–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

48 CFR Parts 1201, 1205, 1206, 1211, 1213, 1215, 1237, 1252 and 1253

Amendment of Department of Transportation Acquisition Regulations

AGENCY: Office of the Secretary, DOT.

ACTION: Proposed rule.

SUMMARY: The Department of Transportation (DOT) is proposing to amend the Transportation Acquisition Regulation (TAR) to implement and supplement the Federal Acquisition Regulation (FAR) Circulars 97–01 through 97–03, to delete unnecessary FAR implementation, and to sequentially align Coast Guard Supplements with the applicable TAR Parts 1205, 1206, 1211, 1213, 1237, 1252 and 1253.

DATES: Comments should be submitted by November 2, 1998 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to:

Charlotte Hackley, Office of Acquisition and Grant Management, M–60, 400 Seventh Street SW., Washington, DC 20590 or e-mail comments to charlotte.hackley@ost.dot.gov.

FOR FURTHER INFORMATION CONTACT: Charlotte Hackley, Office of Acquisition and Grant Management, M–60, 400 Seventh Street SW., Washington, DC 20590: (202) 366–4267.

SUPPLEMENTARY INFORMATION:

A. Background

These proposed changes were initiated after the quarterly review of the TAR and the changes cited in FAR Circulars 97–01 through 97–03. The significant changes are to—

1. Provide DOT policy and standard procedures for the receipt, handling and disposition of unsolicited proposals; and

2. Delete Form DOT F 4220.44 and the instructions for completing the form to coincide with the changes made to FAR Part 15. The form is approved under the Office of Management and Budget Control Number 2105–0517 which expires on May 31, 2000.

B. Regulatory Flexibility Act

The Department certifies that this proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The rule makes primarily administrative changes to the TAR and provides DOT policy and procedures for the receipt, handling and disposition of unsolicited proposals. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. Comments from small entities concerning the affected TAR parts will be considered in accordance with 5 U.S.C. 610 of the Act. Any comments should reference the Act.

C. Paperwork Reduction Act

The Department certifies that the Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) does not apply because this proposed rule does not contain information collection requirements.

List of Subjects in 48 CFR Parts 1201, 1205, 1206, 1211, 1213, 1215, 1237, 1252 and 1253

Government procurement.

The proposed rule is issued under the delegated authority of 49 CFR Part 1.59(p).

This authority is delegated to the Senior Procurement Executive, issued this 24th day of September, 1998, at Washington, DC.

Robert G. Taylor,

Acting Director of Acquisition and Grant Management.

Adoption of Amendments

For the reasons set out in the preamble, 48 CFR Chapter 12 is amended as follows:

1. The authority citation for 48 CFR Chapter 12, parts 1201, 1205, 1206, 1211, 1213, 1215, 1237, 1252 and 1253 continues to read as follows:

Authority: 5 U.S.C. 301; 41 U.S.C. 418(b); 48 CFR 3.1.

PART 1201—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Section 1201.103 is removed.

2a. In § 1201.201–1, paragraph (d) is removed.

3. Section 1201.301 is amended by adding paragraphs (a)(2) introductory text, (a)(2)(i), (a)(2)(ii), and (b) as follows:

1201.301 Policy.

(a) * * *

(2) *Acquisition procedures.* The authority of the agency head under (FAR) 48 CFR 1.301(a)(2) to issue or authorize the issuance of internal agency guidance at any organizational level has been delegated to the SPE.

(i) *Departmentwide acquisition procedures.* DOT internal operating procedures are contained in the Transportation Acquisition Manual (TAM).

(ii) *OA acquisition procedures.* Procedures necessary to implement or supplement the FAR, TAR, or TAM may be issued by the HCA, who may delegate this authority to any organizational level deemed appropriate. OA procedures may be more restrictive or require higher approval levels than those permitted by the TAM unless specified otherwise.

(b) The authority of the agency head under (FAR) 48 CFR 1.301(b) to establish procedures to ensure that agency acquisition regulations are published for comment in the **Federal Register** in conformance with the procedures in FAR Subpart 1.5 is delegated to the Assistant General Counsel for Regulation and Enforcement (C–50).

PART 1205—PUBLICIZING CONTRACT ACTIONS

4. Subpart 1205.90 is revised to read as follows:

Subpart 1205.90—Publicizing Contract Actions for Personal Services Contracting

1205.9000 Applicability. (USCG)

Contracts awarded by the U.S. Coast Guard using the procedures in (TAR) 48 CFR 1237.104–91 are expressly authorized under Section 1091 of Title 10 U.S.C. as amended by Pub. L. 104–106, DOD Authorization Act, Section 733 for the Coast Guard and are exempt from the requirements of (FAR) 48 CFR Part 5.

PART 1206—COMPETITION REQUIREMENTS

5. Subpart 1206.90 is revised to read as follows:

Subpart 1206.90—Competition Requirements for Personal Services Contracting

1206.9000 Applicability. (USCG)

Contracts awarded by the U.S. Coast Guard using the procedures in (TAR) 48 CFR 1237.104–91 are expressly authorized under Section 1091 of Title 10 U.S.C. as amended by Pub. L. 104–106, DOD Authorization Act, Section 733 for the Coast Guard and are exempt from the competition requirements of (FAR) 48 CFR Part 6.

PART 1211—DESCRIBING AGENCY NEEDS

6. Subpart 1211.2 is amended by revising § 1211.204–90 as follows:

1211.204–90 Solicitation provision and contract clause. (USCG)

(a) The contracting officer shall insert the USCG clause at (TAR) 48 CFR 1252.211–90, Bar Coding Requirement, (also see (TAR) 48 CFR 1213.507–90(a)) when the bar coding of supplies is necessary.

(b) See (TAR) 48 CFR 1213.507–90 for a provision which is required when the USCG clause at (TAR) 48 CFR 1252.211–90, Bar Coding Requirement, is used with simplified acquisition procedures.

PART 1213—SIMPLIFIED ACQUISITION PROCEDURES

7. Subpart 1213.1 is revised to read as follows:

Subpart 1213.1—Procedures

1213.106 Soliciting competition, evaluation of quotations or offers, award and documentation.

1213.106–190 Soliciting competition. (USCG)

The contracting officer shall insert the USCG provision at (TAR) 48 CFR 1252.213–90, Evaluation Factor for Coast Guard Performance of Bar Coding Requirement, in requests for quotations when the USCG clause at (TAR) 48 CFR 1252.211–90, Bar Coding Requirement, is used with simplified acquisition procedures.

7a. Subpart 1213.3 is added to read as follows:

Subpart 1213.3—Simplified Acquisition Methods

1213.302 Purchase orders.

1213.302–590 Clauses. (USCG)

The contracting officer shall insert the USCG clause at (TAR) 48 CFR 1252.211–90, Bar Coding Requirement, in requests for quotations and purchase orders issued by the Inventory Control Points when bar coding of supplies is necessary.

8. Part 1215 is revised to read as follows:

PART 1215—CONTRACTING BY NEGOTIATION

Subpart 1215.2—Solicitation and Receipt of Proposals and Information

1215.204 Contract format.
1215.204–3 Contract clauses.
1215.207–70 Handling proposals and information.

Subpart 1215.4—Contract Pricing

1215.404 Proposal analysis.
1215.404–470 Payment of profit or fee.

Subpart 1215.6—Unsolicited Proposals

1215.602 Policy.
1215.603 General.
1215.604 Agency points of contact.
1215.606 Agency procedures.
1215.606–2 Evaluation.

Subpart 1215.2—Solicitation and Receipt of Proposals and Information

§ 1215.204 Contract format.

1215.204–3 Contract clauses.

The contracting officer shall insert clause (TAR) 48 CFR 1252.215–70, Key Personnel and/or Facilities, in solicitations and contracts when the selection for award is substantially based on the offeror's possession of special capabilities regarding personnel and/or facilities.

1215.207–70 Handling proposals and information.

(a) Offerors' proposals and information received in response to a request for information shall be marked as required by TAM 1203.104–5, as applicable.

(b) Proposals may be released outside the Government if it is necessary to receive the most competent technical and/or management evaluation available.

Subpart 1215.4—Contract Pricing

1215.404 Proposal analysis.

1215.404–470 Payment of profit or fee.

The contracting officer shall not pay profit or fee on undefinitized contracts or undefinitized contract modifications. Any profit or fee earned shall be paid after the contract or modification is definitized.

Subpart 1215.6—Unsolicited Proposals

1215.602 Policy.

It is the policy of the Department of Transportation (DOT) to encourage the submission of new and innovative ideas which will support DOT's mission. Through the various Operating Administrations (OA), DOT is responsible for transportation safety improvements and endorsement, international transportation agreements and the continuity of transportation services in the public interest.

1215.603 General.

DOT will accept for review and consideration, unsolicited proposals from any entity. However, DOT will not pay any costs associated with the preparation of these proposals. Proposals which do not meet the definition and applicable content and marking requirements of (FAR) 48 CFR 15.6 will not be considered under any circumstances and will be returned to the submitter.

1215.604 Agency points of contact.

(a) The DOT does not have a centralized location to receive unsolicited proposals. The effort submitted in the proposal determines which DOT OA should receive and evaluate the proposal.

(b) Proposers should submit proposals to the cognizant OA contracting office for appropriate handling. Specific information concerning each DOT OA and the type of commodities which they normally procure are available on the worldwide web at http://www.dot.gov. Proposers are urged to contact these contracting/procurement offices prior to submitting a proposal to ensure that the proposal is being submitted to the appropriate contracting office for action. This action will serve to reduce paperwork and time for the Government and the proposer.

1215.606 Agency procedures.

(a) The OA contracting office is designated as the point of contact for receipt of unsolicited proposals. Persons

within DOT (e.g., technical personnel) who receive unsolicited proposals shall forward the document to their cognizant contracting office.

(b) Within ten working days after receipt of an unsolicited proposal, the contracting office shall review the proposal and determine whether the proposal meets the content and marking requirements of (FAR) 48 CFR 15.6. If the proposal does not meet these requirements, it shall be returned to the submitter giving the reasons for noncompliance.

1215.606–2 Evaluation.

(a) If the proposal is in compliance, the contracting office shall acknowledge receipt of the proposal to the proposer and give the date the proposal evaluation is expected to be completed. The proposal shall be marked as required by (FAR) 48 CFR 15.609 and forwarded to the appropriate technical office for evaluation. The evaluating office shall be given reasonable time to complete the evaluation. However, in no event should an evaluation take more than sixty calendar days after receipt of the proposal except under extenuating circumstances. Contracting offices shall establish a system to ensure that this timeframe is met. If the date can not be met, the proposer shall be advised accordingly and be given a revised evaluation completion date.

(b) The evaluating office shall neither reproduce nor disseminate the proposal to other offices without the consent of the contracting office from which the proposal was received for evaluation. If additional information from the proposer is required by the evaluating office, the evaluator shall convey this request to the contracting office in lieu of the proposer. The evaluator shall not communicate directly with the originator of the proposal.

(c) If the evaluator recommends acceptance of the proposal, the cognizant contracting officer shall ensure compliance with all of the requirements of (FAR) 48 CFR 15.607.

PART 1237—SERVICE CONTRACTING

9. Subpart 1237.1 is amended by revising §§ 1237.104, 1237.104–90, and 1237.104–91 to read as follows:

Subpart 1237.1—Service Contracts—General

1237.104 Personal services contracts. (USCG)

1237.104–90 Delegation of authority. (USCG)

(a) Section 733(a) of Pub. L. 104–106, the DOD Authorization Act of 1996, amended Title 10 of the United States Code to include a new provision which authorizes the Secretary, with respect to the Coast Guard, to enter into personal services contracts at medical treatment facilities (10 U.S.C. 1091).

(b) The authority of the Secretary of Transportation under Pub. L. 104–106 to award personal services contracts for medical services at facilities for the Coast Guard is delegated to the HCA with the authority to redelegate to contracting officers under procedures established by the HCA, who will address applicable statutory limitations under Section 1091A of Title 10 U.S.C.

1237.104–91 Personal services contracts with individuals under the authority of 10 U.S.C. 1091 (USCG)

(a) Personal services contracts for health care services are authorized by 10 U.S.C. 1091 for the Coast Guard. Sources for contracts for health care services under the authority of 10 U.S.C. 1091 shall be selected through procedures established in this section. These procedures do not apply to contracts awarded to business entities other than individuals. Selections made using the procedures in this section are exempt by statute from (TAR) 48 CFR 1206 competition requirements (see (TAR) 48 CFR 1206.9000 (USCG)) and from (FAR) 48 CFR Part 6 competition requirements.

(b) The contracting officer must provide adequate advance notice of contracting opportunities to individuals residing in the area of the facility. The notice should include the qualification criteria against which individuals responding shall be evaluated. Contracting officers shall solicit offerors through the most effective means of seeking competition, such as a local publication which serves the area of the facility. Acquisitions for health care services using personal services contracts are exempt from posting and synopsis requirements of (FAR) 48 CFR Part 5.

(c) The contracting officer shall provide the qualifications of individuals responding to the notice to the representative(s) responsible for evaluation and ranking in accordance with the evaluation procedures. Individuals must be considered solely on the professional qualifications established for the particular health care services being acquired and the Government's estimate of reasonable rates, fees, or costs. The representative(s) responsible for the evaluation and ranking shall provide the contracting officer with rationale for the ranking of the individuals consistent with the required qualifications.

(d) Upon receipt of the ranked listing of offerors, the contracting officer shall either:

(1) Enter into negotiations with the highest ranked offeror. If a mutually satisfactory contract cannot be negotiated, the contracting officer shall terminate negotiations with the highest ranked offeror and enter into negotiations with the next highest, or;

(2) Enter into negotiations with all qualified offerors and select on the basis of qualifications and rates, fees, or other costs.

(e) In the event only one individual responds to an advertised requirement, the contracting officer is authorized to negotiate the contract award. In this case, the individual must still meet the minimum qualifications of the requirement and the contracting officer must be able to make a determination that the price is fair and reasonable.

(f) If a fair and reasonable price cannot be obtained from a qualified individual, the requirement should be canceled and acquired using procedures other than those set forth in this section.

(g) The total amount paid to an individual in any year for health care services under a personal services contract shall not exceed the paycap in COMDTINST M4200.19 (series), Coast Guard Acquisition Procedures.

(h) The contract may provide for the same per diem and travel expenses authorized for a Government employee, including actual transportation and per diem in lieu of subsistence for travel between home or place of business and official duty station and only for travel outside the local area in support of the statement of work.

(i) Coordinate benefits, taxes and maintenance of records with the appropriate office(s).

(j) The contracting officer shall insure that contract funds are sufficient to cover all contingency items that may be cited in the statement of work for health care services.

9a. Subpart 1237.90 is revised to read as follows:

Subpart 1237.90—Mortuary Services

1237.9000 Solicitation provisions and contract clauses. (USCG)

(a) The contracting officer shall insert the following clauses in solicitations and contracts for mortuary services. However, USCG clauses (TAR) 48 CFR 1252.237–91 and 1252.237–97 shall not be inserted in solicitations and contracts that include port of entry requirements:

(1) (TAR) 48 CFR 1252.237–90, Requirements;

(2) (TAR) 48 CFR 1252.237–91, Area of Performance;

(3) (TAR) 48 CFR 1252.237–92, Performance and Delivery;

(4) (TAR) 48 CFR 1252.237–93, Subcontracting;

(5) (TAR) 48 CFR 1252.237–94, Termination for Default;

(6) (TAR) 48 CFR 1252.237–95, Group Interment;

(7) (TAR) 48 CFR 1252.237–96, Permits;

(8) (TAR) 48 CFR 1252.237–97, Facility Requirements; and

(9) (TAR) 48 CFR 1252.237–98, Preparation History.

(b) The contracting officer shall insert USCG provision (TAR) 48 CFR 1252.237–99, Award to Single Offeror, in all sealed bid solicitations for mortuary services. Use the basic provision with Alternate I in negotiated solicitations for mortuary services.

(c) The contracting officer shall insert (FAR) 48 CFR 52.245–4, Government-Furnished Property (Short Form) in solicitations and contracts that include port of entry requirements.

PART 1252—SOLICITATION AND PROVISIONS AND CONTRACT CLAUSES

Subpart 1252.2—Texts of Provisions and Clauses

1252.211–71, 1252.215–70, 1252.216–71, 1252.216–72, and 1252.216–73 [Amended]

10. Section 1252.211–71, first paragraph is amended by removing the citation ''A(TAR) 48 CFR 1211.204'' and adding in its place the citation ''A(TAR) 48 CFR 1211.204–70'';

10a. § 1252.215–70, first paragraph is amended by removing the citation ''A(TAR) 48 CFR 1215.106'' and adding in its place the citation ''A(TAR) 48 CFR 1215.204–3'';

10b. § 1252.216–71, first paragraph is amended by removing the citation ''A(TAR) 48 CFR 1216.405(a)'' and adding in its place the citation ''A(TAR) 48 CFR 1216.406'';

10c. § 1252.216–72, first paragraph is amended by removing the citation ''A(TAR) 48 CFR 1216.405(b)'' and adding in its place the citation ''A(TAR) 48 CFR 1216.406'';

10d. § 1252.216–73, first paragraph is amended by removing the citation ''A(TAR) 48 CFR 1216.405(c)'' and adding in its place the citation ''A(TAR) 48 CFR 1216.406''.

11. Section 1252.211–90 is added and §§ 1252.213–90, 1252.220–90, 1252.228–90, and 1252–237–90 thru 1252–237.99 are revised to read as follows:

1252.211–90 Bar coding requirement. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1211.204–90 and 1213.302–590, insert the following clause:

Bar Coding Requirements (Oct 1996)

Item markings shall include bar coding in accordance with MIL–STD–1189 as clarified below:

(a) The stock number shall be bar coded with no prefixes, dashes, spaces, or suffixes encoded. The contract number, the delivery order, or call order number, when used, shall be bar coded with no spaces or dashes encoded.

(b) Prefixes and suffixes to the stock number may be included in the OCR–A in-the-clear markings, but not in the bar code.

(c) Preferred Bar Code Density (characters per inch as defined in MIL–STD–1189) is ''standard,'' but densities from ''standard'' to ''low'' are acceptable.

(d) OCR–A characters do not have to be machine readable.

(e) Bar coding shall be machine readable.

(f) Unless otherwise specified herein, minimum bar code height shall be 0.25 inch (6.4 mm) or 15 percent of the bar code length, whichever is greater.

(g) The preferred position of the OCR–A characters is below the bar codes, but the OCR–A characters may be above the bar codes.

(h) On outer containers contractors shall either:

(1) Encode the stock numbers and contract number in one line of bar code with the stock number appearing first; or

(2) Encode the item stock number and contract number on two labels, with the top label containing the stock number and the lower label containing the contract number.

(i) On unit and intermediate containers, the item stock number in bar code with OCR–A below may be on the same label as the other data (identification markings) required by MIL–STD–129H. However, the bar code stock number shall appear on the top line with OCR–A characters on the second line; the OCR–A characters may include the stock number prefix and suffix, or alternatively, the complete stock number including any prefix and suffix, shall be repeated as part of the identification markings.

(j) Exclusions from bar code markings are:

(1) Multi-packs/consolidation containers (containers with two or more different stock numbers within).

(2) Reusable shipping containers used for multiple/different stock number applications.

(3) Items consigned to a prime contractor's plant for installation in production.

(End of clause)

1252.213–90 Evaluation factor for Coast Guard performance of bar coding requirement. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1213.106–190, insert the following provision:

Evaluation Factor for Coast Guard Performance of Bar Coding Requirement (Oct 1994)

If a small business cannot provide the bar coding requirement, as indicated elsewhere in the schedule, the contracting officer will apply the following formula to the quoted amounts:

(a) Unit price quoted by small business $_____

(b) Add unit cost to the USCG to provide bar coding $_____

(c) Adjusted unit price (add lines a. and b.) $_____

The line (c) amount will become the amount the contracting officer considered when determining the lowest quoted amount.

(End of provision)

1252.220–90 Local hire. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1220.9001, insert the following clause:

Local Hire (Oct 1994)

The Contractor shall employ, for the purpose of performing this contract in whole or in part in a State that has an unemployment rate in excess of the national average rate of unemployment (as defined by the Secretary of Labor), individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. Local Resident means a resident or an individual who commutes daily to that State.

(End of clause)

1252.228–90 Notification of Miller Act payment bond protection. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1228.106–490, insert the following clause:

Notification of Miller Act Payment Bond Protection (Oct 1994)

This notice clause shall be inserted by first tier subcontractors in all their subcontracts and shall contain the surety which has provided the payment bond under the prime contract.

(a) The prime contract is subject to the Miller Act (40 USC 270), under which the prime contractor has obtained a payment bond. This payment bond may provide certain unpaid employees, suppliers, and subcontractors a right to sue the bonding surety under the Miller Act for amounts owned for work performed and materials delivery under the prime contract.

(b) Persons believing that they have legal remedies under the Miller Act should consult their legal advisor regarding the proper steps to take to obtain these remedies. This notice clause does not provide any party any rights against the Federal Government, or create any relationship, contractual or otherwise, between the Federal Government and any private party.

(c) The surety which has provided the payment bond under the prime contract is:

_____

(Name)

_____

(Street Address)

_____
(City, State, Zip Code)

_____
(Contact & Tel. No.)

(End of clause)

1252.237–90 Requirements. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1237.9000, insert the following clause:

Requirements (Oct 1994)

(a) Except as provided in paragraphs (c) and (d) of this clause, the Government will order from the Contractor all of its requirements in the area of performance for the supplies and services listed in the schedule of this contract.

(b) Each order will be issued as a delivery order and will list—

(1) The supplies or services being ordered;

(2) The quantities to be furnished;

(3) Delivery or performance dates;

(4) Place of delivery or performance;

(5) Packing and shipping instructions;

(6) The address to send invoices; and

(7) The funds from which payment will be made.

(c) The Government may elect not to order supplies and services under this contract in instances where the body is removed from the area for medical, scientific, or other reason.

(d) In an epidemic or other emergency, the contracting activity may obtain services beyond the capacity of the Contractor's facilities from other sources.

(e) Contracting Officers of the following activities may order services and supplies under this contract—

_____

_____

(End of clause)

1252.237–91 Area of performance. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1237.9000, insert the following clause:

Area of Performance (Oct 1994)

(a) The area of performance is as specified in the contract.

(b) The Contractor shall take possession of the remains at the place where they are located, transport them to the Contractor's place of preparation, and later transport them to a place designated by the Contracting Officer.

(c) The Contractor will not be reimbursed for transportation when both the place where the remains were located and the delivery point are within the area of performance.

(d) If remains are located outside the area of performance, the Contracting Officer may place an order with the Contractor under this contract or may obtain the services elsewhere. If the Contracting Officer requires the Contractor to transport the remains into the area of performance, the Contractor shall be paid the amount per mile in the schedule for the number of miles required to transport the remains by a reasonable route from the point where located to the boundary of the area of performance.

(e) The Contracting Officer may require the Contractor to deliver remains to any point within 100 miles of the area of performance. In this case, the Contractor shall be paid the amount per mile in the schedule for the number of miles required to transport the remains by a reasonable route from the boundary of the area of performance to the delivery point.

(End of clause)

1252.237–92 Performance and delivery. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1237.9000, insert the following clause:

Performance and Delivery (Oct 1994)

(a) The Contractor shall furnish the material ordered and perform the services specified as promptly as possible but not later than 36 hours after receiving notification to remove the remains, excluding the time necessary for the Government to inspect and check results of preparation.

(b) The Government may, at no additional charge, require the Contractor to hold the remains for an additional period not to exceed 72 hours from the time the remains are casketed and final inspection completed.

(End of clause)

1252.237–93 Subcontracting. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1237.9000, insert the following clause:

Subcontracting (Oct 1994)

The Contractor shall not subcontract any work under this contract without the Contracting Officer's written approval. This clause does not apply to contracts of employment between the Contractor and its personnel.

(End of clause)

1252.237–94 Termination for default. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1237.9000, insert the following clause:

Termination for Default (Oct 1994)

(a) This clause supplements and is in addition to the Default clause of this contract.

(b) The Contracting Officer may terminate this contract for default by written notice without the ten day notice required by paragraph (a)(2) of the Default clause if—

(1) The Contractor, through circumstances reasonably within its control or that of its employees, performs any act under or in connection with this contract, or fails in the performance of any service under this contract and the act or failures may reasonably be considered to reflect discredit upon the Department of Transportation in fulfilling its responsibility for proper care of remains;

(2) The Contractor, or its employees, solicits relatives or friends of the deceased to purchase supplies or services not under this contract. (The Contractor may furnish supplies or arrange for services not under this contract, only if representatives of the deceased voluntarily request, select, and pay for them.);

(3) The services or any part of the services are performed by anyone other than the Contractor or the Contractor's employees without the written authorization of the Contracting Officer;

(4) The Contractor refuses to perform the services required for any particular remains; or

(5) The Contractor mentions or otherwise uses this contract in its advertising in any way.

(End of clause)

1252.237–95 Group interment. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1237.9000, insert the following clause:

Group Interment (Oct 1994)

The Government will pay the Contractor for supplies and services provided for remains interred as a group on the basis of the number of caskets furnished, rather than on the basis of the number of persons in the group.

(End of clause)

1252.237–96 Permits. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1237.9000, insert the following clause:

Permits (Oct 1994)

The Contractor shall meet all State and local licensing requirements and obtain and furnish all necessary health department and shipping permits at no additional cost to the Government. The Contractor shall ensure that all necessary health department permits are in order for disposition of the remains.

(End of clause)

§ 1252.237–97 Facility requirements. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1237.9000, insert the following clause:

Facility Requirements (Oct 1994)

(a) The Contractor's building shall have complete facilities for maintaining the highest standards for solemnity, reverence, assistance to the family, and prescribed ceremonial services.

(b) The Contractor's preparation room shall be clean, sanitary, and adequately equipped.

(c) The Contractor shall have, or be able to obtain the necessary items (e.g. catafalques, structures, trucks, equipment) for religious services.

(d) The Contractor's funeral home, furnishings, grounds, and surrounding area shall present a clean and well-kept appearance.

(End of clause)

§ 1252.237–98 Preparation history. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1237.9000, insert the following clause:

Preparation History (Oct 1994)

For each body prepared, or for each casket handled in a group interment, the Contractor

shall state briefly the results of the embalming process on a certificate furnished by the Contracting Officer.

(End of clause)

§ 1252.237–99 Award to single offeror. (USCG)

As prescribed in USCG guidance at (TAR) 48 CFR 1237.9000, insert the following provision:

Award to Single Offeror (Oct 1994)

(a) Award shall be made to a single offeror.

(b) Offerors shall include unit prices for each item. Failure to include unit prices for each item will be cause for rejection of the entire offer.

(c) The Government will evaluate offers on the basis of the estimated quantities shown.

(d) Award will be made to that responsive, responsible offeror whose total aggregate offer is the lowest price to the Government.

(End of provision)

Alternate I (Oct 1994)

If mortuary services are procured by negotiations, substitute the following paragraph (d) for paragraph (d) of the basic provision:

(d) Award will be made to that responsive, responsible offeror whose total aggregate offer is in the best interest of the Government.

PART 1253—FORMS

12. Sections 1253.215 and 1253.215–270 are removed.

Appendix to Subpart 1253.3—[Amended]

13. The TAR Matrix in the Appendix to Subpart 1253.3 is redesignated as the Appendix to Part 1252 and revised to read as follows:

BILLING CODE 4910–62–P

TAR MATRIX

Key:

P or C = Provision or Clause
IBR = Is Incorporation By Reference authorized?
UCF = Uniform Contract Format Section, when applicable

R = Required
A = Required-When-Applicable
O = Optional

X = Revision

Principle type and/or purpose of contract:

FP SUP = Fixed-Price Supply
CR SUP = Cost-Reimbursement Supply
FP R&D = Fixed-Price Research & Development
CR R&D = Cost-Reimbursement Research & Development
FP SVC = Fixed-Price Service
CR SVC = Cost Reimbursement Service
FP CON = Fixed-Price Construction
CR CON = Cost Reimbursement Construction
T&M LH = Time & Material/Labor Hours
LMV = Leasing of Motor Vehicles
COM SVC = Communication Services
DDR = Dismantling, Demolition, or Removal of Improvements
A-E = Architect-Engineering
FAC = Facilities
IND DEL = Indefinite Delivery
TRN = Transportation
SP = Small Purchases
UTL SVC = Utility Services

Provision or Clause	Prescribed In	P or C	IBR	UCF	Principle Type and/or Purpose of Contract																	
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SP	UTL SVC
1252.209-70 Disclosure of Conflicts of Interest	1209.507	P	YES	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A
1252.211-70 Brand Name or Equal	1211.204-70	P	YES	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A
1252.211-71 Index for Specifications	1211.204-70	C	YES	I	A	A	A				A	A				A		A	A		A	
1252.211-90 (USCG) Bar Coding Requirement	USCG 1211.204-90 & 1213.302-590	C	YES	I	A	A													A		A	
1252.213-90 (USCG) Evaluation Factor for Coast Guard Performance of Bar Coding Requirement	USCG 1213.106-190	P	YES	M																	A	
1252.215-70 Key Personnel and/or Facilities	1215.204-3	C	YES	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A
1252.216-70 Evaluation of Offers Subject to an Economic Price Adjustment Claus	1216.203-470	P	YES	M	A		A		A		A		A	A	A	A	A	A	A	A		A
1252.216-71 Determination of Award Fee	1216.406	C	YES	I		A		A		A		A	A		A	A			A	A		
1252.216-72 Performance Evaluation Plan	1216.406	C	YES	I		A		A		A		A	A		A	A			A	A		
1252.216-73 Distribution of Award Fee	1216.406	C	YES	I		A		A		A		A	A		A	A			A	A		
1252.216-74 Settlement of Letter Contract	1216.603-4	C	YES	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A
1252.217-71 Delivery & Shifting of Vessel	1217.7000.	C	YES	I					A													

TAR MATRIX-CONT.

Provision or Clause	Prescribed In	P or C	IBR	UCF	Principle Type and/or Purpose of Contract																	
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SP	UTL SVC
1252.217-72 Performance	1217.7000.	C	YES	I					A													
1252.217-73 Inspection and Manner of Doing Work	1217.7000.	C	YES	I					A													
1252.217-74 Subcontracts	1217.7000.	C	YES	I					A													
1252.217-75 Lay Days	1217.7000.	C	YES	I					A													
1252.217-76 Liability and Insurance	1217.7000.	C	YES	I					A													
1252.217-77 Title	1217.7000.	C	YES	I					A													
1252.217-78 Discharge of Liens	1217.7000.	C	YES	I					A													
1252.217-79 Delays	1217.7000.	C	YES	I					A													
1252.217-80 Department of Labor Safety and Health Regulations for Ship Repair	1217.7000.	C	YES	I					A													
1252.217-81 Guarantee	1217.7000.	C	YES	I					A													
1252.219-70 Small Business and Small Disadvantaged Business Subcontracting Report	1219.708-70	C	YES	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A
1252.220-90 (USCG) Local Hire	USCG 1220.9001	C	YES	I					A	A	A	A			A		A		A			A
1252.222-70 Strikes or Picketing Affecting Timely Completion of the Contract Work	1222.101-71	C	YES	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
1252.222-71 Strikes or Picketing Affecting Access to a DOT Facility	1222.101-71	C	YES	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
1252.223-70 Removal or Disposal of Hazardous Substances - Applicable Licenses and Permits	1223.303	C	YES	I					A	A	A	A	A			A		A			A	
1252.223-71 Accident and Fire Reporting	1223.7000.	C	YES	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
1252.223-72 Protection of Human Subjects	1223.7000.	C	YES	I	A	A	A	A	A	A			A						A		A	
1252.228-70 Loss of or Damage to Leased Aircraft	1228.306-70	C	YES	I					A	A			A								A	
1252.228-71 Fair Market Value of Aircraft	1228.306-70	C	YES	I					A	A			A								A	

TAR MATRIX-CONT.

Provision or Clause	Prescribed In	P or C	IBR	UCF	Principle Type and/or Purpose of Contract																	
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SP	UTL SVC
1252.228-72 Risk and Indemnities	1228.306-70	C	YES	I					A	A			A								A	
1252.228-90 (USCG) Notification of Miller Act Payment Bond Protection	USCG 1228.106-490	C	YES	I							A	A										
1252.231-70 Date of Incurrence of Costs	1231.205-32	C	YES	I		A		A		A		A										
1252.236-70 Special Precautions for Work at Operating Airports	1236.570.	C	YES	I							A	A	A			A	A	A			A	A
1252.237-70 Qualifications of Employees	1237.110.	C	YES	I					A	A					A							A
1252.237-71 Certification of Data	1237.7101	P	YES	K					A	A					A				A		A	
1252.237-72 Prohibition on Advertising	1237.7101	C	YES	I					A	A					A				A		A	
1252.237-90 (USCG) Requirements	USCG 1237.9000.	C	YES	I					A	A									A			
1252.237-91 (USCG) Area of Performance	USCG 1237.9000.	C	YES	I					A	A									A		A	
1252.237-92 (USCG) Performance and Delivery	USCG 1237.9000.	C	YES	I					A	A									A		A	
1252.237-93 (USCG) Subcontracting	USCG 1237.9000.	C	YES	I					A	A									A		A	
1252.237-94 (USCG) Termination for Default	USCG 1237.9000.	C	YES	I					A	A									A		A	
1252.237-95 (USCG) Group Interment	USCG 1237.9000.	C	YES	I					A	A									A		A	
1252.237-96 (USCG) Permits	USCG 1237.9000.	C	YES	I					A	A									A		A	
1252.237-97 (USCG) Facility Requirements	USCG 1237.9000.	C	YES	I					A	A									A		A	
1252.237-98 (USCG) Preparation History	USCG 1237.9000.	C	YES	I					A	A									A		A	
1252.237-99 (USCG) Award to Single Offeror	USCG 1237.9000.	P	YES	I					A	A									A		A	
1252.242-70 Dissemination of Information - Educational Institutions	1242.203-70	C	YES	I			A	A														
1252.242-71 Contractor Testimony	1242.203-70	C	YES	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
1252.242-72 Dissemination of Contract Information	1242.203-70	C	YES	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A

TAR MATRIX-CONT.

Provision or Clause	Prescribed In	P or C	IBR	UCF	Principle Type and/or Purpose of Contract																	
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SP	UTL SVC
1252.242-73 Contracting Officers Technical Representative	1242.7000.	C	YES	I	A	A	A	A	A	A	A	A	A		A	A	A	A	A	A		
1252.245-70 Government Property Reports	1245.505-70	C	YES	I	A	A	A	A	A	A	A	A	A		A	A	A	A	A	A		
1252.247-70 Acceptable Service at Reduced Rates	1247.104-370	C	YES	I		A				A												
1252.247-71 F.O.B. Origin Information	1247.305-70	P	YES	L	A									A					A		A	
1252.247-72 F.O.B. Origin Only	1247.305-70	P	YES	L	A									A					A		A	
1252.247-73 F.O.B. Destination Only	1247.305-70	P	YES	L	A									A					A		A	
1252.247-74 Shipments to Ports and Air Terminals	1247.305-70	P	YES	L	A									A					A		A	
1252.247-75 F.O.B. Designated Air Carrier's Terminal, Port of Exportation	1247.305-70	P	YES	L	A									A					A		A	
1252.247-76 Nomination of Additional Ports	1247.305-70	P	YES	L	A									A					A		A	
1252.247-77 Supply Movement in the Defense Transportation System	1247.305-71	C	YES	F	A									A					A		A	

14. Appendix to Subpart 1253.3 is amended by deleting Form DOT F 4220.44.

[FR Doc. 98–26150 Filed 9–30–98; 8:45 am]

BILLING CODE 4910–62–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 648

[I.D. 092398A]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit (EFP) to Conduct Experimental Fishing

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

ACTION: Notification of experimental fishery proposal; request for comments.

SUMMARY: NMFS announces that the Regional Administrator, Northeast Region, NMFS, is considering approval of an experimental fishing proposal that would allow vessels to conduct operations otherwise restricted by regulations governing the Fisheries of the Northeastern United States. The experimental fishery would involve fishing for, retention, and limited landing of *Loligo* squid, scup, and various bycatch species including, but not limited to, black sea bass, summer flounder, sea trout, and butterfish. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act provisions require publication of this notification to provide interested parties the opportunity to comment on the proposed experimental fishery.

DATES: Comments must be received by October 16, 1998.

ADDRESSES: Comments should be sent to Jon Rittgers, Acting Regional Administrator, Northeast Regional Office, NMFS, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Proposed Experimental Fishery.''

FOR FURTHER INFORMATION CONTACT: Tom Warren, Fishery Management Specialist, 978–281–9347.

SUPPLEMENTARY INFORMATION: The Haskin Shellfish Research Laboratory of Rutgers University, New Jersey, submitted an application for an exempted fishery permit (EFP) on May 5, 1998, to investigate the species and size selectivity of various codend mesh sizes. A 5-day cruise targeting scup and a 5-day cruise targeting *Loligo* squid will occur during the period January 1 to April 30, 1999. Two vessels with Federal permits will tow otter trawls with experimental cod-end mesh sizes of 1–7/8, 2.0, 2–1/8, and 2.5 inches (47, 50, 53, and 63 mm) and a cod-end cover with 1.0–inch (25–mm) mesh to compare the size frequency of *Loligo* squid and the size frequencies and relative abundances of species caught as bycatch. The same two vessels will use cod-end mesh sizes of 3.75, 4.0, 4.5, and 5.0 inches (94, 100, 113, and 125 millimeters) and a cod-end cover with 2.0–inch (50–mm) mesh to compare the size frequency of scup and the size frequencies and relative abundances of species caught as bycatch. At least 30 tows of approximately 1 hour duration will be conducted during each 5-day cruise. The commercial species caught will be marketed, and proceeds will be used to partially fund the scientific research. Landings for a particular species will be limited by all applicable fishery regulations, including applicable state or Federal limits in effect at the time of the research. Tows will occur in Mid-Atlantic waters southeast of New Jersey and the Delmarva peninsula in statistical areas 616, 622, 623, and 626. EFPs are required to exempt vessels from gear restrictions of the Fishery Management Plans for the Atlantic Mackerel, Squid, and Butterfish Fisheries and for the Summer Flounder, Scup, and Black Sea Bass Fisheries and to allow possession of undersized fish while data are being collected.

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

Dated: September 25, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–26304 Filed 9–30–98; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 63, No. 190
Thursday, October 1, 1998

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

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Agricultural Research Service

National Food Safety Research Conference

AGENCY: Cooperative State Research, Education, and Extension Service; and Agricultural Research Service, USDA.

ACTION: Notice of National Food Safety Research Conference.

SUMMARY: Section 615 of the Agricultural Research, Extension, and Education Reform Act of 1998, specifies that ''the Secretary shall sponsor a conference to be known as the National Conference on Food Safety Research, for the purpose of beginning the task of prioritization of food safety research. The Secretary shall sponsor annual workshops in each of the subsequent 4 years after the conference so that priorities can be updated or adjusted to reflect changing food safety concerns.'' By this notice the Cooperative State Research, Education, and Extension Service (CSREES) and the Agricultural Research Service (ARS) announce a National Food Safety Research Conference which is planned to solicit comment for setting priorities of USDA food safety research programs. The goal of the conference will be to identify the gaps in the knowledge base of safe food production, processing, handling, storage and preparation.

All food products which are considered to be significant sources of food-borne illness will be addressed at the conference—meat, poultry, eggs, milk, fresh fruits, vegetables, and other plant-based foods.

The agencies seek broad input from producers, processors, food handlers, consumers, and regulatory agencies who are users of food safety research information.

Day 1 will consist of presentations from the public research community profiling current food safety research programs throughout the pre- and post-harvest, transport, handling and storage, and retail/consumer components of the food chain.

Day 2 will be devoted to receiving individual commentary and input from stakeholders on research needs and priorities for future food safety research. Input is sought primarily from organizations which represent broad constituencies and can speak to the national priorities.

DATES: The meeting will be held on Thursday, November 12, and Friday, November 13, 1998, from 8:00 a.m. to 6 p.m. each day.

ADDRESSES: The conference will be held at the Ramada Plaza Hotel Old Town, 901 N. Fairfax Street, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT: Individuals or organizations who wish to make oral presentations during the comment session on November 13, 1998, are asked to pre-register by contacting Dr. Jennifer Kuzma in writing indicating the organization and area(s) of food safety issues which you wish to address. Please send your written request to Dr. Jennifer Kuzma, USDA–CSREES, STOP 2220, 1400 Independence Avenue, SW, Washington, DC 20250–2220, e-mail to jkuzma@reeusda.gov, phone: 202/401–6223, or fax: 202–401–4888.

Presentations will be arranged by food system areas, i.e., pre-harvest, post-harvest, and transport/storage/consumer, with equal time for all presenters. It is anticipated that individual oral comments will not exceed five minutes. Written comments are welcome and should be sent to Dr. Kuzma at the above address either prior to the meeting or to be received no later than December 1, 1998.

All persons wishing to attend are required to pre-register by contacting Mrs. Armindia Fleming at (202) 401–6617; fax, (202) 401–4888; or e-mail, afleming@reeusda.gov. A registration fee will not be charged. Registration materials are available upon request. Hotel reservations may be made at the Ramada Plaza Hotel Old Town by calling (703) 683–6000. A block of rooms has been reserved under the name USDA/CSREES/Food Safety Conference. Reservations must be made by October 11, 1998. After that date, reservations will be accepted on an availability basis at the regular published rate.

To obtain additional information, contact Dr. William Wagner, USDA–CSREES, at the above address, or by phone on (202) 401–4952; or Dr. Jane Robens, USDA–ARS, BARC, Bldg. 005, Beltsville, MD 20708; phone (301) 504–5381; e-mail, jfr@ars.usda.gov.

Done in Washington DC, on this 25th day of September, 1998

Colien Hefferan,

Acting Administrator, Cooperative State Research, Education, and Extension Service.

Floyd Horn,

Administrator, Agricultural Research Service.

[FR Doc. 98–26236 Filed 9–30–98; 8:45 am]

BILLING CODE 3410–22–M

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Foreign Currencies Available for the Development of Foreign Markets

AGENCY: Foreign Agricultural Service.

ACTION: Notice.

SUMMARY: The Foreign Agricultural Service (''FAS'') invites proposals from interested parties to use Costa Rican, Dominican Republic, Guatemalan, Jamaican, and Sri Lankan currencies acquired by the United States government for market development projects and technical assistance activities in those countries. These currencies were acquired pursuant to agreements under title I of the Agricultural Trade Development and Assistance Act of 1954, (Pub. L. 480).

FOR FURTHER INFORMATION CONTACT: Evans Browne, Program Development Division, Export Credits, Foreign Agricultural Service, Room 4506, South Building, Stop 1034, U.S. Department of Agriculture, 1400 Independence Ave., SW, Washington, DC 20250–1034. Telephone: (202) 720–4228.

SUPPLEMENTARY INFORMATION: Title I, Pub. L. 480 authorizes the United States to finance the sale and exportation of agricultural commodities to foreign governments on concessional terms. Between 1986 and 1991, the United States entered into various title I, Pub. L. 480 agreements with foreign governments, on terms which required

repayment to the United States in local currencies. These agreements were commonly referred to as constituting the ''section 108 program.''

On July 8, 1998, FAS published a notice in the **Federal Register** (63 FR 36872) announcing that FAS was inviting proposals to use Tunisian or Moroccan currencies acquired under the section 108 program for market development projects and technical assistance activities in those countries. That notice also set forth the criteria FAS would use in evaluating and accepting such proposals. The purpose of the present notice is to invite proposals to use Costa Rican, Dominican Republic, Guatemalan, Jamaican, and Sri Lankan currencies for market development projects and technical assistance activities in those countries. The procedures for submitting proposals and the FAS' evaluation criteria for any such proposals will be identical to that set forth in the July 8, 1998, **Federal Register** notice.

Signed at Washington D.C. on September 21, 1998.

Lon Hatamiya,

Administrator, Foreign Agricultural Service and Vice President, Commodity Credit Corporation.

[FR Doc. 98–26237 Filed 9–30–98; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity To Comment on the Applicants for the Alton (IL) Area

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

ACTION: Notice.

SUMMARY: GIPSA requests comments on the applicants for designation to provide official services in the geographic area assigned to Alton Grain Inspection Department (Alton).

DATES: Comments must be postmarked, or sent by telecopier (FAX) by October 31, 1998.

ADDRESSES: Comments must be submitted in writing to USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, S.W., Washington, DC 20250–3604. Telecopier (FAX) users may send comments to the automatic telecopier machine at 202–690–2755, attention: Janet M. Hart. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, S.W., during regular business hours.

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

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

In the August 3, 1998, **Federal Register** (63 FR 41224), GIPSA asked persons interested in providing official services in the Alton area to submit an application for designation by September 1, 1998. There were two applicants: Alton and the Missouri Department of Agriculture. Each applied for designation to provide official services in the entire Alton area.

GIPSA is publishing this notice to provide interested persons the opportunity to present comments concerning the applicants. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of the applicants. All comments must be submitted to the Compliance Division at the above address. Comments and other available information will be considered in making a final decision. GIPSA will publish notice of the final decision in the **Federal Register**, and GIPSA will send the applicants written notification of the decision.

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

Dated: September 24, 1998.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 98–26238 Filed 9–30–98; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the Central Illinois (IL), Plainview (TX), Barton (KY), and North Dakota (ND) Areas, and Request for Comments on the Central Illinois, Plainview, Barton, and North Dakota Agencies

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

ACTION: Notice.

SUMMARY: The designations of the official agencies listed below will end in May and June 1999. GIPSA is asking persons interested in providing official services in the areas served by these agencies to submit an application for designation. GIPSA is also asking for comments on the services provided by these currently designated agencies:

Central Illinois Grain Inspection, Inc. (Central Illinois);

Plainview Grain Inspection and Weighing Service, Inc. (Plainview);

J.W. Barton Grain Inspection Service, Inc. (Barton); and

North Dakota Grain Inspection Service, Inc. (North Dakota).

DATES: Applications and comments must be postmarked or sent by telecopier (FAX) on or before October 30, 1998.

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

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

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

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

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

1. Current Designations Being Announced for Renewal

Official agency	Main office	Designation start	Designation end
Central Illinois	Bloomington, IL	6/1/1996	5/31/1999
Plainview	Plainview, TX	6/1/1996	5/31/1999
J.W. Barton	Owensboro, KY	7/1/1996	6/30/1999
North Dakota	Fargo, ND	7/1/1996	6/30/1999

a. Central Illinois

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

Bounded on the North by State Route 18 east to U.S. Route 51; U.S. Route 51 south to State Route 17; State Route 17 east to Livingston County; the Livingston County line east to State Route 47;

Bounded on the East by State Route 47 south to State Route 116; State Route 116 west to Pontiac, which intersects with a straight line running north and south through Arrowsmith to the southern McLean County line;

Bounded on the South by the southern McLean County line; the eastern Logan County line south to State Route 10; State Route 10 west to the Logan County line; the western Logan County line; the southern Tazewell County line; and

Bounded on the West by the western Tazewell County line; the western Peoria County line north to Interstate 74; Interstate 74 southeast to State Route 116; State Route 116 north to State Route 26; State Route 26 north to State Route 18.

Central Illinois' assigned geographic area does not include the following grain elevator inside Central Illinois' area which has been and will continue to be serviced by the following official agency: Springfield Grain Inspection, Inc.: East Lincoln Farmers Grain Co., Lincoln, Logan County.

b. Plainview

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

Bounded on the North by the northern Deaf Smith County line east to U.S. Route 385; U.S. Route 385 south to FM 1062; FM 1062 east to State Route 217; State Route 217 east to Prairie Dog Town Fork of the Red River; Prairie Dog Town Fork of the Red River southeast to the Briscoe County line; the northern Briscoe County line; the northern Hall County line east to U.S. Route 287;

Bounded on the East by U.S. Route 287 southeast to the eastern Hall County line; the eastern Hall, Motley, Dickens, Kent, Scurry, and Mitchell County lines;

Bounded on the South by the southern Mitchell, Howard, Martin, and Andrews County lines; and

Bounded on the West by the western Andrews, Gaines, and Yoakum County lines; the northern Yoakum and Terry county lines; the western Lubbock County line; the western Hale County line north to FM 37; FM 37 west to U.S. Route 84; U.S. Route 84 northwest to FM 303; FM 303 north to U.S. Route 70; U.S. Route 70 west to the Lamb County line; the western and northern Lamb County lines; the western Castro County line; the southern Deaf Smith County line west to State Route 214; State Route 214 north to the northern Deaf Smith County line.

c. Barton

Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the States of Indiana, Kentucky, and Tennessee, is assigned to Barton.

Clark, Crawford, Floyd, Harrison, Jackson, Jennings, Jefferson, Lawrence, Martin, Orange, Perry, Scott, Spencer, and Washington Counties, Indiana.

In Kentucky

Bounded on the North by the northern Daviess, Hancock, Breckinridge, Meade, Hardin, Jefferson, Oldham, Trimble, and Carroll County lines;

Bounded on the East by the eastern Carroll, Henry, Franklin, Scott, Fayette, Jessamine, Woodford, Anderson, Nelson, Larue, Hart, Barren, and Allen County lines;

Bounded on the South by the southern Allen and Simpson County lines; and

Bounded on the West by the western Simpson and Warren County lines; the southern Butler and Muhlenberg County lines; the Muhlenberg County line west to the Western Kentucky Parkway; the Western Kentucky Parkway west to State Route 109; State Route 109 north to State Route 814; State Route 814 north to U.S. Route Alternate 41; U.S. Route Alternate 41 north to the Webster County line; the northern Webster County line; the western McLean and Daviess County lines.

In Tennessee

Bounded on the North by the northern Tennessee State line from Sumner County east;

Bounded on the East by the eastern Tennessee State line southwest;

Bounded on the South by the southern Tennessee State line west to the western Giles County line; and

Bounded on the West by the western Giles, Maury, and Williamson County lines North; the northern Williamson County line east; the western Rutherford, Wilson, and Sumner County lines north.

d. North Dakota

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

Bounded on the North by the northern Steele County line from State Route 32 east; the eastern Steele County line south to State Route 200; State Route 200 east-southeast to the State line;

Bounded on the East by the eastern North Dakota State line;

Bounded on the South by the southern North Dakota State line west to State Route 1; and

Bounded on the West by State Route 1 north to Interstate 94; Interstate 94 east to the Soo Railroad line; the Soo Railroad line northwest to State Route 1; State Route 1 north to State Route 200; State Route 200 east to State Route 45; State Route 45 north to State Route 32; State Route 32 north.

North Dakota's assigned geographic area does not include the following grain elevators inside North Dakota's area which have been and will continue to be serviced by the following official agency Grain Inspection, Inc.: Norway Spur, and Oakes Grain, both in Oakes, Dickey County.

2. Opportunity for Designation

Interested persons, including Central Illinois, Plainview, Barton, and North Dakota, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder.

DESIGNATION	TERM
Central Illinois	6/1/1999 to 5/31/2002.
Plainview	6/1/1999 to 5/31/2002.
Barton	7/1/1999 to 5/31/2002.

DESIGNATION TERM—Continued

North Dakota	7/1/1999 to 5/31/2002.

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

3. Request for Comments

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

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

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

Dated: September 22, 1998.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 98–26094 Filed 9–30–98; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Designation Amendment for Michigan To Provide Official Services in the Lima (OH) Area

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

ACTION: Notice.

SUMMARY: The designation of Michigan Grain Inspection Services, Inc., (Michigan), has been amended to include the former Lima Ohio area.

DATE: Effective on September 18, 1998.

ADDRESSES: USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, 1400 Independence Ave. SW, Washington, DC 20250–3604.

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

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

In the April 1, 1998, **Federal Register** (63 FR 15827), GIPSA announced the designation of Michigan to provide official inspection services under the Act, effective May 1, 1998, and ending April 30, 2001. In July 1998, Michigan asked GIPSA to amend their geographic area to include the former Lima, Ohio, area, due to the purchase of the designated corporation, Lima Grain Inspection Service, Inc. (Lima).

In the July 16, 1998, **Federal Register** (63 FR 38367), GIPSA announced the purchase of the Lima agency by Michigan, effective August 1, 1998. GIPSA also announced the amendment of Michigan's designation to provide official inspection services under the Act, to include the former Lima, Ohio, area, effective August 1, 1998. Lima voluntarily canceled their designation effective July 31, 1998. Michigan subsequently advised GIPSA that the purchase of the Lima agency would not be completed. GIPSA, in the August 28, 1998, **Federal Register** (63 FR 45995), announced that the sale will not be completed, withdrew the amendment as published in the July 16, 1998, **Federal Register**, and asked persons interested in providing official services in the former Lima, Ohio, area to submit an application for designation

Michigan subsequently completed the purchase of the Lima agency on September 18, 1998. Accordingly, GIPSA is withdrawing its request for applications from persons interested in providing services in the former Lima, Ohio, area as published in the August 28, 1998, **Federal Register**. GIPSA is announcing the designation of Michigan to provide official inspection services under the Act, in the former Lima, Ohio, area effective September 18, 1998, and ending April 30, 2001, concurrently with the end of Michigan's current designation.

Section 7A(c)(2) of the Act authorizes GIPSA's Administrator to designate an agency to perform official services within a specified geographic area, if such agency is qualified under Section 7(f)(1)(A) of the Act. GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(1)(A) of the Act, and determined that Michigan is qualified. GIPSA is announcing the change in Michigan's assigned geographic area, and that Michigan is the officially designated service provider in the area of Ohio formerly assigned to Lima. The Michigan geographic area, in the States of Michigan and Ohio is:

Bounded on the North by the northern Michigan State line;

Bounded on the East by the eastern Michigan State line south and east to State Route 53; State Route 53 south to State Route 46; State Route 46 west to Sheridan Road; Sheridan Road south to Barnes Road; Barnes Road west to State Route 15; State Route 15 south to the Genesee County line; the northern Genesee County line west to the Shiawassee County line; the northern Shiawassee County line west to State Route 52; State Route 52 south to State Route 21; State Route 21 west to Clinton County; the eastern and northern Clinton County lines west to U.S. Route 27; U.S. Route 27 south to U.S. Route 127; U.S. Route 127 south to the Michigan-Ohio State line. In Ohio, the northern State line west to the Williams County line; the eastern Williams County line south to the Defiance County line; the northern and eastern Defiance County lines south to U.S. Route 24; U.S. Route 24 northeast to State Route 108; State Route 108 south to Putnam County; the northern and eastern Putnam County lines; the eastern Allen County line; the northern Hardin County line east to U.S. Route 68; U.S. Route 68 south to U.S. Route 47;

Bounded on the South by U.S. Route 47 west-southwest to Interstate 75 (excluding all of Sidney, Ohio); Interstate 75 south to the Shelby County line; the southern and western Shelby County lines; the southern Mercer County line; and

Bounded on the West by the Ohio-Indiana State line from the southern Mercer County line to the northern Williams County line; in Michigan, by the southern Michigan State line west to the Branch County line; the western Branch County line north to the Kalamazoo County line; the southern Kalamazoo and Van Buren County lines west to the Michigan State line; the western Michigan State line north to the northern Michigan State line.

Michigan's assigned geographic area does not include the following grain elevators inside Michigan's area which have been and will continue to be serviced by the following official agencies:

1. Detroit Grain Inspection Service, Inc.: St. Johns Coop., St. Johns, Clinton County, Michigan.

2. Northeast Indiana Grain Inspection: E.M. P. Grain, Payne, Paulding County, Ohio.

Effective September 18, 1998, Michigan's present geographic area is amended to include part of Ohio. Michigan's designation to provide official inspection services terminates April 30, 2001. Official services may be

obtained by contacting Michigan at 616–781–2711.

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

Dated: September 23, 1998.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 98–26093 Filed 9–30–98; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Designation for the Amarillo (TX), Fostoria (OH), Schaal (IA), and Wisconsin Areas

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

ACTION: Notice.

SUMMARY: GIPSA announces designation of the following organizations to provide official services under the United States Grain Standards Act, as amended (Act):

Amarillo Grain Exchange, Inc. (Amarillo);

Fostoria Grain Inspection, Inc. (Fostoria);

D.R. Schaal Agency, Inc. (Schaal) and;

Wisconsin Department of Agriculture, Trade and Consumer Protection (Wisconsin).

EFFECTIVE DATE: December 1, 1998.

ADDRESSES: USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, SW, Washington, DC 20250–3604.

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

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

In the June 1, 1998, **Federal Register** (63 FR 29695), GIPSA asked persons interested in providing official services in the geographic areas assigned to Amarillo, Fostoria, Schaal, and Wisconsin to submit an application for designation. Applications were due by June 30, 1998. Amarillo, Fostoria, Schaal, and Wisconsin, the only applicants, each applied for designation to provide official services in the entire area currently assigned to them.

Since Amarillo, Fostoria, Schaal, and Wisconsin were the only applicants, GIPSA did not ask for comments on them.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(l)(A) of the Act and, according to Section 7(f)(l)(B), determined that Amarillo, Fostoria, Schaal, and Wisconsin are able to provide official services in the geographic areas for which they applied.

Official agency	Designation start	Designation end
Amarillo	12/1/1998	11/30/2001
Fostoria	12/1/1998	11/30/2001
Schaal	12/1/1998	11/30/2001
Wisconsin	12/1/1998	11/30/2001

Effective December 1, 1998, and ending November 30, 2001, Amarillo, Fostoria, Schaal, and Wisconsin are designated to provide official services in the geographic area specified in the June 1, 1998, **Federal Register**.

Interested persons may obtain official services by contacting Amarillo at 806–372–8511, Fostoria at 419–435–3804, Schaal at 515–444–3122, and Wisconsin at 715–392–7851.

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

Dated: September 22, 1998.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 98–26092 Filed 9–30–98; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Protein Certification

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is soliciting comments on its proposal to certify wheat protein content results on any specified moisture basis requested by applicants, in addition to certifying results on the current 12.0 percent moisture basis. This change has been requested by importers of U.S. wheat.

DATES: Comments must be submitted on or before November 30, 1998.

ADDRESSES: Written comments must be submitted to Sharon Vassiliades at GIPSA, USDA, STOP 3649, 1400 Independence Avenue, S.W., Washington, D.C., 20250–3649; FAX (202) 720–4628; or E-mail svassili@fgisdc.usda.gov.

All comments received will be made available for public inspection at the above address during regular business hours (8:00 a.m.–3:30 p.m.).

FOR FURTHER INFORMATION CONTACT: John Giler at (202) 720–0252.

SUPPLEMENTARY INFORMATION: On May 1, 1978, GIPSA (then the Federal Grain Inspection Service or FGIS) began offering official wheat protein testing for Hard Red Winter and Hard Red Spring wheat to interested parties in the grain industry. In calculating protein content, an ''as-is'' moisture basis was also used (though protein content could also be determined and recorded using any specified moisture basis if requested by the applicant for inspection). By calculating protein content using the as-is moisture basis, GIPSA received numerous complaints, mostly from foreign buyers. These complaints were generally about low protein levels which, in part, appeared due to the difference between the U.S. and Canadian methods for computing and stating protein content. Canada was using a fixed 13.5 percent moisture basis compared to the as-is moisture basis calculation which was commonly used for U.S. shipments. When using an as-is moisture basis to certify protein, the certified protein result is directly dependent on the moisture level of the wheat. Protein content is inversely proportional to the moisture content when results are based on the as-is reporting basis. Consequently, as the moisture content of the wheat gets lower, the protein content reported on an as-is basis gets larger. Further, a given lot's protein content could theoretically ''change'' as the wheat's actual moisture content changed over time when using the as-is reporting basis.

To address these concerns, FGIS proposed, in 1986, to revise its Grain Inspection Handbook to provide that protein content be certified on a constant 12.0 percent moisture basis, instead of the as-is moisture basis or another fixed moisture basis. It was thought that this would add uniformity to the official protein reporting procedure. When reporting on an as-is basis, the protein quantity of wheat which has different moisture levels cannot be compared easily. A 12.0 percent moisture basis was recommended by various grower and processor organizations, as well as the Grain Quality Workshops, because this percentage represented the average moisture content of wheat exported from the United States. The agency believed that protein content, certified on a constant moisture basis of 12.0 percent, would provide buyers, sellers, and users of U.S. wheat with results that could be easily evaluated and compared. Also, use of a constant

moisture basis would be similar to protein reporting procedures used by other major wheat exporting countries. This proposal was announced in the May 30, 1986, **Federal Register** (51 FR 19556) and solicited industry comment on this action.

Comments on the May 30, 1986, proposal were generally in favor of a constant moisture basis for protein determination. Some commentors suggested using either a dry matter (0.0 percent moisture basis) or a 14.0 percent moisture basis as the constant. The dry matter and 14.0 percent moisture bases are frequently used in European and American flour mill specifications, respectively. However, the majority of commentors, including foreign buyers, supported the proposal to certificate protein on a constant 12.0 percent moisture basis. Further, since protein content on any other moisture basis can be easily calculated, it was decided that the practice of allowing any moisture basis to be specified by an applicant should be discontinued. Based on the comments received, FGIS published a document announcing this change in the August 26, 1986, **Federal Register** (51 FR 30323) which became effective May 1, 1987.

Moving to a constant 12.0 percent moisture basis solved the problem of varying protein results caused by fluctuating wheat moisture levels, as well as helped to eliminate concerns with regard to confusion over protein results. However, the 12.0 percent moisture basis was still different than moisture bases used by other exporting countries and many of our foreign customers. As examples, Canada uses a 13.5 percent moisture basis, Australia uses either 11.0 percent or ''as-is,'' England and Sweden use 15.0 percent, and many Eastern European and other countries around the world, use the dry matter basis. Further, to date GIPSA has maintained its policy of only certifying protein results on the 12.0 percent moisture basis.

Since implementing the required 12.0 percent moisture basis requirement for protein analysis in wheat, it appears that this may not be fully facilitating the marketing of export wheat, even though wheat protein measurements have been standardized. A number of importers of U.S. wheat have requested that GIPSA provide an option to certify wheat protein content results on any specified moisture basis requested by applicants, in addition to certifying results on the current 12.0 percent moisture basis.

To address this concern, GIPSA proposes to introduce flexible certification in its protein testing program, in addition to maintaining its standardization of results. GIPSA believes that allowing certification on the 12.0 percent moisture basis and including the option to also certify on a moisture basis requested by the receiver, would provide sufficient information on the inspection certificate to facilitate the marketing of wheat. Although this certification option is developed to address an export market need, GIPSA also believes this option could be used for domestic movements. This would be especially true in situations when an exporter is originating wheat to fulfill an export contract that requires a moisture basis other than 12.0 percent. Therefore, this certification option would be available from GIPSA field offices, delegated States, and designated agencies.

Adopting this action will allow GIPSA and the grain industry the greatest flexibility in the certification of wheat protein. Protein results will continue to be certified on a constant 12.0 percent moisture basis on all certificates, but the option would allow GIPSA the flexibility to meet a customer's request for additional information. GIPSA field offices, delegated States, and designated agencies will be responsible for the applicable mathematical calculations for certification using the following industry recognized formula:

$$X=[P/100-12]\times100\times[100-PX/100]$$

Where:

X=the protein content at a moisture basis other than 12.0 percent requested by an applicant.

P=the protein content determined at a 12.0 percent moisture basis.

PX=the moisture basis specified by the applicant.

For example, if an applicant requests protein results also be certified to a 14.0 percent moisture basis and the protein content of the lot was determined to be 13.5 percent on a 12.0 percent moisture basis, the following calculation would be used to obtain the alternate protein result:

$$X=[13.5/100-12]\times100\times[100-14/100]$$
$$X=[13.5/88]\times100\times[86/100]$$
$$X=0.1534\times100\times0.86$$
$$X=15.34\times0.86$$
$$X=13.2$$

Therefore, in this example, protein content would be certified as 13.5 percent on a 12.0 percent moisture basis, and as 13.2 percent on a 14.0 percent moisture basis.

Final action concerning this proposal will be announced in the **Federal Register** at a later date after the close of the comment period.

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

Dated: September 23, 1998.

James R. Baker,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 98–26239 Filed 9–30–98; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Pilot Programs

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

ACTION: Notice.

SUMMARY: GIPSA is currently running three pilot programs; timely service, open season, and barge, under one of the 1993 amendments to the United States Grain Standards Act, as amended (Act). This amendment provides that GIPSA may conduct pilot programs allowing more than one official agency to provide official services within a single geographic area. These pilot programs are scheduled to end October 31, 1999. Participation in the pilot programs has been light, especially during the first 2 years, and GIPSA believes it needs additional time to collect information. Accordingly, GIPSA is extending the pilot programs to September 30, 2000, the end of fiscal year 1999.

EFFECTIVE DATE: November 1, 1998.

ADDRESSES: USDA, GIPSA, Neil E. Porter, Director, Compliance Division, STOP 3604, 1400 Independence Avenue SW, Washington, DC 20250–3604. Internet and GroupWise users may respond to nporter@fgisdc.usda.gov.

FOR FURTHER INFORMATION CONTACT: Neil E. Porter, telephone 202–720–8262.

SUPPLEMENTARY INFORMATION: Sections 7(f) and 7A of the Act was amended by the U.S. Grain Standards Act Amendments of 1993 (Pub. L. 103–156) on November 24, 1993, to authorize GIPSA'S Administrator to conduct pilot programs allowing more than one official agency to provide official services within a single geographic area without undermining the declared policy of the Act. The purpose of the pilot programs is to evaluate the impact of allowing more than one official agency to provide official services within a single geographic area.

GIPSA considered several possible pilot programs as announced in the March 14, 1994, **Federal Register** (59 FR 11759) and the March 10, 1995, **Federal Register** (60 FR 13113). In the September 27, 1995, **Federal Register** (60 FR 49828) GIPSA announced the

following two pilot programs starting on November 1, 1995, and ending on October 31, 1996.

1. Timely Service. This pilot program allows official agencies to provide official services to facilities outside their assigned geographic area on a case-by-case basis when these official services cannot be provided in a timely manner by the official agency designated to serve that area.

2. Open Season. This pilot program allows official agencies to offer their services to facilities outside their assigned geographic area where no official sample-lot or official weighing services have been provided in the previous 6 months.

In the October 3, 1996, **Federal Register** (61 FR 51674) GIPSA extended the pilot programs to October 31, 1999.

In the January 15, 1998, **Federal Register** (63 FR 2360) GIPSA announced a pilot program allowing barges on all rivers to be sampled by probe by any official agency effective March 1, 1998, and ending October 31, 1999, concurrently with the two existing pilot programs.

GIPSA has evaluated these three pilot programs and believes that they have not had an adverse impact on the official system. However, participation in the pilot programs has been light, especially during the first 2 years. Participation in the third year of the pilot programs is already greater than the total of the first 2 years combined. GIPSA is still collecting and analyzing information to determine if exclusive boundaries should be maintained as they are, eliminated, or modified. GIPSA believes that it needs additional time to evaluate the impact of allowing more than one official inspection agency to operate in a geographic area. Accordingly, GIPSA is extending the pilot programs to September 30, 2000, the end of the 1999 fiscal year.

The three pilot program provisions will remain the same as announced in the September 27, 1995, and January 15, 1998, **Federal Register's.**

GIPSA will continue to monitor and evaluate the pilot programs. If, at any time, GIPSA determines that any pilot program is having a negative impact on the official system or is not working as intended, the program may be modified or discontinued.

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

Dated: September 22, 1998.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 98–26091 Filed 9–30–98; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Initiation of Five-Year (''Sunset'') Reviews

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

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating five-year (''sunset'') reviews of the antidumping and countervailing duty orders, findings, and/or suspended investigations listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notices of *Institution of Five-Year Reviews* covering these same orders and/or suspended investigations.

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

SUPPLEMENTARY INFORMATION:

Initiation of Reviews

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

DOC Case No.	ITC Case No.	Country	Product
C–408–046	C4–7	EC	Sugar.
A–423–077	AA–198	Belgium	Sugar.
A–427–078	AA–199	France	Sugar.
A–428–082	AA–200	Germany	Sugar.
A–122–085	A–3	Canada	Sugar & Syrups.
A–588–015	AA–66	Japan	Television Receivers.
A–580–008	A–134	Korea (South)	Color Television Receivers.
A–583–009	A–135	Taiwan	Color Television Receivers.
A–588–090	A–7	Japan	Small Electric Motors (SA).
A–427–098	A–25	France	Anhydrous Sodium Metasilicate.
A–427–001	A–44	France	Sorbitol.
A–588–005	A–48	Japan	High Power Microwave Amplifiers.
A–428–061	A–31	Germany	Barium Carbonate.
A–570–007	A–149	China, PR	Barium Chloride.

Statute and Regulations

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

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

Filing Information

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

All submissions in the sunset review must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303 (1998). Also, we suggest that parties check the Department's sunset website for any updates to the service list before filing any submissions. We ask that parties notify the Department in writing of any additions or corrections to the list. We also would appreciate written notification if you no longer represent a party on the service list.

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

Information Required From Interested Parties

Domestic interested parties (defined in 19 CFR 351.102 (1998)) wishing to participate in the sunset review must respond not later than 15 days after the date of publication in the **Federal Register** of the notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth in the *Sunset Regulations* at 19 CFR 351.218(d)(1)(ii). In accordance with the *Sunset Regulations*, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.

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

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

Dated: September 25, 1998.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98–26322 Filed 9–30–98; 8:45 am]

BILLING CODE 3510–DS–P

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

DEPARTMENT OF COMMERCE

International Trade Administration

University of Vermont; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 98–041. Applicant: University of Vermont, Burlington, VT 05405–0084. Instrument: Roentgen Stereophotogrammetric Analysis System. Manufacturer: RSA BioMedical Innovations AB, Sweden. Intended Use: See notice at 63 FR 44840, August 21, 1998.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. Reasons: These are compatible accessories for an existing instrument purchased for the use of the applicant. The instrument and accessories were made by the same manufacturer. The National Institutes of Health advises in its memorandum dated August 17, 1998, that the accessories are pertinent to the intended uses and that it knows of no comparable domestic accessories.

We know of no domestic accessories which can be readily adapted to the existing instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 98–26331 Filed 9–30–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–351–406]

Certain Agricultural Tillage Tools From Brazil; Final Results of Countervailing Duty Administrative Review

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

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

SUMMARY: On July 13, 1998, the Department of Commerce (''the Department'') published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on certain agricultural tillage tools from Brazil for the period January 1, 1996 through December 31, 1996 (63 FR 37532). The Department has now completed this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended. For information on the net subsidy for Marchesan Implementos Agricolas, S.A. (''Marchesan''), the reviewed company, and for all non-reviewed companies, please see the *Final Results of Review* section of this notice. We will instruct the U.S. Customs Service to liquidate without regard to countervailing duties, all shipments of the subject merchandise from Marchesan, as detailed in the *Final Results of Review* section of this notice.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Lorenza Olivas, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 CFR 351.213(b), this review covers only those producers or exporters of the subject merchandise for which a review was specifically requested. On October 31, 1997, Marchesan requested a review and revocation from the countervailing duty order. Accordingly, this review covers Marchesan. This review also covers the period January 1, 1996 through December 31, 1996 and five programs.

In the preliminary results, we determined that the company did not have the requisite period of zero or de minimis subsidies to justify revocation from the countervailing duty order. *See Certain Agricultural Tillage Tools From Brazil; Preliminary Results of Countervailing Duty Administrative Review,* 63 FR 37533 (July 13, 1998). We invited interested parties to comment on the preliminary results. We received no comments from any of the parties and our determination that Marchesan is not eligible for revocation remains unchanged in these final results.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (''URAA'') effective January 1, 1995 (''the Act''). The Department is conducting this administrative review in accordance with section 751(a) of the Act. Also, unless otherwise indicated, all citations to the Department's regulations are to the provisions codified at 19 C.F.R. Part 351 (62 FR 27296; May 19, 1997).

Scope of the Review

Imports covered by this review are shipments of certain round shaped agricultural tillage tools (discs) with plain or notched edge, such as colters and furrow-opener blades. During the review period, such merchandise was classifiable under item numbers 8432.21.00, 8432.29.00 8432.80.00 and 8432.90.00 of the *Harmonized Tariff Schedule* (''HTS''). The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Analysis of Programs

Programs Found to be Not Used

In the preliminary results we found that the producers and/or exporters of the subject merchandise did not apply for or receive benefits under the following programs:

A. Accelerated Depreciation for Brazilian-Made Capital Goods;

B. Preferential Financing for Industrial Enterprises by Banco do Brasil (FST and EGF loans);

C. SUDENE Corporate Income Tax Reduction for Companies Located in the Northeast of Brasil;

D. Preferential Financing under PROEX (formerly under Resolution 68 and 509 through FINEX);

E. Preferential Financing under FINEP.

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

Final Results of Review

In accordance with 19 CFR 351.221, we calculated an individual subsidy rate for each producer/exporter subject to this administrative review. Since Marchesan did not use any of the countervailable subsidy programs during the period of review, we determine the net subsidy for Marchesan to be zero percent *ad valorem*. Accordingly, the Department intends to instruct Customs to liquidate, without regard to countervailing duties, shipments of the subject merchandise from Marchesan exported on or after January 1, 1996, and on or before December 31, 1996. Also, the cash deposits required for this company will be zero.

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

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order will be the rates for those companies established in the most recently completed administrative proceeding conducted under the URAA. If such a review has not been conducted, the rate established in the most recently completed administrative proceeding pursuant to the statutory provisions that were in effect prior to the URAA amendments is applicable. *See Certain Agricultural Tillage Tools from Brazil; Final Results of Countervailing Duty Administrative Review,* 60 FR 48692 (September 20, 1995). This previously established rate shall apply to all non-reviewed companies until a review of a company assigned this rate is requested and completed. In addition, for the period January 1, 1996 through December 31, 1996, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

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

This administrative review and notice are issued and published in accordance with section 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677f(i)(1)).

Dated: September 24, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–26330 Filed 9–30–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On September 1, 1998, U.S. Steel, LTV Steel Company, Inc., Bethlehem Steel Corp., National Steel Corporation, and Inland Steel Industries, Inc. (collectively) filed a First Request for Panel Review with the Canadian Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final order rescinding the injury finding made by the Canadian International Trade Tribunal, respecting Certain Cold-reduced Flat-rolled sheet Products of Carbon Steel (including high-strength low-alloy steel) Originating In or Exported from the Federal Republic of Germany, France, Italy, the United Kingdom and the United States of America. This determination was published in the *Canada Gazette,* Part I, Volume 132, No. 32, at page 2030, on August 8, 1998. The NAFTA Secretariat has assigned Case Number CDA–USA–98–1904–02 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the Canadian Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on September 1, 1998, requesting panel review of the order rescinding the injury finding described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is October 1, 1998);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is October 16, 1998); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: September 8, 1998.

James R. Holbein,

United States Secretary, NAFTA Secretariat.

[FR Doc. 98–26313 Filed 9–30–98; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071798B]

Marine Mammals; File No. 369–1440

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Dr. Bruce R. Mate, Oregon State University, Newport, Oregon 97365–5296, has been issued a permit to take various species of large whales and opportunistically take by Level B harassment other species of marine mammals, for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment (See **SUPPLEMENTARY INFORMATION**).

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Sara Shapiro 301/713–2289.

SUPPLEMENTARY INFORMATION: On January 21, 1998, notice was published in the **Federal Register** (63 FR 3093) that a request for a scientific research permit to take various species of large whales by tag and biopsy sample, and to opportunistically conduct level B harassment on other marine mammal species encountered during tagging activities, had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR parts 217–227), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

Permit No. 369–1440 was issued to the above named individual to satellite tag and biopsy sample seven species of large whales throughout the United States. No more than 24 of each species will be tagged/sampled in a year. NMFS prepared an Environmental Assessment of the authorized activities. The EA is available upon request.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Documents are available for review in the following locations:

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Alaska Region, NMFS, P.O. Box 21668 Juneau, AK 99802 (907/586–7221);

Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way, NE, BIN C15700, Seattle, WA 98115 (206/526–6150);

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (562/980–4015);

Coordinator, Pacific Area Office, NMFS, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396 (808/955–8831);

Regional Administrator, Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432 (813/570–5312); and

Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930, (978/281–9250).

Dated: September 18, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–26305 Filed 9–30–98; 8:45 am]

BILLING CODE 3510–22–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed. Currently, the Corporation is soliciting comments concerning its proposed dissemination of its new National Service-Learning Leader Schools program application. This form is used as part of the standard application package to facilitate the identification and recognition of public and private high schools that have demonstrated exemplary practices in service-learning. The information provided will be used by the Corporation and its review panel of experts to evaluate a school's merit for recognition.

Copies of the information collection requests can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by November 30, 1998.

The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to the Corporation for National and Community Service Attn: Amy Cohen, Office of Learn and Serve America, 1201 New York Avenue, N.W., 8th floor, Washington, D.C. 20525.

FOR FURTHER INFORMATION CONTACT: Amy Cohen, (202) 606–5000, ext. 484.

SUPPLEMENTARY INFORMATION:

A. Background

President Clinton introduced the idea of a national recognition program for schools that have incorporated service into the curriculum and the life of the school in his 1996 Pennsylvania State University commencement address. He challenged every American high school to make ''service a part of its basic ethic.'' The President urged every high school to make service a part of its curriculum and charged the Corporation for National Service with the responsibility to design the National Service-Learning Leader Schools program to honor outstanding schools. With input from many perspectives in the education and service communities, the Corporation has designed the National Service-Learning Leader Schools program. The forms included in the application package are new and have not previously been used by the Corporation.

B. Current Action

The Corporation seeks approval of the National Service-Learning Leader Schools application package and forms. The application package and forms are necessary to carry out this national initiative. They will standardize the applications received from schools across the country so the panel of expert reviewers receives standard information on the applicants. The forms will collect information about schools seeking recognition under this initiative. The information will be used in making decisions regarding which schools will be recognized, as well as for public awareness, educational and information purposes consistent with the Corporation's mission.

Type of Review: New approval.

Agency: Corporation for National and Community Service.

Title: National Service-Learning Leader Schools Program Application.

OMB Number: None.

Agency Number: None.

Affected Public: High schools that choose to seek recognition.

Total Respondents: Approximately 250.

Frequency: Annual.

Average Time Per Response: 6 hours.

Estimated Total Burden Hours: 1,500 hours.

Total Burden Cost (capital/startup): $35,000 (250 applicants @ $140 each: $20 for copying, assembly, and mailing plus 6 hours per response @ $20/hour).

Total Burden Cost (operating/maintenance): None.

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 of public record.

Dated: September 25, 1998.

Kenneth L. Klothen,

General Counsel.

[FR Doc. 98–26262 Filed 9–30–98; 8:45 am]

BILLING CODE 6050–28–U

DEPARTMENT OF DEFENSE

Department of the Air Force

Air Force A–76 Initiatives Cost Comparisons and Direct Conversions (As of July 1998)

Air Force is in the process of conducting the following A–76 initiatives. Cost comparisons are public-private competitions. Direct conversions are functions that may result in a conversion to contract without public competition. These initiatives were announced and in-progress as of July 1998, include the installation and state where the cost comparison is being performed, the total authorizations under study, public announcement date and solicitation (or anticipated) date. The following initiatives are in various stages of completion.

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation issued or scheduled date
		Cost Comparisons			
EIELSON AFB	AK	ADMINISTRATIVE TELEPHONE SWITCHBOARD.	10	18–Oct–96	18–May–98.
EIELSON AFB	AK	MILITARY FAMILY HOUSING MANAGEMENT.	16	17–Nov–97	01–Dec–98.
ELMENDORF AFB	AK	ADMINISTRATIVE TELEPHONE SWITCHBOARD.	16	28–Jul–97	22–Jul–98.
ELMENDORF AFB	AK	HOUSING MANAGEMENT	22	19–Sep–96	7–May–98.
MAXWELL AFB	AL	BASE OPERATING SUPPORT	821	28–Apr–98	01–Jan–99.
LOS ANGELES AFS	CA	HOUSING MANAGEMENT	10	01–Jul–97	30–Jul–98.
LOS ANGELES AFS	CA	SERVICES ACTIVITIES	8	01–Jul–97	30–Jul–98.
LOS ANGELES AFS	CA	COMMUNICATIONS OPERATIONS AND MAINTENANCE FUNCTIONS.	85	01–Jul–97	30–Jul–98.
MARCH AFB	CA	BASE OPERATING SUPPORT	219	06–Jan–98	11–Apr–99.
TRAVIS AFB	CA	MILITARY FAMILY HOUSING MAINTENANCE.	38	05–May–97	25–Jun–97.
VANDENBERG AFB	CA	TRAINER FABRICATION	12	24–Nov–97	01–Jan–99.
VANDENBERG AFB	CA	STRUCTURAL MAINTENANCE	32	29–Jul–96	22–Aug–97.
BUCKLEY ANGB	CO	CIVIL ENGINEERING	55	24–Nov–97	01–Jan–99.
BUCKLEY ANGB	CO	AIRFIELD MANAGEMENT	34	22–Mar–95	22–Mar–99.
CHEYENNE MTN AFB	CO	COMMUNICATION FUNCTIONS.	401	08–Jun–98	02–Apr–99.
CHEYENNE MTN AFB	CO	FACILITIES SERVICES	139	08–May–98	02–Apr–99.
USAF ACADEMY	CO	SERVICES ACTIVITIES	90	08–May–98	24–Sep–99.
USAF ACADEMY	CO	BASE OPERATING SUPPORT	112	08–May–98	21–May–99.
USAF ACADEMY	CO	FOOD SERVICES	299	08–May–98	13–Apr–99.
EGLIN AFB	FL	CIVIL ENGINEERING	96	03–Dec–96	21–Jul–98.
HOMESTEAD ARB	FL	BASE OPERATING SUPPORT	131	06–Jan–98	11–May–99.
HURLBURT COM FL	FL	UTILITIES PLANT	13	23–Sep–97	20–Jul–98.
MACDILL AFB	FL	CIVIL ENGINEERING	310	06–Nov–97	26–Jan–99.
PATRICK AFB	FL	VEHICLE OPERATIONS AND MAINTENANCE.	43	14–May–98	30–Dec–98.
PATRICK AFB	FL	HOUSING MANAGEMENT	7	29–Jul–96	9–Mar–98
DOBBINS ARB	GA	BASE OPERATING SUPPORT	113	06–Jan–98	02–Mar–98
ROBINS AFB	GA	EDUCATION SERVICES	29	28–Feb–97	03–Mar–98
RAMSTEIN AB	GERMY	MESS ATTENDANTS	33	10–Jul–96	20–Aug–97
RAMSTEIN AB	GERMY	MILITARY FAMILY HOUSING MAINTENANCE.	142	19–Jun–97	07–Aug–98
SPANGDAHLEM AB	GERMY	MESS ATTENDANTS	16	10–Jul–96	20–Aug–97
ANDERSEN AFB	GUAM	SUPPLY AND TRANSPORTATION.	384	25–Jun–98	01–Jan–99
SCOTT AFB	ILL	MEDICAL FACILITY MAINTENANCE.	8	09–Jan–98	13–Jul–98
SCOTT AFB	ILL	BASE SUPPLY	108	03–Jun–97	28–Aug–98
SCOTT AFB	ILL	COMMUNICATIONS OPERATIONS AND MAINTENANCE FUNCTIONS.	181	19–Mar–98	16–Aug–99
GRISSOM AFB	IN	BASE OPERATING SUPPORT	155	06–Jan–98	08–Jan–99
NEW ORLEANS NAS	LA	BASE OPERATING SUPPORT	59	13–Jun–96	10–Aug–99
HANSCOM AFB	MA	COMMUNICATION FUNCTIONS.	93	28–Feb–97	01–Jul–98
HANSCOM AFB	MA	DATA PROCESSING	18	28–Feb–97	01–May–98
WESTOVER ARB	MA	BASE OPERATING SUPPORT	182	06–Jan–98	05–May–98
ANDREWS AFB	MD	AIRCRAFT MAINTENANCE AND SUPPLY.	846	25–Jul–97	21–Dec–98
ANDREWS AFB	MD	MEDICAL FACILITY MAINTENANCE.	11	09–Oct–97	26–Nov–98
MINN/ST PAUL	MN	BASE OPERATING SUPPORT	87	06–Jan–98	11–Aug–98
KEESLER AFB	MS	TECHNICAL TRAINING CENTER EQUIPMENT MAINTENANCE.	253	13–Jun–96	02–Sep–97
MALMSTROM AFB	MT	FURNISHINGS MANAGEMENT	10	24–Nov–97	01–Jan–99
MALMSTROM AFB	MT	HEATING SYSTEMS	26	24–Nov–97	01–Jan–99
MALMSTROM AFB	MT	BASE COMMUNICATIONS	153	06–Oct–97	01–Jan–99
MULTIPLE INSTLNS	MULT	EDUCATION SERVICES	46	25–Mar–98	01–Nov–98
MULTIPLE INSTLNS	MULT	TECHNICAL TRAINING-ELECTRONIC PRINCIPLES TRAINING.	157	03–Dec–96	12–Sep–97
MULTIPLE INSTLNS	MULT	ADMINISTRATIVE SWITCHBOARD.	94	19–Jun–97	10–Sep–98

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation issued or scheduled date
MULTIPLE INSTLNS	MULT	GENERAL LIBRARY	23	29–Jul–97	20–Jul–98
OFFUTT AFB	NE	DATA AUTOMATION	357	24–Sep–97	27–May–98
NEW BOSTON AS	NH	BASE OPERATING SUPPORT	48	03–Dec–97	16–Dec–98
CANNON AFB	NM	MILITARY FAMILY HOUSING MAINTENANCE.	21	16–Apr–96	29–Sep–97
HOLLOMAN AFB	NM	MILITARY FAMILY HOUSING MAINTENANCE.	66	12–May–97	06–Jan–99
KIRTLAND AFB	NM	COMMUNICATION FUNCTIONS.	54	29–Apr–97	02–Feb–98
KIRTLAND AFB	NM	BASE COMMUNICATIONS	228	06–Nov–97	01–Aug–98
NIAGRA FALLS IAP	NY	BASE OPERATING SUPPORT	21	06–Jan–98	30–Jan–98
WRIGHT PATTERSON	OH	CIVIL ENGINEERING	698	15–Aug–97	08–Sep–98
WRIGHT PATTERSON	OH	ACADEMIC AND PLATFORM INSTRUCTIONS.	115	15–Aug–97	08–Sep–98
YOUNGSTOWN MUNI	OH	BASE OPERATING SUPPORT	86	13–Jun–96	11–Oct–98
TINKER AFB	OK	CIVIL ENGINEERING	567	15–Apr–97	26–Mar–98
GREATER PITTSBURG	PA	BASE OPERATING SUPPORT	91	13–Jun–96	16–Mar–98
WILLOW GROVE ARS	PA	BASE OPERATING SUPPORT	67	13–Jun–96	11–Nov–98
CHARLESTON AFB	SC	MILITARY FAMILY HOUSING MAINTENANCE.	14	23–Sep–97	20–Jul–98.
SHAW AFB	SC	MILITARY FAMILY HOUSING MAINTENANCE.	33	09–Jul–97	08–Jul–98.
CARSWELL AFB	TX	BASE OPERATING SUPPORT	80	13–Jun–96	06–Feb–99.
RANDOLPH AFB	TX	INFORMATION MANAGEMENT	26	12–May–98	To Be Determined.
HILL AFB	UT	HEATING SYSTEMS	38	29–Apr–97	24–Jun–98.
LANGLEY AFB	VA	MILITARY FAMILY HOUSING MAINTENANCE.	16	24–Nov–97	15–Jul–98.
LANGLEY AFB	VA	ADMINISTRATIVE TELEPHONE SWITCHBOARD.	18	05–Feb–98	01–Oct–98.
MCCHORD AFB	WA	HEATING SYSTEMS	11	23–Sep–97	23–Oct–98.
MCCHORD AFB	WA	MILITARY FAMILY HOUSING MAINTENANCE.	15	23–Sep–97	23–Oct–98.
GENERAL MITCHELL IAP	WI	BASE OPERATING SUPPORT	81	13–Jun–96	20–Apr–98.
F E WARREN AFB	WY	HEATING SYSTEMS	18	29–Jul–96	12–Mar–98.
F E WARREN AFB	WY	BASE COMMUNICATIONS	148	30–Oct–97	01–Jan–99.
Direct Conversions					
EIELSON AFB	AK	TRANSIENT AIRCRAFT MAINT	14	18–Oct–96	04–May–98.
ELMENDORF AFB	AK	TRANSIENT AIRCRAFT MAINT	12	10–Nov–97	21–Jul–98.
DAVIS MONTHAN AFB	AZ	GENERAL LIBRARY	6	24–Jan–97	17–Aug–98.
DAVIS MONTHAN AFB	AZ	PROTECTIVE COATING	9	24–Jun–98	11–Oct–99.
DAVIS MONTHAN AFB	AZ	CIVIL ENGINEERING	5	24–Jan–97	13–Jul–98.
LOS ANGELES AFS	CA	PACKING & CRATING	4	01–Jul–97	02–Oct–98.
TRAVIS AFB	CA	HEATING SYSTEMS	5	20–Apr–98	16–Dec–98.
TRAVIS AFB	CA	FACILITIES SVCS MAINT	2	20–Apr–98	16–Dec–98.
TRAVIS AFB	CA	FURNISHINGS MANAGEMENT	3	14–Mar–97	26–Feb–98.
TRAVIS AFB	CA	ENVIRONMENTAL	11	23–Sep–97	30–Sep–98.
FALCON AFB	CO	ENGINEERING DATA CENTER	6	17–Nov–97	05–Jan–99
PETERSON AFB	CO	PACKING & CRATING	9	10–Sep–97	01–Sep–98.
USAF ACADEMY	CO	AIRFIELD OPS & WEATHER	11	17–Apr–98	03–Feb–99.
PATRICK AFB	FL	TRANSIENT AIRCRAFT MAINT	11	10–Sep–97	05–Jan–99.
PATRICK AFB	FL	BASE WEATHER OBSERVING	5	17–Mar–98	15–Aug–98.
PATRICK AFB	FL	RANGE MAINTENANCE	63	19–May–98	01–Feb–99.
SCOTT AFB	ILL	GROUNDS MAINTENANCE	1	17–Mar–97	01–Jul–98.
AVIANO AB	ITALY	WAR RESERVE MAT (WRM)	30	16–Aug–96	To Be Determined.
BARKSDALE AFB	LA	CIVIL ENGINEERING	6	11–Jun–97	01–Nov–98.
BARKSDALE AFB	LA	HOSPITAL SERVICES	3	01–Dec–97	20–Feb–98.
BARKSDALE AFB	LA	GENERAL LIBRARY	6	11–Jun–97	01–Oct–98.
ANDREWS AFB	MD	SOFTWARE PROGRAMMING	23	18–Jun–97	28–Jul–98.
SELFRIDGE ANGB	MI	FUELS MANAGEMENT	8	01–Jun–98	07–Jan–99.
SELFRIDGE ANGB	MI	TRANSIENT AIRCRAFT MAINT	8	04–Jun–98	07–Jan–99.
SELFRIDGE ANGB	MI	BASE OPERATIONS	6	04–Jun–98	07–Jan–99.
WHITEMAN AFB	MO	HOSPITAL SERVICES	2	17–Apr–98	01–Jul–98.
SEYMOUR JOHNSON AFB	NC	TRANSIENT AIRCRAFT MAINT	8	12–Nov-97	25–Nov–98.
OFFUTT AFB	NE	PROTECTIVE COATING	8	11–Jun–97	01–Jul–98.
MCGUIRE AFB	NJ	GENERAL LIBRARY	6	17–Mar–97	20–Aug–98.
KIRTLAND AFB	NM	DORMITORY MANAGEMENT	6	28–Feb–97	26–Mar–98.
ALTUS AFB	OK	MEDICAL STENOGRAPHY	2	17–Nov–97	01–Jul–98.
TINKER AFB	OK	GENERAL LIBRARY	5	01–Jul–96	01–Jul–98.

Installation	State	Function(s)	Total authorizations	Public announcement date	Solicitation issued or scheduled date
CHARLESTON AFB	SC	GENERAL LIBRARY	5	11–Mar–97	28–Aug–97.
CHARLESTON AFB	SC	HEATING SYSTEMS	9	14–Mar–97	01–Jul–98.
NORTH FIELD	SC	GROUNDS MAINTENANCE	1	14–Mar–97	03–Mar–98.
INCIRLIK AB	TURKY	COMMUNICATION FUNCTIONS.	56	08–Sep–97	25–Jun–98.
INCIRLIK AB	TURKY	BASE OPERATING SUPPORT	220	08–Sep–97.	21–Jul–97.
DYESS AFB	TX	HOSPITAL SERVICES	3	26–Jun–98	01–Aug–98.
RANDOLPH AFB	TX	GENERAL LIBRARY	7	03–Dec–96	13–Apr–98.
RANDOLPH AFB	TX	FLYING TRAINING	45	20–Jan–98	03–Aug–98.
RANDOLPH AFB	TX	FLYING TRAINING	26	01–Jun–98	14–May–99.
HILL AFB	UT	HOUSING MANAGEMENT	8	10–Mar–97	24–Jun–98.
HILL AFB	UT	FACILITIES SVCS MAINT	4	10–Mar–97	24–Jun–98.
LANGLEY AFB	VA	HOSPITAL SERVICES	6	01–Dec–97	01–Oct–98.
MCCHORD AFB	WA	GENERAL LIBRARY	6	17–Mar–97	03–Oct–98.
MCCHORD AFB	WA	GROUNDS MAINTENANCE	9	17–Mar–97	28–Apr–98.
F E WARREN AFB	WY	HOUSING MANAGEMENT	8	24–Nov–97	01–Jan–99.
F E WARREN AFB	WY	FOOD SERVICES	17	29–Jul–97	01–Dec–98.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 98–26240 Filed 9–30–98; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Proposed Information Collection; Commander, Military Sealift Command

AGENCY: Department of the Navy, DOD.

ACTION: Notice of proposed information collection.

SUMMARY: The Military Sealift Command announces the proposed extension of a previously approved public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by November 30, 1998.

ADDRESSES: Send written comments and recommendations on the proposed information collection to Commander, Military Sealift Command, Washington Navy Yard Building 210, 914 Charles Morris Court SE, Washington, DC 20398–5540.

FOR FURTHER INFORMATION CONTACT: To request additional information or to obtain a copy of the proposal and associated collection instruments, contact Ms. Carleen C. Kolpa at (202) 685–5125.

SUPPLEMENTARY INFORMATION:

Form Title and OMB Number: ''Application for MSC Afloat Employment''; OMB Control Number 0703–0014.

Needs and Uses: This collection of information is used to identify specific knowledge's, skills, and abilities, as well as to determine qualifications of, merchant marine applicants for position on Military Sealift Command ships. The associated form is used by the applicant to provide information beyond that inherent in the licenses and documents held by the individual.

Affected Public: Individuals or Households.

Annual Burden Hours: 23,400.

Number of Respondents: 11,700.

Responses per Respondent: 1.

Average Burden per Response: 2 hours.

Frequency: On occasion.

(Authority: 44 U.S.C. Sec. 3506(c)(2)(A).)

Dated: September 21, 1998.

Ralph W. Corey,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 98–26310 Filed 9–30–98; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Invention for Licensing; Government-Owned Invention

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy. U.S. Patent Application Serial No. 09/025033 entitled ''Optically Stimulated Luminescent Fiber Optic Radiation Dosimeter'' Navy Case No. 78,583.

ADDRESSES: Requests for copies of the patent application cited should be directed to the Naval Research Laboratory, Code 3008.2, 4555 Overlook Avenue, S.W., Washington, DC 20375–5320, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: Dr. Richard H. Rein, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, S.W., Washington, DC 20375–5320, telephone (202) 767–7230.

(Authority: 35 U.S.C. 207, 37 CFR Part 404.)

Dated: September 24, 1998.

Ralph W. Corey,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 98–26312 Filed 9–30–98; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–729–001]

Eastern Shore Natural Gas Company; Notice of Amendment

September 25, 1998.

Take notice that on September 16, 1998, pursuant to Sections 7(c) of the Natural Gas Act (NGA), Eastern Shore Natural Gas Company (Eastern Shore), P.O. Box 1769, Dover, Delaware 19903–1769, filed in Docket No. CP97–729–001 an amendment to its certificate issued at Docket No. CP97–729–000 (82 FERC ¶ 62,160 (1998)), on March 6, 1998 in order to increase the diameter of the 2.3 mile section of pipeline replacement from the authorized 10 inches to 16 inches, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

On March 6, 1998, the Commission authorized Eastern Shore to replace 2.3 miles of 6-inch pipeline with 10-inch pipeline, and .2 miles of 10-inch pipeline with 16-inch pipeline, all in connection with a highway realignment project required by the State of Delaware Department of Transportation (DelDOT). Eastern Shore states that as presented in the original application, the estimated total cost of the 2.3 miles of 10-inch pipeline is $781,517. Eastern Shore also notes that it requested and received a preliminary determination that rolled-in rate treatment would be appropriate for the entire cost of the upsized pipeline segments. Eastern Shore is requesting the current authorization to increase the diameter of the approved 2.3 mile pipeline from 10 inches to 16 inches because, in late September, it will file an application for authorization to construct and operate additional facilities, which in combination with the change requested herein, will enable Eastern Shore to provide additional firm advice to existing customers.

Eastern Shore believes that DelDOT will require the construction of the 2.3 mile segment of pipeline prior to the Commission's approval of the additional facilities that Eastern Shore proposes to file for authorization with the Commission in September. Eastern Shore claims that DelDOT's current construction schedule may require Eastern Shore to begin construction as early as November of 1998. Consequently, Eastern Shore asserts that it faces a timing dilemma that can best be resolved by amending the Commission's March 9, 1998 order to allow it to install the 16-inch diameter pipe. Eastern Shore claims that the incremental cost of increasing the diameter of the 2.3 mile segment to 16-inches is $369,853, if undertaken in conjunction with the DelDOT project. By comparison, Eastern Shore notes that if it were to install the previously approved 10-inch pipeline and later loop the line, the cost of installing the looping on new right-of-way without the benefit of the ongoing highway construction would be in excess of the $1,460,594 that Eastern Shore estimated in the original application as the cost to separately install a 10-inch pipeline loop. Eastern Shore states that it is not this time seeking a preliminary determination of rolled-in rate treatment for the incremental cost of upsizing the pipeline segment, it will however do so in its next rate case, assuming the Commission approves the proposed facilities to be filed with the Commission in September.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 9, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211) 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 jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules and Regulations, 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 is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Eastern Shore to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 98–26245 Filed 9–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–795–000]

Transwestern Pipeline Company; Notice of Application

September 25, 1998.

Take notice that on September 22, 1998, Transwestern Pipeline Company (Transwestern), having its main offices at 1400 Smith Street, Houston, Texas 77002, filed in the above docket an abbreviated application pursuant to Section 7(b) and 7(c) of the Natural Gas Act seeking permission to abandon by sale to Union Pacific Highlands Gathering and Processing Company (UPH), approximately 57.9 miles of various diameter pipeline facilities appurtentant facilities, one small volume tap, all located in Eddy and Lea Counties, New Mexico, (the Crawford/Burton Flats Facilities) and certain firm and interruptible transportation services rendered over these facilities.

Specifically, Transwestern proposes to convey to UPH:

1. The 8-inch diameter Crawford lateral, approximately 27.2 miles in length,
2. A portion of the 16-inch diameter Crawford Loop Lateral segment approximately 5.6 miles in length,
3. The 12-inch diameter Burton Flats Lateral approximately 15.7 miles in length,
4. The 8-inch diameter Avalon Lateral approximately 2.08 miles in length,
5. The 10-inch diameter Yates Federal #1 Lateral approximately 4.9 miles in length,
6. The 8-inch diameter TX O&G Williamson Federal #1 Lateral approximately 0.9 miles in length,
7. The 6-inch TX O&G Williamson Federal #1 Lateral extension approximately 0.5 miles in length, and
8. All delivery and receipt points located on these facilities.

Transwestern also proposes to abandon by sale in existing farm tap, but will continue the service through a new farm tap to be installed on its portion of the Crawford Loop Lateral that Transwestern will retain. Transwestern proposes to sell these facilities to UPH for $3.1 million.

Included in its application, Transwestern proposes to relocate two (2) 1100 HP Solar Turbine/Compressors to a downstream site, install a custody transfer meter station on the suction side and install 0.5 miles of 12-inch diameter of the discharge side of the compressor station to tie-in the station to its remaining 16-inch Crawford Loop Lateral. The estimated cost of these facilities in $1.3 million.

Transwestern asserts that these facilities are no longer necessary for it to transport gas for its merchant function and that UPH will assume all future service obligations, and operational and economic responsibilities attached to these facilities. Transwestern avers that; (1) upon approval of the sale of these facilities, and (2) UPH receiving a declaratory order form the Commission finding that the subject facilities, once conveyed, are gathering pipeline facilities, exempt form jurisdiction under Section 1(b) of the Natural Gas Act, UPH will integrate the subject facilities into its existing gathering system and be able to provide similar transportation service to shippers requesting service on the Crawford/Burton Flats Facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1998, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements to 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 the taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Energy Regulatory 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 is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Transwestern to appear or be represented at the hearing.

David P. Boergers,

Secretary.

[FR Doc. 98–26248 Filed 9–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of License

September 25, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Transfer of License.

b. Project No: 9648–014.

c. Date Filed: September 8, 1998.

d. Applicant: Westinghouse Electric Corporation, Town of Springfield, Vermont.

e. Name of Project: Fellows Dam.

f. Location: Black River in Windsor County, Springfield, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. Section 791(a)–825(r).

h. Applicant Contact: Ms. Susan Saunders, Manager, Environmental Health and Safety Operations, 4400 Alafaya Trail, Orlando, Florida 32826–2399, (407) 281–5065.

i. FERC Contact: Dave Cagnon, (202) 219–2693.

j. Comment Date: November 9, 1998.

k. Description of Application: Westinghouse Electric Corporation (WEC), co-licensee with Town of Springfield, Vermont for the referenced project, its applying to transfer its interest in the license to Siemens Westinghouse Technical Services, Inc. WEC divested its power generation business unit and sold it to Siemens Corporation, which established Siemens Westinghouse Technical Services, Inc. The Town of Springfield, Vermont will remain as co-licensee.

l. The notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 98–26246 Filed 9–30–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of License

September 25, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Transfer of License.

b. Project No: 9649–014.

c. Date Filed: September 8, 1998.

d. Applicant: Westinghouse Electric Corporation/Lovejoy Tool Company.

e. Name of Project: Lovejoy Dam.

f. Location: Black River in Windsor County, Springfield, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. Section 791(a)–825(r).

h. Applicant Contact: Ms. Susan Saunders, Manager, Environmental Health and Safety Operations, 4400 Alafaya Trail, Orlando, Florida 32826–2399, (407) 281–5065.

i. FERC Contact: Dave Cagnon, (202) 219–2693.

j. Comment Date: November 9, 1998.

k. Description of Application: Westinghouse Electric Corporation (WEC), co-licensee with Lovejoy Tool Company for the referenced project is applying to transfer its interest in the license to Siemens Westinghouse Technical Services, Inc. WEC divested its power generation business unit and sold it to Siemens Corporation, which established Siemens Westinghouse Technical Services, Inc. Lovejoy Tool Company will remain as co-licensee.

l. The notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 98–26247 Filed 9–30–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6170–9]

Federal Information Processing Publications (FIPs) Waiver

ACTION: Notice of FIPS waiver.

SUMMARY: The Chief Information Officer for the Environmental Protection Agency has granted a waiver to the Agency to use the cryptographical features provided in Travel Manager Plus in lieu of the Secure Hashing Standard (FIPS PUB 180–1), Digital Signature Standard (FIPS PUB 186), and Data Encryption Standard (FIPS PUB 46–2). This waiver is pursuant to section 111 (d) (3) of the Federal Property and Services Act of 1949, as amended.

DATES: The waiver takes effect upon authorization and will expire January 1, 2001. If the vendor incorporates Federal standards into the core product prior to January 1, 2001, EPA will end the waiver early at that time.

FOR FURTHER INFORMATION CONTACT: Mark Day, Office of Information Resources Management, 401 M Street S.W. (3401), Washington, D.C. 20460, 202–260–4465.

SUPPLEMENTARY INFORMATION: Federal Information Processing Standards publications (FIPS PUBS) for the Secure Hashing Standard (FIPS PUB 180–1), Digital Signature Standard (FIPS PUB 186), and the Data Encryption Standard (FIPS PUB 46–2) establish standards for generating digital signatures (which can be used to verify authenticity) and for the encryption of sensitive information transmitted and stored electronically. These FIPS publications also allow Federal agencies to waive them under certain circumstances:

> A waiver may be granted if compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system; or compliance with a standard would cause a major financial impact on the operator which is not offset by Government-wide savings.

The Chief Information Officer for the Environmental Protection Agency (EPA) has granted a waiver of FIPS PUBS 180–1, 186, and 46–2 to enable EPA to use the built-in cryptographical features of the product Travel Manager. The installed version of Travel Manager Plus, currently used by EPA, does not employ FIPS standard cryptography.

EPA determined that the cryptographic protection embedded in Travel Manager Plus provides an appropriate level of security to protect the unclassified information used, communicated, and stored by EPA. Upon reviewing Travel Manager Plus' cryptographic capabilities, Agency personnel have concluded that if properly implemented, Travel Manager Plus provides a full range of security functionality that satisfies Agency requirements.

The additional costs required to purchase and maintain FIPS-compliant products that provide equivalent security functionality as that provided by non-standard, but commercially acceptable cryptography found in Travel Manager Plus is a significant factor underlying the granting of this waiver. The acquisition costs for either software-or hardware-based products that implement existing Federal cryptographic standards are unnecessary. By using the cryptography embedded in Travel Manager Plus, EPA is able to avoid unnecessary costs, while utilizing security functionality widely used throughout the Federal government.

In accordance with FIPS requirements, notice of this waiver has been sent to the National Institute of Standards and Technology, the Committee on Government Reform and Oversight of the House of Representatives, and the Committee on Governmental Affairs of the Senate.

Dated: September 17, 1998.

John Sandy,

Acting Assistant Administrator and Chief Information Officer.

[FR Doc. 98–26318 Filed 9–30–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6171–1]

Implementation Order to Streamline Small Grants

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is issuing an Implementation Order to Streamline Small Grants. The purpose of the order is to simplify and

improve the administration of Small Grants. The Agency has determined that small grant recipients should not be subject to the same administrative requirements and procedures as larger grant recipients. The Small Grants Order does not change EPA's regulatory or statutory requirements. This policy will allow the Agency more time to focus on technical assistance to grantees and promoting partnerships.

DATES: The Order becomes effective October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Linda Yancey, Grants Administration Division, Environmental Protection Agency, 401 M Street, SW (3903R), Washington, DC 20460 (202) 564–5352.

SUPPLEMENTARY INFORMATION: The Order follows and is available for viewing on the Internet at http://www.epa.gov/ogd/. The Funding Recommendation, Decision and Approval Package identified as an attachment to the policy is not included in this notice since it is used as an internal Agency document only.

Implementation Order to Streamline Small Grants

Classification No. 5700.2
Approval Date 9/1/98

1. *Purpose.* To simplify and improve administration of small grants and cooperative agreements without compromising standards of accountability.

2. *Applicability.* This order applies to all grants and cooperative agreements (hereinafter referred to as ''small grants'' or ''grants'') $100,000 or less in Federal funds; have budget and project periods which are of the same duration; and for which the total amount of Federal grant funds is obligated at the time of award. This order does not apply to the following: Performance Partnership grants; Fellowship grants; loans; Senior Environmental Employment (SEE) Program Cooperative Agreements; Environmental Program Grants to State, Interstate and Local agencies; Construction Grants; Superfund Cooperative Agreements awarded under 40 CFR Part 35, Subpart O; and the State Revolving Fund Program Capitalization Grants.

This order does not relieve recipients from complying with any statute or regulation. The order clarifies situations when a more flexible approach can be used if a grant award is $100,000 or less. EPA considers submission of an application by a small grant recipient as the applicant's assurance that it will meet the following criteria: (1) a satisfactory performance record for completion of projects and subagreements; (2) sound fiscal management including accounting and auditing procedures adequate to control property, funds, and assets; and (3) technical qualifications, experience, organization, and facilities adequate to carry out the project, or a demonstrated ability to obtain these.

Agency officials must comply with this order unless the applicant/recipient is a high risk grantee under 40 CFR 31.12 or is subject to special award conditions under 40 CFR 30.14.

3. *Effective date.* This policy is effective for all new grants awarded on or after October 1, 1998.

4. *Background.* The number of EPA grant programs has increased five-fold over the past ten years with a dramatic increase in grant awards of $100,000 or less on average. These small awards account for about 50% of new project grant awards, but less than 5% of the respective assistance dollars awarded.

Current practice subjects all grant awards regardless of the dollar amount to the same administrative requirements and procedures. This order reduces the administrative burden for both the EPA and the applicant/recipient while maintaining sufficient accountability. Its intent is to increase customer satisfaction and to focus EPA's limited resources on larger dollar grant programs.

5. *Definitions.*

a. Advance Payment. A payment made by Treasury check or other appropriate payment mechanism to a recipient either before outlays are made by the recipient or through the use of pre-determined payment schedules.

b. Approval Official. An EPA official delegated the authority to approve or reject applications for assistance and the technical/programmatic terms and conditions of proposed assistance projects.

c. Award Official. The EPA official with the authority to execute assistance agreements and to take other actions authorized by 40 CFR Chapter I, Subchapter A and by EPA Orders.

d. Funding Recommendation, Decision and Approval Package. The EPA Program Office's memorandum containing the decision and justification to fund an assistance proposal. The memorandum is sent to the Grants Management Office (GMO) as part of the assistance funding package. (See attached suggested Model Funding Recommendation, Decision and Approval Package).

e. Indirect Cost Rate Proposal. The documentation prepared by an organization to substantiate its claim for the reimbursement of indirect costs.

f. Supplemental Funding. Additional funding over and above what was agreed upon in the grant agreement for a given budget period.

6. *Policy.* This order establishes simplified and streamlined policies for small grants. Receipt of a small grant does not relieve the applicant/recipient from compliance with any statute, circular or regulation. In furtherance of this new approach, EPA establishes the following for Small Grants:

a. Limitation on Number of Application Copies Required for Submission. Applicants are required to submit only the original application and one copy to EPA unless otherwise required by the regulations.

b. Abbreviated Workplan and Resume. The narrative workplan should not exceed five pages in length. The workplan must include: 1) a summary of specific objectives, expected outcomes and deliverables; and 2) a discussion of the budget and how the budget relates to the objectives, outcomes and deliverables in the workplan. Resumes and supplementary biographical information, if any, should not exceed an additional two pages.

c. Budget. Applicants are not required to submit supporting budget detail over and beyond the object class categories identified on the applicant's Form 424A (formal budget page). The EPA Program Office should base the reasonableness of the cost of the grant on their evaluation of the workplan, using their technical knowledge and previous experience with similar work. The workplan should stand on its own merit in support of project costs. If the Program Office is unable to make a determination solely on this basis, they should first request additional information on how the workplan supports the budget. However, there may be some circumstances where evaluating the workplan alone is insufficient to make a reasonableness determination. In these situations, the Program Office or Grants Management Office may request additional supporting budget information.

d. Recipients Without Negotiated Indirect Cost Rates (ICR). Those applicants requesting reimbursement for indirect costs and who do not have an established indirect cost rate with a Federal agency must prepare an Indirect Cost Rate Proposal but are only required to retain it in their files, subject to audit. The proposal must be based on guidance in the EPA Booklet ''Preparing Indirect Cost Proposals for Grants and Contracts'' (August 1990).

e. Projects Must Be Fully Funded By The Program Office. The EPA Approval Official must fully fund the project at

the time of award. The EPA Award Official must obligate the entire amount of a small grant at the time of award. However, from time-to-time, emergency, unusual or unanticipated circumstances warrant additional funds being added to a grant. Additional funding for unanticipated or unusual circumstances to a small grant is permissible provided the entire grant (original grant + additional funding) does not exceed $100,000. The intent is to provide flexibility for infrequent and unusual situations. Once the additional funds cause the grant to exceed the $100,000 threshold, the additional funding segment is not entitled to the Small Grant policy and procedures.

f. Streamlined Funding Recommendation Process. Grants Management Offices should streamline their Funding Recommendation package documenting program approval/funding requests. They may utilize the attached Model Small Grants Funding Recommendation, Decision and Approval Package.

g. Terms and Conditions. For small grant awards, GMOs must keep administrative terms and conditions to a minimum. Specifically, terms and conditions which merely restate statutory or regulatory requirements shall be eliminated. Instead, the GMOs will provide recipients with copies of the relevant regulatory requirements. However, terms and conditions detailing reporting requirements may be included in the assistance agreement at the discretion of the GMO or Program Office.

h. Limitation on Length of Award Document. The GMO will ensure that the EPA award document will, to the maximum extent possible, not exceed four pages in length.

i. Payment Policy.

All Small Grant Recipients. GMOs will work with Program Offices and Servicing Finance Offices to ensure small grant payments are made quickly. To ensure expeditious reimbursement of payment requests, recipients of small grants should submit requests for payment directly to the EPA Servicing Finance Office. Recipients shall be reimbursed for grant-related eligible, allocable, allowable, and reasonable costs up to the amount of the grant which have been incurred and which the recipients are currently and legally obligated to pay. Project Officers and GMOs shall monitor grantee performance and compliance with applicable rules, and when appropriate, may recommend withholding or requiring prior approval of future grant payments.

Small Grants $5,000 or Less. Recipients of small grants up to and including $5,000 may request an advance payment of up to eighty (80) percent of the total Federal share of the project by submitting a Request for Advance or Reimbursement (Form SF–270) upon acceptance of the assistance agreement. The remaining twenty (20) percent will be reimbursed to the recipient upon satisfactory completion of the Final Project Report and Final Financial Status Report.

j. Simplified Minority Business Enterprise/Women's Business Enterprise Reporting Requirements. Small Grant recipients awarded assistance agreements under 40 CFR Part 30 (i.e., Institutions of Higher Education, Hospitals and other Non-Profit Organizations) will meet MBE/WBE reporting requirements by submitting a MBE/WBE Utilization Form (Standard Form 5700–52A) on an annual basis. The reports are due within one month after the end of the Federal fiscal year. Small Grant recipients awarded assistance agreements under 40 CFR Part 31 (i.e., State and Local Governments) will meet MBE/WBE reporting requirements by submitting a MBE/WBE Utilization Form (Standard Form 5700–52A) on a quarterly basis. The reports are due within one month after the end of each Federal fiscal year quarter.

k. Final Technical or Performance Report. Recipients are not required to submit more than the original and two copies of the final technical or performance report. The report must include actual outcomes based on the objectives identified in the workplan.

l. Pre-award Costs Permitted. Small Grant recipients awarded assistance agreements under 40 CFR Part 30 may incur allowable pre-award costs up to 90 calendar days prior to award without the prior written approval of EPA. However, all pre-award costs are incurred at the recipient's risk (i.e., EPA is under no obligation to reimburse such costs if for any reason the applicant does not receive an award or if the award is less than anticipated and inadequate to cover such costs); and EPA will only allow pre-award costs without prior written approval if there are sufficient programmatic reasons for incurring the expenditures prior to the award (e.g., time constraints, weather factors, etc.), they are in conformance with the appropriate cost principles, and any procurement complies with the requirements of this policy. Further, recipients may be reimbursed for pre-award costs they incur 90 days prior to award provided they include such costs in the application and the application in its entirety is approved by EPA.

7. Roles and Responsibilities.

In addition to the roles and responsibilities cited in Section 5, ''Policy'', the following are actions the Grants Management Office, Program Office and recipient are expected to take:

a. Grants Management Office

(1) Develop and distribute application kits.

(2) Provide the same level of advice, technical assistance and guidance to potential applicants and small award recipients as they would to any other recipients.

(3) Ensure application includes all essential information (e.g., assurances, certifications, narrative).

(4) Ensure that all elements of the application and funding package comply with EPA's legal and regulatory requirements.

(5) Review application and determine eligibility of EPA assistance recipients to receive indirect costs.

(6) Determine that the grantee has sound financial management.

(7) Prepare awards/amendments.

(8) Monitor the financial and management aspects of awards through reviews of reports, correspondence, site visits, or other appropriate means.

(9) Ensure timely close out of awards when all project work in the agreement is completed.

b. Program Office

(1) Ensure applicant's workplan reasonably and clearly explains how the activities will be accomplished, and contains well-defined commitments and outputs that foster accountability.

(2) Determine that the applicant has technical qualifications to perform the work.

(3) Review the workplan and budget (along with the GMO) to determine appropriateness and reasonableness of the project, whether they comply with program regulations and guidelines, and identify any deficiencies in the application.

(4) If the proposal is approved, prepare and forward a funding recommendation, which consists of the following primary documents: (1) Commitment Notice (EPA Form 2550–9), and (2) Decision Documentation (See Model Small Awards Decision Memo) to the appropriate GMO.

(5) Monitor the recipient's progress on the project.

(6) Conduct periodic reviews to assure that the recipient is complying with applicable regulations and programmatic terms and conditions of the agreement.

(7) Ensure that any/all deliverables required under the award are received, and are acceptable in a timely manner.

c. Recipient

(1) Expend and account for funds in accordance with the assistance agreement, program regulations and statutes.

(2) Maintain sound fiscal management.

(3) Comply with all applicable reporting requirements, including submitting timely Financial Status Reports, Final Technical Reports, Property Reports and MBE/WBE Reports.

8. Additional References.

a. Federal Grant and Cooperative Agreement Act of 1977 (FGCAA), 31 U.S.C. 6301–6308.

b. 40 CFR Parts 30, 31, 35, 40, 45, and 47.

c. OMB Circular A–110.

d. OMB Circular A–102.

e. OMB Circular A–133.

f. OMB Circular A–87.

g. EPA Assistance Administration (AA) Manual.

h. EPA—Managing Your Financial Assistance Agreement—Project Officer Responsibilities.

i. EPA 96–1 Indirect Cost Policy for Nonprofit Organizations and Educational Institutions.

9. *For Further Information:* For further information regarding this Order, please contact: Chief, Policy, Information and Training Branch, Grants Administration Division on (202) 564–5325.

(Agency Policy)

Dated September 24, 1998.

Gary M. Katz,

Director, Grants Administration Division.

[FR Doc. 98–26319 Filed 9–30–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00554; FRL 6033–1]

Notice of Availability of Pesticide Data Submitters List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of an updated version of the Pesticide Data Submitters List which supersedes and replaces all previous versions.

FOR FURTHER INFORMATION CONTACT: By mail: John Jamula, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery, telephone number and e-mail: Rm. 226, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–6426; e-mail: jamula.john@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Pesticide Data Submitters List is a compilation of names and addresses of registrants who wish to be notified and offered compensation for use of their data. It was developed to assist pesticide applicants in fulfilling their obligation as required by sections 3(c)(1)(f) and 3(c)(2)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and 40 CFR part 152 subpart E regarding ownership of data used to support registration. This notice announces the availability of an updated version of the Pesticide Data Submitters List which supersedes and replaces all previous versions.

II. Ordering Information

Microfiche copies of the document are available from the National Technical Information Service (NTIS) ATTN: Order Desk 5285 Port Royal Road Springfield, VA 22161; Telephone: 1–800–553–6847. When requesting a document from NTIS, please provide its name and NTIS Publication Number (PB). The NTIS Publication for this version of the Pesticide Data Submitters List is PB 98–172570.

III. Electronic Access

The Pesticide Data Submitters List is available on EPA's World Wide Web (WWW) site on the Internet. The Internet address of EPA's web site is www.epa.gov.

To Access the Data Submitters List from the EPA Home Page, select ''Databases and Software.'' From the next page, select ''Media Specific.''

The Pesticide Data Submitters List may also be found by searching for the keywords ''data submitters list'' from the EPA Home Page, or may be accessed directly on the EPA web site, by going directly the address listed below. Note that this address is case sensitive. http://www.epa.gov./opppmsd1/datasubmitterslist/index.html

List of Subjects

Environmental protection, Administrative practice and procedure, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 21, 1998.

Linda A. Travers,

Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 98–26316 Filed 9–30–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34129A; FRL 6031–7]

Correction; Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, EPA is issuing an amendment to a notice of receipt of request by registrant to delete uses in certain pesticide registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery, telephone number, and e-mail address: Rm. 216, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5761; hollins.james@epamail.epa.gov.

Corrections to Intent to Delete Uses

This is an amendment to **Federal Register** dated August 26, 1998 (63 FR 45481) (FRL 6020–3). The EPA Registration (040083–00001, Lindane Technical) listed in referenced **Federal Register** (FR) notice is being republished to correct the deleted sites listed. The deleted sites should read as follows: Almonds, alfalfa, apples, apricots, asparagus, avocados, beans (all types), beets, cantaloupe, carrots, cherries, clover, cotton, cucumbers, cucurbits (all types), eggplant, flax, grapes, guava, lentils, mangoes, melons, mint, mushrooms, nectarines, okra, onions, peaches, peas (all types), pecans, pears, peppers, pineapples, plums, prunes, pumpkins, quinces, rape, safflower, soybeans, squash (all types), strawberries, Sudan grass, sugar beets, summer squash, sunflower, tobacco, tomatoes, and watermelon; livestock, including cattle, goats, horses, sheep, mules, and hogs; cats; ornamentals, trees, and shrubs; turf, lawns, and golf courses; uncultivated areas, fallow or idle agricultural areas, and recreational areas; commercial

transportation facilities; food-processing handling/storage areas/plants; grain/cereal/flour bins and storage areas; farm or agricultural structures, including barns; and wood-protection treatment of buildings.

The 30–day comment period announced in referenced FR notice for this registration still applies.

Further, the effective date shown for the other registrations in the notice should read February 22, 1999.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: September 23, 1998.

Linda A. Travers,

Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 98–26317 Filed 9–30–98; 8:45 am]

BILLING CODE 6560–50–F

EXECUTIVE OFFICE OF THE PRESIDENT

Office of National Drug Control Policy

AGENCY: Executive Office of the President, Office of National Drug Control Policy.

ACTION: Notice.

SUMMARY: This notice lists one (1) new High Intensity Drug Trafficking Area designated by the Director of National Drug Control Policy.

FOR FURTHER INFORMATION CONTACT: Comments and questions regarding this notice should be directed to Mr. Richard Y. Yamamoto, Director, HIDTA, Office of National Drug Control Policy, Executive Office of the President, Washington, D.C. 20503; 202–395–6755.

SUPPLEMENTARY INFORMATION: In 1990, the Director of ONDCP designated the first five HIDTAs. These original HIDTAs, areas through which most illegal drugs enter the United States, are the Southwest Border, Houston, Los Angeles, New York/New Jersey, and South Florida. In 1994, the Director designated the Washington/Baltimore HIDTA to address the extensive drug distribution networks serving hardcore drug users. Also in 1994, the Director designated Puerto Rico/U.S. Virgin Islands as a HIDTA based on the significant amount of drugs entering the United States through this region. In 1995, the Director designated three more HIDTAs in Atlanta, Chicago, and Philadelphia/Camden to target drug abuse and drug trafficking in those areas.

HIDTAs are domestic regions identified as having the most critical drug trafficking problems that adversely affect the United States. These new counties are designated pursuant to 21 U.S.C. 1504(c), as amended, to promote more effective coordination of drug control efforts. This action will support local, state and federal law enforcement officers in assessing regional drug threats, designing strategies to combat the threats, developing initiatives to implement the strategies, and evaluation of the effectiveness of these coordinated efforts.

HIDTAs support over 250 co-located officer/agent task forces in twenty regions of the country, including the entire Southwest Border. The HIDTA program strengthens mutually supporting local, state, and federal drug trafficking and money laundering task forces, bolsters information analysis and sharing networks and, improves integration of law enforcement, drug treatment and drug abuse prevention programs.

Seven new HIDTAs were designated in 1997. They are: the Detroit, Michigan HIDTA, the Gulf Coast HIDTA (includes parts of Alabama, Louisiana, and Mississippi); the Lake County, Indiana HIDTA, the Midwest HIDTA (includes parts of Iowa, Kansas, Missouri, Nebraska, and South Dakota, with focus on methamphetamine); the Northwest HIDTA (includes seven counties of Washington State); the Rocky Mountain HIDTA (includes parts of Colorado, Utah, and Wyoming) and the San Francisco Bay Area HIDTA. Earlier this year, the Director designated the Milwaukee, Wisconsin HIDTA, Appalachia HIDTA (includes 26 counties in Kentucky, 11 counties in West Virginia and 28 counties in Tennessee) and Central Florida HIDTA (includes six counties in Florida) as the three latest HIDTAs.

The new North Texas HIDTA encompasses the cities of Dallas and Fort Worth, the surrounding counties of Collin, Dallas, Denton, Ellis, Henderson, Hood, Hunt, Johnson, Lubbock, Kaufman, Parker, Rockwall and Tarrant, Texas and all the municipalities therein.

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

Barry R. McCaffrey,

Director.

[FR Doc. 98–26311 Filed 9–30–98; 8:45 am]

BILLING CODE 3115–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

September 24, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated information techniques or other forms of information technology.

DATES: Written comments should be submitted on or before November 2, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at 202–418–0217 or via internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0760.

Title: Access Charge Reform, CC Docket No. 96–262, First Report and Order; Second Order on Reconsideration and Memorandum Opinion and Order.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 13–14.

Estimated Time Per Response: 2–300 hours (128,351 hours/respondent (avg.)).

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 1,796,916 hours.

Cost to Respondents: $23,400 ($600 filing fee).

Needs and Uses: In the First Report and Order, CC Docket No. 96–262, Access Charge Reform and the Second Report on Reconsideration and Memorandum Opinion and Order, the FCC adopts, that, consistent with principles of cost-causation and economic efficiency, nontraffic sensitive (NTS) costs associated with local switching should be recovered on an NTS basis, through flat-rated, per month charges. a. Showings under the Market-Based Approach: As competition develops in the market, the FCC will gradually relax and ultimately remove existing part 69 Federal access rate structure requirements and part 61 price caps restrictions on rate level changes. Regulatory reform will take place in two phases. The first phase of regulatory reform will take place when an incumbent Local Exchange Carrier's (LEC) network has been opened to competition for interstate access services. The second phase of rate structure reforms will take place when an actual competitive presence has developed in the marketplace. LECs may have to submit certain information to demonstrate that they have met the standards. b. Cost Study of Local Switching Costs: Price cap LECs are required to conduct a cost study to determine the geographically-average portion of local switching costs that is attributable to the line-side ports, and to dedicated trunk side cards and ports. c. Cost Study of Interstate Access Service that Remain Subject to Price Cap Regulation: To implement our backstop to market-based access charge reform, we require each incumbent price cap LEC to file a cost study no later than February 8, 2001, demonstrating the cost of providing those interstate access services that remain subject to price cap regulation because they do not face substantial competition. d. Tariff Filings: The Commission requires the filing of various tariffs. e. Third-Party Disclosure: In the Second Order on Reconsideration, the Commission requires LECs to provide IXCs with customer-specific information about how many and what types of presubscribed interexchange carrier charges (PICCs) they are assessing for each of the IXCs presubscribed customers. One of the primary goals of the First Report and Order was to develop a cost-recovery mechanism that permits carriers to recover their costs in a manner that reflects the way in which those costs are incurred. Without access to information that indicates whether the LEC is assessing a primary or nonprimary residential PICC, or about how many local business lines are presubscribed to a particular IXC, the IXCs will be unable to develop rates that accurately reflect the underlying costs. The information required under these Orders would be used in determining whether the incumbent LECs should receive the regulatory relief proposed in the Orders. The information collected under the Orders would be submitted by the LECs to the interexchange carriers (IXCs) for use in developing the most cost-efficient rates and rate structures.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–26336 Filed 9–30–98; 8:45 am]

BILLING CODE 6712–10–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Approved by Office of Management and Budget

September 24, 1998.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1995, Pub. L. 96–511. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Not withstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Judy Boley, Federal Communications Commission, (202) 418–0214.

Federal Communications Commission

OMB Control No.: 3060–0820.

Expiration Date: 9/30/2001.

Title: Transfer of Control Involving Telecommunications Carriers.

Form No.: FCC 490, FCC 702, FCC 704.

Estimated Annual Burden: 1,6000 annual hours; 1 hours per response; 1,600 responses.

Description: This information collection streamlines Commission procedures by allowing licensees, in certain circumstances, to complete pro forma assignments and transfers of control of licenses by selecting the less burdensome procedure of filing a letter after the transaction is complete.

OMB Control No.: 3060–0128.

Expiration Date: 8/31/2001.

Title: Application for General Mobile Radio Service and Interactive Video Data Service.

Form No.: FCC 574.

Estimated Annual Burden: 913 annual hours; 30 minutes per response; 1,826 responses.

Description: This form is filed by applicants in the General Mobile Radio Service and Interactive Video Data Service to request an authorization or to modify an existing authorization. This data is used to determine eligibility, for rulemaking proceedings, enforcement purposes and for resolving treaty obligations.

OMB Control No.: 3060–0360.

Expiration Date: 8/31/2001.

Title: Public Coast Station Logs 80.409(c).

Form No.: N/A.

Estimated Annual Burden: 30,020 annual hours; 316 respondents @95 hours per respondent annually.

Description: This requirement is necessary to document the operation and public correspondence service of public coast radio telegraph, public coast radio telephone stations and Alaska-public fixed stations, including the logging of distress and safety calls where applicable. A retention period of more then one year is required where a log involves communications relating to a disaster, an investigation, or any complaint.

OMB Control No.: 3060–0192.

Expiration Date: 1/31/2001.

Title: Posting Station License Section 87.103.

Form No.: N/A.

Estimated Annual Burden: 11,950 annual hours; .250 hour per response; 47,800 responses.

Description: This requirement is necessary to demonstrate that all transmitters in the Aviation Service are properly licensed in accordance with all the appropriate rules, statutes and treaties. It facilitates quick resolution of harmful interference problems.

OMB Control No.: 3060–0364.

Expiration Date: 8/31/2000.

Title: Ship Radiotelegraph Logs, Ship Radiotelephone Logs—Section 80.409 (d) and (e).

Form No.: N/A.

Estimated Annual Burden: 517,935 annual hours; 47.3 hours per recordkeeper; 10,950 recordkeepers.

Description: The recordkeeping requirement contained in these rule sections is necessary to document that compulsory radio equipped vessels and high seas vessels maintain listening watches and logs as required by statutes and treaties.

OMB Control No.: 3060–0639.

Expiration Date: 9/30/2001.

Title: Implementation of Section 309(j) of the Communications Act, Competitive Bidding—PP Docket No. 93–253 First Report and Order.

Form No.: N/A.

Estimated Annual Burden: 400 annual hours; one hour per response; 400 responses.

Description: Section 3002 of the Balanced Budget Act of 1997 amended Section 309(j) to in effect reduce the situations in which the use of random selection is appropriate. The Commission will use the information to determine whether the public interest would be served by granting a transfer of control or an assignment of a license awarded through lottery procedures.

OMB Control No.: 3060–0228.

Expiration Date: 8/31/2001.

Title: 80.59 Compulsory Ship Inspection.

Form No.: N/A.

Estimated Annual Burden: 400 annual hours; 2 hours per response; 200 responses.

Description: This rule is necessary to permit vessels to operate for up to 30 days beyond the expiration of safety certification when an annual inspection required by treaty or statute cannot be performed in a timely manner.

OMB Control No.: 3060–0265.

Expiration Date: 8/31/2001.

Title: 80.898 Card of Instructions.

Form No.: N/A.

Estimated Annual Burden: 300 annual hours; 6 minutes per response; 3,000 responses.

Description: This requirement is necessary to insure that radiotelephone distress procedures are readily available to the radio operator on board certain vessels.

OMB Control No.: 3060–0626.

Expiration Date: 12/31/2000.

Title: Regulatory Treatment of Mobile Services.

Form No.: N/A.

Estimated Annual Burden: 6,673 annual hours; 30 minutes to 10.9 hours per response; 1,074 responses, including 100 recordkeepers.

Description: This information collection provides the Commission with technical, operational and licensing data for common carriers and private mobile radio services.

OMB Control No.: 3060–0508.

Expiration Date: 1/31/2001.

Title: Rewrite and Update of Part 22.

Form No.: N/A.

Estimated Annual Burden: 266,555 annual hours; 15 minutes to 600 hours per response; 107,872 responses.

Description: The information collected is used by the Commission to determine the technical legal and other qualifications of applicants to operate a station in the Public Mobile Services.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–26231 Filed 9–30–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2299]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceeding

September 25, 1998.

Petitions for reconsideration and clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800. Oppositions to these petitions must be filed October 16, 1998. See Section 1.4(b)(1) of the Commission's rule (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission (GC Docket No. 96–55).

Number of Petitions Filed: 1.

Subject: Personal Communications Industry Association's Broadband Personal Communications Services Alliance's Petition for Forbearance For Broadband Personal Communications Services.

Biennial Regulatory Review—Elimination of Streamlining of Unnecessary and Obsolete CMRS Regulations.

Forbearance from Applying Provisions of the Communications Act to Wireless Telecommunications Carriers (WT Docket No. 98–100).

Number of Petitions Filed: 2.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–26232 Filed 9–30–98; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: Tuesday, October 6, 1998 at 10:00 a.m.

PLACE: 999 E Street, NW, Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, October 8, 1998 at 10:00 a.m.

PLACE: 999 E Street, NW, Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinion 1998–18: Washington State Democratic Committee by counsel, Joseph L. Sandler and Neil P. Reiff.

Status of Regulations.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 98–26427 Filed 9–29–98; 12:10 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to

contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Transtar Shipping, Inc., 833 Mahler Road #6, Burlingame, CA 94010. Officers: Anna Or, President, Rebecca Fung, General Manager

Rotory Int'l Shipping & Forwarding, 10101 Fondren, Suite 120, Houston, TX 77096, Ohamono T. Ogagba, Sole Proprietor

Mat U.S.A., 133 Sierra Street, El Segundo, CA 90245, Yoshihiko Amano, Sole Proprietor

Dated: September 28, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–26268 Filed 9–30–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Office of Arbitration Services; Information Collection Request

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Publication of FMCS Seeking Comments on the following Information Collection.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) is seeking comments on the following information collection requests. FMCS submitted to the Office of Management and Budget (OMB) a request for review of three FMCS forms. The forms are Arbitrator's Report and Fee Statement (R–19), Arbitrator's Personal Data questionnaire (R–22) and Request for Arbitration Services (R–43).

FOR FURTHER INFORMATION CONTACT: Peter L. Regner (202) 606–8181.

SUMMARY: This notice announces that three Information Collection Requests (ICR) are coming up for renewal. These ICRs are: FMCS Arbitrator's Report and Fee Statement (Agency Form R–19), the Arbitrator's Personal Data Questionnaire (Agency Form R–22), and the Request for Arbitration Services (Agency Form R–43). The request seeks OMB approval for a three-year expiration date of Forms R–19, R–22 and R–43 until November 30, 2001. FMCS is soliciting comments on specific aspects of the collections as described below.

DATES: Comments must be submitted on or before October 30, 1998.

ADDRESSES: Submit written comments identified by the appropriate agency form number by mail to: FMCS Desk Officer, Office of Management and Budget, Office of Information and Regulatory Affairs, Human Resources and Housing Branch, New Executive Office Building, Washington, DC 20503. Copies of the complete agency forms may be obtained from the Office of Arbitration Services at the above address or by contacting the person whose name appears under the section headed, **FOR FURTHER INFORMATION CONTACT**.

Comments and data may also be submitted by fax at (202) 606–4216 or electronic mail (e-mail) to pgmsvcs@fmcs.gov. All comments and data in electronic form must be identified by the appropriate agency form number. No confidential business information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of the information as ''CBI''. Information so marked will not be disclosed but a copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by FMCS without prior notice. All written comments will be available for inspection in Room 707 at the Washington, DC address above from 8:30 AM to 4:30 PM, Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Peter L. Regner, Director of Program Services, FMCS 2100 K Street, NW, Washington, D.C. 20427. Telephone 202/606–8181; Fax 202/606–4216.

SUPPLEMENTARY INFORMATION: Copies of each of the agency forms are available from the Office of Arbitration Services by calling, faxing, or writing, to Mr. Regner at the above address. Please ask for the form by title and agency form number.

I. Information Collection Requests

FMCS is seeking comments on the following Information Collection Requests (ICRs).

Title: Arbitrator's Personal Data Questionnaire. ICR is R–22, OMB No. 3076–0001. Expiration date: 11/30/2001.

Affecting entities: Parties affected by this information collection are individuals who apply for admission to the FMCS Roster of Arbitrators.

Abstract: Title II of the Labor Management Relations Act of 1947 Pub. L. 90–101) as amended in 1959 (Pub. L. 86–257) and 1974 (Pub. L. 93–360), states that it is the labor policy of the United States that ''the settlement of issues between employers and employees through collective bargaining may be advanced by making available full and adequate governmental facilities for conciliation, mediation, and voluntary arbitration to encourage employers and representatives of their employees to reach and maintain agreements rates of pay, hours, and working conditions, and to make all reasonable efforts to settle their differences by mutual agreement reached through conferences and collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes.'' Under its regulations at 29 CFR Part 1404, FMCS has established policies and procedures for its arbitration function dealing with all arbitrators listed on the FMCS Roster of Arbitrators, all applicants for listing on the Roster, and all person or parties seeking to obtain from FMCS either names or panels of names of arbitrators listed on the Roster in connection with disputes which are to be submitted to arbitration or fact-finding. FMCS strives to maintain the highest quality of dispute resolvers on its roster. To ensure that purpose, it asks all candidates to complete an application form.

The purpose of this collection is to gather information about applicants for inclusion in the FMCS Roster of Arbitrators. This questionnaire is needed in order that FMCS may select highly qualified individuals for the arbitrator roster. The respondents are private citizens who make application for appointment to FMCS roster. This obligation is pursuant to 29 U.S.C. 171(b), 29 CFR Part 1404. This notice is a request to extend the existing form which is currently approved collection without any change in the substance or method of collection.

Burden Statement: The number of respondents is approximately 250 individuals per year; the approximate number of individuals who request membership on the FMCS Roster. The time required to complete this questionnaire is approximately one and one/half hour to complete the application. Each respondent is required to respond only once per application, and once per year for updating the biographical sketch.

Title: Request for Arbitration Services. ICR No. R–43, OMB No. 3076–0002; Expiration date: 11/30/2001.

Affected Entities: Employers and their representatives, employees, labor unions and their representatives who request arbitration services.

Abstract: Pursuant to 29 U.S.C. s171(b) and 29 CFR Part 1404, FMCS offers panels of arbitrators for selection by labor and management to resolve grievances and disagreements arising under their collective bargaining

agreements and to deal with fact and interest arbitration issues as well. The need for this form is to obtain information such as name, address, type of assistance desired, so that the FMCS can respond to requests efficiently and effectively for various arbitration services (e.g. furnishing lists of seven arbitrators to parties). The purpose of this information collection is to facilitate the processing of the party's request for arbitration assistance. No third party notification or public disclosure burden is associated with this collection. This notice for comments refers to a revision of the current form to include information regarding payment for services and to note if the request involves Expedited Arbitration.

Burden Statement: The current total annual burden estimate is that FMCS will receive requests from approximately 15,000 respondents per year. In most instances, the form is completed only once and takes about ten minutes to complete. Thus, the frequency of request for an arbitration panel is usually only once.

Title: Arbitrator's Report and Fee Statement. ICR Form R–19; OMB No. 3076–0003. Expiration date: November 30, 2001.

Affected Entities: Individual arbitrators who render awards under appointment by the FMCS procedures.

Abstract: Pursuant to 29 U.S.C. S 171(b) and 29 CFR Part 1404, FMCS assumes a responsibility to monitor the work of the arbitrators who serve on its roster. This is satisfied through the requirement of completion of report and fee statement which indicates when the arbitration award was rendered, the file number, the company and union, the issues, whether briefs were filed and transcripts taken, if there were any waivers by parties on the date the award was due, and the fees and days for services as an arbitrator. This information is then contained in the agency's annual report to indicate the types of arbitration issues, the average or median arbitration fees and days spent and cases. This notice request is for an extension of the form which is currently approved for collection; no change in the substance or method of collection is involved.

Burden Statement: FMCS receives approximately 4000 responses per year. The form is only filed out once and the time required is approximately ten minutes. FMCS uses this form to review arbitrator conformance with its fee and expenses reporting requirements. This information is then contained in the agency's annual report to indicate the types of arbitration issues, the average or median arbitration fees and days spent on cases. This notice request is for extension of the form which is currently approved for collection; no change in the substance or method of collection is involved.

II. Request for Comments

FMCS solicits comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

(ii) Enhance the accuracy of the agency's estimates of the burden of the proposed collection of information.

(iii) Enhance the quality, utility, and clarity of the information to be collected.

(iv) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic collection technologies or other forms of information technology, e.g., permitting electronic and fax submission of responses.

III. The Official Record

The official record is the paper record maintained at the address in addresses at the beginning of this document. FMCS will transfer all electronically received comments into printed paper form as they are received.

List of Subjects

Arbitration and Information collection requests.

Dated: September 25, 1998.

Vella Traynham,

Deputy Director.

[FR Doc. 98–26229 Filed 9–30–98; 8:45 am]

BILLING CODE 6732–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 15, 1998.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. William W. Magruder, Jamestown, Kentcuky; to acquire an additional 43.31 percent, for a total of 49.77 percent, of the voting shares of Jamestown Bancorp, Inc., Jamestown, Kentucky, and thereby indirectly acquire Bank of Jamestown, Jamestown, Kentucky.

Board of Governors of the Federal Reserve System, September 25, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–26266 Filed 9–30–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 26, 1998.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer)

230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. AmBank Holdings, Inc., Davenport, Iowa; to become a bank holding company by merging with AmBank Financial Services, inc., Rock Island, Illinois, and thereby acquire American Bank and Trust Company, Davenport, Iowa.

2. Community Bancshares Corp., Indianola, Iowa; to acquire 100 percent of the voting shares of Fort Des Moines Community Bank, Des Moines, Iowa.

3. St. Charles Financial Corporation, Oak Brook, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Commerce Bancorp, Inc., Berkeley, Illinois, and thereby indirectly acquire National Bank of Commerce, Berkeley, Illinois.

B. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. OGS Investments, Inc., Ocala, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Florida Citizens Bank, Ocala, Florida (in organization).

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Arvest Bank Group, Inc., Bentonville, Arkansas; to acquire an additional 50 percent, for a total of 100 percent of the voting shares of TRH Bank Group, Inc., Norman, Oklahoma, and thereby indirectly acquire The Security National Bank and Trust Company of Norman, Norman, Oklahoma, and The Oklahoma National Bank of Duncan, Duncan, Oklahoma.

2. Area Bancshares Corporation, Owensboro, Kentucky; to merge with Peoples Bancorp of Winchester, Inc., Winchester, Kentucky, and thereby indirectly acquire Peoples Commercial Bank, Winchester, Kentcuky.

Board of Governors of the Federal Reserve System, September 25, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–26265 Filed 9–30–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 15, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. South Alabama Bancorporation, Inc., Mobile, Alabama; to acquire First Natonal Securities, Inc., Brewton, Alabama, and thereby engage in securities brokerage activities, pursuant to §§ 225.28(b)(6) and (b)(7) of Regulation Y.

Board of Governors of the Federal Reserve System, September 25, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–26267 Filed 9–30–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Meeting

TIME AND DATE: 10:00 A.M. (EDT) October 13, 1998.

PLACE: 4th Floor, Conference Room 4506, 1250 H Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the September 14, 1998, Board member meeting.
2. Thirft Savings Plan activity report by the Executive Director.
3. Review of KPMG Peat Marwick audit report:

''Pension and Welfare Benefits Administration Review of U.S. Department of Treasury Operations relating to the Thrift Savings Plan Investments in the Government Securities Investment Fund.''

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: September 29, 1998.

John J. O'Meara,

Secretary to the Board, Federal Retirement Thrift Investment Board.

[FR Doc. 98–26504 Filed 9–29–98; 3:53 pm]

BILLING CODE 6760–01–M

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board; Notice of Meeting on October 22 and 23

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, notice is hereby given that the Federal Accounting Standards Advisory Board will hold a two-day meeting on Thursday, October 22 and Friday, October 23, 1998. Important note: The first day, Thursday, October 22, will go from *1:00 p.m. to 4;00 p.m. in Room 4N30. The second day, Friday, October 23, will go from 9:00 a.m. to 4:00 p.m. in room 7C13,* the Comptroller General's Briefing Room, of the General Accounting Office building, 441 G St., N.W., Washington, D.C.

The purpose of the meeting is to discuss the following issues: (1) The Amendments to Accounting for Property, Plant, and Equipment Exposure Draft; (2) Social Insurance; (3) the Internal Revenue Service's proposed Technical Corrections to the Accounting for Revenue and Other Financing Sources Standard; (4) Credit Reform; and (5) ''More Likely Than Not'' issues.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION, CONTACT: Wendy Comes, Executive Director, 441 G St., N.W., Room 3B18, Washington, D.C. 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463, Section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: September 28, 1998.

Wendy M. Comes,

Executive Director.

[FR Doc. 98–26308 Filed 9–30–98; 8:45 am]

BILLING CODE 1610–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of a Meeting of the National Bioethics Advisory Commission (NBAC)

SUMMARY: Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is given of a meeting of the National Bioethics Advisory Commission. The Commission will continue addressing (1) the protection of the rights and welfare of human subjects in research involving persons with mental disorders that may affect decisionmaking capacity and (2) a proposed comprehensive human subjects project. Some Commission members may participate by telephone conference. The meeting is open to the public and opportunities for statements by the public will be provided on October 20, 1998 from 11:30 am to 12 Noon.

Dates/Times	Location
October 20, 1998, 8:00 am–5:00 pm.	The Grand Ballroom, Holiday, Inn—National Airport, 1489 Jefferson Davis Highway, U.S. Route 1, Arlington, Virginia.

SUPPLEMENTARY INFORMATION: The President established the National Bioethics Advisory Commission (NBAC) on October 3, 1995 by Executive Order 12975 as amended. The mission of the NBAC is to advise and make recommendations to the National Science and Technology Council, its Chair, the President, and other entities on bioethical issues arising from the research on human biology and behavior, and from the applications of that research.

Public Participation

The meeting is open to the public with attendance limited by the availability of space on a first come, first serve basis. Members of the public who wish to present oral statements should contact Ms. Patricia Norris by telephone, fax machine, or mail as shown below and as soon as possible at least 4 days before the meeting. The Chair will reserve time for presentations by persons requesting to speak and asks that oral statements be limited to five minutes. The order of persons wanting to make a statement will be assigned in the order in which requests are received. Individuals unable to make oral presentations can mail or fax their written comments to the NBAC staff office at least five business days prior to the meeting for distribution to the Commission and inclusion in the public record. The Commission also accepts general comments at its website at bioethics.gov. Persons needing special assistance, such as sign language interpretation or other special accommodations, should contact NBAC staff at the address or telephone number listed below as soon as possible.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Norris, National Bioethics Advisory Commission, 6100 Executive Boulevard, Suite 5B01, Rockville, Maryland 20892–7508, telephone 301–402–4242, fax number 301–480–6900.

Henrietta D. Hyatt-Knorr,

Deputy Executive Director, National Bioethics Advisory Commission.

[FR Doc. 98–26244 Filed 9–30–98; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Disease, Disability, and Injury Prevention and Control Special Emphasis Panel, Centers for Disease Control and Prevention (CDC), Department of Health and Human Services, has been renewed for a 2-year period, through September 18, 2000.

Contact Person for Further Information: Burma Burch, Committee Management Officer, CDC, 4 Executive Park Drive, Suite 1117, Atlanta, Georgia 30329, phone 404/639–6389, e-mail bxb1@cdc.gov.

Dated: September 23, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–26259 Filed 9–30–98; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Project

Title: Child and Family Services State plan Reviews (CFS).

OMB No.: New.

Description: The Department is proposing new review procedures for assessing compliance with State Plan requirements under parts B and E of title IV of the Social Security Act (the Act).

The collection of information for review of State child and family services programs to determine whether such programs are in substantial conformity with State plan requirements under parts B and E of title IV of the Social Security Act is authorized by section 1123(a) [42 U.S.C. 1320a–1a] of the Act.

The purpose of the NPRM is to reform the existing review process so that the reviews are focused on assisting States to improve services and outcomes for children and families.

We are proposing to review State programs in two areas: (1) Outcomes for children and families in the areas of safety, permanency, and child and family well-being; and (2) systemic factors that directly impact the State's capacity to deliver services leading to improved outcomes.

The process we are proposing includes two stages: a State self-assessment and an on-site review. The State self-assessment will be completed by the State members of the review team, including staff of the State agency and community representatives, in collaboration with ACF Regional Offices. In the second phase, a representative team of Federal, State and community reviewers will review a small ''discovery sample'' of cases selected randomly and stratified by type of cases, based on the findings of the self-assessment. The reviews will examine cases which reflect a wide range of services provided by the State, e.g., child protective services, out-of-home and in-home services, but more emphasis will be placed on those cases reflecting State-specific issues identified in the self-assessment. Information on each case will be gathered from the case records as well as interviews with the children, parents, social worker, foster parent and service providers in the case. Systemic issues will be reviewed on-site, primarily through interviews with

State and community stakeholders from within and outside the State agency.

We are publishing the self-assessment and the two on-site review instruments (''On-site Review Instrument'' and ''Stakeholder Interview Guide'') for public comment to meet Paperwork Reduction Act requirements. Please note—on all instruments, reviewers will be provided space for notation and documentation which was omitted for the purpose of publication in the **Federal Register.** The instruments will not be part of the regulations, however, they will be distributed to the States following publication of a Final Rule. The instruments are however published at the end of this notice.

To review and comment on the Proposed Rule from which this information collection comes, see 63 Federal Regulation 50057 (September 18, 1998).

Respondents: States.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State Self-Assessment	17	1	240	4,080
On-Site Review Instruments	17	35	8	4,760

Estimated Total Annual Burden Hours: 8,840.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1955, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W.; Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

All requests should be identified by the title of the information collection. The Department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Instruments:

BILLING CODE 4184–01–M

OMB Control No: xxxx-xxxx
Expiration date: xx\xx\xx

Draft as of: 09/98

Child and Family Services Review:

State Self-Assessment

Children's Bureau
Administration on Children, Youth and Families
Administration for Children and Families
Department of Health and Human Services

INTRODUCTION

The review strategy proposed by the Administration for Children and Families (ACF) moves toward a new Federal/State partnership which has been facilitated by the Social Security Act Amendments of 1994. The goal of the new Federal/State relationship is continuous improvement in State child welfare systems and improved outcomes for children and families. The proposed strategy is designed to achieve this by linking review of State child and family services to joint planning and technical assistance. This strategy is comprised of three broad outcome domains which cover the continuum of child welfare services: ***Safety, Permanency and Child and Family Well-Being***, as well as an examination of State/local agency characteristics.

This instrument, ***Child and Family Services Review: State Self-Assessment***, the first stage fo the review, is completed by the State with ACF Regional and Central Office staff consultation. The second stage is an on-site review that will be conducted by a team comprised of State and Federal representatives, as well as other experts, as needed. A separate instrument, ***Child and Family Services Review: On-Site Review Guide***, is used during the second stage. Based on the analysis of the State self-assessment, the State Plans and the on-site review, the State will develop a plan of action which is either proactive and corrective, when required.

In general, Section I of the self-assessment requests general information; Section II focuses on State child welfare agency characteristics and calls primarily for narrative responses; Section III provides data for the safety and permanency outcome areas, Section IV requires a narrative assessment of the outcome areas by the State's review team and Section V asks the State to assess its strengths and needs in the various outcome areas and identify issues and locations for further examination through the on-site portion of the review. The data requests in Section III are based on AFCARS and NCANDS data elements and Statewide data will be provided to the agency with the self-assessment instrument if the State has submitted the data for the year under review.

The instrument is being provided in both hard copy and on a computer file in WordPerfect 5.1 to facilitate use by the State (if other software formats would be preferable, please request them).

THE PAPERWORK REDUCTION ACT OF 1995 (Pub. L. 104-13)

Public reporting burden for this collection of information is estimated to average 240 hours for the initial review and 120 hours for subsequent reviews. This estimate includes the time for reviewing instructions, completing the assessment, and reviewing the collection of information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

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Outcome (2): The risk of harm to children will be minimized

B. PERMANENCY

Outcome (1): Children will have permanency and stability in their living situations

Outcome (2): The continuity of family relationships and connections will be preserved for children

C. CHILD AND FAMILY WELL-BEING

Outcome (1): Families will have enhanced capacity to provide for their children's needs

Outcome (2): Children will receive appropriate services to meet their educational needs

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State Self-Assessment Instrument

SECTION I - GENERAL INFORMATION

State/Local Agency
Year Under Review
☐ 200__ Calendar Year ☐ 200__ State Fiscal Year ☐ 200__ Federal Fiscal Year
Contact Person
Name: _____
Title: _____
Address: _____
_____
_____
_____
Phone ( ) Fax ( )

SECTION II - STATE/LOCAL AGENCY CHARACTERISTICS

A. Structure and Staffing of the Child Welfare Agency

1. *For which of the agency's child welfare programs does the State agency have uniform administrative authority throughout the State, and which are subject to the administrative authority of the County agency?*

2. *Identify all the categories of child welfare cases carried by the agency, covering all families and children served by the agency, according to the agency's particular system for categorizing cases, e.g., CPS, foster care, adoption, family preservation, etc.*

3. *Describe the caseload standards for child welfare services used by the agency, if any, and how the average actual caseloads compare to the standards.*

4. *How does the agency's use of paraprofessionals, e.g., case aides, homemakers, etc., impact on outcomes for children and families, and what are the barriers to more effective use of paraprofessionals?*

5. *In what ways does staff retention impact outcomes for children and families served by the agency, positively or negatively?*

B. Agency Responsiveness to Community

1. *Describe the strengths and needs of the agency's ability to respond to public expectations in the State about protecting children from maltreatment.*

2. *Describe how the child and family services provided by the agency are coordinated with the services and benefits of other public and private agencies serving the same general populations of children and families.*

3. *What are the strengths and limits of the agency's ability to pool or coordinate funds with those of other public and private service providers to develop or provide services for families and children?*

4. *Describe the agency's effectiveness in serving all relevant populations in the State, e.g., racial and ethnic groups, age groups, rural and urban populations.*

5. *How successful has the agency been in operationalizing its vision in terms of the policies, programs and services of the agency among agency staff, providers and consumers, and what are the barriers to operationalizing the vision?*

6. *Which relationships with other agencies, entities or communities impact positively or negatively on the agency's capacity to provide protective /family preservation services to children and families within the scope of the agency's mission and goals, e.g., law enforcement, schools, courts, advocacy groups and so forth?*

C. Information System Capacity

1. *Describe the capacity of the State's automated information system to determine the status, demographics, location and goals for all children in foster care in the State.*

2. *Describe the strengths and needs of the State's automated information system to provide information needed by workers, supervisors and managers in their daily work.*

3. *Describe the capacity of the State's automated information system to identify and track children and families served in programs other than foster care, e.g., CPS services, in-home services.*

D. Quality Assurance and Supervision

1. *What are the strengths and needs of the agency's process for assessing outcomes and progress in the child welfare programs against the principles and agency vision in the State's CFSP?*

2. *What are the strengths and needs of the agency's provisions for providing stakeholders, with opportunities for input into agency policies and practices?*

3. *Describe the effectiveness of the agency's quality assurance measures in*

helping to assure safety, permanency and well-being for children served by the agency and their families.

4. *Describe the strengths and needs of the supervision that child welfare workers receive at the county level.*

5. *Describe the strengths and needs of the agency's implementation of the standards it has set for foster care placements to ensure that children in foster care are provided quality services that protect their health and safety.*

E. Staff and Provider Training

1. *What are the strengths and needs of basic staff competencies, including workers, supervisors and administrators, to perform their work consistent with the agency's mission and goals?*

2. *What are the strengths and needs of the competencies of auxiliary staff and service providers regularly used by the agency, hired either through contract or vendor payments, to perform their work consistent with the agency's goals and mission?*

3. *What are the strengths and needs of the competencies of the agency's foster and adoptive parents to fulfill their roles consistently with the principles and vision of the agency?*

F. Foster and Adoptive Home Licensing\Approval\Recruitment

1. *What are the strengths and needs of the agency's system for licensing and monitoring foster family homes and other out-of-home care providers?*

2. *Describe how the standards for foster family homes, adoptive homes and child care institutions in which children served by the agency are placed reflect the standards of national organizations, e.g., Child welfare League of America.*

3. *Describe the strengths and needs of the agency's efforts to recruit and retain foster and adoptive families that represent the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed.*

4. *How are prospective foster and adoptive parents assessed to determine their capacity to care for particular children?*

5. *Describe the strengths and needs of the agency's plan for making effective use of cross-jurisdictional resources to secure adoptive homes as needed.*

6. *Describe the strengths and needs of the agency's protocol for ensuring the safety of potential foster care and adoptive placements.*

G. Case Review System

1. *Describe the strengths and needs of the State's processes for assuring that the status of each child in foster care is reviewed periodically, i.e., at least every six months, by a court or by administrative review.*

2. *Describe how the case plans and case planning process for children in foster care in the State help assure that children's placements are appropriate to their needs, in their best interests and in close proximity to their parents.*

3. *Describe the strengths and needs of the State's provisions for permanency hearings for children in foster care and how these hearings promote permanency for children.*

4. *Describe the strengths and needs of the State's provisions for complying with the requirement at section 475(5)(E) of the Act regarding termination of parental rights.*

5. *Describe the extent to which the State exercises the exceptions to the termination of parental right's provision at section 475(5)(E) of the Act. Identify the number of cases, by exception, for the year under review in which the exception was taken.*

6. *Describe the strengths and needs of the State's provisions for providing foster parents, preadoptive parents, and relative caregivers of children in foster care with notice of and an opportunity to be heard in any review or hearing held with respect to the child.*

H. Service Array\Resource Development

1. *How has the agency's appropriations history over the previous three to five years impacted child welfare programs in the State, positively or negatively, particularly family preservation and family support programs?*

2. *Which funding or financing mechanisms at the State and local levels either support or inhibit the agency's ability to achieve the goals and objectives described in its CFSP with the families it serves?*

3. *What are the strengths and limits of the array and intensity of services available to families and children served by the agency to promote permanency for children in foster care, including reunification, post-reunification support, post-adoption support, and other permanency goals?*

4. *What are the strengths and limits of the array and intensity of services available to families served by the agency to protect children in their own homes and preserve intact families, including children who have been reunified with their families?*

5. *Describe how the services, procedures and policies in place in the State enable the agency to expedite permanency decisions for children abandoned at or shortly after birth, particularly where substance abuse of the parent is a contributor to the abandonment.*

I. Family-Focused Child Welfare Practice

1. *Which areas of the agency's casework practice with families are strongest and which areas present the greatest concerns, e.g., assessment, case planning, coordinating services, intervention?*

2. *What successes has the agency had in promoting local casework practices that encourage family participation in identifying their own strengths and needs, determining their own goals, requesting specific services and evaluating progress, and what are the needs in this area?*

3. *What systems are in place that either encourage or inhibit the availability and accessibility of staff to the families and children with whom they are working, e.g., compensatory time policies, travel issues, flexible work schedules, location of offices?*

4. *Are there policies or practices in place that routinely lead to inconsistency between the stated case plan goals for children and families and the actual casework that is occurring in the case?*

J. Cultural Competence

1. *How successful has the agency been in hiring staff at all levels of the agency who are representative of the major cultural groups served by the agency, and what are the barriers, if any, in this area?*

2. *What are the strengths of the agency's efforts to promote or assure service delivery that is culturally competent, and what barriers remain in this area?*

3. *What are the strengths and needs of the agency's practices for: determining whether children are American Indian and assuring compliance with the Indian Child Welfare Act?*

4. *How are race and ethnicity considered in making foster and adoptive placement decisions?*

SECTION III -Safety and Permanency Data

In this section, ACF will provide the State the necessary AFCARS and NCANDS data for completing the self- assessment.

SECTION IV - NARRATIVE ASSESSMENT OF CHILD AND FAMILY OUTCOMES

A. Safety

Outcome S1: Children are, first and foremost, protected from abuse and neglect, and safely maintained in their homes whenever possible.

Outcome S2: The risk of harm to children will be minimized.

Based on examination of the safety data and the State IV9-B Plan (CFSP), please respond to the following questions.

1. *Have there been notable changes in the individual data elements in the safety profile in Section III over the past 3 - 5 years in the State?* Identify any factors considered to have an important impact on the changes noted.

2. *What systemic issues either support or inhibit the agency's ability to respond to reports of child abuse/neglect in a timely and thorough manner? Is there currently a backlog of uninvestigated CA/N reports in the State? If so, describe the extent of the backlog.*

3. *What are the strengths and needs of the agency's risk assessment process(es), used by the agency to screen, prioritize and dispose of CA/N reports?*

4. *Describe the measures the agency has in place to assure that the safety of children is given priority in placment and reunification decsions?*

5. *Discuss any other issues of concern, not covered above or in the data, that impact on the safety outcomes for children and families served by the agency.*

B. Permanency

Outcome P1: Children will have permanency and stability in their living situations.
Outcome P2: The continuity of family relationships, culture and connections will be preserved for children.

Based on examination of the foster care data and the State IV-B Plan (CFSP), please respond to the following questions.

1. *Have there been notable changes in the individual data elements in the permanency profile over the past 3 - 5 years in the State? Identify any factors considered to have an important impact on the changes noted.*

2. *What are the strengths and barriers in the agency's ability to help assure that children spend only the amount of time in out-of-home care that is needed for them to move on to more permanent living arrangements?*

3. *Does the agency engage in concurrent planning? If so, describe the strenghts and needs of the agency's concurrent planning program. If not, why not? Does the agency have plans to institute the use of concurrent planning in the future?*

4. *What are the strengths and barriers in the agency's ability to help assure that children for whom they have responsibility for placement are placed in the types of placements that are most appropriate for their individual needs?*

5. *How successful is the agency in promoting local practices that help to minimize the movement of children in foster care and increase the stability of children in permanent placements, in keeping with the needs and goals of the individual child? What are the agency's needs in this area?*

6. *What are the strengths and barriers in the agency's ability to assure that the children who enter foster care in the State are only those children whose needs for protection and care cannot be met in their own homes?*

7. *How successfully is the agency able to promote local practices that preserve the connections of children in foster care to their families, cultural background and community? What barriers exist in this area?*

8. *How adequate is the agency's array and level of placement resources, including foster family homes and adoptive homes, to meet the identified needs of children in out-of-home care, and what are the agency's needs in this area?*

9. *What are the strengths and needs of the agency's capacity to prepare all children who will remain in foster care through emancipation for independent living?*

10. *Discuss any other issues of concern, not covered above or in the data, that impact on the permanency outcomes for children and families served by the agency.*

C. Child and Family Well-Being

Outcome WB1: Families will have enhanced capacity to provide for their children's needs.
Outcome WB2: Children will receive appropriate services to meet their educational needs.
Outcome WB3: Children will receive adequate services to meet their physical and mental health needs.
Based on any data the agency has available, please respond to the following questions.

1. *What case planning and service delivery activities does the agency promote that supports individualizing specific strengths and needs of the children and families being served? What are the barriers to greater or more frequent individualization?*

2. *Is there a particular standard or criteria promoted by the agency for determining, at the practice level, when parents are able to provide adequately for the needs of their children, e.g., a minimally adequate parenting standard or other criteria?*

3. *What systems are in place that help to assure that the educational needs of children are identified in assessments and case planning and that those needs are addressed*

through services? What barriers does the agency face in this area?

4. *What systems are in place that help assure that the physical health and medical needs of children are identified in assessments and case planning activities and that those needs are addressed through services? What barriers does the agency face in this area?*

5. *What systems are in place that help assure that the mental health needs of children are identified in assessments and case planning activities and that those needs are addressed through services? What barriers does the agency face in this area?*

6. *Discuss any other issues of concern, not covered above or in the data, that impact on the well-being outcomes for children and families served by the agency.*

SECTION V - STATE ASSESSMENT OF STRENGTHS AND NEEDS

Based on examination of the data in Section III and the narrative responses in Section IV, the State review team should respond to the following questions.

1. *What specific strengths of the agency's programs has the team identified?*

2. *What specific needs has the team identified that warrant further examination through the on-site portion of the review? Note which of these needs are the most critical to the outcomes under safety, permanency and well-being for children and families in the State.*

3. *Which 3 - 4 locations, e.g., counties or regions, in the State are most appropriate for examining the strengths and concerns noted above in the on-site review?*

4. *If the needs noted above were to be addressed through technical assistance, what results is the agency seeking?*

5. *Comment on the self-assessment process itself in terms of its usefulness to the State, involvement of the entire review team membership, recommendations for revision and so forth.*

DRAFT 9/98

ON-SITE REVIEW INSTRUMENT

OMB Control No: xxxx-xxxx
Expiration date: xx\xx\xx

Face Sheet

STATE/COUNTY _____ DATE _____

RECORD TYPE _____ REVIEWER _____

CHILD'S NAME _____ CHILD'S DOB _____

RACE/ETHNICITY _____

Case Data

DATE CASE OPENED _____

DATE OF CURRENT PLACEMENT _____

DATE RETURNED HOME (if applicable) _____

DATE CASE CLOSED (if applicable) _____

What was the cause of the agency's involvement with this family? (Check all that apply and asterisk the primary reason.)

____ Physical abuse
____ Sexual abuse
____ Emotional maltreatment
____ Neglect (not including medical neglect)
____ Medical neglect
____ Abandonment
____ Child behavior
____ Mental/physical health of parent(s)
____ Mental/physical health of child
____ Substance abuse by parent(s)
____ Substance abuse by child
____ Domestic violence in child's home (spouse abuse)
____ Delinquency of child
____ Other (specify) _____

THE PAPERWORK REDUCTION ACT OF 1995 (Pub. L. 104-13)

Public reporting burden for this collection of information is estimated to average 7 hours per response, including the time for reviewing instructions, reading case files and conducting interviews, and reviewing the collection of information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

SECTION I: SAFETY

Outcome S1: Children are protected from abuse and neglect in their homes whenever possible.

Item 1. Services to Family to Protect Child(ren) in Home (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, PARENTS, SERVICE PROVIDER - Outcome S1)

In cases of substantiated or indicated abuse or neglect, or imminent risk of harm to children in the family, has the agency provided services to the family to protect the child(ren) in his/her own home, including family preservation, family support or other placement prevention services, within the past 12 months or the last 12 months before the child entered foster care (if applicable)? Yes ____ No ____

Exploratory issues:

- types of services provided to protect the child(ren)
- appropriateness of in-home services for the family
- reason services were not provided

Item 2. Current Risk of Harm to Child - Complete only for children in foster care with permanency goal of reunification and for families receiving in-home/CPS services (INTERVIEWS WITH SOCIAL WORKER, PARENTS, SERVICE PROVIDER Outcomes S1 & S2)

A. Is there a current risk of harm to the child(ren) in the family that is the basis for the child(ren) remaining in foster care or for the case to be kept open for services?
Yes ____ No ____

B. If yes, are efforts being made to reduce or remove the risk of harm through specific interventions by the agency?
Yes ____ No ____

Exploratory issues:

- nature of the current risk of harm
- what is needed to reduce or remove the risk
- how the risk is being addressed through services or other interventions

DISCUSSION OF SAFETY OUTCOME #1

Outcome S1: Children are, first and foremost, protected from abuse and neglect, and safely maintained in their homes whenever possible.

Check the level of outcome achievement that best describes the extent to which this outcome is being or has been achieved based on the interviews and case record review. In the box, support the level of outcome achievement selected by describing the indicators in the instrument that relate to the outcome.

Level of Outcome Achievement:

Substantially Achieved ____ Partially Achieved ____ Not Achieved ____ N/A ____

Items 1,2

Outcome S2: The risk of harm to children will be minimized.

Item 3. Timeliness of Initiating Investigations of Reports of Child Maltreatment (CASE RECORD/INTERVIEW WITH SOCIAL WORKER - Outcome S2)

A. How many reports of suspected abuse or neglect have been received on children in the family? _____.

B. In how many of the reports were the investigations initiated in accordance with the State's time frame and requirements, for a report of that priority? _____ Missing Information _____

C. When was face-to-face contact with the child made by the investigating worker? _____

Exploratory Issues:

- priority level assigned to each report
- agency requirements for initiating an investigation with this priority level, i.e., time frame, other requirements
- when the investigating worker initiated the investigation
- what activities actually constituted "initiating" the investigation, e.g., face to face contact with the child

Item 4. Repeat Maltreatment (CASE RECORD/INTERVIEW WITH SOCIAL WORKER - Outcome S2)

Where there have been multiple substantiated or indicated reports of abuse or neglect on children in this family, have any of them involved,

	Yes	No	No Multiple Reports
the same perpetrator?	_____	_____	_____
the same general complaint?	_____	_____	_____

Exploratory issues:

- the nature of each report
- relationship of the perpetrator to the child

DISCUSSION OF SAFETY OUTCOME #2

Outcome S2: The risk of harm to children will be minimized.

Check the level of outcome achievement that best describes the extent to which this outcome is being or has been achieved based on the interviews and case record review. In the box, support the level of outcome achievement selected by describing the indicators in the instrument that relate to the outcome.

Level of Outcome Achievement:

Substantially Achieved ____ Partially Achieved ____ Not Achieved ____ N/A ____

Items 2, 3 & 4

SECTION II: PERMANENCY

Outcome P1: Children will have permanency and stability in their living situations.

Item 5. Foster Care Re-entries (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, PARENTS - Outcome P1)

A. Has the child had multiple entries into foster care? Yes ____ No ____
B. Have any of them resulted from the same general reason? Yes ____ No ____

Exploratory issues:

- reason child entered foster care each time

Item 6. Stability of foster care placement (CASE RECORDS/INTERVIEW WITH SOCIAL WORKER, FOSTER PARENTS - Outcome P1)

A. Has the child changed placement settings during the current episode of foster care?
Yes ____ No ____

B. Have any of the placement changes occurred for reasons not directly related to helping the child achieve the goals in his or her case plan? Yes ___ No ___ No Placement Changes ____

C. Is the current placement setting stable, i.e., no apparent threat of disruption?
Yes _____ No _____

Exploratory issues:

- reasons for moves
- efforts to prevent unnecessary moves, if applicable
- correct match of placement setting to child's needs
- how current placement is being supported by agency
- reasons for instability, if applicable

Item 7. Permanency Goal for Child (CASE RECORD/INTERVIEW WITH SOCIAL WORKER - Outcome P1)

A. What is the childs current permanency goal? _____

B. How long has the goal been in place and unachieved? _____

C. Are the services being provided in the case consistent with the stated permanency goal?
Yes ____ No ____

D. If the child has been in foster care 15 or the most recent 22 months, has the agency filed or joined a petition to terminate parental rights?
Yes ____ No ____ Exception noted _____ (specify type)_____

Exploratory issues:

- changes/lack of changes in child's permanency goal

- reasons for changes in goals
- factors considered in decision-making about permanency goal
- barriers to achieving current goal
- how services currently being provided promote achievement of current permanency goal

Item 8. Independent Living Services - Complete only for children age 16 or older (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, CHILD, FOSTER PARENT - Outcome P1)

A. Does the child have a written independent living plan in the record? Yes ____ No ____ child not age 16 or older ____

B. Are independent living services being provided consistent with the child's needs? Yes ____ No ____ child not age 16 or older ____

Exploratory issues:

- services the youth is receiving to prepare for independent living
- extent to which services being provided match the youth's needs
- need for additional independent living services
- how well prepared the youth will be to live independently upon emancipation or achievement of his/her permanency goal

Item 9. Permanency Goal Of Some Other Planned Permanent Living Arrangement - (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, FOSTER PARENT, CHILD, PARENT - Outcome P1)

****Complete only for children with permanency goals of some other planned permanent living arrangement or emancipation****

If the child has a permanency goal of some other planned permanent living arrangement, what is it? _____
Have other, more permanent goals been considered and appropriately ruled out for the child? Yes ____ No ____
Child's goal is not some other planned permanent living arrangement ____

Exploratory issues:

- factors that were considered in determining the goal
- reasons this goal was selected rather than legal guardianship or adoption

- reviews of the goal for continuing appropriateness since the goal was initially established

Item 10. Adoption - Complete only for children with a permanency goal of adoption (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER - Outcome P1)

A. For children who are legally free for adoption, has an adoptive family been identified?
Yes ____ No ____ Child not free for adoption ____

B. For children who are legally free for adoption, Are there current delays (more than 60 days' duration) in placing the child in an adoptive family that are within the agency's ability to correct? Yes ____ No noted delays ____
No delays within the agency's ability to correct ____

C. For children who are not legally free for adoption, are there delays (more than 60 days' duration) in freeing the child that are within the agency's ability to correct?
Yes ____ No ____ Child is legally free for adoption ____

Exploratory issues:

- is the child legally free for adoption
- current efforts to identify an adoptive family
- barriers to placing the child for adoption
- current efforts to legally free the child for adoption
- barriers to freeing the child

DISCUSSION OF PERMANENCY OUTCOME #1

Outcome P1: Children will have permanency and stability in their living situations.

Check the level of outcome achievement that best describes the extent to which this outcome is being or has been achieved based on the interviews and case record review. In the box, support the level of outcome achievement selected by describing the indicators in the instrument that relate to the outcome.

Level of Outcome Achievement:

Substantially Achieved ____ Partially Achieved ____ Not Achieved ____ N/A ____

Items 5,6,7,8,9 & 10

Outcome P2: The continuity of family relationships and connections will be preserved for children.

Item 11. Proximity of current placement (CASE RECORDS/INTERVIEW WITH SOCIAL WORKER, PARENT - Outcome P2)

A. What is the proximity of the child's current placement to the parents?
Same community ____ Same county ____ Out of county ____ Out of State ____

B. For children placed outside the community or county of their parents' residence, is the reason for the location of the placement clearly related to helping the child achieve his or her case plan goals? Yes _____ No _____ Child not placed outside community/county of parents residence _____

C. For children placed outside the State, is the child visited at least every 12 months by a social worker of the supervising agency and a report filed to the agency holding custody?
Yes _____ No _____

Exploratory issues:

- which parent is working with agency and most likely to be reunified with child
- reasons for placement settings
- how the placement location supports or inhibits achieving the child's case plan goals
- impact of placement location on maintaining important family and community connections

Item 12. Placement With Siblings (CASE RECORD/INTERVIEWS - Outcome P2)

A. If the child has siblings who also are in foster care, are they currently placed together?
Yes ____ No ____ No siblings in foster care ____

B. If no, is there clear evidence that separation is necessary to meet the needs of the children? Yes ____ No ____ No siblings in foster care ____

Exploratory issues:

- reasons siblings are not placed together, if applicable
- efforts made to place or keep them together
- history of their placement together, including reasons for prior separations

Item 13. Visiting with Parents and Siblings in Foster Care (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, PARENTS - Outcome P2)

A. What is the most typical pattern of visiting frequency between the child and parents? Weekly ____ Bi-weekly ____ Monthly ____ Less than monthly ____

B. What is the most typical pattern of visiting frequency between the child and siblings placed separately in foster care? Weekly ____ Bi-weekly ____ Monthly ____ Less than monthly ____ No siblings placed separately ____

Exploratory issues:

- reasons for restrictions or prohibitions on visits
- barriers to visiting less frequently than weekly
- agency services/supports to encourage more frequent visiting
- custody status of child, including termination of parental rights

Item 14. Preserving Connections (INTERVIEWS WITH SOCIAL WORKER, PARENTS, FOSTER PARENTS, CHILD - Outcome P2)

A. Are the primary connections and characteristics of the child being preserved in the foster care placement?

_____ To a large extent
_____ Partially
_____ Not at all

B. Are the interests of Native American children being addressed through,

	Yes	No	Not applicable
Placement with Native American families	___	___	___ (child not Nat. Am.)
Referral to tribal court	___	___	___ (child not Nat. Am.)
Other ICWA provisions (Specify) _____	___	___	___ (child not Nat. Am.)

Exploratory issues:

- primary connections of the child to neighborhood, community, family, friends
- unique characteristics of the family and child, including language, religion, values and beliefs, traditions, background, and so forth
- how they are addressed in the agency's work with the family and child
- how the foster care provider supports these needs for the child in care

Item 15. Relative Placement (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, CHILD'S CARETAKER, PARENTS - Outcome P2)

For children not placed with relatives, were relatives considered for placement of the child? Yes ____ No ____ child placed with relatives ____

Exploratory issues:

- extent to which relatives were sought out and evaluated
- reasons relatives were not evaluated, if applicable
- reasons relatives were not used for placement, if applicable

Item 16. Current Relationship of Child in Care with Parents (INTERVIEWS WITH CHILD, PARENTS, FOSTER PARENT, SERVICE PROVIDER - Outcomes P2 & WB1)

Is there evidence of a strong, emotionally supportive relationship between the child in foster care and the child's parent(s)? Yes ____ No ____

Exploratory issues:

- nature of current relationship from child's and parents' perspectives
- parental participation in activities with child, e.g, school functions, special occasions
- parental decision-making regarding child's needs and activities

DISCUSSION OF PERMANENCY OUTCOME #2

Outcome P2: The continuity of family relationships and connections will be preserved for children..

Check the level of outcome achievement that best describes the extent to which this outcome is being or has been achieved based on the interviews and case record review. In the box, support the level of outcome achievement selected by describing the indicators in the instrument that relate to the outcome.

Level of Outcome Achievement:

Substantially Achieved ____ Partially Achieved ____ Not Achieved ____ N/A ____

Items 11,12,13,14,15 & 16

SECTION 3: WELL-BEING

Item 17. Needs and Services of Child, Parents, Foster Parents (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, CHILD, PARENTS, FOSTER PARENTS, SERVICE PROVIDERS - Outcome WB1 and others as applicable)

Are the identified needs of the child, parents and foster parents being addressed through appropriate services?

	Yes	No	N/A	
A. The child in foster care	____	____		
B. The childs' parents	____	____	____	(plan does not incl. svs. to parent)
C. The childs' foster parents	____	____	____	(child not in foster care)

Exploratory issues:

- what services are being provided in relation to current needs?
- match of services to needs
- accessibility of services, e.g., location, schedule, cost
- availability of services
- worker accessibility to foster parents
- is child placed in setting most appropriate, most family-like and best suited the child's interests and needs?
- are services intensive enough to meet identified needs?

Item 18. Child and Family Involvement in Case Planning (INTERVIEWS WITH SOCIAL WORKER, PARENT(S), CHILD, SERVICE PROVIDER - Outcome WB1)

A. Are the parent(s) and child (when old enough) actively involved in the case planning activities?

	Yes	No	N/A	
Child	____	____	____	(child not old enough or incapacitated)
Parents	____	____	____	(case plan does not include services to parents)

B. Are procedural safeguards in place with respect to parental rights pertaining to the removal of children from home, changes in placements and visiting privileges?

Yes ____ No ____

Exploratory issues:

- level of involvement in identifying needs and services, establishing goals and evaluating progress

- reasons for non-involvement
- notification of parents when child is moved, changes made in visiting arrangements, or changes made in case plans

Item 19. Worker Visits With Child (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, CHILD, FOSTER PARENT - Outcome WB1 and others, as applicable)

A. What has been the most typical pattern of visiting frequency between the social worker and the child during the last six months (or the last six months before the case was closed, if applicable)?
Weekly ____ Bi-weekly ____ Monthly ____ Less than monthly ____

B. Where visits are occurring less frequently than monthly, are there other agency staff, volunteers or service providers, e.g., contract providers, who are visiting the child at least monthly? Yes ____ No ____

Exploratory issues:

- child's needs for contacts with worker
- factors impacting on frequency of visits

Item 20. Worker Visits with Parents (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, PARENTS - Outcome WB1 and others as applicable)

A. What has been the most typical pattern of visiting frequency between the social worker and the parent(s) during the last six months (or the last six months before the case was closed, if applicable)?
Weekly ____ Bi-weekly ____ Monthly ____ Less than monthly ____

B. Where visits are occurring less frequently than monthly, are there other agency staff, volunteers or service providers, e.g., contract providers, who are visiting the parent(s) at least monthly? Yes ____ No ____

Exploratory issues:

- parents' needs for contacts with worker
- factors impacting on frequency of visits
- reasons for infrequent visiting, if applicable

DISCUSSION OF WELL-BEING OUTCOME #1

Outcome WB1: Families will have enhanced capacity to provide for their children's needs.

Check the level of outcome achievement that best describes the extent to which this outcome is being or has been achieved based on the interviews and case record review. In the box, support the level of outcome achievement selected by describing the indicators in the instrument that relate to the outcome.

Level of Outcome Achievement:

Substantially Achieved ____ Partially Achieved ____ Not Achieved ____ N/A ____

Items 16,17,18,19 & 20

Outcome WB2: Children will receive appropriate services to meet their educational needs.

Item 21. Educational Needs of the Child (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, CHILD, FOSTER PARENTS, PARENTS - Outcome WB2)

A. If the child is in foster care, has the child been enrolled in multiple schools as the result of being placed in foster care? Yes ____ No ____ Child not school age ____
Child not in foster care ____

B. Are the child(ren)'s educational needs being addressed through,

		Yes	No	N/A
Special education classes	___	___	___	(no identified special ed. needs)
Normal grade placement	___	___	___	(child not school age)
Services for identified educational needs	___	___	___	(no unusual ed. needs noted)
Early intervention for pre-school children	___	___	___	(early intervention not needed)
Inclusion of school records in case file	___	___	___	(child not school age)

C. For children who have identified educational needs, is the agency addressing the needs through,

		Yes	No	N/A
Advocacy with the education/school system	___	___	___	(no needs/not school age)
Attention to education in case planning	___	___	___	(no needs/not school age)

Exploratory issues:

- reasons for changing schools, if applicable
- testing/evaluation to determine educational needs of child
- current functioning in school
- identified needs of child related to school performance
- services provided to address educational needs
- match of services to identified needs
- worker activities to address educational needs

DISCUSSION OF WELL-BEING OUTCOME #2

Outcome WB2: Children will receive appropriate services to meet their educational needs.

Check the level of outcome achievement that best describes the extent to which this outcome is being or has been achieved based on the interviews and case record review. In the box, support the level of outcome achievement selected by describing the indicators in the instrument that relate to the outcome.

Level of Outcome Achievement:

Substantially Achieved ____ Partially Achieved ____ Not Achieved ____ N/A ____

Item 21

Outcome WB3: Children will receive adequate services to meet their physical and mental health needs.

Item 22. Physical Health of the Child (CASE RECORD/INTERVIEWS WITH SOCIAL WORKER, CHILD, FOSTER PARENTS, PARENTS - Outcome WB3)

A. If the child is in foster care, was an initial health screening (or other comprehensive medical examination) provided within the time frame specified in the State's guidelines?
Yes ____ No ____ Child not in foster care ____

B. Are the child(ren)'s physical health needs being met through,

	Yes	No	N/A
Preventive health care	____	____	

Preventive dental care	____	____	
Immunizations	____	____	
Treatment for identified health needs	____	____	____ (no identified health needs)
Treatment for identified dental needs	____	____	____ (no identified dental needs)
Inclusion of health records in case file	____	____	
Giving health records to foster parents	____	____	

Exploratory issues:

- what are State's guidelines for timing of initial health examinations for children entering foster care
- type and timing of initial screening received by child in foster care
- recency of immunizations
- periodicity of subsequent health screenings and preventive dental care
- current identified health or dental needs
- how health and dental needs are being treated
- how the agency tracks medical needs and services
- does foster parent (provider) have copies of child's health records

Item 23. Mental Health of the Child (INTERVIEWS WITH SOCIAL WORKER, PARENT, FOSTER PARENT, SERVICE PROVIDER - Outcome WB3)

A. If the child is in foster care, was an initial mental health screening or assessment provided upon entry into foster care (or within the time frame specified in the State's guidelines, if applicable)?
Yes ____ No ____ Child not in foster care ____ No State guidelines ____

B. Are the childs̈ mental health needs being addressed through,

	Yes	No	N/A
Assessment or screening	____	____	
Treatment for identified needs	____	____	____ (no identified health needs)

Exploratory issues:

- assessment for mental health needs at initial agency involvement or upon entering foster care
- current mental health needs
- services provided for mental health needs
- match of services to identified needs

DISCUSSION OF WELL-BEING OUTCOME #3

Outcome WB3: Children will receive adequate services to meet their physical and mental health needs.

Check the level of outcome achievement that best describes the extent to which this outcome is being or has been achieved based on the interviews and case record review. In the box, support the level of outcome achievement selected by describing the indicators in the instrument that relate to the outcome.

Level of Outcome Achievement:

Substantially Achieved ____ Partially Achieved ____ Not Achieved ____ N/A ____

Items 22,23

Draft 9/98

STAKEHOLDER INTERVIEW GUIDE

OMB Control No: xxxx-xxxx
Expiration date: xx\xx\xx

General Instructions

- Stakeholder interviews will be conducted in the local review sites and at the State level. The following core stakeholders should be interviewed:

State-Level	Local-Level
State child welfare director	Local child welfare agency administrator
State child welfare program specialists	Foster parent
State court system representative	Juvenile court judge
Major tribal representatives	Law enforcement representative
	Social worker(s) from the local agency

- Additional stakeholders at both State and local levels may be interviewed, as needed. The various types of additional stakeholder representatives who may be interviewed are listed in the review procedures manual.

- This interview guide identifies core issues that should be covered in stakeholder interviews in each review site. While each individual stakeholder may not be able to address each core issue, the combination of interviews in each site should cover the core issues. Following each core issue is a list of possible stakeholders who may be able to address the particular issue. *However, reviewers will need to make judgments about which of the issues to be covered should be pursued with each individual stakeholder.*

- Each core issue is followed by a list of exploratory issues that reviewers should pursue, as appropriate, in the interview. As with the core issues, some of the exploratory issues will be more or less applicable to individual stakeholders.

- In addition to the core issues, the Regional Office team leader, in collaboration with the State and the Central Office, will be responsible for identifying any State-specific systemic issues from the self-assessment that need further examination through stakeholder interviews in the on-site review and including those issues in Section II of the Stakeholder Interview Guide.

- Notes from the interviews should be recorded on the Stakeholder Interview Guide forms. Notes from all stakeholder interviewes should be summarized by the reviewer on a single form. The forms will be used by the review team to compile the Summary of Findings and Recommendations at the end of the on-site review. The forms must be submitted to the designated team member at the end of the on-site review.

- Interviews should be kept to around an hour in length.

THE PAPERWORK REDUCTION ACT OF 1995 (Pub. L. 104-13):
Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, conducting interviews, and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

STAHEHOLDER INTERVIEW GUIDE

Interview Type: **Local Stakeholder** _____ **State Stakeholder** _____
Interviewer:

_____

County: _____ **Date(s) of Interviews:** _____

Person(s) Interviewed	**Title**
_____	_____
_____	_____
_____	_____
_____	_____

SECTION I: CORE ISSUES

Item 1. Agency Responsiveness to Community (State and county agency staff, external stakeholders)

Describe the extent of the agency's responsiveness to expectations and needs of this community (or State if interviewing State-level stakeholder) as they relate to the agency's mission.

Exploratory Issues:

- Strengths and needs of the agency's ability to respond to the community's (State's) expectations about protecting children from maltreatment;
- The agency's effectiveness in serving all relevant populations in the community (State), e.g., racial and ethnic groups, age groups, rural vs. urban populations;
- The agency's effectiveness in working with other child and family serving agencies in the community (State);
- How the community views the agency's mission;
- Procedures in place that encourage or inhibit community involvement, e.g., intake procedures, volunteer programs, community-based programs and so forth.

Item 2. Information System Capacity (State and county agency staff)

Describe the capacity of the State (or county) agency's information system to support the work of staff at the local level (State and local levels, if interviewing State-level staff).

Exploratory Issues:

- Adequacy of the information provided through the information system to assist workers, supervisors and managers in their daily work;
- Capacity of the information system to determine status, demographics, location and goals for all children in foster care in the county (or State);
- Capacity to identify/track children and families served in programs other than foster care,

e.g., CPS services, in-home services;
- Major gaps/needs in the information system from both local and State perspectives.

Item 3. Quality Assurance and Supervision (State and county agency staff)

Describe the effectiveness of the agency's provisions for supervision of staff and quality assurance in promoting satisfactory outcomes for children and families.

Exploratory Issues:
- The strengths and needs of the supervision that child welfare workers receive at the county level;
- Effectiveness of the county agency's (or State's) quality assurance measures in:
  - helping assure that children in the county (or State) are protected from maltreatment;
  - helping assure that the services provided to children in foster care meet the quality standards established by the State for such services;
  - helping assure that children in foster care achieve permanency on a timely basis;
  - involving individuals outside the county (or State) agency in evaluating outcomes for children and families, e.g., service recipients, service providers, advocates, etc.
- Reporting and evaluation capacity of the quality assurance system
- Geographical range covered by the quality assurance system in the State

Item 4. Staff and Provider Training (State and county agency staff, local external stakeholders)

Describe the extent to which staff of the agency and service providers, particularly foster families, are trained and prepared to carry out the agency's mission and help families and children achieve satisfactory outcomes.

Exploratory Issues:
- Strengths and needs of the training provided to: agency staff (at all levels) in preparing them to work with families and children or otherwise carry out the agency's mission; foster and adoptive parents in preparing them to work with children and their families and with staff of the agency and to care for children in their homes; other service providers used by the agency in preparing them to work with children and families in a manner that is consistent with the agency's mission and goals;
- Consistency of the training curricula used by the agency with the agency's goals in the community (or State).
- Comparisons between pre-service and in-service training for staff and providers

Item 5. Foster and Adoptive Home Licensing/Approval/Recruitment (State and county agency staff, selected external stakeholders, e.g., foster parents, court, service providers)

Describe the effectiveness of the agency's provisions for licensing or approving and

recruiting foster and adoptive homes to help provide protection and permanency for children in out-of-home care.

Exploratory Issues:

- Sufficiency of the county's (or State's) current pool of foster and adoptive families to meet the placement needs of children in the county (or State), including numbers, locations and capacity to parent the children in need of placement;
- Adequacy of numbers and training of staff who perform licensing and recruitment functions;
- Effects of the agency's (county or State) standards/licensing requirements on protection and permanency for children in out-of-home care;
- Factors that affect, positively or negatively, recruitment and retention of foster and adoptive families.
- Efforts to recruit foster and adoptive families that reflect the ethnic and racial diversity of children in the State in need of placement
- Extent to which the agency's licensing standards reflect national standards, i.e., CWLA
- Efforts to remove barriers to interjurisdictional adoptions.

Item 6. Case Review System (State and county agency staff, selected local external stakeholders, e.g., foster parents, court, attorneys, advocates, foster care review board members)

Describe the effectiveness of the current provisions in place in the county (or State) for reviewing cases of children in foster care, including relative placements, who are in the agency's custody or supervision.

Exploratory Issues:

- Do all chilren have case plans reflecting most appropriate placements in their best interests and in close proximity to parents?
- Are children placed out-of-State visited at least once each 12 months?
- Strengths and needs of the periodic reviews and permanency hearings in the county (or State) in promoting permanency for children in foster care, including children in related placements;
- Factors that affect the frequency of hearings and reviews;
- Level of participation by children, families, foster families, and preadoptive families including provisions for notifying them of reviews and hearings, changes in placements and visiting arangements;
- The agency's implementation of the termination of parental rights provisions at section 475(5)(E) of the Social Security Act and its use of the exceptions thereto.

Item 7. Service Array (State and county agency staff, external stakeholders)

Describe the capacity of the current array of services in the county (or State) to meet the individual needs of children and families served by the agency.

Exploratory Issues:

- Strengths of the current array of services in the county (or State) to meet the needs of children and families served by the agency;
- Gaps in the capacity of the service array to meet the needs of children and families;
- Effectiveness of the current service array in responding to the *individual* needs of children and families, as opposed to providing the same level and type of service to all;
- Availability of services to families and children in their own homes and in the communities where they live (for County stakeholder interviews).
- Strengths and needs of services designed specifically to assure safety of children
- Strengths and needs of services designed specifically to promote permanency for children

SECTION II. STATE-SPECIFIC ISSUES

The review team may choose to identify additional issues specific to the State or as a result of the self-assessment.

Dated: September 9, 1998.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 98–26273 Filed 9–30–98; 8:45 am]

BILLING CODE 4184–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Project

Title: Grants to States for Access and Visitation—Program Data.

OMB No.: New.

Description: As required by Paragraphs 303.109(a), (b) and (c) of the PRWORA Act, States are directed to monitor and evaluate their access and visitation programs using a set of criteria aimed at providing detailed descriptions of each funded program. To that end, States will use collection techniques available to the Administration for Children and Families and the Office of Child Support Enforcement.

Specifically, paragraph (a) requires States to monitor all access and visitation program to ensure that services funded under these programs are: (1) authorized under section 469B(a) of the Act and (2) efficiently and effectively provided while complying with reporting and evaluation requirements, as set forth in paragraphs 303.109(b) and 303.109(c).

Paragraph 303.109(b) allows State programs funded by section 469B of the act to be evaluated using data gathered to measure the effectiveness of program operations. States also are required to assist in the evaluation of programs deemed significant or promising by the Department, as directed by program memorandum.

Paragraph 303–109(c) requires that States provide a detailed description of each funded program by including such information as: service providers and administrators, service area, population served, program goals, application or referral process, referral agencies, nature of the program, activities provided, and length and features of a ''completed'' program. Other required information from the program also includes: number of applicants or referrals for each program, the number of program participants in the aggregate an by eligible activity, and the total number of graduates in the aggregate and by eligible activities (e.g., mediation, education etc.). This information is proposed in order to assess: (1) The demand for the program and effectiveness of outreach and ability of the program to meet demand, (2) the service population served and scope and size of the program, and (3) whether such recipients are completing standard program requirements. States would be required to report this information annually, collected at a date and in a form as the Secretary may prescribe in program instructions from time to time.

The Office of Child Support Enforcement will use information gathered from the data collection instrument to report on the programs to the Congress in its annual report. States may use this information to assess demand for an utilization of their programs when considering funding options and make appropriate program changes from year to year. Funded agencies will use the information to assess effectiveness of project administration and design. Public interest groups will use the information to keep apprised services provided to constituencies.

Respondents: State, Local or Tribal Government.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Access and Visitation	216	1	24	5,184

Estimated Total Annual Burden Hours: 5,184.

In compliance with the requirements of Section 3506(c) (2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W.; Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: September 25, 1998.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 98–26274 Filed 9–30–98; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: National Directory of New Hires Reporting Results Survey.

OMB No.: New.

Description: Public Law 104–193, the ''Personal Responsibility and Work Opportunity Reconciliation Act of 1996,'' required the Office of Child Support Enforcement (OCSE) to develop a National Directory of New Hires (NDNH) to improve the ability of State child support agencies to locate noncustodial parents and collect child support across State lines. In order to encourage continued and even improved cooperation with the requirements of the program, OCSE would like to conduct a brief telephone survey to solicit any information already collected by the States as to improved collections attributable to the program. That information would then be condensed into a report to be published through newsletters or press releases.

Respondents: State and Tribal Governments.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
New Hire Survey	54	4	.5	108

Estimated Total Annual Burden Hours: 108.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W.; Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register.** Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Attn: Ms. Wendy Taylor.

Dated: September 25, 1998.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 98–26275 Filed 9–30–98; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Children's Bureau; Notice of Meeting

AGENCY HOLDING THE MEETING: Children's Bureau.

NAME: Kinship Care Advisory Panel.

DATE AND TIME: October 5, 1998, 11:00 a.m.–5:00 p.m.; October 6, 1998, 8:30 a.m.–5:00 p.m.

PLACE: The Inn and Conference Center, University of Maryland, University College, University Boulevard at Adelphi Road, College Park, Maryland 20742.

SUMMARY: The Adoption and Safe Families Act of 1997 (Pub. L. 105–89) signed into law on November 19, 1997, includes a section requiring the Secretary of Health and Human Services to prepare a report to the Congress on children in foster care who are placed in the care of a relative. Section 303 of Pub. L. 105–89 requires the Secretary, in consultation with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, to convene an advisory panel on kinship care to review an initial report and advise the Secretary on the extent to which children in foster care are placed in the care of a relative.

The reports will be based on the comments submitted by the advisory panel and will include policy recommendations from the Secretary. The Secretary shall present the report to the Congress by June 1, 1999.

SUPPLEMENTARY INFORMATION: The meetings are open to the public and are barrier free. Meeting records will also be open to the public and will be kept at the Switzer Building located at 330 ''C'' Street, SW., Washington, DC 20447.

This meeting notice is late due to the problems in identifying a meeting location.

CONTACT PERSON FOR MORE INFORMATION: Geneva Ware-Rice, Switzer Building, 330 ''C'' Street, SW., Washington, DC 20447, 202–205–8305.

Dated: September 25, 1998.

Carol W. Williams,

Associate Commissioner, Children's Bureau.

[FR Doc. 98–26321 Filed 9–30–98; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0776]

Food and Drug Administration Modernization Act of 1997; Allergenic Patch Test Kits; Request for Comments or Data

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting any comments, information, or data regarding topically applied allergenic products used for the diagnosis of Type IV allergies (also referred to as delayed hypersensitivity or cell-mediated immune reactions). FDA is gathering this information in response to a House Report, which accompanied the Food and Drug Administration Modernization Act of 1997 (FDAMA), requesting the Secretary, Health and Human Services (HHS), in consultation with the National Institute for Occupational Safety and Health (NIOSH), FDA, medical experts, and manufacturers to conduct a study of topically applied allergenic products (patch tests) used for the diagnosis of Type IV allergies. The results of this study will be submitted to the House Committee on Commerce and the Senate Committee on Labor and Human Resources.

DATES: Submit any written comments or data by November 2, 1998.

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

FOR FURTHER INFORMATION CONTACT: Stephen M. Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

On November 21, 1997, the President signed FDAMA into law (Pub. L. 105–115). The H. Rept. 105–307, section 17. Reports, which accompanied FDAMA, requested, in part, that the Secretary of the Department of Health and Human Services (the Secretary) in consultation with NIOSH, FDA, medical experts, and manufacturers, conduct a study of topically applied allergenic products used for the diagnosis of Type IV allergies (patch tests) and submit a report on the results of the study to the House Committee on Commerce and the Senate Committee on Labor and Human Resources. It was requested to the extent feasible, that the report should: (1) Examine the extent of allergic skin reactions and contact dermatitis in the workplace; (2) assess the current availability of topically applied allergic products used for the diagnosis of Type IV allergies (patch tests), compared with their availability in the 1980's and with their availability in other countries; and (3) list by year, since 1970, the number of adverse reaction reports filed with FDA resulting from the use of topically applied allergenic products used for the diagnosis of Type IV allergies and describe, to the extent possible, whether those adverse reactions resulted from

commercial allergens or allergens that were individually prepared by a patient, physician, pharmacist, or other person. The report is to be submitted within 1 year of the enactment of FDAMA.

II. Discussion

Contact dermatitis is the most common, nontrauma-related, occupational illness in the United States. Occupational contact dermatitis results from skin contact with an agent found in a workplace setting. The dermatitis can be clinically evident as an acute, subacute, or chronic condition. It can be further classified as an irritant contact dermatitis or as an allergic contact dermatitis, a Type IV, delayed or cell-mediated, immune reaction. The principal diagnostic tools for dermatologists, allergists, and other physicians attempting to diagnose and determine the cause(s) of allergic dermatitis are the patch test kits, which are regulated by FDA as biological products.

In recent years, the licensing of allergenic patch test kits by FDA has been the subject of discussion. One of the issues that has been discussed, and is part of the study, includes the availability or supply of patch test kits and of specific allergens in those kits. In response to the House Report, FDA is working with NIOSH to conduct the requested study and gather any information on patch test kits. FDA is also seeking public input from the medical community, manufacturers, and other experts via this **Federal Register** notice. FDA will consider this information in preparation of the report.

III. Submissions

Interested persons may submit by November 2, 1998, any comments, information, or data responsive to the above content of the report to the Dockets Management Branch (address above). Two copies of any comments, information, or data are to be submitted, except that individuals may submit one copy. Comments and data should be identified with the docket number found in the brackets in the heading of this document. All information submitted will be placed on public display and will be subject to public disclosure. Trade secrets and confidential information, as well as information that could be used to identify persons, such as individual patients whose privacy should be maintained, should be deleted before the information is submitted. All received comments and data are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 23, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–26228 Filed 9–30–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants: Notice of Availability and Opening of Comment Period for an Environmental Assessment/Habitat Conservation Plan and Receipt of Application for Incidental Take Permit for the 160-Acre Lazy K Bar Ranch in Pima County, AZ

AGENCY: Fish and Wildlife Service, DOI.

ACTION: Notice: Issuance of an incidental take permit for a Habitat Conservation Plan (HCP).

SUMMARY: The U.S. Fish and Wildlife Service (Service) provides notice of the availability of an EA/HCP for the Lazy K Bar Ranch in Pima County, Arizona. LKB, LLC (Applicant) has applied to the Service for an incidental take permit pursuant to Section 10(a)(1)(B) of the Endangered Species Act (Act). The Applicant has been assigned permit number TE 2796–0. The requested permit, which is in perpetuity, would authorize incidental take in the form of habitat loss and harassment of the endangered cactus ferruginous pygmy-owl (*Glaucidium brasilianum cactorum*). The proposed take on 160-acres of private land would occur from resort/guest ranch and/or residential land uses on the Lazy K Bar Ranch, Pima County, Arizona.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received on or before November 2, 1998.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Tom Gatz, Acting Field Supervisor, Arizona Ecological Services Field Office, 2321 West Royal Palm Road, Suite 103, Phoenix, Arizona 85021, (602–640–2720; Fax 602–640–2730). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30), U.S. Fish and Wildlife Service, Phoenix, Arizona. Written data or comments concerning the application and EA/HCP should be submitted to the Field Supervisor, Ecological Services Field Office, Phoenix, Arizona (see address above). Please refer to permit number TE 2796–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Tom Gatz or Angela Brooks at the above Arizona Ecological Services Field Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of threatened and endangered species such as the cactus ferruginous pygmy-owl. However, the Service, under limited circumstances, may issue permits to take threatened or endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The EA considers the environmental consequences of two alternatives, including the proposed action. Two other alternatives were explored, but were rejected as unworkable. The proposed action alternative is issuance of the incidental take permit and implementation of the HCP as submitted by the Applicant. The HCP provides conservation measures to minimize take and conserve Plan Species habitats within the project area. The HCP also provides funding for monitoring of Plan Species populations and habitats and for its implementation.

APPLICANT: LKB, LLC proposes to purchase the Lazy K Bar Ranch from its current owner and develop 50 residential lots on the 160-acre . The anticipated incidental take will be limited to harassment of up to two adult cactus ferruginous pygmy-owls (and their young) that may be associated with any construction activities within the subject property and loss of approximately 31 acres of potential habitat from proposed residential development. The Lazy K Bar Ranch is located in Pima County, northwest of Tucson, Arizona.

Dated: September 22, 1998.

Geoffrey J. Haskett,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 98–25967 Filed 9–30–98; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of Addendum #1 to the Assessment Plan for the Grand Calumet River, Indiana Harbor Ship Canal, Indiana Harbor and Associated Lake Michigan Environments

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 30-day comment period.

SUMMARY: Notice is given that the document titled ''Addendum #1 to the Assessment Plan for the Natural Resource Damage Assessment of the Grand Calumet River, Indiana Harbor Ship Canal, Indiana Harbor and Associated Lake Michigan Environments'' (''The Addendum'') will be available for public review and comment on the date of publication in the **Federal Register**.

The U.S. Department of the Interior, and The State of Indiana (''trustees'') are acting as trustees for natural resources considered in this assessment, pursuant to subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan, 40 CFR 300.600 and 300.610, and Executive Order 12580.

The assessment, including the activities addressed in this addendum, will be conducted in accordance with the guidance of the Natural Resource Damage Assessment Regulations found at 43 CFR Part 11. The public review of the Addendum announced by this Notice is provided for in 43 CFR 11.32(c).

Interested members of the public are invited to review and comment on the Addendum. Copies of the Addendum, and the ''Assessment Plan for the Natural Resource Damage Assessment of the Grand Calumet River, Indiana Harbor Ship Canal, Indiana Harbor and Associated Lake Michigan Environments'' (''The Plan'') issued on October 14, 1997 (FR Doc. 97–26788), can be requested from the address listed below. All written comments will be considered and included in the Report of Assessment, at the conclusion of the assessment process.

DATES: Written comments on the Plan must be submitted on or before November 2, 1998.

ADDRESSES: Requests for copies of the Addendum and/or the Plan may be made to:

Supervisor, Ecological Services Office, U.S. Fish and Wildlife Service, 620 S. Walker Street, Bloomington, Indiana 47403

or:

Natural Resource Trustee, Office of Legal Counsel, Indiana Department of Environmental Management, 100 N. Senate Avenue, P.O. Box 6015, Indianapolis, Indiana 46206–6015; (317) 233–6822.

Comments on the Addendum should be sent to the Indiana Department of Environmental Management at the address listed above. The trustees will coordinate comment review.

SUPPLEMENTARY INFORMATION: The purpose of this natural resource damage assessment is to confirm and quantify the suspected injuries to natural resources in the Grand Calumet River, Indiana Harbor Ship Canal, Indiana Harbor and Associated Lake Michigan Environments resulting from exposure to hazardous substances released by area steel mills, refineries and other potential sources. It is suspected that this exposure has caused injury and resultant damages to trustee resources. The injury and resultant damages will be assessed under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, and the Clean Water Act, as amended. The Addendum addresses additional collection activities that will be undertaken to provide additional information.

John Christian,

Acting Regional Director, Region 3, U.S. Fish and Wildlife Service.

[FR Doc. 98–25968 Filed 9–30–98; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–020–1610–00]

Availability of Environmental Assessment and Proposed Resource Management Plan Amendment for Areas of Critical Environmental Concern; Montana, South Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with Section 202 of the Federal Land Policy and Management Act of 1976 and Section 1501 of the National Environmental Policy Act of 1969, an environmental assessment and proposed resource management plan amendment has been prepared for the Powder River, Billings, and South Dakota planning areas. The Areas of Critical Environmental Concern Environmental Assessment and Proposed Resource Management Plan Amendment describes and analyzes future options for management of proposed areas of critical environmental concern on 39,145 federal surface acres managed by the Bureau of Land Management within the following counties: Carbon, Carter, Musselshell, Powder River, Rosebud, Treasure, Yellowstone, Montana; Big Horn County, Wyoming, and Fall River County, South Dakota. The Resource Management Plan Amendment provides a comprehensive plan for managing the federal surface and mineral resources in these areas.

PUBLIC PARTICIPATION: The Areas of Critical Environmental Concern Environmental Assessment and Draft Resource Management Plan Amendment was available for public review from December 29, 1997 to March 9, 1998. Written comments were received from agencies, individuals and organizations. All comments were considered in the preparation of the Environmental Assessment and Proposed Resource Management Plan Amendment.

The resource management planning process includes an opportunity for review through a plan protest to the BLM's Director. Any person or organization who participated in the planning process and has an interest which is or may be adversely affected by the approval of this resource management plan amendment may protest the plan. Careful adherence to the following guidelines will assist in preparing a protest that will assure the greatest consideration for your point of view.

Only those persons or organizations who participated in the planning process may protest the plan.

A protesting party may raise only those issues which were commented on during the planning process.

Additional issues may be raised at any time and should be directed to the Miles City Field Office for consideration in plan implementation, as potential plan amendments, or as otherwise appropriate.

DATES: The protest period lasts 30 days and begins the day the Notice of Availability for this document is published in the **Federal Register**. There is no provision for an extension of time. Protests filed late, or filed with the State Director or Field Manager shall be rejected by the Director. To be

considered ''timely'' your protest must be sent to the Director of BLM and must be postmarked no later than November 2, 1998. Although not a requirement, sending your protest by certified mail, return receipt requested, is recommended.

ADDRESSES: Reading copies of the environmental assessment and proposed resource management plan amendment will be available at the following Bureau of Land Management locations:

Miles City Field Office, 111 Garryowen Road, Miles City, Montana 59301

Billings Field Office, 810 East Main, Billings, Montana 59105

South Dakota Field Office, 310 Roundup Street, Belle Fourche, South Dakota 57717

All protests must be filed in writing to: Director, Bureau of Land Management, Attention: Ms. Brenda Williams, Protests Coordinator, WO–210/LS–1075, Department of the Interior, Washington, D.C. 20240.

The Overnight Mail address is: Director, Bureau of Land Management, Attention: Ms. Brenda Williams, Protests Coordinator, 1620 L Street, N.W. Room 1075, Washington, D.C. 20036.

To expedite consideration, in addition to the original sent by mail or overnight mail, a copy of the protest may be sent by: FAX to (202) 452–5112; or Email to bhudgens@wo.blm.gov

In order to be considered complete, your protest must contain, at a minimum, the following information:

The name, mailing address, telephone number, and interest of the person filing the protest.

A statement of the issue being protested.

A statement of the portion of the plan being protested. To the extent possible, this should be done by reference to specific pages, paragraphs, sections, tables, and maps in the proposed resource management plan amendment.

A copy of all documents addressing the issue submitted during the planning process or a reference to the date the issue was discussed for the record.

A concise statement explaining why the BLM State Director's decision is believed to be incorrect is a critical part of the protest. Take care to document all relevant facts and to reference or cite the planning documents, environmental analysis documents, and available planning records (meeting minutes, summaries, correspondence). A protest without data will not provide us with the benefit of your information and insight, and the Director's review will be based on the existing analysis and supporting data.

At the end of the 30-day protest period, the BLM may issue a Decision Record, approving implementation of any portion of the proposed plan not under protest. Approval will be withheld on any portion of the plan under protest, until the protest is resolved.

FOR FURTHER INFORMATION CONTACT: Aden Seidlitz, (406) 233–2816.

SUPPLEMENTARY INFORMATION: The Environmental Assessment and Proposed Resource Management Plan Amendment analyzes three alternatives for the management and designation of Areas of Critical Environmental Concern. Each alternative represents a complete management plan. The alternatives can be summarized by (1) current management or no action, (2) resource protection and (3) the preferred alternative, which may be a combination of the previous two.

The Environmental Assessment and Proposed Resource Management Plan Amendment recommends designating 12 Areas of Critical Environmental Concern: Bridger Fossil, Castle Butte, Meeteetse Spires, Petroglyph Canyon, East Pryor Mountains, Stark Site, Weatherman Draw, Battle Butte, Finger Buttes, Howrey Island, Reynolds Battlefield, and Fossil Cycad.

The Bridger Fossil area (575 public surface acres) in Carbon County, Montana would be designated an Area of Critical Environmental Concern and managed to protect paleontological resources. Management actions affecting this area are: rights-of-way, mineral material sales and permits, and oil and gas leasing would not be allowed; off-road vehicle use would be limited to designated roads and trails; and noncommercial collection of common invertebrate and plant fossils would be allowed.

Castle Butte (185 public surface acres) in Yellowstone County, Montana would be designated an Area of Critical Environmental Concern and managed to protect significant cultural resources. Management actions affecting this area are: fire would be managed with conditional fire suppression, wood product sales would not be allowed. Rights-of-way that avoid the significant cultural resource sites in the area would be allowed, and geophysical exploration for oil and gas (surface methods and vibroseis) that avoids the significant cultural resource sites would be allowed.

East Pryor Mountains (29,500 public surface acres) in Carbon County, Montana and Big Horn County, Wyoming would be designated an Area of Critical Environmental Concern and managed to protect and enhance the wild horse, wildlife habitat and paleontology values. Management actions affecting this area are: oil and gas leasing would not be allowed, locatable minerals would be withdrawn from entry, and noncommercial collection of common invertebrate and plant fossils would be allowed.

Meeteetse Spires (960 public surface acres) in Carbon County would be designated an Area of Critical Environmental Concern and managed to provide recreation for the public while protecting the area's unique vegetation. Management actions affecting this area are: fire would be managed with conditional fire suppression, selected timber harvests would be allowed, wood product sales would not be allowed, rights-of-way would not be allowed, livestock grazing, except for sheep, would be allowed, locatable minerals would be withdrawn from entry, geophysical exploration for oil and gas would not be allowed in the sensitive plant area, and in the remaining area geophysical exploration for oil and gas would be accessed by air only (vibroseis would not be allowed,) and off-road vehicle use would be limited to designated roads and trails.

Petroglyph Canyon (240 public surface acres) in Carbon County, Montana would be designated an Area of Critical Environmental Concern and managed to protect significant cultural resources. Management actions affecting this area are: wood product sales, oil and gas leasing and geophysical exploration for oil and gas would not be allowed, and the area would be closed to off-road vehicle use.

Stark Site (800 public surface acres) in Musselshell County, Montana would be designated an Area of Critical Environmental Concern and managed to protect significant cultural resources. Management actions affecting this area are: fire would be managed with conditional fire suppression, wood product sales, rights-of-away, mineral material sales and permits, and oil and gas leasing would not be allowed. Geophysical exploration for oil and gas would not be allowed on the significant cultural resource sites, and off-road vehicle use would be limited to designated roads and trails.

Weatherman Draw (4,268 public surface acres) in Carbon County, Montana would be designated an Area of Critical Environmental Concern and managed to enhance significant cultural resources. Management actions affecting this area are: fire would be managed with conditional fire suppression, wood product sales would not be allowed, rights-of-way associated with valid

existing oil and gas lease rights would be allowed, other rights-of-way would not be allowed, locatable minerals would be withdrawn from entry, oil and gas leasing would be allowed with a No Surface Occupancy stipulation, the area would be closed to geophysical exploration for oil and gas, and off-road vehicle use would be limited to authorized use.

Battle Butte (120 public surface acres) in Rosebud County, Montana would be designated an Area of Critical Environmental Concern and managed to protect significant cultural resources. Management actions affecting this area are: fire would be managed with conditional fire suppression, rights-of-way would not be allowed, mineral material sales and permits would not be allowed, oil and gas leasing would be allowed with a No Surface Occupancy stipulation, geophysical exploration for oil and gas would be allowed on designated roads and trails with restrictions, and off-road vehicle use would be limited to designated roads and trails.

Finger Buttes (1,520 public surface acres) in Carter County, Montana would be designated an Area of Critical Environmental Concern and managed for its scenic values. Management actions affecting this area are: fire would be managed with conditional fire suppression, rights-of-way would avoid the area, livestock grazing and range improvements would be allowed, mineral material sales and permits and nonenergy mineral leasing would not be allowed, oil and gas leasing would be allowed with a No Surface Occupancy stipulation, geophysical exploration for oil and gas would be allowed on designated roads and trails with restrictions, and off-road vehicle use would be allowed with restrictions.

Howrey Island (321 public surface acres) in Treasure County, Montana would be designated an Area of Critical Environmental Concern and managed to protect and enhance its special wildlife habitat. Management actions affecting this area are: fire would be managed with conditional fire suppression, wood product sales would be allowed with restrictions, rights-of-way would not be allowed, livestock grazing would be allowed, range improvements would be allowed when they do not degrade the values of the Area of Critical Environmental Concern. Off-road vehicle use would be limited to the BLM road except from February 15 to June 1. During that time, no vehicles would be allowed, including on the BLM road.

Reynolds Battlefield (336 public surface acres) in Powder River County, Montana would be designated an Area of Critical Environmental Concern and managed to protect its significant cultural resources. Management actions affecting this area are: fire would be managed with conditional fire suppression, timber and wood product sales would be allowed with restrictions, rights-of-way would avoid the area, livestock grazing and range improvements would be allowed, coal leasing would not be allowed, mineral material sales and permits and oil and gas leasing would not be allowed, geophysical exploration for oil and gas would be allowed on designated roads and trails with restrictions, and off-road vehicle use would be limited to designated roads and trails.

Fossil Cycad (320 public surface acres) in Fall River County, South Dakota would be designated an Area of Critical Environmental Concern and managed to protect its significant paleontological values. Management actions affecting this area are: the surface and minerals would be retained in public ownership, fire would be managed with conditional fire suppression, timber sales and wood products sales would not be allowed, rights-of-way would not be allowed, livestock grazing would be allowed, locatable minerals would be withdrawn from entry, geophysical exploration for oil and gas would not be allowed, off-road vehicle use would be limited to designated roads and trails, and noncommercial collection of common invertebrate and plant fossils would be allowed.

Management prescriptions for these proposed areas of critical environmental concern vary by alternative and are described in the Areas of Critical Environmental Concern Environmental Assessment and Proposed Resource Management Plan Amendment.

Public participation has occurred throughout the resource management planning process. A Notice of Intent was filed in the **Federal Register** in April 1995. All comments presented throughout the process have been considered.

This notice meets the requirements of 43 CFR 1610.7–2 for designation of areas of critical environmental concern.

Dated: September 14, 1998.

Aden Seidlitz,

Associate Field Manager.

[FR Doc. 98–25220 Filed 9–30–98; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–050–1220–00]

Establishment of Moratorium on New Commercial Operations on the Gulkana National Wild River Throughout the Upcoming Limits of Acceptable Change Planning Process

AGENCY: Bureau of Land Management, Interior.

SUMMARY: Public notice is hereby given that no new Special Recreation Permit applications for commercial operations on the Gulkana National Wild River will be authorized for a period of three years, the tentative time frame under which a Limits of Acceptable Change planning process to update the Gulkana National Wild River Management Plan of December, 1983, is expected to be completed. Only annual renewal applications submitted by qualified commercial operators authorized for at least one of the use seasons between 1995–1998 will be considered. No new types of use or requests for increases in levels of use by individual operators will be authorized during the moratorium. Since the original Gulkana National Wild River Management Plan was written in 1983, estimated visits to the river have nearly doubled, and commercial use, estimated in 1983 at 5% or less of all river use, is estimated to have increased to nearly 8%. This temporary moratorium is being established to stabilize the number of, and user days associated with, commercial outfitters during the planning process to update the Gulkana National Wild River Management Plan. Future use levels will be determined by the Limits of Acceptable Change planning process. Data related to the environmental impacts of river use have been collected since 1994 in preparation for the Limits of Acceptable Change planning process. By limiting the availability of Special Recreation Permits to operators with historical use of the Gulkana National Wild River between 1995 and 1998, and limiting the types and levels of use of the historical operators to 1995–1998 levels, this data should remain relevant during the planning process.

FOR FURTHER INFORMATION CONTACT: Kathy J. Liska, Bureau of Land Management (BLM), Glennallen Field Office, Mile 186.5 Glenn Highway, P.O. Box 147, Glennallen, Alaska 99588; email: kliska@ak.blm.gov; Telephone: (907) 822–3217; Fax: (907) 822–3120.

SUPPLEMENTARY INFORMATION: The authority for this decision comes from

43 CFR 8372.0–3: Authority, 8372.1–1: Public lands, general, and 8372.3: Issuance of permits; The Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287; the Federal Land Policy and Mangement Act, 43 U.S.C. 1740.

Dated: September 25, 1998.

KJ Mushovic,

For the Glennallen Management Team.

[FR Doc. 98–26258 Filed 9–30–98; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items in the Possession of the U.S. Fish & Wildlife Service, Mesa, AZ

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 43 CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of the U.S. Fish & Wildlife Service, Mesa, AZ which meet the definition of ''object of cultural patrimony'' under Section 2 of the Act.

The cultural items are: 30 medicine bags, two fire starter kits, two deer toe rattles, one constellation rattle, two prayer sticks, two animal skin wraps, and two small wooden bows. Collectively, these items are referred to as *Na'at'oye' jish*, or Shooting/Lightening Way paraphernalia

On July 19, 1996, an undercover Special Agent of the U.S. Fish & Wildlife Service purchased two prayer sticks, an animal skip wrap, and two medicine bags from Neil Hicks, owner of Indian Territory, Tucson, AZ. Mr. Hicks told the Agent at the time of purchase that all items were ''Navajo Medicine items.'' Following the execution of a federal search warrant in November 1996, Special Agents of the U.S. Fish & Wildlife Service recovered the Navajo medicine items listed above. On June 25, 1998, Mr. Neil Hicks, DBA Indian Territory, pled guilty to selling Native American cultural items obtained in violation of the Native American Graves Protection and Repatriation Act (Title 18 USC, Section 1173).

These cultural items were purchased by Mr. Hicks from person(s) unknown who obtained these items in voilation of the Act. Consultation evidence presented by representatives of the Navajo Nation indicate that the Lightning Way is one of twelve major chants still performed in the Navajo Nation. Bundles for these Ways should only be in the possession of a qualified *Hataalii* (chanter, singer, or medicine person) capable of understanding the *jish*. In Navajo tradition, *jish* is only cared for or possessed by a human being, it is not ''property'' capable of being ''owned'' in the Western meanings of the words.

Officials of the U.S. Fish & Wildlife Service have determined that, pursuant to 43 CFR 10.2 (d)(4), these 41 cultural items have ongoing historical, traditional, and cultural importance central to the culture itself, and could not have been alienated, appropriated, or conveyed by any individual. Officials of the U.S. Fish & Wildlife Service have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these items and the Navajo Nation.

This notice has been sent to officials of the Navajo Nation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Kevin Ellis, Special Agent, Office of Law Enforcement, U.S. Fish & Wildlife Service, 26 N. MacDonald, Room 105, Mesa, AZ 85201; telephone: (602) 835–8289 before November 2, 1998. Repatriation of these objects to the Navajo Nation may begin after that date if no additional claimants come forward.

Dated: September 28, 1998.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 98–26334 Filed 9–30–98; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Marshall County, OK in the Control of the United States Army Corps of Engineers, Tulsa District, Tulsa, OK

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects from Marshall County, OK in the control of the United States Army Corps of Engineers, Tulsa District, Tulsa, OK.

A detailed assessment of the human remains was made by U.S. Army Corps of Engineers professional staff in consultation with representatives of the Wichita and Affiliated Tribes.

In 1954, human remains representing one individual was excavated at site 34MA1, Lake Texoma, Marshall County, OK during legally-authorized salvage excavations by University of Oklahoma personnel. No known individual was identified. The two associated funerary objects documented with the burial are a stone flake and a shell hoe. During the inventory process, the stone flake could not be located within the collections of the University of Oklahoma.

Based on the cultural material at site 34MA1 in addition to the associated funerary objects, this individual has been determined to be Native American. This cultural material also dates the site to the late prehistoric period, 800-1600 A.D. Based on ceramic types; stone tools, site organization; associated funerary objects; 16th, 17th, and 18th century historic accounts of the aboriginal occupants of the general area; and oral history presented during consultation with representatives of the Wichita and Affiliated Tribes; the Army Corps of Engineers has determined that the human remains and associated funerary objects from site 34MA1 are culturally affiliated with the Wichita and Affiliated Tribes.

In 1954, human remains representing a minimum of six individuals were excavated at site 34MA2, Lake Texoma, Marshall County, OK by University of Oklahoma personnel during legally-authorized salvage excavations conducted by University of Oklahoma personnel. No known individuals were identified. Since 1986, five of these individuals have been in the possession of Dr. Douglas Owsley of the Smithsonian Institution, according to University records. The U.S. Army Corps, Tulsa District, has possession of the sixth individual and other cultural material from site 34MA2. The seven associated funerary objects recorded during the excavations include one stone core, one stone scraper, two stone projectile points, one stone knife, and two bone awls. These objects were not located at the University of Oklahoma during the inventory process.

Based on the cultural material at site 34MA2 in addition to the associated funerary objects, these individuals have been determined to be Native American. This cultural material also dates the site to the late prehistoric period, 800-1600 A.D. Based on ceramic types; stone tools, site organization; associated funerary objects; 16th, 17th, and 18th century historic accounts of the

aboriginal occupants of the general area; and oral history presented during consultation with representatives of the Wichita and Affiliated Tribes; the Army Corps of Engineers has determined that the human remains and associated funerary objects from site 34MA2 are culturally affiliated with the Wichita and Affiliated Tribes.

In 1954 or 1973, human remains representing a minimum of two individuals were removed from site 34MA10 by University of Oklahoma personnel (if 1954), or by University of Texas personnel (if 1973). No known individuals were identified. The 41 associated funerary objects include 39 stone flakes, one unmodified stone, and one projectile point.

Based on the cultural material at site 34MA10 in addition to the associated funerary objects, these individuals have been determined to be Native American. This cultural material also dates the site to the late prehistoric period, 800-1600 A.D. Based on ceramic types; stone tools, site organization; associated funerary objects; 16th, 17th, and 18th century historic accounts of the aboriginal occupants of the general area; and oral history presented during consultation with representatives of the Wichita and Affiliated Tribes; the Army Corps of Engineers has determined that the human remains and associated funerary objects from site 34MA10 are culturally affiliated with the Wichita and Affiliated Tribes.

Between 1954 and November 16, 1990, human remains representing a minimum of six individuals were excavated from site 34MA15 by University of Oklahoma and Wichita State University personnel during legally authorized excavations. No known individuals were identified. No associated funerary objects are present.

Based on cultural material recovered at site 34MA15, these individuals have been identified as Native American. Based on the radiocarbon dates and very time-specific cultural material, site 34MA15 has been identified as a large village occupied between 1250-1650 A. D. Based on ceramic types; stone tools, site organization; associated funerary objects; 16th, 17th, and 18th century historic accounts of the aboriginal occupants of the general area; and oral history presented during consultation with representatives of the Wichita and Affiliated Tribes; the Army Corps of Engineers has determined that the human remains from site 34MA15 are culturally affiliated with the Wichita and Affiliated Tribes.

In 1955, human remains representing one individual were removed from site 34MA24 during legally-authorized excavations by University of Oklahoma personnel. No known individual was identified. The two associated funerary objects are a ceramic sherd and one pipestem.

Based on the associated funerary objects, this burial is estimated to date between 500-1500 A.D. Based on ceramic types; stone tools, site organization; associated funerary objects; 16th, 17th, and 18th century historic accounts of the aboriginal occupants of the general area; and oral history presented during consultation with representatives of the Wichita and Affiliated Tribes; the Army Corps of Engineers has determined that the human remains and associated funerary objects from site 34MA24 are culturally affiliated with the Wichita and Affiliated Tribes.

In 1971, human remains representing a minimum of three individuals were excavated from site 34MA14, Lake Texoma, Marshall County, OK without a permit by unknown person(s) who turned the remains over to the University of Oklahoma. No known individuals were identified. The five associated funerary objects include four stone flakes and one piece of non-human bone.

Based on the cultural material and associated funerary objects at site 34MA14, these burials are estimated to date to between ca. 300-1300 A.D. Based on ceramic types; stone tools, site organization; associated funerary objects; 16th, 17th, and 18th century historic accounts of the aboriginal occupants of the general area; and oral history presented during consultation with representatives of the Wichita and Affiliated Tribes; the Army Corps of Engineers has determined that the human remains and associated funerary objects from site 34MA14 are culturally affiliated with the Wichita and Affiliated Tribes.

In 1978 and 1979, human remains representing a minimum of four individuals were excavated from site 34KA172, Kaw Lake, Kay County, OK by University of Oklahoma personnel. No known individuals were identified. The 975 funerary objects include stone knife blades, stone scrapers, clay daub, stone flakes, soil, milling stones, abraders, one pendant, ceramic sherds including one reconstructed vessel, and projectile points; and are currently in the possession of the University of Oklahoma.

Based on cultural material, radiocarbon dates, and archeomagnetic dates, these burials are estimated to date to between 1300-1400 A.D. Based on ceramic types; stone tools, site organization; associated funerary objects; 16th, 17th, and 18th century historic accounts of the aboriginal occupants of the general area; and oral history presented during consultation with representatives of the Wichita and Affiliated Tribes; the Army Corps of Engineers has determined that the human remains and associated funerary objects from site 34KA172 are culturally affiliated with the Wichita and Affiliated Tribes.

In 1976, human remains representing two individuals were excavated from site 34OS135 near present-day Birch Lake, Osage County, OK by University of Tulsa personnel during legally authorized excavations. No known individuals were identified. The 439 associated funerary objects include stone flakes, scrapers, bifaces, simple flake tools, and 21 projectile points.

Based on cultural material and radiocarbon dates, these burials are estimated to date to between 1000-1500 A.D. Based on ceramic types; stone tools, site organization; associated funerary objects; 16th, 17th, and 18th century historic accounts of the aboriginal occupants of the general area; and oral history presented during consultation with representatives of the Wichita and Affiliated Tribes; the Army Corps of Engineers has determined that the human remains and associated funerary objects from site 34OS135 are culturally affiliated with the Wichita and Affiliated Tribes.

In 1959, human remains representing five individuals were excavated from site 34NW2 at Oolagah Lake, Nowata County, OK during legally authorized excavations by the University of Oklahoma. No known individuals were identified. The 605 associated funerary objects include a milling stone, a hammer stone, a cord-marked ceramic sherd, burnt berries and nut fragments, clay daub, animal bone, bone awls, beaver incisors, red and yellow (hematite/ocher) painted stones, stone flakes, stone tools, and a sandstone abrader. An additional nine recorded associated funerary objects, consisting of two bone awls, one stone flake, one worked stone flake tool, two stone knives, one bone tool, one turtle shell, and a painted stone, have not been located within the collections of the University of Oklahoma.

Based on the cultural material at site 34NW2, these burials are estimated to date the Late Archaic period, approximately between 500 B.C. to 500 A.D. Based on mussel shell; stone tools, site organization; 16th, 17th, and 18th century historic accounts of the aboriginal occupants of the general area; and oral history presented during consultation with representatives of the

Wichita and Affiliated Tribes; the Army Corps of Engineers has determined that the human remains and associated funerary objects from site 34NW2 are culturally affiliated with the Wichita and Affiliated Tribes.

In 1969, human remains representing a minimum of two individuals were excavated from site 34PW54 located at Keystone Lake, Pawnee County, OK during legally authorized excavations by the University of Oklahoma. No known individuals were identified. The approximately nine associated funerary objects include a projectile point, stone flakes, a ceramic sherd, tabular sandstone, and animal bones.

Based on the associated funerary objects, these burials have been determined to be Native American and are estimated to date between 1200-1500 A.D. Based on ceramics; stone tools, site organization and dating; associated funerary objects; 16th, 17th, and 18th century historic accounts of the aboriginal occupants of the general area; and oral history presented during consultation with representatives of the Wichita and Affiliated Tribes; the Army Corps of Engineers has determined that the human remains and associated funerary objects from site 34PW54 are culturally affiliated with the Wichita and Affiliated Tribes.

Around 1985, human remains representing one individual were recovered from the surface of site 34PW86 located at Keystone Lake, Pawnee County, OK, probably by Tulsa District Corps personnel. No known individuals were identified. No associated funerary objects are present.

Based on a projectile point from site 34PW86, these human remains are estimated to date between 500–1500 A.D. Based on the projectile point; scrapers, ceramics, site organization; associated funerary objects; 16th, 17th, and 18th century historic accounts of the aboriginal occupants of the general area; and oral history presented during consultation with representatives of the Wichita and Affiliated Tribes; the Army Corps of Engineers has determined that the human remains from site 34PW186 are culturally affiliated with the Wichita and Affiliated Tribes.

Around 1988, human remains representing a minimum of four individuals were recovered from site 34PW186, Keystone Lake, Pawnee County, OK probably by Tulsa District Corps personnel. No known individuals were identified. No associated funerary objects are present.

Known archeological sites at Pawnee Cove are identified as Late Archaic through Plains Village habitation sites based on cultural material and occupation evidence dating from 100-1600 A.D. Based on projectile point, scrapers, ceramics; other stone tools, site organization; 16th, 17th, and 18th century historic accounts of the aboriginal occupants of the general area; and oral history presented during consultation with representatives of the Wichita and Affiliated Tribes; the Army Corps of Engineers has determined that the human remains originating at Pawnee Cove, Keystone Lake, Pawnee County, OK are culturally affiliated with the Wichita and Affiliated Tribes.

Based on the above mentioned information, officials of the U.S. Army Corps of Engineers have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of at least 37 individuals of Native American ancestry. Officials of the U.S. Army Corps of Engineers have also determined that, pursuant to 43 CFR 10.2 (d)(2), the 1,472 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the U.S. Army Corps of Engineers have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Wichita and Affiliated Tribes of Oklahoma.

This notice has been sent to officials of the Caddo Indian Tribe of Oklahoma, the Pawnee Tribe of Oklahoma, the Kaw Nation, the Kiowa Nation of Oklahoma, the Comanche Tribe of Oklahoma, the Osage Nation of Oklahoma, and the Fort Sill Apache Tribe of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Mr. Robert W. Jobson, NAGPRA Coordinator, Planning Division, U.S. Army Corps of Engineers, Tulsa District, P.O. Box 61, Tulsa, OK 74121–0061, telephone (918) 669–7193, before November 1, 1998. Repatriation of the human remains and associated funerary objects to the Wichita and Affiliated Tribes of Oklahoma may begin after that date if no additional claimants come forward.

Dated: September 28, 1998.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 98–26335 Filed 9–30–98; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains from Puget Sound, WA in the Possession of the University of Pennsylvania Museum of Archaeology and Anthropology, University of Pennsylvania, Philadelphia, PA

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains from Puget Sound, WA in the possession of the University of Pennsylvania Museum of Archaeology and Anthropology, University of Pennsylvania, Philadelphia, PA.

A detailed assessment of the human remains was made by University of Pennsylvania Museum professional staff in consultation with representatives of the Jamestown S'Klallam Tribe, the Port Gamble Indian Community of the Port Gamble Reservation, and the Lower Elwha Tribal Community of the Lower Elwha Reservation.

At an unknown date, human remains representing one individual were removed from Puget Sound, WA by Dr. David U. Egbert. In 1870, these human remains were donated to the Wistar Institute, Philadelphia, PA. In 1915, these human remains were transferred to the University of Pennsylvania Museum. No known individuals were identified. No associated funerary objects are present.

Based on original accession information, this individual has been determined to be Native American. Based on the original accession information from the Wistar Institute, this individual has been determined to be S'Klallam. The northwestern region of Puget Sound, which extends to the Dungeness River mouth, incorporates the traditional territory of the Port Gamble S'Klallam Reservation. Geographical and historical evidence provided by representatives of the Jamestown S'Klallam Tribe indicates cultural affiliation between these human remains and the present-day Port Gamble S'Klallam Indian Community of the Port Gamble Reservation.

In 1856, human remains representing one individual were removed from Puget Sound, WA by person(s) unknown and donated to the Academy of Natural Sciences, Philadelphia, PA. In 1997, the control of these human

remains were transferred to the University of Pennsylvania Museum. No known individual was identified. No associated funerary objects are present.

Based on accession information, this individual has been determined to be Native American. Based on the original accession information from the Academy of Natural Sciences, this individual has been determined to be S'Klallam. The northwestern region of Puget Sound, which extends to the Dungeness River mouth, incorporates the traditional territory of the Port Gamble S'Klallam Reservation. Geographical and historical evidence provided by representatives of the Jamestown S'Klallam Tribe indicates cultural affiliation between these human remains and the present-day Port Gamble S'Klallam Indian Community of the Port Gamble Reservation.

Based on the above mentioned information, officials of the University of Pennsylvania Museum have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of two individuals of Native American ancestry. Officials of the University of Pennsylvania Museum have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and the Jamestown S'Klallam Tribe, the Port Gamble Indian Community of the Port Gamble Reservation, and the Lower Elwha Tribal Community of the Lower Elwha Reservation.

This notice has been sent to officials of the Jamestown S'Klallam Tribe, the Port Gamble Indian Community of the Port Gamble Reservation, and the Lower Elwha Tribal Community of the Lower Elwha Reservation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Dr. Jeremy Sabloff, the Williams Director, University of Pennsylvania Museum of Archaeology and Anthropology, 33rd and Spruce Streets, Philadelphia, PA 19104–6324; telephone: (215) 898–4051, fax: (215) 898–0657, before [*thirty days after publication in the* **Federal Register**]. Repatriation of the human remains to the Jamestown S'Klallam Tribe, the Port Gamble Indian Community of the Port Gamble Reservation, and the Lower Elwha Tribal Community of the Lower Elwha Reservation may begin after that date if no additional claimants come forward.

Dated: September 25, 1998.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 98–26260 Filed 9–30–98; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Munnsville, NY in the Possession of the University of Pennsylvania Museum of Archaeology and Anthropology, University of Pennsylvania, Philadelphia, PA

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects from Munnsville, NY in the possession of the University of Pennsylvania Museum of Archaeology and Anthropology, University of Pennsylvania, Philadelphia, PA.

A detailed assessment of the human remains was made by University of Pennsylvania Museum professional staff in consultation with representatives of the Oneida Indian Nation of New York and the Oneida Tribe of Indians of Wisconsin.

In 1944, human remains representing two individuals were removed from the Ellenwood site, Munnsville, NY by Mr. (Elton?) Lake. In 1944, these human remains were donated to the University of Pennsylvania Museum by George Roberts of Sharon Hill, PA. No known individuals were identified. The four associated funerary objects include three iron fragments and mirror glass.

Based on accession information and associated funerary objects, these individuals have been determined to be Native American from the early historic period. Based on historic documents, the Ellenwood site has been identified as an Oneida village and cemetary occupied during the 17th century. Representatives of the Oneida Indian Nation of New York have presented geographical and historical evidence during consultation indicating cultural affiliation with the Ellenwood site.

Based on the above mentioned information, officials of the University of Pennsylvania Museum have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of two individuals of Native American ancestry. Officials of the University of Pennsylvania Museum have also determined that, pursuant to 43 CFR 10.2 (d)(2), the four objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Officials of the University of Pennsylvania Museum have also determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Oneida Indian Nation of New York and the Oneida Tribe of Indians of Wisconsin.

This notice has been sent to officials of the Oneida Indian Nation of New York and the Oneida Tribe of Indians of Wisconsin. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Dr. Jeremy Sabloff, the Williams Director, University of Pennsylvania Museum of Archaeology and Anthropology, 33rd and Spruce Streets, Philadelphia, PA 19104–6324; telephone: (215) 898–4051, fax: (215) 898–0657 before November 2, 1998. Repatriation of the human remains and associated funerary objects to the Oneida Indian Nation of New York and the Oneida Tribe of Indians of Wisconsin may begin after that date if no additional claimants come forward.

Dated: September 25, 1998.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 98–26261 Filed 9–30–98; 8:45 am]

BILLING CODE 4310–70–F

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–25 (Review)]

Anhydrous Sodium Metasilicate From France; Institution of a Five-Year Review Concerning the Antidumping Duty Order on Anhydrous Sodium Metasilicate From France

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff

Act of 1930 (19 U.S.C. § 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on anhydrous sodium metasilicate from France would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is November 20, 1998. Comments on the adequacy of responses may be filed with the Commission by December 11, 1998.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.—On January 7, 1981, the Department of Commerce issued an antidumping duty order on imports of anhydrous sodium metasilicate from France (46 F.R. 1667). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions.—The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is France.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission defined the Domestic Like Product as anhydrous sodium metasilicate.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as producers of anhydrous sodium metasilicate.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is January 7, 1981.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is November 20, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning whether the Commission should conduct an expedited review. The deadline for filing such comments is December 11, 1998. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to

section 776(b) of the Act in making its determination in the review.

Information to be provided in response to this notice of institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in France that currently export or have exported Subject Merchandise to the United States or other countries since 1980.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: September 22, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–26329 Filed 9–30–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–31 (Review) and 731–TA–149 (Review)]

Institution of Five-Year Reviews Concerning the Antidumping Duty Orders on Barium Carbonate From Germany and Barium Chloride From China

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on barium carbonate from Germany and/or barium chloride from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is November 20, 1998.

Comments on the adequacy of responses may be filed with the Commission by December 11, 1998.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.—On June 25, 1981, the Department of Commerce issued an antidumping duty order on imports of barium carbonate from Germany (46 F.R. 32864). On October 17, 1984, the Department of Commerce issued an antidumping duty order on imports of barium chloride from China (49 F.R. 40635). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions.—The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of each five-year review, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are Germany and China.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination concerning barium carbonate from Germany, the Commission defined the Domestic Like Product as precipitated barium carbonate. In its original determination concerning barium chloride from China, the Commission defined the Domestic Like Product as crystalline and anhydrous barium chloride, excluding high purity barium chloride.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination concerning barium carbonate from Germany, the Commission defined the Domestic Industry as producers of precipitated barium carbonate. In its original determination concerning barium chloride from China, the Commission defined the Domestic Industry as producers of crystalline and anhydrous barium chloride, excluding those producers of high purity barium chloride.

(5) The Order Dates are the dates that the antidumping duty orders under review became effective. In these reviews, the Order Dates are June 25, 1981, for barium carbonate from Germany and October 17, 1984, for barium chloride from China.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is November 20, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning whether the Commission should conduct expedited reviews. The deadline for filing such comments is December 11, 1998. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest

possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to be provided in response to this notice of institution: Please provide the requested information separately for each Domestic Like Product, as defined by the Commission in its original determinations, and for each of the products identified by Commerce as Subject Merchandise. If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in Germany that currently export or have exported Subject Merchandise to the United States or other countries since 1980. A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in China that currently export or have exported Subject Merchandise to the United States or other countries since 1983.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: September 22, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–26324 Filed 9–30–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–48 (Review)]

Institution of a Five-Year Review Concerning the Antidumping Duty Order on High-Power Microwave Amplifiers From Japan

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on high-power microwave amplifiers from Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is November 20, 1998. Comments on the adequacy of responses may be filed with the Commission by December 11, 1998.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.—On July 20, 1982, the Department of Commerce issued an antidumping duty order on imports of high-power microwave amplifiers from Japan (47 F.R. 31413). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions.—The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is Japan.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission defined the Domestic Like Product as klystron and TWT amplifiers of over 1 kW for use in the C, X, and Ku band specifically designed for transmission from fixed earth stations to communications satellites.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as producers of klystron and TWT amplifiers of over 1 kW for use in the C, X, and Ku band specifically designed for transmission from fixed earth stations to communications satellites.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is July 20, 1982.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is November 20, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning whether the Commission should conduct an expedited review. The deadline for filing such comments is December 11, 1998. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of

sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to be provided in response to this notice of institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in Japan that currently export or have exported Subject Merchandise to the United States or other countries since 1981.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in units and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/ which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports; and

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in units and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: September 22, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–26323 Filed 9–30–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–7 (Review)]

Institution of a Five-Year Review Concerning the Suspended Investigation on Small Electric Motors From Japan

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act) to determine whether termination of the suspended investigation on small electric motors from Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is November 20, 1998. Comments on the adequacy of responses may be filed with the Commission by December 11, 1998.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.—On November 6, 1980, the Department of Commerce suspended an investigation on imports of small electric motors from Japan (46 F.R. 73723). The investigation that Commerce suspended was based on a petition encompassing large and small electric motors from Japan. Commerce initially found large and small electric motors to encompass a single class or kind of subject merchandise. The Commission's preliminary determination was based on reasonable indication of material injury by reason of subject merchandise to a single domestic industry producing large and small electric motors. Commerce subsequently modified the scope of its investigation distinguishing small electric motors from large electric motors. Commerce suspended its investigation of small electric motors. It subsequently issued an antidumping duty order with respect to large electric motors after affirmative final determinations by it and the Commission. In its final affirmative determination, the Commission found one like product consisting of large motors. That order was ultimately revoked. The Commission is now conducting a review to determine whether termination of the suspended investigation concerning small electric motors would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions.—The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is Japan.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. For purposes of this notice, you should consider the Domestic Like Product to be alternating current, polyphase electric motors greater than 5 horsepower and less than 150 horsepower. Because the investigation was suspended by Commerce, the Commission did not reach a final determination in this matter. As previously stated, its preliminary determination was based on a definition of subject merchandise that Commerce subsequently modified.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. For purposes of this notice, the Domestic Industry is producers of alternating current, polyphase electric motors greater than 5 horsepower and less than 150 horsepower.

(5) The Order Date is the date that the investigation was suspended. In this review, the Order Date is November 6, 1980.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of

the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is November 20, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning whether the Commission should conduct an expedited review. The deadline for filing such comments is December 11, 1998. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to be provided in response to this notice of institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the termination of the suspended investigation on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in Japan that currently export or have exported Subject Merchandise to the United States or other countries since 1979.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in units and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/ which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and (b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports; and

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in units and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or

changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: September 22, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–26326 Filed 9–30–98; 8:45 am]

BILLING CODE 7020–02–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–44 (Review)]

Sorbitol From France; Institution of a Five-Year Review Concerning the Antidumping Duty Order on Sorbitol From France

AGENCY: United States International Trade Commission.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on sorbitol from France would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is November 20, 1998. Comments on the adequacy of responses may be filed with the Commission by December 11, 1998.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION:

Background.—On April 9, 1982, the Department of Commerce issued an antidumping duty order on imports of sorbitol from France (47 F.R. 153921). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is France.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* For purposes of this notice, you should consider the *Domestic Like Product* to be crystalline sorbitol. In its original determination and in response to the July 18, 1993, order of the United States Court of International Trade remanding the investigation, the Commission defined two *Domestic Like Products,* crystalline and liquid sorbitol. In its original determination, the Commission made affirmative findings for both *Domestic Like Products;* however, in the remand investigation, the Commission made an affirmative determination with respect to crystalline sorbitol only. Certain Commissioners defined the *Domestic Like Product* differently.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. For purposes of this notice, the *Domestic Industry* is producers of crystalline sorbitol. In its original determination and in response to the July 18, 1993, order of the United States Court of International Trade remanding the investigation, the Commission defined two *Domestic Industries,* one producing crystalline sorbitol and one producing liquid sorbitol. In its original determination, the Commission made affirmative findings for both *Domestic Industries;* however, in the remand investigation, the Commission made an affirmative determination with respect to only the U.S. producers of crystalline sorbitol. Certain Commissioners defined the *Domestic Industry* differently.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is April 9, 1982.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the

Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is November 20, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning whether the Commission should conduct an expedited review. The deadline for filing such comments is December 11, 1998. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to be provided in response to this notice of institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in France that currently export or have exported Subject Merchandise to the United States or other countries since 1981.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports; and

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order

Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: September 22, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–26328 Filed 9–30–98; 8:45 am]

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INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 104–TAA–7 (Review), AA1921–198–200 (Review) and 731–TA–3 (Review)]

Sugar From the European Union, Sugar From Belgium, France, and Germany and Sugar & Syrups From Canada; Institution of Five-Year Reviews Concerning the Countervailing Duty Order on Sugar From the European Union, the Antidumping Duty Orders on Sugar From Belgium, France, and Germany, and the Antidumping Duty Order on Sugar and Syrups From Canada

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act) to determine whether revocation of the countervailing duty order on sugar from the European Union, the antidumping duty orders on sugar from Belgium, France, and Germany, and/or the antidumping duty order on sugar and syrups from Canada would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is November 20, 1998. Comments on the adequacy of responses may be filed with the Commission by December 11, 1998.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at *http://www.usitc.gov/rules.htm*.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205-3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION:

Background.—On July 31, 1978, the Department of the Treasury issued a countervailing duty order on imports of sugar from the European Union (43 F.R. 33237). There was no Commission determination of material injury by reason of subsidized imports prior to issuance of the order because imports from the European Union were not eligible for an injury test unless they were duty free. However, pursuant to section 104 of the Trade Agreements Act of 1979, the Commission made a determination in May 1982 that the domestic industry producing sugar would be threatened with material injury by reason of subsidized imports of sugar from the European Union if the countervailing duty order covering such imports were to be revoked. On June 13, 1979, following affirmative injury determinations by the Commission, the Department of the Treasury issued antidumping duty orders on imports of sugar from Belgium, France, and Germany (44 F.R. 33878). On April 9, 1980, following an affirmative injury determination by the Commission, the Department of Commerce issued an antidumping duty order on imports of sugar and syrups from Canada (45 F.R. 24126). The Commission is now conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of each five-year review, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are the European Union, Belgium, France, Germany, and Canada.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determination concerning sugar from the European Union, the Commission defined the *Domestic Like Product* as beet and cane sugar. In its original determinations concerning sugar from Belgium, France, and Germany, the Commission defined the *Domestic Like Product* as sugar cane and raw cane sugar. In its original determination concerning sugar and syrups from Canada, the Commission defined the *Domestic Like Product* as refined sugar.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination concerning sugar from the European Union, the Commission defined the *Domestic Industry* as growers, processors, and refiners of beet and cane sugar. In its original determinations concerning sugar from Belgium, France, and Germany, the Commission defined the *Domestic Industry* as producers of sugar cane and raw cane sugar in the Southeastern region of the United States. In its original determination concerning sugar and syrups from Canada, the Commission defined the *Domestic Industry* as producers of refined sugar located in the Northeastern States region. In response

to the July 8, 1981, order of the United States Court of International Trade remanding the investigation, one Commissioner defined the *Domestic Industry* differently.

(5) The Order Dates are the dates that the countervailing and antidumping duty orders under review became effective. In the review concerning sugar from the European Union, the Order Date is July 31, 1978. In the reviews concerning sugar from Belgium, France, and Germany the Order Date is June 13, 1979. In the review concerning sugar and syrups from Canada the Order Date is April 9, 1980.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is November 20, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning whether the Commission should conduct expedited reviews. The deadline for filing such comments is December 11, 1998. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to be provided in response to this notice of institution: Please provide the requested information separately for each Domestic Like Product, as defined by the Commission in its original determinations, and for each of the products identified by Commerce as Subject Merchandise. If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the countervailing and antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the European Union that currently export or have exported Subject Merchandise to the United States or other countries since 1978 and a list of all known and currently operating U.S. importers of the Subject Merchandise and producers of

the Subject Merchandise in Belgium, France, Germany, and Canada that currently export or have exported Subject Merchandise to the United States or other countries since 1979.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports; and

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: September 22, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–26327 Filed 9–30–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. AA1921–66 (Review) and 731–TA–134–135 (Review)]

Institution of Five-Year Reviews Concerning the Antidumping Duty Orders on Television Receivers From Japan and Color Television Receivers From Korea and Taiwan

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on television receivers from Japan and color television receivers from Korea and Taiwan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; the deadline for responses is November 20, 1998. Comments on the adequacy of responses may be filed with the Commission by December 11, 1998.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193) or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.—On March 10, 1971, the Department of the Treasury issued an antidumping duty order on imports of television receivers from Japan (36 F.R.

4597). On April 30, 1984, the Department of Commerce issued antidumping duty orders on imports of color television receivers from Korea and Taiwan (49 F.R. 18336). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time.

Definitions.—The following definitions apply to these reviews:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of each five-year review, as defined by the Department of Commerce.

(2) The Subject Countries in these reviews are Japan, Korea, and Taiwan.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination concerning television receivers from Japan, the Commission defined the Domestic Like Product as all television receivers. Certain Commissioners defined the Domestic Like Product differently in its review determination (Liquid Crystal Display Television Receivers from Japan, Inv. No. 751–TA–14, USITC Pub. 2042 (December 1987)). In its original determinations concerning color television receivers from Korea and Taiwan, the Commission defined the Domestic Like Product as color television receivers.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination concerning television receivers from Japan, the Commission defined the Domestic Industry as producers of all television receivers. Certain Commissioners defined the Domestic Industry differently in its review determination (Liquid Crystal Display Television Receivers from Japan, Inv. No. 751–TA–14, USITC Pub. 2042 (December 1987)). In its original determinations concerning color television receivers from Korea and Taiwan, the Commission defined the Domestic Industry as producers of color television receivers.

(5) The Order Dates are the dates that the antidumping duty orders under review became effective. In these reviews, the Order Dates are March 10, 1971, for television receivers from Japan and April 30, 1984, for color television receivers from Korea and Taiwan.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is November 20, 1998. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning whether the Commission should conduct expedited reviews. The deadline for filing such comments is December 11, 1998. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to be provided in response to this notice of institution: Please provide the requested information separately for each Domestic Like Product, as defined by the Commission in its original determinations, and for each of the products identified by Commerce as Subject Merchandise. If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information

requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in Japan that currently export or have exported Subject Merchandise to the United States or other countries since 1970. A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in Korea and Taiwan that currently export or have exported Subject Merchandise to the United States or other countries since 1983.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1997 (report quantity data in thousands of units and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production; and

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports; and

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1997 (report quantity data in thousands of units and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise1 from the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: September 22, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–26325 Filed 9–30–98; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Second Amendment to May 24, 1994 Consent Decree Under the Clean Water Act

Under 28 CFR 50.7, notice is hereby given that on September 28, 1998, a proposed Second Amendment to the May 24, 1994 Consent Decree (''Second Amendment'') in *United States and State of Michigan* v. *Wayne County et al.*, Civil Action No. 87–70992, was lodged with the United States District Court for the Eastern District of Michigan.

The United States and the State of Michigan asserted claims in this case under the Clean Water Act, 33 U.S.C.

1251 *et seq.*, against Wayne County, Michigan, and 13 addition municipalities that send wastewater to the Wayne's Treatment Plant (the ''Plant''). The case was resolved in 1994 by a Consent Decree pursuant to which defendants agreed to attain and maintain compliance with the Plant's National Pollutant Discharge Elimination System permit limits and to comply with Decree-mandated interim limits during construction of Plant and collection-system improvements. On March 3, 1998, the Court entered a Amendment to the 1994 Consent decree providing for, among other things, the construction of an ultraviolet radiation (''UV'') disinfection system to replace the current chlorination/dechlorination facilities.

In the course of planning to build the UV system, the defendants determined that they cannot continue to dechlorinate the Plant's effluent while constructing the UV disinfection system, due to physical space limitations at the Plant. Without dechlorinating, the Plant will not meet its 0.5 mg/l total residual chlorine (''TRC'') limit. To resolve this issue, the proposed Second Amendment would allow the Plant to suspend compliance with its TRC limit during construction of the UV disinfection system, but would require the Plant to implement an Interim Chlorine Control Plan to minimize the use of chlorine while the TRC limit is suspended, to ensure that the federal and state regulators are kept informed regarding the plant's implementation of the Interim Plan, and to keep potentially affected downriver communities informed regarding the interim change in Wayne County's chlorine discharge limit. The Second Amendment also provides for stipulated penalties for failure to complete construction of the UV disinfection system on schedule, to submit the required Interim Chlorine Control Plan, or to submit required monthly reports regarding the Plan's implementation.

The court has directed the parties to seek entry of the proposed Second Amendment on or before October 15, 1998. Accordingly, pursuant to 28 CFR 50.7(c), the Department of Justice will receive for the period ending October 12, 1998, at 5:00 p.m., comments relating to the Second Amendment. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States and State of Michigan* v. *Wayne County et al.*, D.J. Ref. 90–5–1–1–2766.

The Second Amendment may be examined at the Office of the United States Attorney, Eastern District of Michigan, 211 W. Fort Street, Suit 2300, Detroit, MI 48226, at U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, Illinois, 60604, and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the Second Amendment may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of $6.75 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section/ Environment and Natural Resources Division.

[FR Doc. 98–26307 Filed 9–30–98; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States of America v. Medical Mutual of Ohio; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16 (b) through (h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the Northern District of Ohio, in *United States of America* v. *Medical Mutual of Ohio,* Civil Action No. 1:98–CV–2172. On Sept. 23, 1998, the United states filed a Complaint against Medical Mutual of Ohio alleging that Medical Mutual had unreasonably restrained competition in the greater Cleveland area in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The proposed Final Judgment, filed the same time as the Complaint, restrains Medical Mutual from enforcing a Most Favored Rates requirement and from requiring its participating hospitals in the Cleveland area to disclose to Medical Mutual the rates such hospitals offer or charge any payers. Copies of the Complaint, proposed Final Judgment and Competitive Impact Statement are available for inspection at the Department of Justice in Washington, DC in Room 400, 325 Seventh Street, NW., and at the Office of the Clerk of the United States District Court for the Northern District of Ohio, Ohio.

Public comment is invited within 60 days of the date of this notice. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Gail Kursh, Chief, Healthcare Task Force, 325 Seventh Street, NW., Room 404, Antitrust Division, Department of Justice, Washington, DC 20530, (telephone (202) 307–5799).

Rebecca P. Dick,

Director of Civil Non-Merger Enforcement.

Stipulation for Entry of Final Judgment

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. This Court has jurisdiction over the subject matter of this action and over both of the parties, and venue of this action is proper in the Northern District of Ohio.

2. The parties consent that a Final Judgment in the form attached may be filed and entered by the Court, upon the motion of either party or upon the Court's own action, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendant and by filing that notice with the Court.

3. If Plaintiff withdraws its consent, or if the proposed Final Judgment is not entered pursuant to the terms of this Stipulation, this Stipulation shall be of no effect whatsoever, and the making of this Stipulation shall be without prejudice to either party in this or in any other proceeding.

4. Defendant agrees to be bound by the provisions of the proposed Final Judgment pending its approval by the Court.

Dated: _____.

For Plaintiff:

Joel I. Klein,

Assistant Attorney General.

Donna E. Patterson,

Deputy Assistant Attorney General.

Rebecca P. Dick,

Director of Civil Non-Merger Enforcement.

Gail Kursh,

Chief, Health Care Task Force.

David C. Jordan,

Assistant Chief, Health Care Task Force.

Paul J. O'Donnell,

Jean Lin,

Abdre Barlow,

Frederick Young,

Attorneys, Antitrust Division, Department of Justice, 325 7th Street, NW., Washington, DC 20530, (202) 616–5933.

Emily M. Sweeney,

United States Attorney, Northern District of Ohio, 1800 Bank One Center, 600 Superior Ave., E., Cleveland, Ohio 44114–2600, (216) 622–3600.

For Defendant:

Wayne C. Dabb, Jr.,

Gerald A. Connell,

Baker & Hostetler, LLP, 3200 National City Center, 1900 East Ninth Street, Cleveland, OH 44114–3485, (216) 621–0200.

Final Judgment

Plantiff, United States of America, filed its Complaint alleging violations of Section 1 of the Sherman Act, 15 U.S.C. 1, on September 23, 1998. Plaintiff and Defendant, by their respective attorneys, have consented to the entry of this Final Judgment without trail or final adjudication of any issue of fact or law. This Final Judgment shall not be evidence against any party or deemed an admission by any party of any issue of fact or law, nor shall it be deemed a determination that any violation of law has occurred. Therefore, before the taking of any trial testimony, without trial of any issue of fact or law, and upon consent of the parties, it is

Ordered, adjudged, and decreed, as follows:

I. Jurisdiction

This Court has jurisdiction over the subject matter of this action and over each of the consenting parties. The Complaint states a claim upon which relief may be granted under Section 1 of the Sherman Act, 15 U.S.c. 1.

II. Definitions

As used herein, the term:

(A) *Cleveland Region* means Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, and Wayne Counties of the State of Ohio;

(B) *Defendant* of *Medical Mutual* means Medical Mutual of Ohio, is subsidiaries, divisions, successors, assigns, and each other entity directly or indirectly owned or controlled by it;

(C) *Hospital* means any entity in the Cleveland Region licensed to provide acute care in-patient services;

(D) *Hospital Agreement* means any agreement between Medical Mutual and a Hospital in the Cleveland Region for the provision of in-patient or out-patient hospital services to Medical Mutual's subscribers, and all amendments and additions to any such agreements;

(E) *Most Favorable Rates Requirement* means any policy, practice, rule, or contractual provision which (1) requires a Participating Hospital to charge any Third Party Payer as much as or more than the rate charged to Medical Mutual by such Participating Hospital, or (2) requires a Participating Hospital to charge Medical Mutual rates equal to or lower than the lowest rate it charges any Third Party Payer;

(F) *Participating Hospital* means any Hospital in the Cleveland Region that has entered into a Hospital Agreement with Medical Mutual;

(G) *Third Party Payer* means any non-governmental entity, other than Medical Mutual, that pays for all or part of any expense for health care services provided by a Hospital to another person or group of persons.

III. Applicability

This Final Judgment applies to Medical Mutual and all other persons (including all Participating Hospitals) in active concert or participation with it who have received actual notice of the Final Judgment by personal service or otherwise.

IV. Prohibited Conduct

Medical Mutual is enjoined and restrained from:

(A) Adopting, maintaining, or enforcing in the Cleveland Region a Most Favorable Rates Requirement or any policy, practice, rule, or contractual provision having the same purpose or effect;

(B) Adopting, maintaining, or enforcing any policy, practice, or agreement that requires a Participating Hospital to disclose to Medical Mutual, directly or indirectly, through audit or any other means, the rates such Hospital offers or charges any Third Party Payer(s), except as necessary for coordination of benefits in connection with specific claims.

V. Permitted Activities

Provided that such activities do not violate any provision of Section IV, nothing herein shall be construed to prohibit Medical Mutual from:

(A) Negotiating for or obtaining rate arrangements, reimbursement levels, or payment methodologies with any Participating Hospital, whether on an overall or product line basis, including negotiating for or obtaining the lowest rate(s) or largest discount(s) from any Participating Hospital;

(B) Receiving or accepting information regarding the rates a Hospital offers or charges any Third Party Payer so long as the Hospital provides such information without any request from Medical Mutual and without any offer or promise of consideration for such information from Medical Mutual;

(C) Establishing preferred provider networks, other forms of provider panels, or alternative delivery systems;

(D) Recruiting hospitals who have contracts with or are participating in hospital networks or panels of Third Party Payers;

(E) Having different rate arrangements, reimbursement levels, or payment methodologies for different product lines, for different hospitals, or for different networks or panels of hospitals;

(F) Declining or refusing to contract or do business with any hospital, or terminating any hospital agreement.

VI. Nullification

All Most Favorable Rates Requirements in the Cleveland Region are hereby declared null and void and shall impose no obligation on any Participating Hospital.

VII. Compliance Measures

Medical Mutual shall:

(A) Distribute, within 60 days of the entry of this Final Judgment, a copy of this Final Judgment to: (1) all of Medical Mutual's officers and trustees; and (2) all of Medical Mutual's employees and agents who are responsible for negotiating, approving, disapproving, or enforcing any Hospital Agreement, except employees and agents primarily involved in the administration of payments to and collections from Hospitals;

(B) Distribute in a timely manner a copy of this Final Judgment to any officer, trustee employee, or agent who succeeds to a position described in Section VII(A);

(C) Obtain from each present of future officer, trustee, employee, or agent designated in Section VII(A), within 60 days of entry of this Final Judgment or of the person's succession to a designated position, a written certification that he or she: (1) has read, understands, and agrees to abide by the terms of this Final Judgment; and (2) has

been advised and understands that his or her failure to comply with this Final Judgment may result in conviction for criminal contempt of court;

(D) Maintain a record of persons to whom the Final judgment has been distributed and from whom, pursuant to Section VII(C), the Certification has been obtained;

(E) Distribute, within 60 days of the entry of this Final Judgment, a copy of this Judgment, by first-class mail, to all currently Participating Hospitals;

(F) Provide a copy of this Final Judgment to any Hospital in the Cleveland Region not covered by Section VII(E) with which Medical Mutual enters into negotiations for a Hospital Agreement after the effective date of this Judgment;

(G) Promptly report to the Plaintiff any violation of the Final Judgment.

VIII. Certification

(A) Within 75 days of the entry of this Final Judgment, Medical Mutual shall certify to the Plaintiff that it has: (1) distributed the Final Judgment in accordance with Section VII(A) and (E); and (2) obtained certifications in accordance with Section VII(C).

(B) For ten years after the entry of this Final Judgment, on or before its anniversary date, Medical Mutual shall file with the Plaintiff an annual Declaration as to the fact and manner of its compliance with the provisions of Sections IV, VI, and VII.

IX. Plaintiff's Access to Information

(A) To determine or secure compliance with this Final Judgment, duly authorized representatives of the Plaintiff, upon written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Medical Mutual made to its principal office, shall be permitted, subject to any legally recognized privilege:

(1) Access during Medical Mutual's office hours to inspect and copy all documents in the possession or under the control of Medical Mutual, which may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of Medical Mutual and without restraint or interference from it, to interview officers, trustees, employees, or agents of Medical Mutual, who may have Medical Mutual's counsel and/or their own counsel present, regarding such matters.

(B) Upon the written request of the Assistant Attorney General in charge of the Antitrust Division made to Medical Mutual's principal office, Medical Mutual shall submit such written reports, under oath if requested, relating to any matters contained in this Final Judgment as may be reasonably requested, subject to any legally recognized privilege.

(C) Medical Mutual shall have the right to be represented by counsel in any process under this Section.

(D) No information or documents obtained by the means provided in Section IX shall be divulged by the Plaintiff to any person other than duly authorized representatives of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(E) If at the time information or documents are furnished by Medical Mutual to Plaintiff, Medical Mutual represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and Medical Mutual marks each pertinent page of such material, ''subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then 10 days notice shall be given by Plaintiff to Medical Mutual prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which Medical Mutual is not a party.

(F) Nothing in this Final Judgment prohibits the Plaintiff from using any other investigatory method authorized by law.

X. Further Elements of the Final Judgment

(A) This Final Judgment shall expire ten years from the date of its entry.

(B) Jurisdiction is retained by this Court for the purpose of enabling either of the parties to this Final Judgment, but no other person, to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment; to modify or terminate any of its provisions, based on changed circumstances of fact or law warranting such action; to enforce compliance; or to punish violations of its provisions.

(C) The Court finds that this Final Judgment is in the public interest.

_____

United States District Judge

Dated: _____.

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States submits this Competitive Impact Statement to provide the information necessary to enable the Court and the public to evaluate the proposed Final Judgment that the parties have jointly filed.

I. Nature and Purpose of This Proceeding

Simultaneous with the filing of this Statement, the United States filed a civil antitrust complaint against Medical Mutual of Ohio (''Medical Mutual''), the largest health care insurer in Ohio, for unreasonably restraining competition in the hospital services and commercial health plan markets in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The Complaint alleges that for over ten years Medical Mutual required that any hospital wishing to do business with it in the ''Cleveland Region,'' a seven-county area consisting of Cuyahoga, Ashtabula, Geauga, Lake, Lorain, Medina, and Wayne Counties, agree to a ''Most Favorable Rates'' (''MFR'') clause; that this MFR clause had the effect of requiring those hospitals to charge Medical Mutual's competitors significantly more than they charged Medical Mutual or pay substantial penalties; that the MFR clause stifled the development of innovative and less costly health plans; and that, as a result, businesses and consumers in the Cleveland Region paid higher than competitive prices and were deprived of innovative and less costly alternatives for health care services.

The parties have stipulated that the proposed Final Judgment may be entered after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and that Medical Mutual shall be bound by the provisions of the proposed Final Judgment pending the Court's approval. The parties also agreed that the United States may withdraw its consent at any time prior to the entry of the Final Judgment by serving notice of that withdrawal on Medical Mutual and by filing that notice with the Court. Entry of the proposed Final Judgment will terminate this action, except that the Court will retain jurisdiction over the matter for any further proceedings that may be required to interpret, enforce, or modify the Judgment or to punish violations of any of its provisions. This Court is required by 15 U.S.C. 16(e) to determine whether the proposed Final Judgment is in the public interest.

II. Practices Giving Rise to the Alleged Violation

Medical Mutual, a non-for-profit mutual insurance company organized

under Ohio law, is by far the largest commercial health care insurer in the Cleveland Region. With more than 730,000 enrollees there, it covers approximately 36% of the commercially insured population and is roughly twice the size of its closest competitor. Medical Mutual also accounts for approximately 25 to 30% of commercial payments to local hospitals, and nearly all of these hospitals depend on Medical Mutual for the largest share of their commercial business.

A. Medical Mutual's MFR Clause

Starting in 1986, Medical Mutual required a MFR clause as a precondition for entering into an agreement with any hospital in the Cleveland Region. Those provisions, in effect, compelled the hospitals to charge non-governmental health plans with a lower total dollar volume of business than Medical Mutual rates equal to or greater than the rates the hospital charged Medical Mutual. Not content with ensuring that it had the best rate, Medical Mutual—through its MFR clause—also required that the hospitals maintain certain percentage differentials between the rates charged Medical Mutual and all other smaller commercial payers. Those differentials provided Medical Mutual with a cost advantage of 15–30% over its competitors in the purchase of hospital services.

Medical Mutual's MFR clause created such rate differentials in several ways. First, it required that the hospitals charge all other payers with less volume at the hospital at least as much as they charged Medical Mutual for services to Medical Mutual's indemnity subscribers. Since Medical Mutual typically paid hospitals 15–20% less for services provided to its managed care subscribers, pegging the MFR clause to its indemnity prices automatically gave Medical Mutual a substantial cost advantage over its managed care competitors. In effect, the MFR created a buffer of at least 15–20% between Medical Mutual's managed care costs and the managed care costs of its rivals.

Second, starting in 1990, Medical Mutual began insisting that the hospitals charge all other health plans 1–10% more than they charged Medical Mutual for its indemnity plan. This requirement not only protected Medical Mutual's indemnity plan against competition, but also further widened the cost differential between Medical Mutual's managed care plans and those of its rivals. Hospitals were required to charge rival payers up to 30% more than they charged Medical Mutual for the same services.

Finally, while Medical Mutual reluctantly agreed in certain instances to a ''like-product'' MFR clause in which rates were compared on a product-line basis (indemnity to indemnity, managed care to managed care), it still sought to retain the cost advantage that the traditional MFR clause had given it. It did so by explicitly requiring hospitals with such agreements to charge all other plans with less total volume 10–15% more than they charged Medical Mutual.

B. Medical Mutual's Enforcement of the MFR Clause

Medical Mutual vigorously enforced its MFR clause—and the rate differentials—with the express purpose of protecting Medical Mutual against competition and significantly raising its competitor's hospital costs. Typically, if a rival player received discounts greater than those given to Medical Mutual, the auditor would multiply the percentage difference by Medical Mutual's total payments to that hospital. Thus, a rate 10% lower than Medical Mutual's would yield a $200,000 penalty if Medical Mutual's total business for the relevant contract year at that hospital was as little as $2 million. As Medical Mutual accounted for the largest share of nearly every hospital's commercial business—dwarfing the volume of most other payers in the market—the MFR penalties could be quite large and were often grossly disproportionate to the benefit received by the rival plan, *i.e.*, the amount that would have allowed the hospital to avoid violating the MFR provision.[1]

Even more significant was Medical Mutual's requirement that MFR compliance audits be conducted retrospectively—*i.e.*, after the other payers had reimbursed the hospital for its enrollees' claims. Concerned about the ability of competitors to lower their hospital costs through better management of hospital services, Medical Mutual decided—despite protests of unfairness by both hospitals and its own consultants—that the auditor was to determine the rates charged other payers, and thus violations of the MFR clause, retrospectively, *i.e.*, it was to look at actual reimbursement levels and not the contractual rate. By doing so it was able to impose penalties in those situations where the contractual discounts did not violate the MFR clause but where the effective discount, after factoring case mix and utilization management, was below the MFR rate. As one hospital complained to Medical Mutual: ''[under] this clause we could find ourselves in violation of the Favored Nations provision if a *per diem* payer through strong utilization review efforts reduced their length of stay and also their aggregate payments.'' In effect, the hospital would be penalized for a rival payer's greater efficiency.

C. Anticompetitive Effects of Medical Mutual's MFR Clause

As alleged in detail in the Complaint, Medical Mutual's MFR provision harmed competition and reduced consumer welfare in the hospital services and hospital insurance markets in the Cleveland Region by increasing the costs of hospital services for other plans, businesses, and consumers, and by discouraging innovation in the design of health insurance plans and the delivery of hospital services.

1. Medical Mutual's MFR Provision Substantially Increased the Cost of Hospital Services for Rival Plans

Because the MFR provisions required that hospitals charge Medical Mutual's competitors substantially more than they charged Medical Mutual or suffer significant penalties, various hospitals and hospitals systems, including MetroHealth, the Cleveland Clinic, University, Meridia, Lake, Marymount, Southwest General, Mt Sinai, and Fairview, were deterred from offering significant additional discounts—discounts up to 20% or more—to competing health plans. The result has been to increase the cost of hospital services to Medical Mutual's rivals and, ultimately to consumers.[2]

In addition, Medical Mutual's aggressive enforcement of the MFR clause discouraged hospitals from offering rates to rival plans even approaching the MFR rate. Since the differences between payment methods,

[1] For example, in 1991, Medical Mutual assessed a penalty of $342,916 against St. John West Shore Hospital for giving a rival payer a discount below Medical Mutual totaling $13,831; and in 1992, it assessed a penalty of $417,373 against Fairview Hospital System (then known as HealthCleveland) for giving a different rival payer a discount below Medical Mutual's rates totaling $30,781.

[2] Indeed, where the MFR clause has been inapplicable—whether due to an exemption or for some other reason—hospitals have demonstrated a willingness to give lower rates to Medical Mutual's rivals. Thus, when Kaiser Permanente became the largest payer at the Cleveland Clinic in 1994, and therefore exempt from the MFR provision, its per case rate for cardiac services alone declined by $2,000. Similarly, when Total Health Care and other payers handling Medicare and Medicaid enrollees obtained an exemption from the MFR clause, University Hospital and MetroHealth gave those plans rates below the MFR rate. Starting in 1996, when it entered the Medicaid and Medicare market, Medical Mutual stopped granting such exemptions and, as a result, those plans have been required to pay higher rates for hospital services.

patient mix, and case management, combined with Medical Mutual's retrospective review of actual reimbursement levels, made it difficult, if not impossible, for a hospital to accurately predict whether a contract would violate the MFR clause, hospitals simply refused to price anywhere near the MFR rate, routinely demanding rates from rival plans significantly above the MFR rate in order to protect against what could be a financially devastating penalty.

2. Hospitals and Rival Plans Entered Into Costly Contractual Arrangements Designed to Avoid Medical Mutual's MFR Provision

In addition to discouraging hospitals from offering favorable prices to rival payers. Medical Mutual's MFR clause forced hospitals to manipulate their contractual arrangements with other payers to avoid incurring a MFR penalty. The effect was to increase the cost of hospital services to Medical Mutual's competitors and ultimately to consumers.

For example, some hospitals insisted on using ''stop-loss'' provisions in their contracts with other payers to avoid MFR penalties. These clauses typically required their party payers to reimburse the hospital at a specified percentage of charges for claims that lay outside predetermined thresholds. MetroHealth Hospital, for example, insisted on such MFR-related ''stop-loss'' provisions in 90% of its contracts. University Hospital and Fairview Health System have similar provisions in a number of their contracts as well.[3] The additional costs due to these stop-loss provisions were borne by Medical Mutual's competitors and, ultimately, by the consumer.

Similary, some hospitals required payers to make payments over and above contracted rates to avoid a MFR penalty or to reimburse the hospital for any penalty incurred due to the MFR clause. Both mechanisms had the effect of raising the costs of Medical Mutual's rivals and, ultimately, to consumers. For example, Mt. Sinai Medial Center and CIGNA entered into ''reconciliation agreements'' beginning in 1992 which required CIGNA to reimburse Mt. Sinai any amounts necessary to avoid a MFR violation. CIGNA made retrospective payments to Mt. Sinai of over $600,000 for the years 1990–1992 alone so that Mt. Sinai could avoid over $4 million in MFR penalties that it would otherwise have owed to Medical Mutual.

Nor was Mt. Sinai the only hospital to do so. The Cleveland Clinic has a reconciliation agreement with Kaiser in the event its volume ever falls below Medical Mutual's volume. MetroHealth demanded that various payers, including Prudential, Aetna, QualChoice, and Personal Physician Care, make additional payments if MetroHealth's own MFR audit suggested a violation. Meridia Health System required some payers to reimburse if for any amount paid for a MFR violation University Hospital's contracts with Prudential required Prudential to make additional payments of $409,232.82 in 1996 alone.

Hospitals also demanded to re-negotiate existing agreements when faced with potential MFR violations. MetroHealth Hospital, for instance, requested HealthStar to re-negotiate rates in the midst of its 1993–94 contract because the patient mix was not as anticipated and would have caused a MFR violation, and required that Aetna agree to re-negotiate its rates if a MFR violation appeared likely. Southwest General increased Emerald's inpatient reimbursement in the middle of its contact period in 1993 and in 1995 demanded to re-negotiate several contracts, including the contract with HMO Aetna, to avoid a MFR violation. In 1995, the Cleveland Clinic re-negotiated Aetna's contract because the Clinic's new contract with Medical Mutual generated a higher MFR benchmark, one requiring a 20% increase in Aetna's inpatient rates. Still other examples include Lake Hospital demanding that CIGNA re-negotiate its contract after lake paid a $225,000 MFR pentaly; Meridia Health System terminating a contract with Affordable Health and re-negotiating a new contract of substantially higher rates after having been found in violation of the MFR provisions; and Meridia entering into an agreement with United HealthCare requiring the latter to re-negotiate its rates if the MFR clause was violated.

Finally, some hospitals simply terminated contacts with other payers when they were unable to re-negotiate terms: thus, Southwest General terminated its 1994 contract with CIGNA for behavioral services after it learned from Medical Mutual's auditor that CIGNA's 1992 contract violated the MFR clause and CIGNA refused to re-negotiate' Lake Hospital terminated its contract with Prudential because of the MFR and lost is contract with CostLogics after a 1992 MFR audit prompted lake to request a substantial rate increase; Lakewood lost its HMO Agreement with Metlife in 1992 because of the MFR; and University Hospital and Mutual of Omaha agreed to higher rates when Mutual of Omaha declined University's proposal to incorporate a reconciliation provision in their contract.

Medial Mutual has been well aware of the significant effect the MFR had on its rivals's costs, the demands by hospitals for retroactive payments from its rivals, the re-negotiation of contracts to increase existing rates, and even the termination of such contracts. Indeed, its recent contracts expressly provide that the hospital may elect, in order to avoid a violation of the MFR provision, to terminate, modify, or amend its contract with the other payer. The MFR's purpose and clear effect has been to increase the costs paid by other plans and, ultimately, by the consumer.

3. Medical Mutual's MFR Provision Hindered Innovation in the Delivery of Health Care Insurance

Medical Mutual's MFR provision also discouraged the development of innovative approaches to the efficient delivery of health insurance, particularly new contracting methodologies and novel health plan designs. Confronted by the threat posed by rival payers willing to invest in additional tools and resources to provide more efficient and better quality health care plans, Medical Mutual, through its MFR clause, required that all payers, regardless of utilization management, case mix, or other factors, pay a hospital at least as much or more than Medical Mutual for similar services. It a hospital's actual price to another payer was below the MFR benchmark for any reason, including more efficient management, Medical Mutual would assess a penalty against the hospital. The result was to force hospitals to raise all rates to Medical Mutual's level (or above), removing the principal incentive for other payers to invest in more efficient case management. Unable to obtain the benefits of more efficient case management, rival payers declined to invest in less costly methods and consumers were deprived of the choice of alternative plans.

Medical Mutual's MFR provisions also created a significance disincentive to the development of low-cost, narrow-panel health care plans in the Cleveland Region, thus depriving consumers of the choice of such plans. By limiting its

[3] Even those hospitals that would have insisted on ''stop-loss'' provisions were there no MFR clause (to avoid the financial risk associated with catastrophic or high acuity cases) demanded lower ''stop-loss'' thresholds because of the MFR clause. By lowering the ''stop-loss'' threshold, the hospital ensured that more services were priced above the competitive rate—increasing the total cost of hospital care. For example, the Columbia/HCA hospitals (St. Vincent Charity Hospital, St. Luke's Medical Center, and St. John Westshore Hospital) would have agreed to higher ''stop-loss'' thresholds but for the MFR provisions.

enrollees to fewer hospitals, a small-panel plan provides higher volume to each of the participating hospitals in exchange for more aggressive discounts from the hospitals. In the Cleveland Region, however, Medical Mutual's MFR clause discouraged hospitals from offering a discount large enough to make such plans marketable.

Medical Mutual's MFR provisions also discouraged the use of ''carve-out'' contracts—contracts of such speciality services as obstetrics, organ transplants, or invasive cardiology. These specialty contracts can reduce hospital costs for payers and consumers by allowing a payer to contracts for those services in which the hospital has developed a particular expertise and by allowing the hospital to more efficiently use its resources. Medical Mutual's MFR provisions, however, discouraged hospitals in the Cleveland Region from entering into such specialty contracts by requiring that those payers be charged at least as much as Medical Mutual for such services. For examples, both University Hospital and the Cleveland Clinic requested exemptions from the MFR clause in order to enter into such carve-out contracts. University for both soft tissue transplant and obstetrics services; the Clinic for certain cardiology services. Medical Mutual refused them both, and neither participated in the program because of the significant penalties they would have incurred.

III. Explanation of the Proposed Final Judgment

The parties have stipulated that the Court may enter the proposed Final Judgment after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h).

A. Scope of the Proposed Final Judgment

Section III of the proposed Final Judgment provides that the Final Judgment shall apply to Medical Mutual and all other persons (including Medical Mutual's Participating Hospitals [4]) in active concert or participating with it who shall have received actual notice of the Final Judgment by personal service or otherwise.

B. Prohibitions and Obligations

Section IV sets forth the conduct prohibited by the Final Judgment.[5] Section IV(A) enjoins and restrains Medical Mutual from adopting, maintaining, or enforcing for the next ten years a Most Favorable Rates Requirement, defined as any policy, practice, rule, or contractual provision which (1) requires a Participating Hospital to charge any third party payer as much as or more than the rate charged to Medical Mutual by such Participating Hospital, or (2) requires a Participating Hospital to charge Medical Mutual rates equal to or lower than the lowest rate it charges any third party payer. Section IV(A) further enjoins and restrains Medical Mutual for a similar period from adopting, maintaining, or enforcing any policy, practice, rule, or contractual provision having the same purpose or effect.

Section IV(B) enjoins Medical Mutual from adopting, maintaining, or enforcing any policy, practice or agreement that requires a hospital to disclose to Medical Mutual directly or indirectly the rates such hospital offers or charges any other commercial payer. This section is intended to prevent Medical Mutual from achieving an effect comparable to that of the MFR clause by compelling hospitals to disclose information to it or its agents regarding the rates the hospitals charge other payers.

Section V lists various activities Medical Mutual may engage in so long as they do not violate the prohibitions of Section IV in doing so. These activities include negotiating rate arrangements and payment methodologies with hospitals, receiving information about rates charged others under certain conditions, establishing provider networks, recruiting hospitals participating in other plans, having different reimbursement levels for different participating hospitals or panels, and terminating or refusing to contract with hospitals. All such activities are specifically made subject to the prohibitions of Section IV so that they not become surrogates for the MFR clause.

More specifically, Section V(A) permits Medical Mutual to negotiate for or obtain the lowest rate(s) or largest discount(s) from any participating hospital whether on an overall or product line basis. Consistent with Section IV(A)'s prohibition against Medical Mutual's requiring or compelling a hospital to give it the lowest rates, this section allows Medical Mutual to use it bargaining skills to obtain the lowest rates, this section allows Medical Mutual to use its bargaining skills to obtain the lowest rate. In addition, Section V(B) permits Medical Mutual to receive rate information from a Participating Hospital when the provision of such confidential information is purely voluntary and not the result of a bargain. Since the disclosure of any rate information, if coerced or purchased, may affect a hospital's willingness to discount, Section V(B) together with Section IV(B) make clear that Medical Mutual cannot request that a hospital disclose the rates it charges other payers, cannot compel a hospital to disclose such rates, and cannot offer consideration for such information. Sections IV(C) and (D) specifically allow Medical Mutual to establish preferred provider networks or alternative delivery systems, to recruit hospitals who have contracts with other payers, and to have different rate arrangements or payment methods for different product lines, hospitals or networks. These activities are least likely to violate the prohibitions of Section IV. Finally, in Section V(F), Medical Mutual is permitted to decline or to refuse to contract or do business with any hospital or terminate any hospital agreement. As with the rest of Section V, however, Section V(F) is permitted only to the extent it does not violate the prohibitions of Section IV. Thus, for example, while Medical Mutual may be permitted to terminate a hospital agreement, the grounds for doing so cannot violate Section IV.

Section VI of the Final Judgment declares all Medical Mutual's MFR provisions null and void, making it clear that no Most Favorable Rates Requirement imposes any obligation on any of Medical Mutual's Participating Hospitals in the Cleveland Region.

Section VII of the Final Judgment sets forth various compliance measures. Section VII(A) requires Medical Mutual to distribute, within 60 days of the entry of the Final Judgment, a copy of the Final Judgment to: (1) all Medical Mutual officers and trustees; and (2) all Medical Mutual employees and agents who are responsible for negotiating, approving, disapproving, or enforcing any of Medical Mutual's hospital agreements with Participating Hospitals, excepting only those employees and agents primarily involved in the administration of payments to and collections from hospitals. Sections VII(B)–(D) require Medical Mutual to provide a copy of the Final Judgment to persons who succeed to the positions of those covered by VII(A), and to obtain and maintain records of present and future officers', trustees', agents', and

[4] Participating Hospitals are all hospitals in the Cleveland Region that have hospital agreements with Medical Mutual.

[5] While the relief here is limited to the Cleveland Region, the proposed Final Judgment does not foreclose the United States from investigating and subsequently seeking relief for comparably anticompetitive conduct by Medical Mutual in other geographic areas.

employees' written certifications that they have read, will abide by, and understand the consequences of their failure to comply with the terms of the Final Judgment. Sections VII(E) and (F) require Medical Mutual to distribute a copy of the Final Judgment to all currently Participating Hospitals and all other hospitals who enter into negotiations with Medical Mutual for a hospital agreement after the entry of the Final Judgment. Finally, Section VII(G) obligates Medical Mutual to report to the United States any violation of the Final Judgment.

Section VIII obligates Medical Mutual to certify its compliance with the requirements of Section IV, VI, and VII of the Final Judgment. In addition, Section IX sets forth a series of measures by which the Plaintiff may have access to information needed to determine or secure Medical Mutual's compliance with the Final Judgment. Section X limits the term of the Final Judgment to ten years.

C. Entry of the Proposed Final Judgment Is in the Public Interest

Section 2(e) of the Antitrust Procedures and Penalties Act, 15 U.S.C 16(e), requires that the Court's entry of the proposed Final Judgment be in the public interest. The Act permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement and compliance mechanisms are adequate, whether the decree may harm third parties. *See United States* v. *Microsoft Corp.*, 56 F.3d 1448, 1461–62 (D.C. Cir. 1995). Consistent with Congress' intent to use consent decrees as an effective tool of antitrust enforcement, the Court's function is ''not to determine whether the resulting array of rights and liabilities is the one that will best serve society, but only to confirm that the resulting settlement is within the reaches of the public interest.'' *Id* at 1460 (internal quotations omitted); *see also United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), *cert. denied*, 454 U.S. 1083 (1981). The United States submits that entry of this proposed Final Judgment is in the public interest because it addresses the anticompetitive effects alleged in the Complaint and forecloses Medical Mutual from achieving the MFG clause's anticompetitive effects in other ways.

More specifically, by nullifying Medical Mutual's MFR clause and enjoining any policy, practice or rule having the same purpose or effect under Section IV(A), the proposed Final Judgment will ensure unrestrained price competition between Medical Mutual and other health insurance plans and among hospitals in the Cleveland area. Without a price floor set by MFR clauses or other similar provisions, hospitals will have a greater incentive to discount, thereby lowering health care costs for consumers as well as encouraging more innovation in the delivery of health care services. In addition, Section IV(B) restricts Medical Mutual's ability to compel from its Participating Hospitals, or bargain for, information on the rates the hospitals charge other payers, ensuring that Medical Mutual does not indirectly impose a MFR provision.

Finally, Section V of the proposed Final Judgment allows Medical Mutual to continue to compete on largely the same terms as other health insurance plans. Medical Mutual will not be restricted from negotiating different rate arrangements for different hospitals, establishing preferred provider networks or other forms of provider panels, recruiting hospitals who are participating in other provider panels, or even receiving rate information from its participating hospitals when the disclosure of such information is purely voluntary.

D. Medical Mutual's Voluntary Termination of the MFR Clause Does Not Eliminate the Need for Injunctive Relief

Despite Medical Mutual's recent promise to cease enforcing its MFR provisions and terminate the MFR audits, there is substantial likelihood of future violations of the antitrust laws and recurring harm to consumers in the absence of an harm injunction. In the absence of an injunction, Medical Mutual's promise is not enforceable, and nothing prevents Medical Mutual from reneging at any time, a possibility made more probable by its apparently strongly held belief that its conduct was lawful.[6] *See United States* v. *Cleveland Trust Co.*, 393 F. Supp. 699, 710 (N.D. Ohio, 1974)

In addition, Medical Mutual has clearly not precluded itself from instituting schemes short of reinstituting the MFR provision, schemes which could include auditing participating hospitals to determine other payers' rates or simply requiring the hospitals to disclose the rates they charged other payers, and then demanding comparable or lower rates. Given Medical Mutual's high market share in the Cleveland area relative to other payers and thus its correspondingly significant bargaining power, all of those arrangements, contractual or otherwise, are real options for Medical Mutual, and if implemented, could have the similar anticompetitive effects of deterring hospitals from discounting to other payers or participating in more innovative and efficient health care delivery systems.

Moreover, injunctive relief is particularly appropriate in this instance because Medical Mutual's voluntary abandonment was clearly occasioned by the government's then-imminent enforcement action. If an antitrust defendant is allowed to simply abandon its challenged conduct on the eve of a government action, then the enforcement of antitrust laws by the United States would be significantly hampered. *United States* v. *W.T. Grant Co.*, 345 U.S. 629, 632 (1953). A trial court's wide discretion ''is not to be exercised to deny relief altogether by lightly inferring an abandonment of the unlawful activities from a cessation which seems timed to anticipate suit.'' *United States* v. *Parke, Davis & Co.*, 362 U.S. 29, 48 (1960).

IV. Alternatives to the Proposed Final Judgment

An alternative to the proposed Final Judgment would be a full trial on the merits of the case, which would involve substantial time and expense to the United States and Medical Mutual and create uncertainty in the ultimate relief to be obtained by the United States. A trial is also undesirable because the United States believes that the proposed Final Judgment fully remedies the violations of the Sherman Act alleged in the Complaint.

The United States considered a claim for treble damages arising from overcharges the United States paid for the health insurance of federal employees in the Cleveland Region. Because Medical Mutual's use of a MFR clause had artificially inflated the cost of health insurance of the Cleveland Region, it similarly increased the amount of contribution the United States paid on behalf of its employees through the Federal Employees Health Benefit Program (''FEHBP'') to rival health plans in Cleveland.

However, in light of the costs and delay associated with litigation necessary to secure damages, and the fact that payments by the United States

[6] In its challenge to the Civil Investigative Demand issued to it in 1995, Medical Mutual, then known as Blue Cross and Blue Shield of Ohio, vigorously contended that its conduct could not be investigated as it was procompetitive as a matter of law. The Court (Aldrich, J) soundly rejected that position in *Blue Cross and Blue Shield of Ohio* v. *Bingaman*, 1996 WL 677094 (N.D. Ohio), 1996–2 Trade Cas. 71600, *aff'd*, 113 F.3d 1420 (Table, text at 1997 WL 400095) (6th Cir. 1997).

for its employees' health insurance constitute only a modest percentage of the total health insurance cost in the Cleveland area, it was determined that the time and resources required to pursue damages were unwarranted. Moreover, private litigants, such as competing health plans, may be in position to pursue damages claims against Medical Mutual. Should health plans whose enrollees include federal employees succeed in recovering damages from Medical Mutual, such recovery would also likely be passed on to the United States in the form either of rebates under the cost-plus provisions of such contracts or through lower premiums. The United States concluded, therefore, that the public interest is better served by securing the immediate, certain, and substantial relief set forth in the proposed Final Judgment without pursuing a damages claim.

V. Remedies Available to Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and reasonable attorney's fees. Entry of the proposed Final Judgment will neither impair nor assist in the bringing of such actions. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the Final Judgment has no *prima facie* effect in any subsequent lawsuits that may be against Medical Mutual in this matter.

VI. Procedures Available for Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to Gail Kursh, Chief, Health Care Task Force; Department of Justice; Antitrust Division; 325 7th Street, N.W.; Room 404; Washington, D.C. 20530, within the 60-day period provided by the Act. Comments received, and the Government's responses to them, will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department of Justice, which remains free, pursuant to Paragraph 2 of the Stipulation, to withdraw its consent to the proposed Final Judgment at any time before its entry if the Department should determine that some modification of the Judgment is necessary to protect the public interest. The proposed Final Judgment itself provides that the Court will retain jurisdiction over this action, and that the Parties may apply to the Court for such orders as may be necessary or appropriate for the modification, interpretation, or enforcement of the Judgment.

VII. Determinative Documents

No materials and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), were considered in formulating the proposed Final Judgment. Consequently, none are filed herewith.

Dated: _____.

Respectfully submitted,

Paul J. O'Donnell

Jean Lin

Andre Barlow

Frederick S. Young,

Attorneys, Antitrust Division, U.S. Department of Justice, 325 7th Street, N.W., Washington, D.C. 20530, (202) 616–5933.

[FR Doc. 98–26034 Filed 9–30–98; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Advisory Board Meeting

TIME AND DATE: 11 a.m. to 4:30 p.m. on Monday, November 2, 1998 & 8 a.m. to 12 noon on Tuesday, November 3, 1998.

PLACE: Westin Hotel—Long Beach, 333 East Ocean Boulevard, Long Beach, California 90802.

STATUS: Open.

MATTERS TO BE CONSIDERED: Election of New Officers; Updates on Strategic Planning and Interstate Compact Activities; Presentations on Regionalization Project and Mental Health Issues; and Program Division Reports.

CONTACT PERSON FOR MORE INFORMATION: Larry Solomon, Deputy Director, (202) 307–3106, ext. 155.

Morris L. Thigpen,

Director.

[FR Doc. 98–26339 Filed 9–30–98; 8:45 am]

BILLING CODE 4410–36–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (98–135)]

NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Structure and Evolution of the Universe Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science Advisory Committee, Structure and Evolution of the Universe Subcommittee.

DATES: Thursday, October 29, 1998, 8:30 a.m. to 5:00 p.m.; and Friday, October 30, 1998, 8:30 a.m. to 5:00 p.m.

ADDRESSES: NASA Headquarters, Conference Room MIC 7, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Alan N. Bunner, Code SA, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0364.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—State of Space Science
—Theme Updates
—Current Programs and Mission Updates
—Technology Programs and Reviews
—Strategic Planning
—Public Outreach
—Other Issues Facing the Subcommittee

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: September 24, 1998.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 98–26337 Filed 9–30–98; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Advanced Networking Infrastructure Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–

463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Advanced Networking Infrastructure Research (#1207).

Date & Time: October 19 and 20, 1998; 8:30 a.m.–5:00 p.m.

Place: Room 1280, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Anne C. Richeson, Division of Advanced Networking Infrastructure Research, Room 1175, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1950.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Connections to the Internet Program as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 28, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–26271 Filed 9–30–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Engineering Education and Centers; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel Engineering Education and Centers (173).

Date and Time: October 19–20, 1998, 7:30 a.m.–5:30 p.m.

Place: National Science Foundation, Room 310, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Win Aung, Senior Staff Associate, Engineering Education and Centers, Division, National Science Foundation, Room 585, 4201 Wilson Blvd., Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted under the Funding for Research Centers—Small Firms Collaborative R&D.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 28, 1998.

M. Rebecca Winkler,

Committee Management Oficer.

[FR Doc. 98–26270 Filed 9–30–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Experimental and Integrative Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Experimental and Integrative Activities (1193).

Date and Time: October 27, 1998; 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Rooms 1120 and 1150, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person(s): Harry G. Hedges, Program Director CISE/EIA, Room 1160, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1980.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate CISE Research Experiences for Undergraduates proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 28, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–26269 Filed 9–30–98; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–282 and 50–306]

Northern States Power Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses DPR–42 and DPR–60 issued to Northern States Power Company (NSP or the licensee) for operation of the Prairie Island Nuclear Generating Plant, Units 1 and 2, located in Goodhue County, Minnesota.

The proposed amendments would change the design basis of the cooling water system emergency intake line flow capacity. The licensee determined through testing that the emergency intake line flow capacity was less than the design value stated in the Updated Safety Analysis Report. The proposed changes reflect the use of operator actions to control cooling water system flow following a seismic event. The proposed changes also reclassify the intake canal for use during a seismic event, which would be an additional source of cooling water during a seismic event. This notice incorporates additional information contained in supplemental submittals.

The licensee submitted its request for amendments in a letter dated January 29, 1997, as supplemented February 11, 12, March 7, 10, 11, 19, 20, April 29, June 30, and July 10,1997, June 20, June 22, July 24 and September 15, 1998. The licensee's original application was noticed in the **Federal Register** on February 7, 1997 (62 FR 5857). A public announcement was published in local newspapers (St. Paul Pioneer Press on March 15, 1997, Minneapolis Star Tribune on March 16, 1997, and Red Wing Republican Eagle on March 17, 1997) to reflect additional supplements and give public notice of an interim amendment.

The interim amendments were issued on March 25, 1997 (Unit 1—Amendment 128, Unit 2—Amendment 120) and authorized NSP to continue operation of Prairie Island Units 1 and 2 on an interim basis, through the incorporation of three license conditions into the licenses, until a seismically qualified emergency cooling water source was demonstrated. The licensee has completed an analysis which demonstrates that the intake canal is a seismically qualified emergency cooling water source. The

proposed amendments would incorporate the licensee's seismic analysis of the intake canal into the licensing basis.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

1. The proposed amendments will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The accident of concern for this issue is a seismic event. None of the proposed changes can have any effect on the probability of a seismic event.

Operator action is required to assure continued operation of the cooling water system following a design-basis earthquake. Evaluations have shown that sufficient time is available for the operator actions to be completed. Procedures are in place to direct the operator actions and operators have been trained on the use of the procedures. Thus, use of operator actions within the time frame available does not involve a significant increase in the consequences of an accident previously evaluated.

Failure of the intake canal slopes could result in soil being deposited into the canal. However, analyses show that if portions of the intake canal slopes fail and fall into the canal, it will not be a large volume of soil that gets displaced. The amount of potential soil to be displaced will not interfere with the function of the cooling water system. Thus, the cooling water system will continue to perform its safety function following a design-basis earthquake and will not result in a significant increase in the consequences of an accident previously evaluated.

2. The proposed amendments will not create the possibility of a new or different kind of accident from any previously analyzed.

The cooling water system is provided in the plant to mitigate accidents and it is not a design-basis accident initiator; thus, the proposed reliance on operator action in the available time and consideration of bank failure effects do not create the possibility of a new or different kind of accident.

3. The proposed amendments will not involve a significant reduction in the margin of safety.

Plant margin of safety may be reduced by the reduced flow capacity of the emergency intake line. However, plant margin is restored by implementing operator actions to reduce cooling water loads and by taking credit for cooling water in the intake canal during a seismic event. The procedure for reducing cooling water demand has been demonstrated on the plant simulator and operators have been trained. Analyses have demonstrated that a sufficient amount of water will remain in the intake canal for the cooling water system to continue to perform its safety function following a design-basis earthquake. Thus, the changes proposed in this license amendment request do not involve a significant reduction in the margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 2, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be

made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(I)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated January 29, 1997, as supplemented February 11, 12, March 7, 10, 11, 19, 20, April 29, June 30, and July 10, 1997, June 20, June 22, July 24, and September 15, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Rockville, Maryland, this 25th day of September 1998.

For the Nuclear Regulatory Commission.

Beth A. Wetzel,

Senior Project Manager, Project Directorate III–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–26280 Filed 9–30–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corporation; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–28 issued to Vermont Yankee Nuclear Power Corporation (the licensee) for operation of the Vermont Yankee Nuclear Power Station located in Vernon, Vermont.

The proposed amendment would increase the spent fuel storage capacity of the Vermont Yankee spent fuel pool from 2,870 to 3,355 fuel assemblies.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Vermont Yankee has determined that the proposed change to increase the spent fuel pool capacity does not involve a significant increase in the probability or consequences of an accident previously evaluated. The installation of new storage racks of similar design to the existing racks does not increase the probability or consequences of a fuel handling accident. Fuel handling equipment is not affected by the proposed amendment and the top of the new racks will be at the same elevation as the existing racks to prevent operator difficulties during fuel handling.

VY's proposed storage expansion method consists of installing up to three additional freestanding racks of a design similar to the existing proven design. Vermont Yankee has performed nuclear, thermal-hydraulic, mechanical, and structural analyses of normal and abnormal conditions which could create potential hazards. These include criticality considerations, seismic and mechanical loading, spent fuel pool cooling, and long-term corrosion and oxidation of fuel cladding.

Additionally, the neutron poison and rack structural materials were evaluated and shown to be compatible with the pool environment. The probability and occurrence of potential abnormal conditions and accident scenarios initiated either by external events (such as a seismic event) or by failure of an engineered system (such as dropping a fuel assembly) are not affected by the racks themselves; thus, the reracking does not increase the probability of these conditions and accidents. Cask handling and installation of the new racks will meet the applicable NUREG 0612 guidance, therefore the proposed change does not increase the probability or consequences of an accident previously evaluated.

The radiological consequences of a fuel handling accident have been previously analyzed and remain unchanged by the proposed new rack installation. Radiological shielding analyses are unaffected by the proposed new rack installation. Installing additional racks on the east end of the spent fuel pool does not increase the consequences of a fuel handling accident.

2. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

VY has determined that the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. VY has evaluated the proposed additional racks in accordance with the NRC paper, ''NRC Guidance on Spent Fuel Pool Modification Review and Acceptance of Spent Fuel Storage and Handling Applications (April 14, 1978 with revision January 18, 1979),'' as well as appropriate NRC Regulatory Guides, appropriate NRC Standard Review Plan sections which were used for guidance and appropriate industry codes and standards.

In addition, VY has reviewed the NRC Safety Evaluation Report for the previous VY spent fuel rack replacement application and for other prior spent fuel pool rerackings. The proposed storage expansion method consists of installing up to three new racks of similar design to the existing racks with a previously approved and proven design. The credible accidents and consequences evaluated have been found to be conservatively bounded and no new categories or types of accidents have been identified.

3. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

VY has determined that the proposed change does not involve a significant reduction in a margin of safety. The issue of ''margin of safety'' when applied to a reracking modification, includes the following considerations:

a. Nuclear criticality considerations,

b. Thermal-hydraulic considerations,

c. Mechanical, material and structural considerations.

The margin of safety that has been established for nuclear criticality considerations is that the effective neutron multiplication factor (K_{eff}) in the spent fuel pool is to be less than or equal to 0.95, including all reasonable uncertainties and under all postulated conditions. The criticality analysis for the proposed modification which analyzed both the new and existing racks concluded that for all bounding normal and abnormal storage conditions, the subcritical multiplication factor (K_{eff}) was verified to be less than the criticality criterion of 0.95 at the 95/95 probability/confidence level under all postulated conditions. The proposed reracking does not involve a significant reduction in the margin of safety for nuclear criticality.

The margin of safety that has been established for the thermal-hydraulic considerations is that fuel pool cooling be capable of maintaining spent fuel pool water temperatures at or below the Technical Specification limit of 150°F with maximum postulated pool heat load. Analyses performed verify that the installed fuel pool cooling equipment can maintain spent fuel pool water temperature during the maximum decay heat load assuming full core discharge during the Fall, 2008 refueling outage.

The maximum heat load predicted for a full pool with the proposed additional racks, remains within the design capacity of existing equipment. It has also been demonstrated that if the Spent Fuel Pool Cooling System is lost for any reason, there is sufficient time and make-up capacity available to maintain pool water level. Thus, the proposed additional storage racks do not involve a significant reduction in any thermal-hydraulic margins of safety.

The racks are designed in accordance with applicable NRC Regulatory Guides, Standard Review Plans used as guidance, position papers and appropriate industry codes and standards, as well as to Seismic Category I requirements. All materials selected are corrosion-resistant. The materials utilized for the proposed new racks are compatible with the exiting spent fuel racks, the spent fuel pool and the spent fuel assemblies. The conclusion of the analyses is that the margin of safety is not significantly reduced by the proposed reracking.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 2, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301. If a request for a

hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest.

The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and Mr. David R. Lewis, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037–1128, 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).

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of the NWPA, the Commission, at the request of any party to the proceeding, must use hybrid hearing procedures with respect to ''any matter which the Commission determines to be in controversy among the parties.'' The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules and the designation, following argument of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR Part 2, Subpart K, ''Hybrid Hearing Procedures for Expansion of Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors'' (published at 50 FR 41662 dated October 15, 1985). Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. The presiding officer must grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application must be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding timely requests oral argument, and if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, Subpart G apply.

For further details with respect to this action, see the application for amendment dated September 4, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Dated at Rockville, Maryland, this 24th day of September 1998.

For the Nuclear Regulatory Commission.

Richard P. Croteau,

Project Manager, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–26283 Filed 9–30–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Number 40–6659]

Petrotomics Company, Shirley Basin, WY; Final Finding of No Significant Impact

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) proposes to amend Petrotomics Company's (Petrotomics') Source Material License SUA–551, to allow alternate concentration limits (ACLs) for groundwater hazardous constituents at the Shirley Basin uranium mill site in Carbon County, Wyoming. An Environmental Assessment (EA) was performed by the NRC staff in accordance with the requirements of 10 CFR part 51. The conclusion of the EA is a Finding of No Significant Impact (FONSI) for this licensing action.

SUPPLEMENTARY INFORMATION:

Background

By letter of September 10, 1996, Petrotomics requested that Source Material License SUA–551 be amended to allow ACLs for groundwater constituents, cadmium, chromium, nickel, radium-226, radium-228, thorium-230, selenium, and uranium, at Petrotomics' Shirley Basin uranium mill site. Petrotomics' application for ACLs proposed discontinuing the site groundwater corrective action program (CAP) in order to complete placement of the final radon barrier over the tailings and complete reclamation of the site. In order to terminate the CAP, the licensee must meet 10 CFR Part 40, Appendix A, Criterion 5B(5), which requires that, at the point of compliance (POC), the concentration of a hazardous constituent must not exceed the established background concentration of that constituent, the maximum concentration limits (MCLs) given in Table 5C of Appendix A, or an alternate concentration limit established by the NRC. The receipt of Petrotomics' request by NRC and a Notice of Opportunity for a Hearing were published in the **Federal Register** on November 1, 1996.

Summary of the Environmental Assessment

Identification of the Proposed Action

The proposed action is an amendment to SUA–551 to allow the application of ACLs for groundwater hazardous constituents, cadmium, chromium, nickel, radium-226, radium-228, thorium-230, selenium, and uranium, at the Petrotomics' Shirley Basin facility, as provided in 10 CFR Part 40, Appendix A, Criterion 5B(5). The NRC staff's review was conducted in accordance with the ''Staff Technical Position, Alternate Concentration Limits for Title II Uranium Mills,'' dated January 1996.

Based on its evaluation of Petrotomics' amendment request, the NRC staff has concluded that granting Petrotomics the request for ACLs will not result in significant impacts. The staff decision was based on information provided by Petrotomics demonstrating that its proposed ACLs would not pose a substantial present or potential future hazard to human health and the environment, and are as low as is reasonably achievable. A review of alternatives to the requested action indicates that implementation of alternate methods would result in little net reduction of groundwater constituent concentrations.

Conclusion

The NRC staff concludes that approval of Petrotomics' amendment request to allow ACLs for groundwater hazardous constituents will not cause significant health or environmental impacts. The following statements summarize the conclusions resulting from the EA:

1. Currently, all concentrations of hazardous constituents of concern to NRC meet the proposed groundwater ACLs for the site at the POC wells.

2. Present and potential health risks were assessed for various exposure scenarios, using conservative approaches. The result of these assessments indicates that present and potential future hazardous constituent concentrations at the specified POEs will not pose significant risks to human health and the environment. The POEs are located within or at the long-term care area boundary which will be maintained for long-term care by the U.S. Department of Energy following termination of the Petrotomics license.

3. Climatological extremes and sparse vegetation indicate that future use of groundwater is likely to be limited to seasonal livestock (e.g., cattle) and wildlife (e.g., pronghorn antelope) watering. Domestic use of groundwater at the site is highly unlikely. However, if a future domestic water source is needed, the Lower Sand aquifer, which has not been affected by site-derived contamination and is suitable for drinking, would be a more reasonable source.

4. Additional corrective action will have little effect on the net reduction of constituent concentrations of concern to the NRC and, therefore, will have little impact on groundwater quality.

Because the staff has determined that there will be no significant impacts associated with approval of the amendment request, there can be no disproportionately high and adverse effects or impacts on minority and low-income populations. Except in special cases, these impacts need not be addressed for EAs in which a FONSI is made. Special cases may include regulatory actions that have substantial public interest, decommissioning cases involving onsite disposal in accordance with 10 CFR 20.2002, decommissioning/decontamination cases which allow residual radioactivity in excess of release criteria, or cases where environmental justice issues have been previously raised. Consequently, further evaluation of ''Environmental Justice'' concerns, as outlined in NRC's Office of Nuclear Material Safety and Safeguards Policy and Procedures Letter 1–50, Rev.1, is not warranted.

Alternatives to the Proposed Action

Since the licensee has demonstrated that the proposed ACL values will not pose substantial present or potential hazards to human health and the environment, and that the proposed ACLs are ALARA, considering practicable corrective actions, establishing other standards more stringent than the proposed ACLS was not evaluated. Furthermore, since the NRC staff has concluded that there are no significant environmental impacts associated with the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated. The principal alternative to the proposed action would be to deny the requested action. The licensee evaluated various alternatives, including continuation of the CAP, and demonstrated that those alternatives would result in little net reduction of constituent concentrations. Because the environmental impacts of the proposed action and the no-action alternative are similar, there is no need to further evaluate alternatives to the proposed action.

Finding of No Significant Impact

The NRC staff has prepared an EA for this action. On the basis of this assessment, the NRC staff has concluded that the environmental impacts that may result from this action would not be significant, and therefore, preparation of an Environmental Impact Statement is not warranted.

The EA and other documents related to this action are being made available for public inspection at the NRC's Public Document Room at 2120 L Street, NW (Lower Level), Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Mohammad W. Haque, Uranium Recovery Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415–6640.

Dated at Rockville, Maryland, this day of September 1998.

For the Nuclear Regulatory Commission.

Joseph J. Holonich,

Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards

[FR Doc. 98–26284 Filed 9–30–98; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23466]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

September 25, 1998.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of September, 1998. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St., N.W., Washington, DC 20549 (tel. 202–942–8090). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 20, 1998, and should be accompanied by proof of service on the applicant, 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 who wish to be notified of a hearing may request notification by writing to the Secretary, SEC, 450 Fifth Street, N.W., Washington, DC 20549. For Further Information Contact: Diane L. Titus, at (202) 942–0564, SEC, Division of Investment Management, Office of Investment Company Regulation, Mail Stop 5–6, 450 Fifth Street, N.W., Washington, DC 20549.

First Eagle International Fund, Inc.

[File No. 811–8082]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On February 21, 1998, applicant transferred all of its assets and liabilities to First Eagle International Fund Series, a new series of First Eagle Trust, based on net asset value per share. First Eagle Trust paid $110,660 in expenses in connection with its formation, which were allocated equally between its two series.

Filing Dates: The application was filed on June 1, 1998, and amended on September 3, 1998.

Applicant's Address: 1345 Avenue of the Americas, New York, New York 10105.

AEGON USA Managed Portfolios, Inc.

[File No. 811–0948]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On August 7, 1992, applicant's four series, AEGON USA Tax-Exempt Portfolio, AEGON USA High Yield Portfolio, AEGON USA Capital Appreciation Portfolio and AEGON USA Growth Portfolio, transferred their assets and liabilities to the corresponding series of IDEX II Series Fund (''IDEX Fund'') in exchange for shares of the acquiring series based on net asset value. Expenses incurred in connection with the reorganization were approximately $90,000 and were borne by InterSecurities, Inc., the principal underwriter for IDEX Fund.

Filing Dates: The application was filed on July 20, 1998, and amended on September 10, 1998.

Applicant's Address: 4333 Edgewood Road NE, Cedar Rapids, Iowa 52499.

Dean Witter World Wide Investment Trust

[File No. 811–3800]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On June 8, 1998, applicant transferred all of its assets and liabilities to Morgan Stanley Dean Witter Global Dividend Growth Securities (''Global Dividend''), based on the relative net asset value per share. Morgan Stanley Dean Witter Advisors, Inc., the investment adviser of applicant and Global Dividend, paid approximately $220,000 in expenses related to the reorganization.

Filing Date: The application was filed on September 3, 1998.

Applicant's Address: Two World Trade Center, New York, New York 10048.

The CountryBaskets Index Fund, Inc.

[File No. 811–8734]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On March 14, 1997, applicant made a liquidating distribution to the shareholders of each of the Australia Index Series, the Hong Kong Index Series, and the UK Index Series. On March 21, 1997, applicant made a liquidating distribution to the shareholders of each of the France Index Series, the Germany Index Series, the Italy Index Series, the Japan Index Series and the South Africa Index Series. Expenses incurred in connection with the liquidations were approximately $2,190,087 and were borne by Deutsche Morgan Grenfell Inc., applicant's investment adviser.

Filing Date: The application was filed on December 5, 1997.

Applicant's Address: 31 West 52nd Street, New York, New York 10019.

Merrill Lynch Community Services Fund, Inc.

[File No. 811–5728]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on September 15, 1998.

Applicant's Address: 800 Scudders Mill Road, Plainsboro, New Jersey 08536.

Camelot Funds

[File No. 811–3139]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on September 14, 1998.

Applicant's Address: 1346 South Third Avenue, Louisville, Kentucky 40208.

Merrill Lynch Global Convertible Fund, Inc.

[File No. 811–5395]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On May 11, 1998, applicant transferred all of its assets and liabilities to Merrill Lynch Convertible Fund, Inc. (''Convertible'') in exchange for shares of Convertible, based on relative net asset values. Convertible paid approximately $200,000 in expenses related to the reorganization.

Filing Date: The application was filed on September 11, 1998.

Applicant's Address: 800 Scudders Mill Road, Plainsboro, New Jersey 08536.

Templeton Government Securities Trust

[File No. 811–6494]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on September 18, 1998.

Applicant's Address: 500 East Broward Boulevard, Ft. Lauderdale, Florida 33394.

PRAGMA Investment Trust

[File No. 811–7485]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. By March 1, 1998, applicant distributed all of its assets to its securityholders at the net asset value per share. Expenses incurred in connection with the liquidation totaled approximately $400, and were paid by PRAGMA, Inc., applicant's investment adviser.

Filing Dates: The application was filed on July 28, 1998, and amended on September 21, 1998.

Applicant's Address: 7150 Greenville Avenue, Suite 101, Dallas, Texas 75231.

Navigator Tax-Free Money Market Fund, Inc. and Navigator Money Market Fund, Inc.

[File No. 811–4580 and File No. 811–4306]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. By July 10, 1998, all shareholders of Navigator Tax-Free Money Market Fund, Inc. had redeemed their shares at the net asset value per share. By July 31, 1998, all shareholders of Navigator Money Market Fund, Inc. has redeemed their shares at the net asset value per share. Expenses incurred in connection with the liquidations were approximately $2,006 and $8,248, respectively, and were paid by Fairfield Group Inc., investment adviser for each applicant.

Filing Date: Each application was filed on September 8, 1998.

Applicant's Address: 721 Dresher Road, Suite 2400, Horsham, Pennsylvania 19044.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–26278 Filed 9–30–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23465; 812–11034]

Williamsburg Investment Trust, et al.; Notice of Application

September 25, 1998.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit portfolios of Williamsburg Investment Trust (the ''Trust'') not advised by Davenport & Company LLC (''Davenport''), to engage in principal transactions with Davenport, which is adviser to another portfolio of the trust.

Applicants: The Trust, Davenport, and Lowe, Brockenbrough & Tattersall, Inc. (''LB&T''), Flippin, Bruce & Porter, Inc. (''FBP''), T. Leavell & Associates, Inc. (''T. Leavell'') and Tattersall Advisory Group, Inc. (''Tattersall'') (the ''Unaffiliated Advisers'' and together with Davenport, the ''Advisers'').

Filing Dates: The application was filed on February 27, 1998, and amended on July 22, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

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 Commission's Secretary and serving 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 October 20, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, N.W., Washington, DC 20549. Applicants, 312 Walnut Street, 21st Floor, Cincinnati, Ohio 45202.

FOR FURTHER INFORMATION CONTACT: Lawrence W. Pisto, Senior Counsel, at (202) 942–0527, or George J. Zornada, Branch Chief at (202) 942–0564, Office of Investment Company Regulation, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, DC 20549 (tel. (202) 942–8090).

Applicant's Representations

1. The Trust is registered under the Act as an open-end management investment company and organized as a Massachusetts business trust. The Trust operates as a series company and currently offers twelve series (each, a ''Portfolio,'' and collectively, the ''Portfolios''). The Advisers are investment advisers registered under the Investment Advisers Act of 1940 (''Advisers Act''). Davenport is also registered under the Securities Exchange Act of 1934 as a broker-dealer.

2. Each of the Advisors manages one or more of the Portfolios.[1] The Advisers' agreements with the Trust neither require nor authorize collaboration between the Advisers and each Adviser negotiates the terms of its advisory contract individually. Each Adviser is responsible for making independent investment and brokerage decisions for each Portfolio that the Adviser manages and each Adviser acts, for all practical purposes, as though it manages a separate investment company. Each Adviser is compensated separately for its advisory services to a Portfolio and the compensation is based on a

[1] The Portfolios and the investment adviser to each are as follows: The Davenport Equity Fund, Davenport & Co. LLC; The Jamestown Balanced Fund, LB&T; the Jamestown Equity Fund, LB&T; The Jamestown Bond Fund, Tattersall; The Jamestown Short Term Bond Fund, Tattersall; The Jamestown Tax Exempt Virginia Fund, LB&T; The Jamestown International Equity Fund, LB&T; FBP Contarian Balanced Fund, FBP; FBP Contatrian Equity Fund, FBP; The Alabama Tax Free Bond Fund, T. Leavell; The Government Street Bond Fund, T. Leavell; and The Government Street Equity Fund, T. Leavell.

percentage of assets held in that Portfolio.

3. Applicants request relief to permit Portfolios that are not advised by Davenport (''Unaffiliated Portfolios'') to engage in principal securities transactions with Davenport, and any entity controlling, controlled by, or under common control with Davenport. Applicants also request relief for any future series of the Trust that is an Unaffiliated Portfolio (''Future Portfolio''). Any Future Portfolios that rely on the relief will comply with the terms and conditions of the application.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and an affiliated person, or an affiliated person of an affiliated person, of the company. Sections 2(a)(3)(C) and (E) define an ''affiliated person'' of another person to be any person directly or indirectly controlling, controlled by, or under common control with the person, and any investment adviser of an investment company, respectively. Because the Trust's officers and trustees oversee the management and policies of each Portfolio, the Portfolios might be deemed to be under common control and each Portfolio might be deemed to be an affiliated person of each other Portfolio. Each investment adviser of a Portfolio may be deemed to be an affiliated person of an affiliated person (''second-tier affiliate'') of any of the Portfolios that it does not advise and therefore prohibited by section 17(a) from engaging in principal transactions with any of the Portfolios.

2. Applicants request an exemption from section 17(a) to permit principal securities transactions entered into in the ordinary course of business between the Unaffiliated Portfolios and Davenport and entities controlling, controlled by, or under common control with Davenport. The requested exemption would apply only where Davenport is deemed to be a second-tier affiliate of an Unaffiliated Portfolio solely because Davenport is the adviser to another Portfolio of the Trust.

3. Section 17(b) of the Act provides that the Commission shall exempt a transaction from section 17(a) if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, that the transaction is consistent with the policy of each registered investment company concerned, and that the transaction is consistent with the general purposes of the Act. Section 6(c) of the Act provides that the Commission may exempt any person or transaction from any provision of the Act, if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the proposed transactions meet the standards of sections 17(b) and 6(c) for the reasons stated below.

4. Applicants assert that section 17(a) is intended to prevent persons who have the power to influence an investment company from using that influence to their own pecuniary advantage. Applicants state that there would be no conflict of interest inherent in an Unaffiliated Adviser's decision to execute a portfolio transaction with Davenport, and there is no danger of overreaching on the part of any person concerned. Because each Unaffiliated Adviser is responsible for making its investment decisions independently, and each Unaffiliated Adviser would be dealing with Davenport as a competitor, the pecuniary interests of the Unaffiliated Adviser are aligned with those of the Unaffiliated Portfolio.

5. Applicants also state that the proposed transactions will be consistent with the policies of each Unaffiliated Portfolio, because each Unaffiliated Adviser is required to manage the Unaffiliated Portfolio in accordance with the investment objectives and related investment policies of the Unaffiliated Portfolio as described in its registration statement. Applicants also assert that permitting the transactions will be consistent with the general purposes of the Act and in the public interest because the ability to engage in the transactions will increase the likelihood of an Unaffiliated Portfolio achieving best price and execution on its principal transactions while giving rise to none of the abuses that section 17(a) was designed to prevent.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

1. Davenport (except by virtue of serving as Adviser) will not be an affiliated person or a second-tier affiliate of any Unaffiliated Adviser or any officer, trustee or employee of the Portfolio engaging in the transaction.

2. Davenport will not directly or indirectly consult with any Unaffiliated Adviser concerning allocation of principal or brokerage transactions.

3. Davenport will not participate in any arrangement whereby the amount of its advisory fees will be affected by the investment performance of an Unaffiliated Portfolio.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonthan G. Katz,

Secretary.

[FR Doc. 98–26279 Filed 9–30–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40485; File No. SR–NASD–98–26]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Amendment No. 5 to a Proposed Rule Change by the National Association of Securities Dealers, Inc. to Institute, on a Pilot Basis, New Primary Nasdaq Market Maker Standards for Nasdaq National Market Securities

September 25, 1998.

I. Introduction

On March 19, 1998, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly-owned subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to: (a) implement, on a pilot basis, new Primary Nasdaq Market Maker (''PMM'') standards for all Nasdaq National Market (''NNM'') securities; (b) extend the NASD's Short Sale Rule pilot until November 1, 1998; and (c) extend the suspension of existing PMM standards until May 1, 1998. On March 30, 1998, the Commission issued notice of the filing and approved, on an accelerated basis, the portions of the filing extending the NASD's Short Sale Rule pilot and the suspension of existing PMM standards.[3] The suspension of existing PMM standards was subsequently extended until October, 1998.[4]

On September 25, 1998, Nasdaq proposed to (1) continue to suspend the current PMM standards until March 31, 1999, and (2) extend the NASD's Short

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Exchange Act Release No. 39819 (March 30, 1998) 63 FR 16841 (April 6, 1998).

[4] *See* Exchange Act Release No. 40140 (June 26, 1998) 63 FR 36464 (July 6, 1998).

Sale Rule pilot (including extending the amendment to the definition of ''legal'' short sale) until March 31, 1999.[5]

Background

Presently, NASD Rule 4612 provides that a member registered as a Nasdaq market maker pursuant to NASD Rule 4611 may be deemed a PMM if that member meets certain threshold standards. The implementation of the SEC Order Handling Rules and what some perceive as a concurrent move toward a more order-driven, rather than a quote-driven, market raised questions about the continued relevance of those PMM standards. As a result, such standards were suspended beginning in early 1997.[6] Currently, all market makers are designated as PMMs.

Since February 1997, Nasdaq has worked to develop PMM standards that are more meaningful in what may be an increasingly order-driven environment and that better identify firms engaged in responsible market making activities deserving of the benefits associated with being a PMM, such as being exempt from NASD Rule 3350, the NASD's Short Sale Rule. The NASD now proposes to extend the current suspension of the existing PMM standards.

In light of a substantial number of comments on the proposed new PMM standards, Nasdaq staff in August 1998 convened a subcommittee to develop new standards. Nasdaq expects that the subcommittee will complete its task and that new PMM standards will be submitted to the appropriate Nasdaq and NASD committees and boards for approval shortly. Nasdaq also expects that it will file an amendment to SR–NASD–98–26 to incorporate the new PMM standards that currently are being developed by the subcommittee, or in the alternative, that it will withdraw SR–NASD–98–26 and will submit the new PMM standards as a new filing.

For the reasons discussed below, the Commission has determined to grant accelerated approval of Nasdaq's request, in Amendment No. 5, to continue to suspend the current PMM standards and to extend the NASD's Short Sale Rule Pilot until March 31, 1999.

II. Proposed Rule Change

In the current amendment, Nasdaq is proposing to extend the Short Sale Rule pilot (including extending the amendment to the definition of ''legal'' short sale) and the suspension of existing PMM standards to allow more time to refine the PMM standards.

* * * * * * *

The proposed rule language, as amended, follows. Additions are italicized; deletions are bracketed.

NASD Rule 3350

(a)–(k) No Changes

(l) This Rule shall be in effect until [November 1, 1998] *March 31, 1999.*

* * * * * * *

III. Discussion

After careful consideration, the Commission has concluded, for the reasons set forth below, that the extension of the Short Sale Rule pilot and the suspension of the existing PMM standards until March 31, 1999, is consistent with the requirements of the Exchange Act and the rules and regulations thereunder. In particular, the extension is consistent with Section 15A(b)(6)[7] of the Exchange Act. Section 15A(b)(6) requires that the NASD's rules be designed, among other things, to remove impediments to and perfect the mechanism of a free and open market and a national market system and to promote just and equitable principles of trade. The Commission believes that continuation of the Short Sale Rule pilot and the continued suspension of the current PMM standards will maintain the status quo while the Commission and the NASD review the operation of revised PMM standards. Because the Commission's ultimate stance on the Short Sale Rule may be affected, in part, by the operation of revised PMM standards, it is reasonable to keep the Short Sale Rule pilot in place while work continues on the PMM standards. Furthermore, it is judicious, in the short term, to avoid reintroducing the previous PMM standards prior to the implementation of a new PPM pilot.

In finding that the suspension of the existing PMM standards is consistent with the Exchange Act, the Commission reserves judgment on the merits of the NASD's Short Sale Rule, any market maker exemptions to that rule, and the proposed new PMM standards. The Commission recognizes that the Short Sale Rule already has generated significant public comment. Such commentary, along with any further comment on the interaction of the Short Sale Rule with the proposed new PMM standards, will help guide the Commission's evaluation of the Short Sale Rule and new PMM standards. During the PMM pilot period, the Commission anticipates that the NASD will continue to address the Commission's questions and concerns and provide the Commission staff with any relevant information about the practical effects and the operation of the revised PMM standards and possible interaction between those standards and the NASD's Short Sale Rule.

The Commission finds good cause for approving the extension of the Short Sale Rule pilot (including extending the amendment to the definition of ''legal'' short sale) and the suspension of existing PMM standards prior to the 30th day after the date of publication of notice of the filing in the **Federal Register**. It could be disruptive to the Nasdaq market and confusing to market participants to reintroduce the previous PMM standards for a brief period prior to implementing a new PMM pilot.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 5, including whether the proposed Amendment is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–98–26 and should be submitted by October 22, 1998.

[5] *See* letter from Robert E. Aber, Senior Vice President and General Counsel, Nasdaq, to Richard Strasser, Assistant Director, Division, SEC, dated September 25, 1998.

[6] *See* Exchange Act Release No. 38294 (February 14, 1997) 62 FR 8289 (February 24, 1997) (approving temporary suspension of PMM standards); Exchange Act Release No. 39198 (October 3, 1997) 62 FR 53365 (October 14, 1997) (extending suspension through April 1, 1998); Exchange Act Release No. 39819 (March 30, 1998) 63 FR 16841 (April 6, 1998) (extending suspension through May 1, 1998); Exchange Act Release No. 39936 (April 30, 1998) 63 FR 25253 (May 7, 1998) (extending suspension through July 1, 1998); Exchange Act Release No. 40140 (June 26, 1998) 63 FR 36464 (July 6, 1998) (extending suspension through October 1, 1998).

[7] 15 U.S.C. 78o–3(b)(6).

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[8] that Amendment No. 5 to the proposed rule change, SR–NASD–98–26, which extends the NASD Short Sale Rule pilot and the suspension of the current PMM standards to March 31, 1999, be and hereby is approved on an accelerated basis.[9]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–26276 Filed 9–30–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40479; File No. SR–NYSE–98–28]

Self Regulatory Organizations; Notice of Filing of Proposed Rule Changes by the New York Stock Exchange, Inc. Relating to Arbitration Rules

September 24, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 15, 1998 the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule changes as described in Item I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The proposed amendments to NYSE Rules 347 and 600 will exclude claims of employment discrimination, including sexual harassment, in violation of a statute from arbitration unless the parties have agreed to arbitrate the claim after it has arisen. The text of the proposed rule changes are as follows (additions are italicized, deletions are bracketed.)

* * * * *

NYSE Rule 347. Controversies As to Employment or Termination of Employment

(*a*) *Except as provided in paragraph (b),* [A]any controversy between a registered representative and any member or member organization arising out of the employment or termination of employment of such registered representative by and with such member or member organization shall be settled by arbitration, at the instance of any such party, in accordance with the arbitration procedure prescribed elsewhere in these rules.

(b) A claim alleging employment discrimination, including any sexual harassment claim, in violation of a statute shall be eligible for arbitration only where the parties have agreed to arbitrate the claim after it has arisen.

NYSE Rule 600. Arbitration

(f) Any claim alleging employment discrimination, including any sexual harassment claim, in violation of a statute shall be eligible for submission to arbitration under these Rules only where the parties have agreed to arbitrate the claim after it has arisen.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

1. Purpose

The purpose of the proposed rule changes is to:

- Exclude any claim alleging employment discrimination, including any sexual harassment claim, in violation of a statute from the requirement that all employment disputes between a registered representative and a member or member organization be arbitrated, except where the parties agree to arbitrate the claim after it has arisen. (NYSE Rule 347)
- Provide that any claim alleging employing discrimination, including any sexual harassment claim, in violation of a statute shall be eligible for submission to arbitration only where the parties have agreed to arbitrate the claim after it has arisen. (NYSE Rule 600)

Background

NYSE Rule 347 has been in effect since the late 1950's, and requires that any employment-related disputes between a registered representative and a member or member organization be settled by arbitration.[3] In order to become ''registered'' an individual is required to sign and file with the Exchange a Form U–4 (Uniform Application for Securities Registration or Transfer). Form U–4 requires registered persons to submit to arbitration any claim that is required to be arbitrated under the rules of the self-regulatory organizations with which they register.

Until the 1990's, the rule was generally invoked to arbitrate business and contract disputes, such as wrongful discharge, breach of contract or claims regarding compensation. Beginning with the Supreme Court's decision in *Gilmer* v. *Interstate/Johnson Lane*,[4] claims alleging employment discrimination, including sexual harassment claims, were compelled to arbitration.

In 1994, the General Accounting Officer (''GAO'') conducted a study on the arbitration of employment discrimination disputes in the securities industry.[5] While the GAO Report did not address the adequacy of arbitration as a means of resolving employment discrimination disputes, it made several recommendations for improving the arbitration process. The recommendation included specialized training of arbitrators in discrimination law and the appointment of more women and minorities as arbitrators.

Despite steps to improve the process, registered representatives and others continue to oppose mandatory arbitration of discrimination claims pursuant to the Form U–4 and other pre-dispute agreements. In July 1997, the U.S. Equal Employment Opportunity Commission (''EEOC'') issued a policy statement that mandatory pre-dispute agreements to arbitrate statutory

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[8] 15 U.S.C. 78s(b)(2).

[9] In approving Amendment No. 5, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] NYSE Rule 347 provides: ''Any controversy between a registered representative and any member or member organization arising out of the employment or termination of employment of such registered representative by and with such member or member organization shall be settled by arbitration, at the instance of any such party, in accordance with the arbitration procedure prescribed elsewhere in these rules.''

[4] 500 U.S. 20 (1991). In *Gilmer*, the Court held that a registered representative could be compelled to arbitrate his claim under the Age Discrimination in Employment Act (''ADEA'') pursuant to Form U–4 and NYSE Rule 347.

[5] Employment Discrimination: How Registered Representatives Fare in Discrimination Disputes (GAO/HEHS–94–17, March 30, 1994).

discrimination claims are inconsistent with the purpose of the federal civil rights laws.[6]

Two federal court cases decided in 1998 support the EEOC's position. In January 1998, a Massachusetts district court in *Rosenberg* v. *Merrill Lynch*[7] declined to compel arbitration of plaintiff's Title VII and the ADEA claims pursuant to the agreement to arbitrate contained in the Form U–4 plaintiff was required to sign as a condition of her employment. In May 1998, the Court of Appeals for the Ninth Circuit held, in *Duffield* v. *Robertson Stephens & Company*,[8] that employers could not compel employees to waive their right to a judicial forum under Title VII, and therefore plaintiff could not be compelled to arbitrate her statutory discrimination claims pursuant to Form U–4. Prior to these decisions, federal courts had consistently upheld the arbitration of employment discrimination claims pursuant to the Form U–4.

On October 17, 1997, the National Association of Securities Dealers, Inc. (''NASD'') submitted to the Commission a proposed rule changes to remove the requirement from its rules that registered representatives must arbitrate statutory employment discrimination claims.[9] Under the NASD's proposal, an employee could file such a claim in court unless he was obligated to arbitrate pursuant to a separate agreement entered into either before or after the dispute arose.

In announcing the approval of the NASD rule amendment, SEC Chairman Arthur Levitt ''encourage[d] the other SROs to promptly change their rules to conform to those of the NASD.'' [10] The Commission's order stated that the NASD intends to make changes to its arbitration program to make arbitration more attractive to parties for the resolution of discrimination claims.[11] The NASD previously created a ''Working Group'' that includes attorneys who represent employees, member firms and neutrals. The group is developing proposals and will be recommending changes to the NASD's arbitration procedures for discrimination cases. A representative of the Exchange is participating as an observer in the Working Group's discussion.

The Exchange is following Chairman Levitt's suggestion by proposing an amendment to NYSE Rule 347. The amendment will create an exception to the NYSE rule that requires arbitration of all employment-related claims of registered representatives. Paragraph (a) of the proposed amendment to NYSE Rule 347 adds language indicating that paragraph (b) contains an exception to the requirement to arbitrate employment disputes. Paragraph (b) provides that ''a claim alleging employment discrimination, including any sexual harassment claims, in violation of a statute shall be eligible for arbitration only where the parties have agreed to arbitrate the claim after it has arisen.'' [12]

In addition, the Exchange is going further by proposing rule amendments under which statutory discrimination claims will not be eligible for arbitration pursuant to any pre-dispute agreement to arbitrate. This action brings the Exchange's arbitration policy into conformity with the EEOC's ''Policy Statement on Mandatory Binding Arbitration of Employment Discrimination Disputes as a Condition of Employment.'' [13]

In its December 1997 comment letter to the SEC regarding the NASD proposal, the EEOC reiterated its position ''that *pre*-dispute arbitration agreements, particularly those that mandate binding arbitration of discrimination claims as a condition of employment, are contrary to the fundamental principles reflected in this nation's employment discrimination laws. We recommend therefore, that the proposed rule be revised to permit arbitration of statutory employment discrimination claims only under *post*-dispute arbitration agreements.'' [14]

The Exchange has had a general arbitration provision in its Constitution since 1817. NYSE Rule 600 requires the arbitration of disputes between customers or non-members and members or member organization, pursuant to any written agreement to arbitrate or upon the demand of the customer or non-member.[15] The vast majority of disputes resolved by Exchange arbitration are business disputes arising out of securities transactions with investors, and contractual disputes between members and their employees. Since 1992, the year following the *Gillmer* decision, the Exchange has received an average of 18 discrimination claims a year.[16]

The Exchange's proposed amendments will limit the availability of the Exchange's forum for the resolution of employment discrimination claims to those cases where the parties have agreed to arbitrate the claim after it has arisen, as recommended by the EEOC.

The Exchange is also proposing to amend NYSE Rule 600, adding paragraph (f) that provides that claims alleging employment discrimination, including any sexual harassment claim, shall be eligible for submission to arbitration only where the parties have agreed to arbitrate the claim after it has arisen. This amendment excludes from Exchange arbitration statutory employment discrimination claims of non-registered employees pursuant to pre-dispute arbitration agreements. (NYSE Rule 347 only applies to ''registered'' employees).

The EEOC and several members of Congress have endorsed arbitration as an effective means of resolving discrimination claims, provided the parties agree to arbitrate after the claim has arisen. The Exchange's proposed amendment provides a forum for those employees who choose, post-dispute, to resolve their statutory employment discrimination claims through arbitration.

Some employment disputes may contain both contract or tort claims as well as statutory employment discrimination claims. Under amended NYSE Rule 347 (and NYSE Rule 600 for non-registered employees who have executed pre-dispute arbitration agreements) these cases may be bifurcated. The employment discrimination claims will be heard in a forum other than the Exchange, such as court, while any claims subject to arbitration may continue to be heard at

[6] EEOC Notice No. 915.002, July 10, 1997.

[7] 76 FEP 681 (D. Mass. 1998).

[8] 1998 WL 227469 (9th Cir.).

[9] Exchange Act Release No. 39421 (December 10, 1997), 62 FR 66164 (December 17, 1997).

[10] SEC News Release 98–61, June 23, 1998.

[11] Exchange Act Release No. 40109 (June 22, 1998), 63 FR 35299 (June 29, 1998).

[12] Claims ''in violation of a statute'' are not limited to the federal civil rights laws and include all federal, state and local anti-discrimination statutes.

[13] EEOC Notice No. 915.002, July 10, 1997.

[14] Letter from Gilbert F. Casellas, Chairman, EEOC, to Jonathan G. Katz, Secretary, SEC, Re: NASD Proposed Rule Change on Arbitration of Employment Discrimination Claims, December 1997.

[15] NYSE Rule 600(a) provides: ''Any dispute, claim or controversy between a customer or non-member and a member, allied member, member organization and/or associated person arising in connection with the business of such member, allied member, member organization and/or associated person in connection with his activities as an associated person shall be arbitrated under the Constitution and Rules of the New York Stock Exchange, Inc. as provided by any duly executed and enforceable written agreement or upon the demand of the customer or non-member.''

[16] Historically, discrimination claims accounted for less than two percent of the total claims filed at the Exchange, except for 1996 (when discrimination claims accounted for two point six percent) and the first six months of 1998 where, due to a steady decline in case filings generally, discrimination claims accounted for three percent of the cases filed.

the Exchange.[17] However, NYSE Rule 347 requires arbitration of claims ''at the instance'' of either party, and therefore may be waived, allowing the entire case to be heard in court. The parties may also avoid bifurcation by agreeing to proceed with all claims in a single forum. Given a choice, after a dispute has arisen, employees in many instances believe that arbitration is preferable to protracted and expensive litigation and will willingly make that choice.[18]

2. Statutory Basis

The proposed changes are consistent with Section 6(b)(5) of the Exchange Act in that they promote just and equitable principles of trade by insuring that members and member organizations and the public have a fair and impartial forum for the resolution of their disputes.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received from Members Participants or Others.

The Exchange has neither solicited nor received written comments on the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve the proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule changes is consistent with the Exchange Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–98–28 and should be submitted by October 22,1 998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–26235 Filed 9–30–98; 8:45 am]

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[17] The bifurcation of securities industry claims is not unprecedented. Before the Supreme Court's decision in *Shearson* v. *McMahon*, 482 U.S. 220 (1987) (holding that claims under the Exchange Act could be compelled to arbitration), the Supreme Court decided *Dean Witter Reynolds, Inc.* v. *Byrd*, 105 S. Ct. 1238 (1985). In Byrd, the dispute involved allegations of federal securities laws violations and pendent state law claims. The Court compelled the state law claims to arbitration and held that the federal securities laws claims could be heard in court.

[18] *See Duffield* v. *Robertson Stephens & Company*, 1998 WL 227469 (9th Cir.).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40482; File No. SR–PCX–98–47]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Pacific Exchange, Inc. Relating to a Supplemental Specialist Post Fee

September 25, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 17, 1998, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been prepared by PCX.[3] The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to approve the proposal, as amended.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

PCX is proposing to adopt a Supplemental Specialist Post Fee that will apply when the Equity Floor Trading Committee permits a specialist firm to consolidate its specialist posts on the Equity Floors of the Exchange. The text of the proposed rule change is available at the Office of the Secretary, PCX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCX 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 III below. PCX 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

Unlike other stock exchanges, PCX maintains a ''specialist post'' structure—rather than a ''specialist unit'' structure—on its Equity Floors. A ''specialist post'' structure requires each registered specialist to be assigned to a specific post where certain designated stocks are traded. If a specialist firm is operating ten specialist posts, for example, the firm would be required to maintain a specialist at each of the ten posts. By contrast, under a ''specialist unit'' structure, stocks are allocated to the specialist unit, rather than to a particular post or particular specialist. If 500 stocks are traded at a specialist unit, for example, it would be generally within the specialist firm's discretion to determine the number of specialists necessary to operate that unit.[4]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On September 23, 1998, the Exchange filed Amendment No. 1 to the proposed rule filing, the substance of which is incorporated into the notice. *See* letter from Michael Pierson, Senior Attorney, Regulatory Policy, PCX, to Richard Strasser, Assistant Director, Division of Market Regulation (''Division''), Commission, dated September 22, 1998.

[4] On the PCX Options Floor, Lead Market Makers (''LMMs''), who are like specialists in several respects, are permitted to run their operations in a

Although the Exchange intends to modify its rules to adopt a ''specialist unit'' structure for equity securities in the near future, the Exchange anticipates that it will take a significant amount of time to implement the necessary rule and structural changes. In the meantime, a number of PCX specialist firms have expressed an interest in achieving greater flexibility to reduce costs for their specialist operations. These firms desire to reduce the number of specialists they employ on PCX by collapsing one or more of their posts into their other posts. For example, a firm that operates ten posts, which requires the use of ten specialists, might propose to collapse two of its posts into the others, so that it would need only eight posts an eight specialists to make markets in its specialty stocks.

PCX's fee structure currently applies on a per post basis. Thus, if ten posts are consolidated into eight posts, fees previously paid for ten posts would only have to be paid for eight posts. The Exchange is now proposing to create a new fee that will apply to specialist firms that consolidate their posts. Under the proposal, if a firm consolidates its posts and this results in a reduction in the total number of specialist posts that the firm operates, the firm will be required to pay fixed specialist fees based on the number of posts that it operated prior to the consolidation. For example, assume that a specialist firm is operating ten posts with 50 stocks traded at each post. The Equity Floor Trading Committee (''EFTC'') may permit the firm to reduce the number of posts that it operates from ten to nine, with 50 stocks being reallocated to the remaining posts. Under the proposal, if the EFTC approves the firm's request,[5] the firm would be subject to the Supplemental Specialist Post Fee of $6,750 per month as a condition of each post consolidation. This fee is equivalent to the fixed specialist fees that would otherwise apply to each post before it collapsed.[6] The fee will not apply in situations where all of the stocks from a specialist firm's post are transferred to a post or posts of another specialist firm.[7]

The purpose of the proposal in two-fold; First, it is intended to provide a way to afford relief to specialist firms, so that they can reduce redundancy made necessary by the specialist post structure, and thereby reduce their own operating costs. Second, it is intended to assure that the consolidation of posts on the Exchange Floors is revenue neutral for Exchange purposes. The Exchange needs to assure that it continues to collect sufficient fees for the specialist posts on its Equity Trading Floor so that it can continue funding its operations, including its regulatory program and oversight of specialist operations.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section (6)(b)[8] of the Act, in general, and furthers the objective of Section (6)(b)(4),[9] in particular, because it provides for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities. In most cases, a consolidation of posts will result in a specialist firm retaining most, if not all, of its specialty stocks, albeit operated by fewer specialists. It is reasonable to apply the same amount in fees imposed on the firm as if the posts were not collapsed because the proportion of allocated stocks will remain the same or close in number.[10]

The Exchange also believes the proposal is consistent with Section 6(b)(5) of the Act,[11] in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, 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 Room. Copies of such filing also will be available for inspection and copying at the principal office of PCX. All submissions should refer to File No. SR–PCX–98–47 and should be submitted by October 22, 1998.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that PCX's proposal to establish a Supplemental Specialist Post Fee is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposal is consistent with Section 6(b)(4) and 6(b)(5) of the Act.[12]

Section 6(b)(4) requires that the rules of an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. Section 6(b)(5) requires that the rules of an exchange be designed to

manner consistent with a unit structure. For example, if an LMM has been allocated 100 option issues for trading at an LMM Post on the Options Floor, it is within the discretion of the LMM to determine the number of registered Market Makers necessary to operate that post. There are no rules specifying the number of Market Makers that an LMM must maintain at a given post (other than the requirement that the LMM must be present at the trading post throughout the trading day). If an LMM maintains inadequate staffing, the Exchange may take corrective action through the evaluation and reallocation processes. *See generally* PCX Rule 6.82 and Options Floor Procedure Advice B–13.

[5] The Exchange has recently adopted supplemental guidelines for the EFTC to consider in connection with member firm requests to consolidate their posts. *See* Securities Exchange Act Release No. 40449 (September 17, 1998), (File No. SR–PCX–98–46).

[6] These fees include; the specialists facility fee ($300 per month per post); the specialist systems fee ($1,550 per month per post); the market data fee ($400 per month per post); the post cashiering fee ($2,150 per month per post); and the post clearing fee ($2,350) per month per post)—for a total fee of $6,750 per month. These fees will *not* include: General Membership Dues ($250 per month per membership); and Floor Privilege Fee ($165 per month for each registered floor member and registered clerk).

[7] *See* Amendment No. 1.

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] It is possible that the EFTC might, in some situations, require a reduction in the number of stocks traded at a given post as a precondition of a post consolidation. If the reduction is more than minor, however, a firm, as its own business decision, can choose not to consolidate its posts because of this precondition.

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78f(b)(4) and (b)(5).

prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to protect investors and the public interest and not be designed to permit unfair discrimination between customers, issuers, brokers or dealers. The Commission believes that the proposal is consistent with these provisions of the Act because the new fee will apply in a non-discriminatory fashion to all firms that choose to consolidate their posts on the Exchange. Moreover, the proposal is designed to help reduce non-exchange related costs involved with maintaining a post without causing the Exchange to sacrifice needed revenues used to provide exchange services and to carry out its regulatory functions.

PCX has requested that the Commission approve the proposal on an accelerated basis. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission believes that the proposal is reasonable given the exigent circumstances of the recent specialist post consolidations and the possibility of more consolidations on the floor of PCX. Currently, there are eighty-two specialist posts operating on PCX's Equity Floors. PCX has received six member firm applications to collapse eight of those posts.[13] In addition, the Exchange anticipates further specialist post consolidations. In the absence of the proposal, the Exchange would sacrifice a substantial amount of its revenue in a short time, which could compromise its ability to perform its regulatory duties.

PCX has represented that it intends to modify its rules to adopt a ''specialist unit'' structure, as opposed to the ''specialist post'' structure it now operates. Such a structure could address the revenue issues raised by post consolidations by permitting exchange members to reallocate specialists without reducing the fees they pay to the Exchange to maintain the same level of service. As a result, the Commission views the Supplemental Specialist Post Fee as a temporary remedy to assist the Exchange in maintaining essential revenues while moving from a ''specialist post'' structure to a ''specialist unit'' structure.

It is therefore ordered, pursuant to Section 19(b)(2)[14] of the Act that the proposed rule change (SR–PCX–98–47) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–26277 Filed 9–30–98; 8:45 am]

BILLING CODE 8010–01–M

[13] Telephone conversation between Michael Pierson, Senior Attorney, Regulatory Policy, PCX, and Richard Strasser, Assistant Director, Division, Commission, on September 23, 1998.

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3131]

State of Florida

Hillsborough County and the contiguous counties of Pasco, Pinellas, Polk, Hardee, and Manatee in the State of Florida constitute a disaster area as a result of damages caused by severe storms and flooding that occurred on September 20, 1998. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 23, 1998 and for loans for economic injury until the close of business on June 24, 1999 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	Percent
For Physical Damage:	
HOMEOWNERS WITH CREDIT AVAILABLE ELSEWHERE	6.875
HOMEOWNERS WITHOUT CREDIT AVAILABLE ELSEWHERE	3.437
BUSINESSES WITH CREDIT AVAILABLE ELSEWHERE	8.000
BUSINESSES AND NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000
OTHERS (INCLUDING NON-PROFIT ORGANIZATIONS) WITH CREDIT AVAILABLE ELSEWHERE	7.125
For Economic Injury:	
BUSINESSES AND SMALL AGRICULTURAL COOPERATIVES WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000

The numbers assigned to this disaster are 313106 for physical damage and 9A1200 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 24, 1998.

Aida Alvarez,

Administrator.

[FR Doc. 98–26315 Filed 9–30–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3130]

State of New York

As a result of the President's major disaster declaration on September 11, 1998 for Public Assistance, and amendments thereto adding Individual Assistance effective September 14, 1998, I find that the Counties of Cayuga, Fulton, Herkimer, Madison, Monroe, Oneida, Onondaga, and Wayne in the State of New York constitute a disaster area due to damages caused by severe storms and high winds that occurred on September 7, 1998. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on November 13, 1998, and for loans for economic injury until the close of business on June 14, 1999 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Floor, Niagara Falls, NY 14303.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties in the State of New York may be filed until the specified date at the above location: Chenango, Cortland, Genesee, Hamilton, Lewis, Livingston, Montgomery, Ontario, Orleans, Oswego, Otsego, Saratoga, Seneca, St. Lawrence, and Tompkins.

The interest rates are:

	Percent
Physical Damage:	
HOMEOWNERS WITH CREDIT AVAILABLE ELSEWHERE	6.875
HOMEOWNERS WITHOUT CREDIT AVAILABLE ELSEWHERE	3.437
BUSINESSES WITH CREDIT AVAILABLE ELSEWHERE	8.000
BUSINESSES AND NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000
OTHERS (INCLUDING NON-PROFIT ORGANIZATIONS) WITH CREDIT AVAILABLE ELSEWHERE	7.125
For Economic Injury:	
BUSINESSES AND SMALL AGRICULTURAL COOPERATIVES WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000

The number assigned to this disaster for physical damage is 313011, and for economic injury the number is 999100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 22, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–26314 Filed 9–30–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on May 26, 1998 [63 FR 28547–28548].

DATES: Comments must be submitted on or before November 2, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Francine Shaw-Whitson, HFL–11, Room 4206, (202) 366–9483, Federal Lands Highway Office, or Mr. Wilbert Baccus, HCC–10, Room 4230, (202) 366–0780, Office of Chief Counsel, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Federal Highway Administration (FHWA)

OMB Number: 2125–0565.

Type of Request: Extension of a current approved collection.

Title: Indian Reservation Roads Program Administration Survey.

Abstract: Title 23, United States Code, Section 204(f) provides the authority for the FHWA and the Bureau of Indian Affairs (BIA) to jointly administer the Indian Reservation Roads (IRR) Program. In accordance with the Government Performance and Results Act, the FHWA is required to establish performance measures consistent with the overall program goals and outcomes. In addition, Executive Order 12862 provides for surveying customers to determine the kind and quality of services they want and the level of satisfaction with existing services. Tribal governments are the IRR program customers. The information collected is used by the FHWA and the BIA to improve the administration of the IRR program. This survey gathers information from the tribes to assess, (1) their overall levels of understanding of the IRR program; (2) their involvement in the IRR program; and (3) their satisfaction with the IRR program administration and accomplishments. In addition, the survey allows tribes to propose recommendations for improving the operation and administration of the IRR program.

Affected Public: 557 Indian tribal governments.

Estimated Total Annual Burden: 140 hours.

ADDRESS: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention FHWA Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publishing in the **Federal Register**.

Issued in Washington, DC, on September 25, 1998.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–26264 Filed 9–30–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Manchester Airport, Manchester, NH; FAA Approval of Noise Compatibility Program

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Manchester Airport Authority under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) and 14 CFR Part 150. These findings are made in recognition of the description of federal and non-federal responsibilities in Senate Report No. 96–52 (1980). On February 6, 1998, the FAA determined that the noise exposure maps submitted by the Manchester Airport Authority under Part 150 were in compliance with applicable requirements. On August 5, 1998, the Associate Administrator approved the Manchester Airport noise compatibility program. All of the 15 measures were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Manchester Airport noise compatibility program is August 5, 1998.

FOR FURTHER INFORMATION CONTACT: John C. Silva, Federal Aviation Administration, New England Region, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803, Telephone (781) 238–7602.

Documents reflecting this FAA action may be obtained from the same individual.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Manchester Airport noise compatibility program, effective August 5, 1998.

Under Section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter the Act), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing non-compatible land uses and prevention of additional non-compatible land uses within the area covered by the noise exposure maps.

The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government

agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulation (FAR), Part 150 is a local program, not a federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act, and is limited to the following determinations:

(a) The noise compatibility program was developed in accordance with the provisions and procedures of FAR Part 150;

(b) Program measures are reasonably consistent with achieving the goals of reducing existing non-compatible land uses around the airport and preventing the introduction of additional non-compatible land uses;

(c) Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal government; and

(d) Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator as prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, Section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute a FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and a FAA decision on the request may require an environmental assessment of the proposed action.

Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under the Airport and Airway Improvement Act of 1982. Where Federal funding is sought, requests for project grants must be submitted to the FAA Regional Office in Burlington, Massachusetts.

The Manchester Airport Authority submitted to the FAA, in January 1997, noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study. The Manchester Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on February 6, 1998. Notice of this determination was published in the **Federal Register** on February 27, 1998.

The Manchester study contains a proposed noise compatibility program comprised of actions designed for implementation by airport management and adjacent jurisdictions from the date of study completion to beyond the year 2000. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in Section 104(b) of the Act. The FAA began its review of the program on February 26, 1998, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such a program within the 180-day period shall be deemed to be an approval of such a program.

The submitted program contained 15 proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Assistant Administrator effective August 5, 1998.

Approval was granted for all 15 program elements: preferential runway use measures, noise abatement departure procedures, rezoning, establishment/amendment of noise overlay districts, amendment of existing land use plans, sound insulation, expansion of building codes, enactment of noise disclosure regulations, continuation of the Part 150 public involvement program, distribution of a noise abatement brochure, installation of airport noise abatement signs, and nose compatibility program review and update.

FAA's determinations are set forth in detail in a Record of Approval endorsed by the Associate Administrator on August 5, 1998. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the airport manager's office, Suite 300, 1 Airport Drive, Manchester, New Hampshire.

Issued in Burlington, Massachusetts on September 11, 1998.

Vincent A. Scarano,

Manager, Airports Division, New England Region.

[FR Doc. 98–26293 Filed 9–30–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–98–19]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before October 22, 1998.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. ____, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–CMTS@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Brenda Eichelberger (202) 267–7470 or Terry Stubblefield (202) 267–7624, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on September 25, 1998.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions For Exemption

Docket No.: 29212.
Petitioner: Comair Aviation Academy.
Sections of the FAR Affected: 14 CFR 141 paragraph 4, appendix I.
Description of Relief Sought: To permit Comair to allow its students to add a single-engine airplane rating to a commercial pilot certificate with a multiengine rating and add a multiengine rating to a pilot certificate with a single-engine rating without accomplishing the flight training requirements set forth in appendix D to part 141.

Docket No.: 25024.
Petitioner: University of Illinois.
Sections of the FAR Affected: 14 CFR 141.55(d) and 141.63(b).
Description of Relief Sought: To allow the UI to hold examining authority for Federal Aviation Administration (FAA)-approved training courses that do not specify the minimum ground and flight training time requirements of part 141.

Docket No.: 29305.
Petitioner: Wayfarer Aviation, Inc.
Sections of the FAR Affected: 14 CFR 135.299(a).
Description of Relief Sought: To permit Wayfarer pilots to accomplish a line operational evaluation in a Level C or Level D flight simulator in lieu of a line check in an aircraft.

Docket No.: 29307.
Petitioner: Hughes Flying Service, Inc.
Sections of the FAR Affected: 14 CFR 135.299(a).
Description of Relief Sought: To permit Hughes pilots to accomplish a line operational evaluation in a Level C or Level D flight simulator in lieu of a line check in an aircraft.

Dispositions of Petitions

Docket No.: 28696.
Petitioner: Federal Express Corporation.
Sections of the FAR Affected: 14 CFR 25.1423(c).
Description of Relief Sought/ Disposition: To permit the accommodation of supernumerary animal handlers on DC–10 and MD–11 airplanes. Relief is sought from a condition relating to decompression alert notification in the lavatory, and from a condition relating to accessibility of Public Address (PA) messages in the lavatory.

Disposition, Date, Exemption No.

Denied, August 28, 1998, Exemption No. 6652A

Docket No.: 22872.
Petitioner: Air Transport Association of America.
Sections of the FAR Affected: 14 CFR 61.157(a); item I(b) of appendix A to part 61; 121.424(a), (b), and (d)(1); item I(a) of appendix E to part 121; and item I(b) of appendix F to part 121 of Title 14.
Description of Relief Sought/ Disposition: To permit ATA member airlines and other qualifying part 121 certificate holders to conduct training and checking of pilots on airplanes that require two flight crewmembers for the required preflight inspection, both interior and exterior, using approved advanced pictorial means.

Disposition, Date, Exemption No.

Grant, September 8, 1998, Exemption No. 4416G

Docket No.: 27007.
Petitioner: Air Transport Association of America.
Sections of the FAR Affected: 14 CFR 121.311(b).
Description of Relief Sought/ Disposition: To allow ATA-member airlines and other similarly situated part 121 operators to permit qualified flight attendants not required by 121.391(c) to perform duties related to the safety of the airplane and its occupants during aircraft movement on the surface.

Disposition, Date, Exemption No.

Grant, September 8, 1998, Exemption No. 5533C

Docket No.: 29304.
Petitioner: Rotorcraft Leasing Company, L.L.C.
Sections of the FAR Affected: 14 CFR 135.143(c).
Description of Relief Sought/ Disposition: To permit RCL to operate its Bell 206 helicopters without a TSO–C112 (Mode S) transponder installed on each of those helicopters.

Disposition, Date, Exemption No.

Grant, September 11, 1998, Exemption No. 6810

Docket No.: 28706.
Petitioner: National Warplane Museum.
Sections of the FAR Affected: 14 CFR 91.315, 119.5(g), and 119.21(a).
Description of Relief Sought/ Disposition: To permit NWM to carry passengers on local flights for compensation or hire in its limited category Boeing B–17 aircraft in support of the NWM's fundraising efforts.

Disposition, Date, Exemption No.

Grant, September 17, 1998, Exemption No. 6565A

Docket No.: 29197.
Petitioner: The Stallion 51 Corporation.
Sections of the FAR Affected: 14 CFR 91.315.
Description of Relief Sought/ Disposition: To permit Stallion 51 to provide initial and recurrent training, orientation flights, and training under contract with the U.S. military in its two North American P–51TF (TF–51) airplanes certificated as limited category civil aircraft.

Disposition, Date, Exemption No.

Grant, September 17, 1998, Exemption No. 6811

Docket No.: 12227.
Petitioner: National Business Aviation Association, Inc.
Sections of the FAR Affected: 14 CFR 91.409(e) and 91.501(a).
Description of Relief Sought/ Disposition: To permit NBAA members to operate small civil airplanes and helicopters of U.S. registry under the operating rules of 91.503 through 91.535 and to select an inspection program as described in 91.409(f).

Disposition, Date, Exemption No.

Grant, September 17, 1998, Exemption No. 1637T

Docket No.: 29144.
Petitioner: American Air Services, Inc. dba Executive Jet Management, Inc.
Sections of the FAR Affected: 14 CFR 145.45(f).
Description of Relief Sought/ Disposition: To permit Executive Jet Management to assign copies of its Inspection Procedures Manual (IPM) to key individuals within its departments and key areas within its shop and functionally place an adequate number of its IPM for access to all employees, rather than provide a copy of the IPM for each of its supervisory and inspection personnel.

Disposition, Date, Exemption No.

Grant, July 31, 1998, Exemption No. 6806

Docket No.: 28492.
Petitioner: Varig S.A.

Sections of the FAR Affected: 14 CFR 145.47(b).

Description of Relief Sought/ Disposition: To permit Varig to substitute the instrument calibration standards of the Instituto Nacional de Metrologia, Normalizacao e Qualidade Industrial (INMETRO), Brazil's national standards laboratory, for the calibration standards of the U.S. National Institute of Standards and Technology (NIST), formerly the National Bureau of Standards, to test its inspection and test equipment.

Disposition, Date, Exemption No.

Grant, July 31, 1998, Exemption No. 6807

Docket No.: 28546.

Petitioner: The Ranch Parachute Club, Ltd.

Sections of the FAR Affected: 14 CFR 105.43(a).

Description of Relief Sought/ Disposition: To permit nonstudent parachutists who are foreign nationals to participate in parachute-jumping events sponsored by The Ranch at its facilities without complying with the parachute equipment and packing requirements of 14 CFR.

Disposition, Date, Exemption No.

Grant, August 31, 1998, Exemption No. 6494A

Docket No.: 28649.

Petitioner: Motores Rolls-Royce Limitada.

Sections of the FAR Affected: 14 CFR 145.47(b).

Description of Relief Sought/ Disposition: To permit Motores Rolls-Royce to use the calibration standards of the Instituto Nacional de Metrologia, Normalizacao e Qualidade Industrial, Brazil's national standards organization, in lieu of the calibration standards of the U.S. National Institute of Standards and Technology, formerly the National Bureau of Standards, to test its inspection and test equipment.

Disposition, Date, Exemption No.

Grant, July 31, 1998, Exemption No. 6545A

Docket No.: 28947.

Petitioner: US Airways.

Sections of the FAR Affected: 14 CFR 145.45(f).

Description of Relief Sought/ Disposition: To permit US Airways to make available one copy of its repair station Inspection Procedures Manual (IPM) to all its supervisory and inspection personnel, rather than providing a copy of the manual to each individual, subject to certain conditions and limitations. That exemption expired on July 31, 1998; therefore, the FAA will process US Airways' extension request as a petition for a new exemption.

Disposition, Date, Exemption No.

Grant, July 11, 1997, Exemption No. 6655

Docket No.: 23869.

Petitioner: The Uninsured Relative Workshop, Inc.

Sections of the FAR Affected: 14 CFR 105.43(a).

Description of Relief Sought/ Disposition: To permit employees, representatives, and other volunteer experimental parachute test jumpers under TURWI'S control to make tandem parachute jumps while wearing a dual-harness, dual-parachute pack that has at least one main parachute and one approved auxiliary parachute. The exemption also permits pilots in command of aircraft involved in these operations to allow such persons to make these parachute jumps.

Disposition, Date, Exemption No.

Grant, September 18, 1998, Exemption No. 4943K

Docket No.: 26378.

Petitioner: Daimler-Benz Aerospace, MTU Maintenance GmbH.

Sections of the FAR Affected: 14 CFR 145.47(c)(1).

Description of Relief Sought/ Disposition: To permit MTU–H to extend its certification privileges as an FAA-approved foreign repair station to contract the maintenance and repair of engine components of International Aero Engines AG Model V2500 turbine engines to facilities that are not FAA-certificated repair stations, U.S.-original equipment manufacturers, or approved manufacturing licensees for such engines.

Disposition, Date, Exemption No.

Grant, July 31, 1998, Exemption No 5337C

Docket No.: 28954.

Petitioner: Heart of Georgia Technical Institute.

Sections of the FAR Affected: 14 CFR 65.17(a), 65.19(b), 65.75(a) and (b), and 183.11(b).

Description of Relief Sought/ Disposition: To permit HGTI to: (1) Administer the FAA oral and practical mechanical tests to students at times and places identified in HGTI's FAA-approved aviation Maintenance Technical School (AMTS) Policies, Procedures, and Curriculum Handbook; (2) conduct oral and practical mechanical tests as an integral part of the education process rather than conducting the tests after students successfully complete the written mechanic tests; (3) allow applicants to apply for retesting within 30 days after failure without presenting a signed statement certifying additional instruction in the failed area; and (4) administer the Aviation Mechanic-General (AMG) written test to students immediately after they successfully complete the general curriculum but before they meet the experience requirements of 65.77.

Disposition, Date, Exemption No.

Grant, August 27, 1998, Exemption No. 6805

[FR Doc. 98–26300 Filed 9–30–98; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33658]

The New York & Ogdensburg Railway Company, Inc.—Lease and Operation Exemption—Ogdensburg Bridge & Port Authority

The New York & Ogdensburg Railway Company, Inc. (NYOG), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease from the Ogdensburg Bridge & Port Authority (OBPA) and operate approximately 32.0 miles of rail line. The rail lines to be leased are two connecting lines: (1) between milepost 0.0 at Ogdensburg, NY, and milepost 25.2 at Norwood, NY; and (2) between milepost 0.0 at Norwood, NY, and milepost 6.8+/− at Norfolk/Raymondville, NY. NYOG will become a Class III rail carrier.[1]

The transaction was scheduled to be consummated on or after September 15, 1998.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of

[1] By this notice of exemption, NYOG and OBPA are giving notice, under 49 CFR 1150.31(a)(3) of their mutual intent to effect a change in operators on the subject rail lines. Common carrier service of the rail lines is currently provided by the St. Lawrence & Raquette River Railroad (SLRR) pursuant to Finance Docket No. 31653, *St. Lawrence & Raquette River Railroad—Lease and Operation Exemption—Lines in New York* (served May 17, 1990). NYOG has supplied evidence of SLRR's desire to terminate its operations over the line and to facilitate transfer to a new service provider prior to the end of September 1998.

NYOG states that its revenues will not exceed those that would qualify it as a Class III rail carrier and its revenues are not projected to exceed $5 million.

a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33658, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Robert A. Wimbish, REA, CROSS & AUCHINCLOSS, Suite 570, 1707 L Street, N.W., Washington, DC 20036.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: September 24, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–26309 Filed 9–30–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 23, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before November 2, 1998 to be assured of consideration.

Bureau of Alcohol, Tobacco, and Firearms (BATF)

OMB Number: 1512–0534.

Form Number: ATF F 2103 (5220.5), ATF F 2104 (5200.15), ATF F 2105 (5000.7), ATF F 2490 (5620.10) and ATF F 3070 (5210.13).

Type of Review: Extension.

Title: Bond—Export Warehouse Proprietor (F 2103); Export Bond—Customs Bonded Cigar Manufacturing Warehouse (F 2104); Extension of Coverage of Bond (F 2105); Bond Under 26 U.S.C. 6423 (F 2490); and Bond—Manufacturer of Tobacco Products.

Description: ATF F 2103 (5220.5), Bond—Export Warehouse Proprietor is used to establish the qualifications of an applicant for an export warehouse proprietorship, or by a current proprietor whose status has changed and must change the information already on file. The applicant certifies the intention to produce and/or store a specified amount of tobacco products and takes certain precautions to protect it from unauthorized use. The completed application and supporting data is a permanent record of the business and its qualifications to operate.

ATF F 2104 (5200.15), Export Bond—Customs Bonded Cigar Manufacturing Warehouse is used to establish the qualifications of an applicant who seeks authorization to manufacture cigars within a customs bonded warehouse for subsequent exportation, or by a current manufacturer of such cigars whose status has changed and must change the information already on file. The applicant certifies the intention to produce, store and export a specified quantity of cigars products and takes certain precautions to protect them from unauthorized use. The completed application and supporting data is a permanent record of the business and its qualifications to operate.

ATF F 2105 (5000.7), Extension of Coverage of Bond is used to determine compliance by payment on untaxpaid commodities.

ATF F 2490 (5620.10), Bond Under 26 U.S.C. 6423, and ATF F 3070 (5210.13), Bond—Manufacturer of Tobacco Products are tobacco products and cigarette papers and tubes bond forms used by the manufacturers or proprietor and a surety company as a contract to ensure tax payment.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 15.

Estimated Burden Hours Per Recordkeeper:

Form	Time per record-keeper (hours)
ATF F 2103 (5220.5)	6
ATF F 2104 (5200.15)	2
ATF F 2105 (5000.7)	1
ATF F 2490 (5620.10)	6
ATF F 3070 (5210.13)	6

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 25 hours.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW, Washington, DC 20226.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 98–26285 Filed 9–30–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

September 23, 1998.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before November 2, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0128.

Form Number: IRS Form 1120–L.

Type of Review: Revision.

Title: U.S. Life Insurance Company Income Tax Return.

Description: Life Insurance companies are required to file an annual return of income and compute and pay the tax due. The data is used to insure that companies have correctly reported taxable income and paid the correct tax.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 2,440.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—87 hr., 32 min.
Learning about the law or the form—25 hr., 52 min.
Preparing the form—42 hr., 25 min.
Copying, assembling, and sending the form to the IRS—4 hr., 1 min.

Frequence of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 390,058 hours.

OMB Number: 1545–0990.

Form Number: IRS Form 8610.

Type of Review: Extension.

Title: Annual Low-Income Housing Credit Agencies Report.

Description: Form 8610 is used by state and local low-income housing credit agencies to transmit of Form 8609 to the IRS.

Respondents: State, Local or Tribal Government.

Estimated Number of Respondents/ Recordkeepers: 50

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—5 hr., 44 min.
Learning about the law or the form—1 hr., 0 min.
Preparing and sending the form to the IRS—1 hr., 8 min.

Frequence of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 394 hours.

OMB Number: 1545–1324.

Regulation Project Number: CO–88–90 Final.

Type of Review: Extension.

Title: Limitation on Net Operating Loss Carryforwards and Certain Built-In Losses Following Ownership Change; Special Rule for Value of a Loss Corporation Under the Jurisdiction of a Court in a Title 11 Case.

Description: This information serves as evidence of an election to apply section 382(l)(6) in lieu of section 382(l)(5) and an election to apply the provisions of the regulations retroactively. It is required by the Internal Revenue Service to assure that the proper amount of carryover attributes are used by a loss corporation following specified types of ownership changes.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 3,250.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 813 hours.

OMB Number: 1545–1336.

Form Number: IRS Forms 9455 and 9456.

Type of Review: Extension.

Title: IRS Taxpayer Education Programs (9455); and IRS Taxpayer Education Programs 2nd Notice (9456).

Description: The data collection will be used to estimate the number of individuals who teach IRS' Educational programs, and the number of students who are exposed to the Understanding Taxes High School, UT-8th Grade, UT-Post Secondary, and the Small Business Tax Education Programs during the course of a year. It will also be used to justify the continued use of these programs. This effort is in line with IRS initiatives on reducing taxpayer burden and Compliance 2000 initiatives to encourage voluntary compliance with the tax laws.

Respondents: State, Local or Tribal Government.

Estimated Number of Respondents: 120,800.

Estimated Burden Hours Per Respondent: 10 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 20,137 hours.

OMB Number: 1545–1351.

Form Number: None.

Type of Review: Extension.

Title: SOI Corporate Survey.

Description: This is a request to conduct a yearly survey on a small portion of the very largest U.S. corporations. The data will be used to improve the quality of the Statistics of Income's (SOI) advance tax data. The survey will allow SOI to collect existing tax information earlier than regular IRS processing currently allows. Advance tax data has been requested by the Bureau of Economic Analysis, the Office of Tax Analysis and the Joint Committee on Taxation for tax analysis purposes.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 100.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 50 hours.

OMB Number: 1545–1352.

Regulation Project Number: PS–276–76 Final.

Type of Review: Extension.

Title: Treatment of Gain From Disposition of Certain Natural Resource Recapture Property.

Description: The regulations prescribe rules for determining the tax treatment of gain from the disposition of natural resource recapture property. Gain is treated as ordinary income in an amount equal to the intangible drilling and development costs and depletion deductions taken with respect to the property.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents/ Recordkeeping: 400.

Estimated Burden Hours Per Respondent/Recordkeeping: 5 hours.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 2,000 hours.

OMB Number: 1545–1355.

Regulation Project Number: REG–208985–89 Final (formerly INTL–848–89).

Type of Review: Extension.

Title: Taxable Year of Certain Foreign Corporations Beginning After July 10, 1989.

Description: Proposed regulations set forth the ''required year'' for ''specified foreign corporation'' for taxable years beginning after July 10, 1989, and give guidance on which foreign corporations must change their taxable year and how to effect the change in taxable year. Specified foreign corporations must conform to the required year and must state so on Form 5471.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 700.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1 hour.

OMB Number: 1545–1360.

Regulation Project Number: PS–102–88 Final.

Type of Review: Extension.

Title: Income, Gift and Estate Tax.

Description: The regulation provides guidance to individuals or fiduciaries: (1) For making a qualified domestic trust election on the estate tax return of a decedent whose surviving spouse is not a United States citizen in order that the estate may obtain the marital deduction, and (2) for filing the annual returns that such an election may require.

Respondents: Individuals or households.

Estimated Number of Respondents: 2,300.

Estimated Burden Hours Per Respondent: 2 hours, 40 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 6,150 hours.

OMB Number: 1545–1361.

Regulation Project Number: PS–89–91 Final.

Type or Review: Extension.

Title: Exports of Chemicals That Deplete the Ozone Layer; Special Rules for Certain Medical Uses of Chemicals That Deplete the Ozone Layer.

Description: Section 4681 imposes a tax on ozone-depleting chemicals sold or used by a manufacturer or importer thereof. Section 4682 provides exemptions and reduced rates of tax for certain uses of ozone-depleting chemicals. This regulation provides reporting and recordkeeping rules.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 1,305.

Estimated Burden Hours Per Respondent/Recordkeeper: 12 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 201 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–26286 Filed 9–30–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

September 24, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before November 2, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0047.

Form Number: IRS Form 990 and Schedule A (Form 990).

Type of Review: Revision.

Title: Return of Organization Exempt From Income Tax Under Section 501(c) of the Internal Revenue Code (Except Black Lung Benefit Trust or Private Foundation) or Section 4947(a)(1) Nonexempt Charitable Trust (Form 990); and Organization Exempt Under Section 501(c)(3) (Except Private Foundation), and Section 501(e), 501(f), 501(k), 501(n), or Section 4947(a)(1) Nonexempt Charitable Trust (Schedule A).

Description: Form 990 is needed to determine that Internal Revenue Code (IRC) section 501(a) tax-exempt organizations fulfill the operating conditions of the tax exemption. Schedule A (Form 990) is used to elicit special information from section 501(c)(3) organizations. IRS uses the information from these forms to determine if the filers are operating within the rules of their exemption.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents/Recordkeepers: 327,953.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form	Preparing the form	Copying, assembling, and sending the form to the IRS
990	96 hr., 23 min.	15 hr., 48 min.	20 hr., 52 min.	48 min.
Schedule A	50 hr., 13 min.	9 hr., 26 min.	10 hr., 40 min.	0 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 52,814,353 hours.

OMB Number: 1545–0051.

Form Number: IRS Form 990–C.

Type of Review: Extension.

Title: Farmers' Cooperative Association Income Tax Return.

Description: Form 990–C is used by farmers' cooperatives to report the tax imposed by section 1381. IRS uses the information to determine whether the tax is being properly reported.

Respondents: Business or other for-profit, Farms.

Estimated Number of Respondents/Recordkeeping: 5,600.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—77 hr., 58 min.
Learning about the law or the form—23 hr., 46 min.
Preparing the form—40 hr., 59 min.
Copying, assembling, and sending the form to the IRS—4 hr., 17 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 823,200 hours.

OMB Number: 1545–0086.

Form Number: IRS Form 1040–C.

Type of Review: Revision.

Title: U.S. Departing Alien Income Tax Return.

Description: Form 1040-C is used by aliens departing the U.S. to report income received or expected to be received for the entire tax year. The data collected are used to insure that the departing alien has no outstanding U.S. tax liability.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 2,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—2 hr., 5 min.
Learning about the law or the form—46 min.
Preparing the form—2 hr., 12 min.
Copying, assembling, and sending the form to the IRS—1 hr., 13 min.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 11,312 hours.

OMB Number: 1545–0747.

Form Number: IRS Forms 5498.

Type of Review: Revision.

Title: IRA Contribution Information.

Description: Form 5498 is used by trustees and issuers to report contributions to the fair market value of an individual retirement arrangement.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 45,300.

Estimated Burden Hours Per Respondent/Recordkeeper: 11 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 13,099,985 hours.

OMB Number: 1545–1010.

Form Number: IRS Form 1120–RIC.

Type of Review: Extension.

Title: U.S. Income Tax Return for Regulated Investment Companies.

Description: Form 1120–RIC is filed by a domestic corporation electing to be taxed in order to report its income and deductions and to compute its tax liability. IRS uses Form 1120–RIC to determine whether the RIC has correctly reported its income, deductions, and tax liability.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 3,277.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—58 hr., 7 min.
Learning about the law or the form—18 hr., 55 min.
Preparing the form—35 hr., 35 min.
Copying, assembling, and sending the form to the IRS—4 hr., 17 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 383,049 hours.

OMB Number: 1545–1274.

Form Number: IRS Form 8453–NR.

Type of Review: Extension.

Title: U.S. Nonresident Alien Income Tax Declaration for Magnetic Media Filing.

Description: This form is used to secure taxpayer signatures and declarations in conjunction with the Magnetic Media Filing program. This form, together with the electronic transmission comprises the taxpayer's income tax return.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeeping: 5,000.

Estimated Burden Hours Per Respondent/Recordkeeping: 15 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 1,250 hours.

OMB Number: 1545–1468.

Form Number: IRS Form 1040NR–EZ.

Type of Review: Revision.

Title: U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents.

Description: This form is used by certain nonresident aliens with no dependents to report their income subject to tax and compute the correct tax liability. The information on the return is used to determine whether income, deductions, credits, payments, etc., are correctly figured.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 100,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—1 hr., 19 min.

Learning about the law or the form—50 min.

Preparing the form—1 hr., 44 min.

Copying, assembling, and sending the form to the IRS—35 min.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 445,000 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–26287 Filed 9–30–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Agency Information Collection Activities; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the OCC, the Board, and the FDIC (the ''agencies'') may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid Office of Management and Budget (OMB) control number. The Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, has approved the agencies' publication for public comment of proposed revisions to the Consolidated Reports of Condition and Income (Call Report), which are currently approved collections of information. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the FFIEC should modify the proposed revisions prior to giving its final approval. The agencies will then submit the revisions to OMB for review and approval.

DATES: Comments must be submitted on or before November 30, 1998.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the others.

OCC: Written comments should be submitted to the Communications Divisions, Office of the Comptroller of the Currency, 250 E Street, S.W., Third Floor, Washington, D.C. 20219; Attention: Paperwork Docket No. 1557–0081 [FAX number (202) 874–5274; Internet address: regs.comments@occ.treas.gov]. Comments will be available for inspection and photocopying at that address.

Board: Written comments should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20051, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M–P–500 between 9:00 a.m. and 5:00 p.m., except as provided in § 261.12 of the Board's Rules Regarding Availability of Information, 12 CFR 261.12(a)

FDIC: Written comments should be addressed to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m. (Fax number: (202) 898–3838; Internet address: comments@fdic. gov). Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, N.W., Washington, D.C., between 9:00 a.m. and 4:30 p.m. on business days

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed revisions to the collections of information may be requested from any of the agency clearance officers whose names appear below

OCC: Jessie Gates, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Office of the Comptroller of the Currency, 20 E Street, S.W., Washington, D.C. 20219.

Board: Mary M. McLaughlin, Chief, Financial Reports Section, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins, (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

FDIC: Steven F. Hanft, FDIC Clearance Officer, (202) 898–3907, Office of the

Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: Proposal to revise the following currently approved collections of information:

Report Title: Consolidated Reports of Condition and Income.

Form Number: FFIEC 031, 032, 033, 034.[1]

Frequency of Response: Quarterly.

Affected Public: Business or other for-profit.

For OCC

OMB Number: 1557–0081.

Estimated Number of Respondents: 2,650 national banks.

Estimated Time per Response: 39.92 burden hours.

Estimated Total Annual Burden: 423,205 burden hours.

For Board

OMB Number: 7100–0036.

Estimated Number of Respondents: 994 state member banks.

Estimated Time per Response: 45.80 burden hours.

Estimated Total Annual Burden: 182,101 burden hours.

For FDIC

OMB Number: 3064–0052.

Estimated Number of Respondents: 5,985 insured state nonmember banks.

Estimated Time per Response: 29.67 burden hours.

Estimated Total Annual Burden: 710,300 burden hours.

The estimated time per response is an average which varies by agency because of differences in the composition of the banks under each agency's supervision (e.g., size distribution of banks, types of activities in which they are engaged, and number of banks with foreign offices). The time per response for a bank is estimated to range from 15 to 400 hours, depending on individual circumstances.

General Description of Report

This information collection is mandatory: 12 U.S.C. 161 (for national banks), 12 U.S.C. 324 (for state member banks), and 12 U.S.C. 1817 (for insured state nonmember commercial and savings banks). Except for select sensitive items, this information collection is not given confidential treatment. Small businesses (i.e., small banks) are affected.

Abstract

Banks file Consolidated Reports of Condition and Income with the agencies each quarter for the agencies' use in monitoring the condition and performance of reporting banks and the industry as a whole. In addition, Call Reports provide the most current statistical data available for evaluating bank corporate applications such as mergers, for identifying areas of focus for both on-site and off-site examinations, and for monetary and other public policy purposes. Call Reports are also used to calculate all banks' deposit insurance and Financing Corporation assessments and national banks' semiannual assessment fees.

Current Actions

The agencies are proposing to delete the existing items for the amortized cost and fair value of high-risk mortgage securities and for losses deferred pursuant to 12 U.S.C. 1823(j). The deferred loss items appear only on the FFIEC 034 report forms. New Items would be added for accumulated gains (losses) associated with cash flow hedges and for the year-to-date changes in this new component of equity capital. A new or revised item would distinguish nonmortgage servicing assets from other intangible assets. A number of instructional changes would be made, primarily to incorporate recent changes in accounting standards, to further conform with generally accepted accounting principles in other areas, and to improve the reporting of certain regulatory capital information.

Type of Review: Revision of a currently approved correction.

The proposed revisions to the Consolidated Reports of Condition and Income (Call Report) have been approved for publication by the FFIEC. Unless otherwise indicated, the agencies would implement these proposed Call Report changes as of the March 31, 1999, report date and the revisions would apply to all four sets of report forms (FFIEC 031, 032, 033, and 034). Nonetheless, as is customary for Call Report changes, banks are advised that, for the March 31, 1999, report date, reasonable estimates may be provided for any new or revised item for which the requested information is not readily available. The specific wording of the captions for the new Call Report items should be regarded as preliminary.

Reductions in Detail

The agencies are proposing to eliminate two items applicable to all banks and two items on the report forms for smaller banks, as follows:

(1) Schedule RC–B—Securities: Banks report the amortized cost and fair value of ''High-risk mortgage securities'' in Memorandum items 8.a and 8.b, respectively. The definition of high-risk mortgage securities was taken from the Supervisory Policy Statement on Securities Activities, which the FFIEC approved and the agencies adopted in December 1991, effective February 10, 1992 (57 FR 4029, February 3, 1992). In April 1998, the FFIEC and the agencies rescinded this policy statement and approved in its place a Supervisory Policy Statement on Investment Securities and End-User Derivatives Activities, effective May 26, 1998 (63 FR 20191, April 23, 1998). In adopting the new policy statement, the agencies removed the previous policy statement's specific constraints concerning investments in high-risk mortgage securities, including its ''high risk'' tests, and substituted broader guidance covering all investment securities, including the establishment by each institution of appropriate risk limits. Accordingly, the agencies are proposing to eliminate the two memorandum items for high-risk mortgage securities.

(2) Schedule RC—Balance Sheet: The balance sheet on the FFIEC 034 report forms includes two items in which banks participating in the agencies' agricultural loan loss deferral programs, which were mandated by 12 U.S.C. 1823(j) in 1987, have reported the unamortized amount of their deferred agricultural loan losses. Under these programs, all deferred losses must be fully amortized by December 31, 1998. Because participating banks will no longer have any deferred losses to report after 1998, items 12.b, 12.c, 28.b, and 28.c will be deleted from the balance sheet of the Call Report for small banks.

Accumulated Gains (Losses) Associated With Cash Flow Hedges

The Financial Accounting Standards Board (FASB) issued Statement No. 133, *Accounting for Derivative Instruments and Hedging Activities* (FAS 133), on June 16, 1998. This statement takes effect for fiscal years beginning after June 15, 1999, with earlier application encouraged. Banks must adopt FAS 133 for Call Report purposes upon its effective date based on their fiscal year, with earlier application permitted as described in the standard. Most banks have calendar year fiscal years and, therefore, will not need this accounting

[1] The FFIEC 031 report form is filed by banks with domestic and foreign offices. The FFIEC 032 report form is filed by banks with domestic offices only and total assets of $300 million or more. The FFIEC 033 report form is filed by banks with domestic offices only and total assets of $100 million or more but less than $300 million. The FFIEC 034 report form is filed by banks with domestic offices only and total assets of less than $100 million.

standard until January 1, 2000. However, some banks, primarily FDIC-supervised savings banks, have fiscal years that will require them to begin applying FAS 133 during 1999, e.g., beginning on July 1, 1999. Furthermore, the earliest date as of which an institution can choose to adopt this new accounting standard is July 1, 1998.

Under FAS 133, all derivatives must be reported as either assets or liabilities on the balance sheet and must be carried at fair value. If certain conditions are met, a derivative may be specifically designated as a ''cash flow hedge.'' In a cash flow hedge, to the extent the hedge is effective, the gain or loss on the derivative is initially reported outside of earnings in a component of equity capital. The gain or loss will subsequently go through earnings in the period or periods when the transaction being hedged affects earnings. The ineffective portion of the hedge is reported in earnings immediately.[2]

As part of the disclosure requirements of FAS 133, an entity must disclose the accumulated gains (losses) associated with cash flow hedges that are included in equity capital as of the balance sheet date. An entity also must disclose the related net change associated with cash flow hedging transactions during the reporting period and the net amount of any reclassification of these gains (losses) into earnings. Accordingly, the agencies are proposing to add two new items. Banks would report the accumulated gains (losses) associated with cash flow hedges, as of the report date, in a new item in the equity capital section of the balance sheet (Schedule RC, item 26.c). Banks also would report the year-to-date change in these accumulated gains (losses) (i.e., net of any reclassification adjustment) in the changes in equity capital schedule (Schedule RI-A, item 11.b). Existing item 11 on Schedule RI-A would be remembered as item 11.a.

After a bank adopts FAS 133, derivatives held for purposes other than trading must be reported as fair value on the balance sheet (Schedule RC) in item 11, ''Other assets,'' or item 20, ''Other liabilities,'' as appropriate. Derivatives held for trading will continue to be reported at fair value on the balance sheet in Item 5, ''Trading assets,'' or item 15.b, ''Trading liabilities,'' as appropriate.

The agencies request comment on whether banks will be adopting FAS 133 in 1998 or 1999, either earlier than required or because of the beginning date of their fiscal year.

Nonmortgage Servicing Assets

On August 10, 1998, the agencies published a final rule amending their regulatory capital treatment of servicing assets (63 FR 42668). Under this amendment, nonmortgage servicing assets (NMSAs) will be recognized (rather than deducted) for regulatory capital purposes. However, these servicing assets are subject to the 25 percent of Tier 1 capital sublimit that previously applied only to purchased credit card relationships (PCCRs). To date, banks have reported their NMSAs as part of ''All other identifiable intangible assets,'' in item 6.b.(2) of Call Report Schedule RC-M. This is because these intangibles generally have been deducted in full from Tier 1 capital and from assets in regulatory capital calculations. As a result of the revised regulatory capital treatment of NMSAs, these assets need to be distinguished from ''All other identifiable intangible assets.'' This change is needed to enable the agencies to verity the regulatory capital amounts that banks report in the Call Report and to calculate their regulatory capital ratios.

Therefore, the agencies are considering two reporting alternatives to respond to this change in regulatory capital standards. One alternative is to add a new item 6.b.(2) for ''Nonmortgage servicing assets'' to Schedule RC–M and to renumber existing item 6.b.(2), ''All other identifiable intangible assets,'' as item 6.b.(3). Another alternative is to revise Schedule RC–M, item 6.b.(1). ''Purchased credit card relationships,'' to include NMSAs because these two types of intangibles are subject to the same Tier 1 capital sublimit. The proposed caption for this item is ''Purchased credit card relationships and nonmortgage servicing assets.'' Comments are requested on these two alternatives.

Instructional Changes

Computer Software Costs

In March 1998, the American Institute of Certified Public Accountants (AICPA) issued Statement of Position (SOP) 98–1, Accounting for the Costs of Computer Software Developed or Obtained for Internal Use. SOP 98–1 provides guidance on whether costs of internal-use software should be capitalized (and then amortized) or expensed as incurred. Internal-use software has the following characteristics: (a) the software is acquired, internally developed, or modified solely to meet the entity's internal needs, and (b) during the software's development or modification, no substantive plan exists or is being developed to market the software externally. This SOP is effective for financial statements for fiscal years beginning after December 15, 1998. The SOP encourages earlier application in fiscal years for which annual financial statements have not been issued. For Call Report purposes, banks must adopt this SOP upon its effective date based on their fiscal year. Early application is permitted in the Call Report in accordance with the transition guidance in the SOP's. The Call Report instructions will be revised to conform with SOP 98–1, including replacing the current Glossary entry for ''Internally Developed Computer Software'' with a new entry on computer software costs that summarizes SOP 98–1 and other relevant accounting standards.

Costs of Start-Up Activities

In April 1998, the AICPA issued SOP 98–5, Reporting on the Costs of Start-Up Activities. SOP 98–5 requires costs of start-up activities, including organization costs, to be expensed as incurred. SOP 98–5 defines start-up activities broadly as ''those one-time activities related to opening a new facility, introducing a new product or service, conducting business in a new territory, conducting business with a new class of customer or beneficiary, initiating a new process in an existing facility, or commencing some new operation.'' This SOP is effective for financial statements for fiscal years beginning after December 15, 1998. The SOP encourages earlier application in fiscal years for which annual financial statements have not been issued. For Call Report purposes, banks must adopt this SOP upon its effective date based on their fiscal year. Early application is permitted in the Call Report in accordance with the transition guidance in the SOP. The Call Report instructions will be revised to conform with SOP 98–5, including replacing the current Glossary entry for ''Organization Costs'' with a new entry on the costs of start-up activities that summarizes SOP 98–5.

Unsuitable Investment Practices

As mentioned above, the FFIEC and the agencies rescinded the Supervisory Policy Statement on Securities Activities in April 1998 and approved

[2] If certain other conditions are met, a derivative may be specifically designated as a ''fair value hedge'' or as a hedge of the foreign currency exposure of a net investment in a foreign operation. In these situations, the gain or loss on the derivative is reported in a different manner than the gain or loss on a cash flow hedge. If a derivative is not designated as a hedging instrument, the gain or loss on the derivative is recognized in current earnings.

in its place a Supervisory Policy Statement on Securities on Investment Securities and End-User Derivatives Activities. The latter policy statement does not retain the section of the former policy statement addressing the reporting of securities activities, including a description of practices considered unsuitable when conducted in a institution's investment portfolio. In their **Federal Register** notice publishing the Supervisory Policy Statement on Investment Securities and End-User Derivatives Activities (63 FR 20191), the agencies stated their intent to separately issue supervisory guidance on the reporting of investment securities. The agencies are proposing to add guidance on this reporting matter to the Glossary section of the Call Report instructions. This approach will make guidance more readily accessible to banks as they prepare their Call Reports.

Re-Booking Charged-Off Loans

When a bank makes a full or partial direct write-down of a loan or lease that is uncollectible, the bank establishes a new cost basis for the asset. Some banks have later attempted to reverse the previous write-down and ''re-book'' the charged-off loan or lease after concluding that the prospects for recovering the charge-off have improved. Re-booking a charged-off loan is not an acceptable practice under generally accepted accounting principles, and therefore, is not acceptable for Call Report purposes. The Glossary entry for ''allowance for loan and lease losses'' will be revised to indicate that once a new cost basis has been established for a loan or lease through a direct write-down of the asset, this cost basis may not be ''written up'' at later date.

Goodwill Transactions

Under generally accepted accounting principles, goodwill and similar intangible assets ordinarily cannot be disposed of apart from an enterprise as a whole. However, an exception is made when a large segment or separable group of assets of an acquired company or an entire acquired company is sold or otherwise liquidated. In that case, some or all of the unamortized goodwill recognized in the acquisition should be included in the cost of the assets sold. GAAP further provides that an intangible asset such as goodwill should not be written off in the period of acquisition. Instead, an intangible asset should be amortized over its estimated life. Some banks have attempted to remove goodwill from their balance sheets by ''selling'' or ''dividending'' this asset to their parent hold company or by charging it off in the year of acquisition. Because these transactions are not appropriate under generally accepted accounting principles, the agencies will revise the Glossary entry for ''business combinations'' and the instructions for Schedule RC–M, item 6.c, ''Goodwill,'' to explain that these transactions are not acceptable for Call Report purposes.

Reporting of Net Risk-Weighted Assets by Banks Subject to the Market Risk Capital Guidelines

Banks that are subject to the market risk capital guidelines must report the amount of their ''Market risk equivalent assets'' in Schedule RC–R, item 3.d.(2). These banks report their ''Net risk-weighted assets'' in item 3.d.(1) of this schedule, but the instructions for this item specifically tell banks to exclude market risk equivalent assets. The sum of the amounts reported in items 3.d.(1) and 3.d.(2) is the denominator of the bank's total risk-based capital ratio.

In the Board's FR Y–9C bank holding company report, bank holding companies that are subject to the market risk capital guidelines must also report their ''market risk equivalent assets'' and their ''Net risk-weighted assets.'' However, in contrast to the Call Report instructions, the FR Y–9C instructions for reporting net risk-weighted assets direct bank holding companies to include market risk equivalent assets. This means that, for bank holding companies, the amount reported for net risk-weighted assets is the denominator of the holding company's total risk-based capital ratio.

In order to achieve greater consistency between the two reports, the Call Report instructions for reporting ''Net risk-weighted assets'' will be revised to include market risk equivalent assets. The caption for item 3.d.(2) of Schedule RC–R will be modified to read ''Market risk equivalent assets included in net risk-weighted assets above.'' Because fewer than 20 banks are subject to the market risk capital guidelines, this change will not affect the remaining 9,800 banks that are not covered by these guidelines.

Calculating the Allowable Amount of the Allowance for Credit Losses for a Bank With Low Level Recourse Transactions

The instructions for reporting low level recourse transactions in Schedule RC–R—Regulatory Capital were revised in the first quarter of 1998 to give banks the option of using either the ''gross-up method'' or the ''direct reduction method.'' However, when this revision was made, the instructions did not clearly explain how banks choosing the ''direct reduction method'' should calculate the amount of the allowance for credit losses that can be included in Tier 2 capital. In order to provide the necessary guidance on this calculation, the instructions for Schedule RC–R will be revised. These instructions will indicate that, for purposes of determining the Tier 2 capital limit on the allowance for credit losses, a bank using the ''direct reduction method'' for reporting its low level recourse transactions should multiply its ''maximum contractual dollar amount of recourse exposure'' (as defined in the instructions) by 12.5 and include this product in its gross risk-weighted assets. This gross risk-weighted-assets figure multiplied by 1.25 percent would be the bank's Tier 2 limit on the allowance for credit losses. The limit on the allowance would be fixed at this amount and would not be changed after the bank calculates its institution-specific add-on factor for low level recourse under the ''direct reduction method.'' Thus, a bank would measure its Tier 2 capital and its total risk-based capital prior to its application of the ''direct reduction method'' and would not recalculate these two amounts once the add-on factor was known.

Request for Comment

Comments submitted in response to this Notice will be shared among the agencies and will be summarized or included in the agencies' requests for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden as well as other relevant aspects of the information collection request. Comments are invited on:

Whether the proposed revisions to the Call Report collections of information are necessary for the proper performance of the agencies' functions including whether the information has practical utility;

The accuracy of the agencies' estimate of the burden of the information collections as they are proposed to be revised, including the validity of the methodology and assumptions used;

Ways to enhance the quality, utility, and clarity of the information to be collected;

Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

Estimates of capital or start up costs and costs of operation, maintenance,

and purchase of service to provide information.

Dated: September 23, 1998.

Karen Solomon,

Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, September 24, 1998.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, D.C., this 25th day of September, 1998.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 98–26225 Filed 9–30–98; 8:45 am]

BILLING CODES 4810–33–M, 6210–01–M, 6714–01–M

Corrections

Federal Register

Vol. 63, No. 190

Thursday, October 1, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Solicitation of Information and Recommendations for Developing OIG Compliance Program Guidance for Certain Medicare+Choice Organizations

Correction

In notice document 98–25224 beginning on page 50577 in the issue of Tuesday, September 22, 1998 make the following correction:

On page 50577 in the second column, in the **DATES** section, in the fourth line ''November 23, 1989'' should read ''November 23, 1998''.

BILLING CODE 1505–01–D

federal register

Thursday
October 1, 1998

Part II

Department of Transportation

Coast Guard

46 CFR Parts 28, 107, 108, etc.
Lifesaving Equipment; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 28, 107, 108, 109, 133, 168, and 199

[CGD 84–069]

RIN 2115–AB72

Lifesaving Equipment

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard adopts as final, with changes, an interim rule published on May 20, 1996 that revises the lifesaving equipment regulations for U.S. inspected vessels.

DATES: This final rule is effective November 2, 1998.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593–0001 between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Markle, Chief, Lifesaving and Fire Safety Standards Division (G–MSE–4), U.S. Coast Guard Headquarters, by e-mail at RMarkle@comdt.uscg.mil, telephone at (202) 267–1444, or fax at (202) 267–1069.

SUPPLEMENTARY INFORMATION:

Regulatory History

The Coast Guard published an advance notice of proposed rulemaking (ANPRM) in the **Federal Register** on December 31, 1984 (49 FR 50745). A notice of proposed rulemaking (NPRM) was published in the **Federal Register** on April 21, 1989 (54 FR 16196), inviting comments on the proposed rule. A public hearing was held to receive comments on the proposed rules, particularly the provisions affecting passenger ferries. The hearing was announced in a **Federal Register** notice on October 5, 1989 (54 FR 41124), and the hearing was held in Seattle, Washington, on October 17, 1989.

On May 20, 1996, the Coast Guard published an interim rule entitled ''Lifesaving Equipment'' in the **Federal Register** (61 FR 25272). The interim rule requested comments because the NPRM was published more than five years before. The Coast Guard received 34 letters commenting on the interim rule. A public meeting was requested, and one was held on September 25, 1996, in Des Plaines, Illinois, to receive views on the requirements for passenger vessels. Notice of the public meeting was published in the **Federal Register** on August 26, 1996 (61 FR 43685). Twenty-eight people attended the meeting and nine presented oral comments during the meeting. These comments articulated the economic impacts of implementation which differed greatly between passenger vessels and other commercial vessels. The Coast Guard agreed and on February 19, 1997 published a partial suspension and request for comments (62 FR 7360) which delayed the need to implement some portions of the rule, particularly those affecting passenger vessels until the Coast Guard could reassess the costs and benefits to passenger vessels. The resulting revisions are addressed in the regulatory assessment that accompanies this final rule. Detailed discussion of comments received can be found under ''Discussion of Comments and Changes.''

Background and Purpose

This project is part of the President's Regulatory Review Initiative to remove or revise unnecessary government regulations. This project removed numerous obsolete sections from the Code of Federal Regulations (CFR) and eliminated others by consolidating the lifesaving requirements for most U.S. inspected vessels in the new subchapter W in 46 CFR ch. I. Subchapter W also replaced many prescriptive regulations with performance-based alternatives.

You can find more detailed background information in the preamble of the interim rule (61 FR 25272) under **SUPPLEMENTARY INFORMATION**.

Discussion of Comments and Changes

The Coast Guard received 34 comments on the interim rule. The comments include letters to the docket and remarks at the public meeting.

Applicability

A number of comments indicated that there was confusion about § 199.10, which addresses the applicability of Subchapter W.

In order to clarify this section, each major paragraph within § 199.10 has been given a subject heading. In addition, a new table, 199.10(a), summarizes the applicability of this section to each type of inspected vessel.

Existing Vessels

Changing Lifeboat Equipment. A number of comments indicated confusion about which provisions apply to vessels constructed before the interim rule came into effect. The comments requested clarification on when a vessel must be retrofitted with required equipment.

In general, vessels constructed before October 1, 1996 may retain the ''arrangement'' of then existing lifesaving equipment on the vessel, unless the regulations specifically require retrofit. Wording to this effect is contained in §§ 108.515(a)(3), 133.10(b)(3), and 199.10(h)(1)(iv). Although ''arrangement'' was not defined, the Coast Guard intended a broad interpretation. For instance, it was not intended that vessel owners should immediately change all of the existing lifesaving equipment markings to the IMO symbols required under § 199.178(a), although this would remain an option. New or additional equipment required by this rule would not have to be added unless specifically required in §§ 108.515, 133.10 or 199.10.

Nor should owners change equipment in existing lifeboats to the new listing in either Table 108.575(b) or § 199.175. The new listings are intended for modern totally enclosed or partially enclosed lifeboats. Owners who want to convert to the new equipment should refer to the Coast Guard's Navigation and Vessel Inspection Circular (NVIC) 2–92 for guidance. NVICs can be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, telephone (sales desk) (800) 553-NTIS (6847) or (703) 605–6000, fax orders (703) 321–8547, or E-mail orders@ntis.fedworld.gov. NVICs are also available on the World Wide Web at < http://www.uscg.mil/hq/g-m/nvic/index.htm>.

Retrofit of rescue boats on ferries. One comment from the operator of a Great Lakes ferry noted that Table 199.630, together with §§ 199.10(h)(1)(ii) and 199.202, would require a ferry on the Great Lakes to retrofit rescue boats.

Ferries are not required to retrofit rescue boats. Section 199.10(h)(1)(ii) may require certain passenger vessels to retrofit ''survival craft'', but rescue boats are specifically excluded from the definition of ''survival craft'' in this part.

Use of pooled equipment. One comment noted that §§ 199.10(d)(5) and (i) might require an owner to upgrade lifesaving equipment on an old ship with a limited remaining service life, and not allow the use of lifesaving equipment from a pool of older equipment salvaged from other ships.

The Coast Guard does not believe that this will be a problem. Sections 199.10(i)(1) and (2) specifically allow

the use of older lifeboats, davits, and winches in cases in which the entire lifeboat installation does not have to be replaced. Normally, a damaged lifeboat can be replaced without replacing the davit and winch. The Coast Guard believes an owner's use of a pool of equipment is reasonable, and that these situations can be resolved on a case-by-case basis, as long as there is no conflict with SOLAS.

Permissively manned Great Lakes barges. One comment suggested that permissively manned Great Lakes barges be specifically exempted from subchapter W. These vessels were recently required to be inspected, and the comment stated that while these vessels would be significantly affected by the regulations, the owners had no opportunity to comment on the regulations because these barges would not have been affected at the time the NPRM was published.

The Coast Guard has not exempted manned Great Lakes barges from the regulations, however, § 199.10(h)(1)(iv) permits vessels constructed before October 1, 1996 to retain their present lifesaving arrangements. Most new barges are exempt from EPIRB and rescue boat requirements under § 199.610(a)(1). In addition § 199.20(d) authorizes the District Commander to grant further exemptions, if appropriate.

International Rules Applied to Domestic Services

SOLAS rules and domestic vessels. A number of comments suggested that the Coast Guard was improperly applying international or SOLAS rules to domestic vessels.

The Coast Guard used SOLAS terms and organization to write the regulations in Parts B, C, and D of Subchapter W, but did not apply all of the international regulations to vessels in domestic services. Parts E and F apply to vessels in domestic services and clearly exclude domestic vessels from international requirements that do not apply to them. The regulations allow vessels that meet international standards to be used in domestic services; however, they do not mandate that domestic service vessels comply with international standards. The Coast Guard could have organized the regulations differently by providing completely different sections for international and domestic services. Though the numbers and types of lifesaving equipment are different for SOLAS and domestic services, many of the basic requirements are the same. Consequently, a separate section of regulation for each type of domestic service would needlessly increase the size of subchapter W. In the past, separate sections covering different services have led to inconsistencies that the Coast Guard wishes to avoid.

International voyage. One comment objected to the definition in § 199.30 of *international voyage* as applied to tank vessels because it included voyages between the continental United States and Alaska or Hawaii. The comment stated that owners should not be required to get a SOLAS Safety Equipment Certificate for these voyages.

The definition has not been revised. It is consistent with current regulations for passenger and cargo ships in §§ 70.05–10(a)(2)(iii) and 90.05–10(a)(2)(iii), respectively, which include voyages between the continental United States and Alaska or Hawaii as international voyages for the purposes of the regulations. A comparable paragraph does not appear in § 30.01–6(a)(2) for tank vessels. The regulation in subchapter W does not mean that tank vessels on domestic voyages between Alaska and the continental United States now have to obtain SOLAS Safety Equipment Certificates. It does mean that they have to meet the same lifesaving equipment requirements as vessels on international voyages. An examination of Tables 199.610(a), 199.610(c), 199.620(a), and 199.640(a), shows that the differences between the requirements for large tank vessels on international voyages and those in domestic ocean service are minimal. However, the effect of § 199.10(d)(5) on tank vessels constructed between July 1, 1986 and October 1, 1996, that are engaged in voyages between the continental United States and Alaska or Hawaii, would be to require them to retrofit their lifesaving equipment to meet SOLAS requirements. This was unintended, so § 199.10(d)(5) has been revised to exclude tank vessels constructed before October 1, 1996 that are engaged in voyages between the continental United States and Alaska or Hawaii from all of the SOLAS requirements.

Lifesaving Systems for Passenger Vessels in Domestic Services

Inflatable buoyant apparatus. A number of comments from operators of passenger vessels in lakes, bays and sounds, and river services objected to the requirements for the carriage of inflatable buoyant apparatus on vessels which have never had to carry significant quantities of lifesaving equipment. For instance, large ferries, accommodating as many as 5,000 persons, only had to carry a lifeboat for 36 persons. These vessels had typically substituted two 20-person inflatable liferafts and one or two oar-propelled rescue boats for this lifeboat. These operators are justifiably proud of their excellent safety record over the past 35 years; no fatality due to a casualty has been suffered over this period on any inspected U.S. passenger vessel over 100 gross tons. One operator objected to being ''penalized'' for their perfect safety record by having to buy and maintain needless lifesaving equipment. A number of comments questioned the Regulatory Assessment because it seemed to say that over 100 people had died in the past five years in casualties involving passenger vessels.

Because of these objections, the Coast Guard issued a partial suspension of the Interim Rule on February 19, 1997, as it applied to vessels constructed before October 1, 1996. The Regulatory Assessment has been revised, as discussed more fully in the sections titled ''Assessment.'' Although a few revisions have been made to the regulations, as discussed below, the Coast Guard has concluded that, in general, the regulations in the interim rule were appropriate.

Increased lifesaving requirements. A number of operators of passenger vessels in lakes, bays and sounds service, or in river service, objected to the increased lifesaving requirements. There were many reasons given for the objections. One comment included an extensive discussion of the report ''Improving Maritime Traffic Safety on Puget Sound Waterways'' referred to in the NPRM. The comment argued that the report contained so many invalid assumptions and incorrect statements that it could not be used as the basis for justifying a requirement to provide sufficient inflatable buoyant apparatus for everyone on board ferries. Furthermore, the comment stated the requirement of the Coast Guard Authorization Act of 1984 ''to develop improved lifesaving equipment for use on ferries'' had been met with the development in recent years of several new lifesaving systems and the comment stated that the Act did not specifically mandate that greater quantities of lifesaving equipment be carried.

The Coast Guard believes that Congress intended for the Coast Guard to make the changes necessary to improve lifesaving equipment on ferries. The regulations in Subchapter W make improvements in the lifesaving systems on ferries, but in addition, provide alternatives for ferries and other passenger vessels in Great Lakes services, lakes, bays, and sounds services, and river services. Alternatives, developed through a safety assessment, will allow operators to

develop different and possibly better ways to plan for the abandonment of a vessel in distress.

The Coast Guard has made some revisions to the requirements in the interim rule. The quantity of inflatable buoyant apparatus in cold water lakes, bays, and sounds service has been reduced from 100% to 67% of the number of persons on board. Inflatable buoyant apparatus are rated for their open water carrying capacity. In waters where high waves are not expected, such as those typically found in lakes, bays, sounds, and rivers, inflatable buoyant apparatus can be loaded to 50% above their rated capacity, and during their approval testing, they are tested in 0.9 m (3 ft.) high waves to ensure that they can be safely used in the ''overloaded'' condition. Therefore, a vessel carrying inflatable buoyant apparatus with rated capacities totaling 67% of the persons permitted on board can actually accommodate 100% of the number of persons on board in water where high waves are not expected. Section 199.630(g) has been revised to clarify this point.

Some operators commented that much of the expense of meeting the interim rule requirements would come from hiring persons to be on board solely for the purpose of being available to launch and operate the inflatable buoyant apparatus. The Coast Guard has revised the regulations to provide for the possibility of reducing some of the cost impact of the additional manning required. The Coast Guard recognizes that some launching and embarkation arrangements might not require a trained person to be placed in charge of each inflatable buoyant apparatus. Furthermore, some vessels, especially ferries, are sized to handle peak passenger loads and may carry fewer people at other times. On these trips with lighter loads, it would not be necessary to launch all of the survival craft in an abandonment. Table 199.630 and § 199.630 have been revised by adding a new paragraph (l), stating that a deck officer, able seaman, certificated person, or person practiced in the handling of liferafts or inflatable buoyant apparatus is not required to be placed in charge of each inflatable buoyant apparatus, provided that there is a sufficient number of such persons on board to launch the inflatable buoyant apparatus and supervise the embarkation of the passengers. Paragraph (l) also says the number of persons on board for the purpose of launching and operating inflatable buoyant apparatus may be reduced during any voyage where the vessel is carrying less than the number of passengers permitted on board, and the number of such persons is adequate to launch and operate sufficient survival craft to accommodate everyone on board.

46 CFR subchapter K requirements. One comment suggested that the Coast Guard revise subchapter W to be more consistent with the lifesaving requirements in 46 CFR subchapter K. Subchapter K applies to passenger vessels under 100 gross tons, which carry more than 150 passengers, or have overnight accommodations for more than 49 passengers.

The Coast Guard does not agree with this comment. Subchapter K vessels are smaller and generally carry fewer persons than those to which Subchapter W applies, therefore presenting a lower level of risk in the case of an accident that would require the abandonment of the vessel. Space and weight can be more of a problem on these smaller vessels than on vessels to which Subchapter W applies. For these reasons, no changes have been made as a result of this comment.

Sections 199.10(h)(1)(i), (h)(1)(ii), and (h)(1)(iii). The Coast Guard is reinstating these sections which apply certain Subchapter W regulations to passenger vessels not subject to SOLAS. Section 199.10(h)(1)(i) also applies to cargo vessels not subject to SOLAS. The effective date of this paragraph was October 1, 1997, before suspension of the regulation. This date has been set back to October 1, 1999, approximately one year after the effective date of this rule. The effective date for §§ 199.10(h)(1)(ii) and (h)(1)(iii) has been changed to October 1, 2003, approximately five years after the effective date of this rule.

Survival craft exemption. One comment stated that there was no survival craft exemption provided for a passenger vessel that was always close to shore where it could discharge passengers quickly in an emergency. Another comment suggested that an additional exemption from survival craft requirements be added for vessels which can return to shore within 15 minutes.

The Coast Guard does not agree with the suggestion to provide a blanket exemption for vessels which operate close to shore. The shore may or may not provide an appropriate place to land persons in safety. The safety assessment alternative in § 199.630(f), elsewhere in this preamble, was developed to evaluate such situations.

Launching appliances. One comment stated that under §§ 199.630(d) and (e), the Coast Guard should accept ''other safe and effective means'' for boarding survival craft on riverboats, other than launching appliances, as in § 199.110(f)(4).

The Coast Guard believes that the freeboard on most riverboats will be less than 3 meters so that, under § 199.630(d)(1), launching appliances will probably not be required. If the freeboard is more than 3 meters, some type of launching appliance or marine evacuation system will be needed for passengers. Section 199.09 allows equivalents to be considered by the Coast Guard.

Safety Assessment Alternative for Passenger Vessels in Domestic Services

A number of comments raised concerns over the Shipboard Safety Management and Contingency Plan alternative in § 199.630(f), for passenger vessels in domestic service. The alternative would allow the evacuation arrangements for the vessel to be determined in accordance with the plan, which would replace the regulatory requirement for a minimum number of inflatable buoyant apparatus. The concerns include: consistency of decisions by OCMIs; the necessity for any increase in the lifesaving equipment requirements for these vessels; the appeals process; and the potential reluctance by OCMIs to approve any deviation from the minimum required lifesaving equipment requirements.

The Coast Guard has determined that it is appropriate to increase the minimum lifesaving equipment requirements to enhance passenger and crew safety. A detailed discussion of the costs and benefits associated with this requirement can be found under ''Assessment.'' However, in certain circumstances, less than the required minimum lifesaving equipment capacity may be appropriate because other equipment or resources contribute to an equally safe passenger/crew environment. To provide a performance-based alternative, equivalent to the equipment requirements, a shipboard safety assessment/safety management plan alternative is included in the regulations.

An approved Shipboard Safety Management and Contingency Plan will provide a level of safety equal to that which would be provided by equipping the vessel with required primary lifesaving equipment. The plan would be validated periodically with exercises and drills to ensure that it provides for effective and safe evacuation of the vessel. A detailed discussion of the comments follows below.

Shipboard safety assessment, generally. Several comments raised concerns over the shipboard safety assessment alternative in § 199.630(f).

One objected to the safety assessment having to be approved by the OCMI because over the years, the decisions of different OCMIs would be inconsistent. The comment suggested that objective criteria be provided for the safety assessment rather than the subjective criteria listed in the paragraph.

The Coast Guard has developed Navigation and Vessel Inspection Circular (NVIC) 1–97, a policy document that describes in general how to develop shipboard safety management plans, including contingency plans. Contingency plans include planning for the evacuation of the vessel in all credible emergency situations. The guidance in the NVIC will make OCMI decisions more consistent. However, the Coast Guard recognizes that a performance-based regulation, which is designed to allow for flexibility, will inevitably involve some inconsistencies and differences of opinion. The Coast Guard and vessel operators will need to work together to minimize these problems. During the five-year phase-in period of this rule, the Coast Guard plans to hold a series of workshops involving affected operators and Coast Guard inspection offices, so that through cooperation and partnership a consistent process for development of shipboard safety management plans can be achieved. Additionally, the Coast Guard plans to use its Quality Assurance staff of ''travelling inspectors'' (G–MO–1) to participate in the development of shipboard safety management plans to ensure consistency of implementation throughout the country. Furthermore, the Coast Guard is developing criteria for OCMIs to use in approving these alternative plans to ensure that they provide a level of safety at least equal to that which would be provided by inflatable buoyant apparatus.

The workshops will consider issues such as the types of contingencies that need to be planned for, the probabilities of various types of emergencies given the characteristics of the waterway, and to what degree ship characteristics and alternative equipment can substitute for lifesaving equipment. The schedule and details about the workshops will be announced in a **Federal Register** notice. The public workshops and agendas will focus on local needs. Please contact Mr. Bob Markle via either e-mail or post at the addresses found under **ADDRESSES** for more information on the workshops.

Shipboard safety management plan. One comment stated that the shipboard safety management plan and Navigation and Vessel Inspection Circular 1–97 that explains how to develop the plan, served no purpose because the plan was an alternative to an unnecessary regulation.

The Coast Guard has kept the shipboard safety management plan alternative because it allows the operator to develop contingency plans based on the risks posed by their particular operation, not based on a prescriptive regulation.

NVIC 1–97. One comment questioned the objective of NVIC 1–97, wondering why it was necessary to go through a safety assessment just to maintain the status quo in lifesaving equipment, and questioning the absence of any criteria relating to damage stability and structural fire protection.

The objective of the safety assessment is to define the optimal approach to safety for a particular operating condition. The result of a safety assessment might be a different lifesaving equipment arrangement or a completely different approach to managing abandonment of the vessel. The Coast Guard agrees that damage stability criteria and structural fire protection might be considered for future addition to the safety assessment guidance.

Support for safety assessment. Three comments expressed support for the safety assessment and for NVIC 1–97, noting that the guidance was similar to that used for many river gaming vessels; that it clearly spelled out the requirements for contingency plans; and that the NVIC would help operators standardize their plans among their fleets. The comment further suggested developing a NVIC to cover the rest of the safety assessment mentioned in § 199.630(f).

The contingency plan outlined in the enclosure to NVIC 1–97 forms a major part of the safety assessment. The Coast Guard will work with the industry to expand NVIC 1–97, and if necessary, to provide additional guidance for developing the safety assessment.

Appeal procedure. One comment asked if there would be an appeal procedure for OCMI decisions on safety assessments under § 199.630(f).

The appeal procedures described in 46 CFR 1.03 apply in cases where an operator does not agree with an OCMI's decision on a safety assessment.

Objections to shipboard safety management plan. One comment raised several objections to the shipboard safety management plan alternative, speculating that OCMIs would not risk approving such a plan since any mishap involving such a vessel would possibly jeopardize their careers. The comment also suggested that experience with riverboat gaming vessels gave the Coast Guard a false sense of confidence in safety management and contingency planning, since that industry could spend large amounts of money to develop such analyses in order to avoid expensive delays in starting their operations. The comment also noted that there were no pass/fail criteria established for the safety management plan.

The Coast Guard disagrees. The shipboard safety management plan is an option that the vessel owner can choose to apply or not apply.

Lifesaving systems for MODUs, generally. Two comments stated that the lifeboat requirement of 200% of vessel capacity in § 108.525(a) was not consistent with other vessel types. One comment suggested a reduction in lifeboats to 75% of vessel capacity and in liferafts to 50% of vessel capacity to be consistent with passenger ship requirements. The comments raised the following points:

—MODUs have evacuation plans and are accompanied by other vessels, precautions which passenger vessels do not take, so lifesaving system requirements should be adjusted accordingly.
—OSVs require lifefloats for 100% of vessel capacity.
—Cargo vessels require lifeboats for 200% of vessel capacity, but liferafts for 200% of vessel capacity are accepted on smaller vessels.
—Passenger vessels require a combination of lifeboats and liferafts equaling 125% of vessel capacity.
—OCS platforms require lifefloats for 100% of vessel capacity.

The Coast Guard has not revised these regulations. Requirements vary among vessel types because of vessel characteristics. The ship most comparable to a MODU in terms of fire and explosion hazard is a tanker, which requires fire-protected lifeboats for 200% of vessel capacity. The requirements for MODUs are also consistent with the current IMO MODU Code. The IMO MODU Code requirements were supported by other countries with offshore drilling activities, and justified by their casualty experience.

Widely separated'' survival craft stations. One comment noted that the Coast Guard had not defined the criteria for determining whether or not survival craft stations were ''widely separated'' as the term is used in § 108.525(a)(1). If survival craft cannot be widely separated only 100% capacity in fire-protected lifeboats is required, rather than 200%, since spare lifeboat capacity cannot be provided at a different location. The comment noted that on

triangular rigs the normal survival craft positions would not be widely separated.

The Coast Guard agrees with the comment and has added a definition of ''widely separated locations'' to § 107.111.

Lifeboat orientation and location. One comment suggested that the second sentence of § 108.550(f)(3) be replaced with a sentence from the IMO MODU Code. The second sentence of § 108.550(f)(3) says, ''The location and orientation of each lifeboat must be such that the lifeboat is either headed away from the unit upon launching, or can be turned to a heading away from the unit immediately upon launching.'' The sentence from the MODU Code says, ''Consideration should be given to the location and orientation of the survival craft with reference to MODU design such that clearance of the unit is achieved in an efficient and safe manner having due regard to the capabilities of the survival craft.''

The Coast Guard does not agree with the comment and has made no revision. The IMO MODU Code sentence is not sufficient for meaningful implementation. The second sentence of § 108.550(f)(3) captures the Coast Guard's interpretation of the intent of the IMO MODU Code requirement.

Use of certain terms. Two comments stated that the term ''escape'' in §§ 108.540(h) (3) and (4) was misleading because it has other connotations. One of the comments suggested using the term ''embarkation'' instead of ''escape.'' Two comments noted the use of the term ''approved'' in § 108.540(h)(3) did not appear to mean ''approved by the Commandant'' as that term is defined in § 107.111. A suggested revision was to indicate the approval of the OCMI.

The suggested revisions improve clarity and have been made.

Escape time requirement. Three comments indicated that the 10 minute escape time in § 108.540(h)(3) seemed difficult, because some of the items listed, such as controlled escape devices, can only handle a few people in that time. Since these devices generally replace ladders, which have relatively slow evacuation times, the 10 minute escape time could imply that the alternate means of escape should actually be better than the device it replaces.

The Coast Guard agrees with the comments and has revised the section to require that the alternate means of escape have at least the same capacity as the device which it replaces.

Ladder-cage requirement. Three comments suggested eliminating the requirement in § 108.540(h)(3) for cages around ladders in areas subject to wave action, or where the ladder is inside the lattice legs of a jackup unit.

The Coast Guard agrees and has revised the section.

Training and Drills

Training and drill requirements, generally. Several comments pointed out that not all the training and drill requirements in § 199.180 were appropriate for vessels in domestic services. For instance, one comment pointed out that training in the use of firemen's outfits was not necessary for vessels in river service that don't carry firemen's outfits, and that the equipment should not be required to be carried just for training purposes. Another comment stated that hypothermia training was not needed on rivers.

The Coast Guard agrees in principle. Training in hypothermia would be beneficial to those on river service in cold climates. However, the same level of training would not necessarily be needed as the training required for vessels in ocean service. Training in the use of equipment that the vessel is not required to carry is not required. Table 199.620(a) has been revised to add a line referring to § 199.180. A new section, § 199.620(p), has been added to clarify that training and drills do not need to cover equipment and subjects not required for the vessel's service.

The Coast Guard has not, as one comment suggested, exempted river vessels from a requirement for passenger safety briefings. Passengers need to receive appropriate instructions on what to do in an emergency regardless of the service the vessel is engaged in.

Emergency duties on MODUs. Two comments suggested revisions to the MODU regulations to reflect the fact that industrial personnel, as well as crew members, can be assigned emergency duties.

The Coast Guard agrees with the comments and has revised §§ 108.901(b), (b)(6), (b)(6)(ix), (b)(6)(x), and (7) and 109.213(b), (c)(2), (d)(5), and (h)(1)(iv) to include industrial personnel in the emergency duties.

Emergency lighting. One comment suggested revising § 109.213(d)(6) to clarify that the emergency lighting to be tested during a drill on a MODU is only that lighting which is powered from a battery source so that an emergency generator does not need to be started.

The Coast Guard has not revised the paragraph. The requirement is only to test the lighting. It is not intended or implied that the emergency generator must be started for this purpose. The lighting may be tested using the main power source.

Immersion suits. Two comments suggested revising § 109.213(d)(7) to require wearing an immersion suit during drills once every three months rather than once a month to prevent undue wear.

The Coast Guard agrees with the comment and has revised this section as well as a similar provision in § 199.180(d)(11).

Emergency fuel and ventilation shutdowns. Seven comments stated that operation of emergency fuel and ventilation shutdowns during fire drills required in § 109.213(f)(2)(vii) is unsafe and would require shutdown of the well. Two of the comments suggested that this be done only once every six months.

The Coast Guard agrees with the comments and has revised the section. This is a drill and training requirement and only simulation of the operation of these controls is necessary. The Coast Guard does not intend for the well to be shut down for this purpose.

Familiarization and basic training. Two comments on § 109.213(g) stated that familiarization and basic training are elements of STCW (International Convention for Training, Certification and Watchkeeping of Seafarers of 1978, as amended) and should not be covered in this rulemaking.

This section does not require familiarization or basic training. It requires on board training in the particular systems used on the MODU. It is an extension of the drill requirement and does not overlap the basic training covered by the STCW Convention.

Liferaft inflation. Three comments indicated that inflating of liferafts every 4 months for training purposes under § 109.213(g)(5), posed objectionable costs and logistics. The comments stated that these small cost items along with the costs of other (unspecified) changes add up; questioned whether this had been evaluated in light of STCW training requirements; stated that it was not accounted for in Regulatory Assessment; and asserted that the necessary objectives could be achieved by lowering a dummy weight.

This regulation has been evaluated in light of the 1995 Amendments to the STCW Convention and the implementing regulations (published on June 26, 1997 at 62 FR 34506). As a result the final rule was drafted so that the two regulations are consistent. A training raft can be a ''condemned'' raft inflated by compressed air, in which case costs of compliance should be minimal. A dummy weight does not

accomplish the objective of the training. The final rule continues to require the use of an inflated raft ''whenever practicable.''

Rescue Boats

Weight of the rescue boat. One comment noted that § 199.630(i) does not mention that 46 CFR 160.056 limits the weight of the rescue boat to 100 kg (225 lb), and wondered if that included the outboard motor. The comment also questioned whether or not the boat would have a maximum horsepower plate.

The 100 kg (225 lb) limit does not include the motor. Unless the boat is intended by its manufacturer to be solely for commercial use, it will have a maximum horsepower plate under 33 CFR 183.25. No revision has been made to the regulations as a result of this comment.

Powered winches. One comment suggested that river boats be exempt from the requirement for powered winches to lower their rescue boats since they presently use hand winches or gravity.

The Coast Guard agrees with the comment. Section 199.640(h)(2) has been revised to specifically permit rescue boats that are launched without personnel on board the rescue boat to have manually-powered winches.

Repairs to rescue boats. Two comments suggested revising § 109.301(g)(4) to indicate that repairs to the inflatable chambers of rescue boats, rather than all repairs, had to be made at an approved servicing facility.

The Coast Guard agrees that the comment reflected the intent of the paragraph and has revised it accordingly. The Coast Guard has also revised a similar provision in § 199.190(g)(4).

Launching Appliances for Survival Craft and Rescue Boats

Safety factors. One comment noted the requirements for safety factors for falls and structural attachments of launching equipment in §§ 199.150(e) and 199.153(c) were based on the ultimate tensile strength of the material. The comment pointed out that such safety factors were appropriate for mild steel components, but might not be appropriate, or might even be inadequate, for structural attachments made of materials other than mild steel or which are subjected to complex combinations of stresses. The comment suggested permitting the use of more sophisticated failure criteria as an alternative. In addition, the comment suggested requiring or recommending that sea forces be considered in the design of the attachments of the launching equipment rather than simply using safety factors based on static loads.

The Coast Guard agrees in principle with the comment, but no change has been made at this time. Launching systems for survival craft are constructed almost exclusively of mild steel, as are the decks to which they are secured. Other materials, such as aluminum or composites, are not generally used on vessels to which subchapter W applies. Should such a special construction be proposed, however, the Coast Guard believes it has allowed an adequate means to evaluate alternatives under § 199.09. The static safety factors are based on SOLAS requirements and, while the Coast Guard agrees that it would be better to consider the dynamic forces, there have been no guidelines developed nor recommendations made on how to do this. Even if it is less than optimal, the static force safety factor standard as proposed in the regulations has proven to be successful over the years.

Winch drum. One comment requested a clarification of the requirement in § 199.153(f) that each winch drum should be arranged so the fall winds onto the drum in a level wrap. The comment noted that this was not a SOLAS requirement, and wanted to know if the requirement was intended to prohibit winch drums designed for more than one layer of wire rope.

The requirement is not intended to prohibit winch drums accommodating more than one layer of wire rope. It is intended to prevent designs that allow the wire rope to wind unevenly or tangle. Such designs will not meet the SOLAS requirement for falls to wind onto the drums at an even rate. Section 199.153(f) has been revised to indicate that one or more level wraps of wire rope are permitted.

Manning of Survival Craft

Able seamen and certified persons. Three comments stated that wages for able seamen and certified persons are expensive and not presently required on river vessels. They requested an alternative to the requirement in § 199.100(b).

The Coast Guard agrees with the comment and has added an alternative to Table 199.620, and added a new § 199.620(o) to allow deckhands to operate and launch survival craft on river vessels.

Great Lakes manning. One comment suggested that persons practiced in the handling of liferafts or inflatable buoyant apparatus be specifically permitted to be placed in charge of such survival craft on ferries operating on the Great Lakes. Currently the OCMI has discretion to approve uncertificated persons as provided in § 199.100(c)(1). The comment explained that it was difficult to find such qualified persons for seasonal employment on Great Lakes ferry operations.

The Coast Guard has not adopted the suggestion to remove the OCMI's discretion on permitting persons other than certificated persons to be placed in command of liferafts or inflatable buoyant apparatus. Since there are no standards for the proficiency of such persons, the OCMI must be satisfied with the overall safety of the operation before allowing uncertificated persons to be placed in charge of liferafts or buoyant apparatus.

Lifeboat second-in-command. One comment suggested that the person designated second-in-command of a lifeboat under § 199.100(d), on a ferry operating on the Great Lakes, not be required to be a deck officer, able seaman, or certificated person (lifeboatman). Instead, the second-in-command could be a person practiced in the handling of lifeboats. The comment explained that it was difficult to find such qualified persons for seasonal employment on Great Lakes ferry operations. The person making the comment was concerned that the operator of a seasonal ferry service might be tempted to substitute less effective lifesaving equipment for the lifeboats in order to limit the number of certificated persons required on the vessel.

The Coast Guard agrees with the comment and has added the alternative to Table 199.630, and added a new § 199.630(n) applying to vessels in Great Lakes, and lakes, bays and sounds services.

Visual Distress Signals on Vessels in Domestic Services

Exemptions. One comment stated that exempting vessels on a run less than 30 minutes away from the dock from the requirement in § 199.610(a)(2) to carry distress signals did not make sense and was not consistent with requirements for recreational boats.

The Coast Guard does not agree. Recreational boats do not operate on scheduled runs, but they are required to carry visual distress signals in coastal waters. Vessels on short scheduled runs are soon missed if they do not arrive on time so that, even if radio contact fails to notify those on shore of a problem, late arrival will.

Lifejackets and Immersion Suits

Lifejacket markings. One comment stated that lifejackets stowed in MODU staterooms do not need to have markings designating the stowage position.

The Coast Guard agrees with the comment and has revised § 108.649(b) to exclude marking of stowage positions for lifejackets stowed in MODU staterooms.

Immersion suit markings. Two comments recommended deleting the requirement to mark immersion suits ''in block capital letters'' so that stenciling is not implied since other methods are used to mark immersion suits. Another comment suggested the use of the company name along with an identifying number, which has been accepted by the Coast Guard previously as satisfactory.

The Coast Guard agrees with the comments and has revised §§ 108.649(c), 133.70(c)(3), and 199.70(c)(3) to require that immersion suits be marked in such a way that the person, vessel or MODU they belong to can be identified.

Child-size lifejackets. One comment stated that the exemption for carriage of child-size lifejackets in Table 199.610(a) at the line for § 199.70(b)(1)(i), should additionally indicate that the exemption applies to vessels only carrying adults, since some gaming vessels are limited to carriage of persons over 21.

The Coast Guard does not agree that the recommended revision is necessary. Some vessels, such as gaming vessels, are certificated to carry only adults. If they carry lifejackets indicated as being the ''adult'' size, then they do not carry persons smaller than the lower size limit of the lifejacket.

Separate stowage requirements for lifejackets. One comment suggested deleting the requirement in § 199.70(b)(2)(ii) that child-size lifejackets be stowed separately from adult sizes.

The requirement has been deleted as suggested. The Coast Guard considers separate stowage of child-size lifejackets to be good practice; however, child-size lifejackets are clearly marked as such, so the possibility of confusing them for adult sizes is minimal.

Marking of stowage containers. One comment stated that the requirement in § 108.649(g) to mark lifejacket, immersion suit, and anti-exposure suit stowage containers on MODUs with the quantity and size of the devices inside was unnecessary since the number may change and include extras.

The Coast Guard partially agrees with the comment and has revised the section. The number of items in the container should be the minimum required to comply with the regulatory requirement. There should be no problem if extras are stowed there. As far as sizes are concerned, children are not carried on MODUs so there is no need to list the sizes of devices in the container if they are all adult/universal sizes. However, this equipment is now available in several adult sizes as well as in the universal size. Therefore, the section has been revised to require marking of sizes on the container only if sizes other than adult/universal are stowed inside.

Lifejacket Lights and Retroreflective Material

Exemption for ferries. One comment suggested that there should not be exemptions for the carriage of lights for lifejackets on ferries in any service under Table 199.610(a). The comment reasoned that a casualty at night would result in large numbers of persons in the water that could not be seen.

A requirement for lifejacket lights on all passenger vessels was considered at the time lifejacket lights were originally required for some vessels in 1979. Operators of passenger vessels carrying large numbers of persons were concerned about the cost and maintenance burden of a large number of lifejacket lights. Although lifejacket lights could be an advantage in a nighttime accident, the Coast Guard believes that maintenance and pilferage would be extremely difficult problems for ferries and other vessels with small crews carrying hundreds or thousands of lifejackets. Furthermore, if these vessels carry inflatable buoyant apparatus or other survival craft, those craft will be equipped with lights. The lifejackets themselves are also equipped with retroreflective material making them conspicuous at night to searchers with searchlights. The Coast Guard has not revised this regulation.

Chemiluminescent lights in cold water. One manufacturer of chemiluminescent lights suggested that not all chemiluminescent lights be prohibited from use on waters where water temperature may drop below 10°C (50°F) since it is possible to develop chemiluminescent chemistry that would function in colder temperatures.

The Coast Guard agrees and has revised the regulations in § 108.580(b)(3)(i), 108.580(c)(2)(i), 133.70(b)(4), 133.70(c)(4), and 199.620(e) to prohibit the use of chemiluminescent lifejacket lights bearing the approval number 161.012/2/1 on waters where water temperature may drop below 10°C. This is currently the only approved light that exhibits the low temperature performance problem. The Coast Guard will ensure that future approved chemiluminescent lights that work at temperatures down to the freezing temperature of seawater will be given a different approval number.

Chemiluminescent lights on MODUs. Two comments recommended limiting chemiluminescent lights to use on MODUs between 32° latitude N and S and not basing the prohibition on water temperature.

The Coast Guard agrees with the comment and has revised § 108.580(b)(3)(i) accordingly. Since MODUs generally work year round in a single location, this suggestion is acceptable and is consistent with immersion suit latitude requirements.

Lights for immersion suits. One comment noted that, under Table 199.610(a), ferries in coastwise and Great Lakes services would be exempt from carrying lifejacket lights for lifejackets, but would not be exempt from carrying lifejacket lights for the few immersion suits they are required to carry. The comment suggested that the requirements should be consistent.

The Coast Guard agrees with the comment and has revised the table to include a line for § 199.70(c)(4)(i) that is identical to the line for § 199.70(b)(4)(i) that exempts these vessels from the requirement.

Retroreflective material. One comment stated that river vessels should be exempt from the requirement to mark lifesaving equipment with retroreflective material.

The Coast Guard disagrees. Retroreflective marking on lifesaving equipment is an extremely simple, reliable, and effective way of locating objects quickly at night. Unlike lifejacket lights, retroreflective material poses minimal maintenance and pilferage problems. No change to the regulation has been made.

Lifebuoys

Lights and smoke signals. One comment stated that it was impossible to install ring lifebuoys with lights and smoke signals so that they fall into the water without striking the vessel as required under § 199.70(a)(1)(v). The comment therefore requested that passenger vessels on short international voyages and in coastwise service be exempt from the requirement.

The Coast Guard agrees that it may be difficult to absolutely prevent the ring lifebuoy with a light and smoke signal attached from striking the vessel as it falls. However, there are devices available that allow the ring lifebuoy to roll outboard and fall away from the

hull. This minimizes the chance that the lifebuoy and its attachments will contact the hull as they fall.

Stowage requirements. One comment stated that stowage locations for lifebuoys out in the open are obvious and that there was no need to mark them as required in § 199.70(a)(1)(iii). Marking would only be needed if they were stowed in cabinets.

The Coast Guard does not agree with the comment. This had been a requirement for passenger vessels under subchapter H (§ 75.43–15(a)). Not all stowage arrangements for lifebuoys are obvious. The primary purpose of marking is to immediately alert personnel if one is missing.

Other Changes

Lifesaving inspections. One comment suggested removal of the requirement to conduct lifesaving inspections and tests whenever any new item is installed. The comment stated that the requirements in §§ 107.231(g)(v) and 199.45(c) are misplaced and excessive.

The Coast Guard does not agree. Newly installed equipment needs to be inspected or tested when it is installed to ensure that it is operating properly. This has been a regulatory requirement for many years, and is also in IMO's Recommendation on Testing of Lifesaving Appliances (IMO resolution A.689(17)).

Design weight of lifeboats. One comment suggested revising § 107.305(cc) to indicate that only the design weight of each lifeboat needs to be indicated on the initial submission of plans for MODUs.

The Coast Guard agrees. At the plan submission stage, only the design weights, not exact weights, will be known. The section has been revised accordingly.

Equipment exemptions for MODUs. One comment stated that the equipment exemptions for MODUs not in international service, which had been in previous 46 CFR 108.503(e), had not been carried through to the new regulations.

The Coast Guard compared the table with the previous list of exemptions and found that one correction was needed in order to make the table consistent with the previous regulations. Previous regulations did not require oars in lifeboats and rescue boats. The requirement for oars in lifeboats and rescue boats on MODUs in other than international service has been removed from Table 108.575(b).

Survival craft numbering. One comment objected to the survival craft numbering for MODUs, stating that it was different from the systems now used on many MODUs. This would lead to unnecessary renumbering of survival craft and modification of muster lists, training materials, and markings.

The Coast Guard agrees with the comment and has revised § 108.646(c) so that a particular numbering system does not need to be followed. The IMO MODU Code does not prescribe a numbering system.

Length and beam markings. Two comments suggested deletion of the requirement to mark the length and beam of the lifeboat on the bow of the boat.

The Coast Guard agrees with the comment and has revised §§ 108.645(a)(2) and 199.176(a)(2).

Stowage location markings. One comment stated that the requirement in § 108.645(a) to mark lifesaving equipment stowage locations with the symbols in IMO Res. A.760 was unnecessarily prescriptive and should not be mandatory.

The Coast Guard does not agree with the comment. Since crew and industrial personnel will often move from one MODU to another, it is important to have a standardized system of markings for emergency equipment and procedures. The IMO Res. A.760 markings have been available for about 10 years and are now a world standard. They are available from several sources and are already printed in photoluminescent ink on self-adhesive backings, making them very easy and economical to use.

Muster list requirements. Two comments recommended a division of the muster list requirement in § 108.901 into two sections, one addressing muster lists and the other addressing station bills. The comments defined a muster list as a list of the persons on board and their station, and defined the station bill as the listing of emergency duties of all on board. One of the comments said that it will take time and money to change the name of the station bill to ''muster list'' on all units. The comment also stated that the section was far more detailed than necessary, but did not specify which sections should be deleted.

The comments may be technically correct, but the Coast Guard has not made a distinction between ''muster lists'' and ''station bills'' in the past, nor is it made internationally. The Coast Guard regulations previously addressed both of these purposes under ''station bill'' and is changing its terminology to the more internationally accepted ''muster list.'' Accordingly, no revision has been made. Units may continue to use the term ''station bill'' for the muster list if they wish. The section does not specify what the title of the muster list should be. However, the Coast Guard recommends the eventual changeover to ''muster list'' for consistency with these regulations and with international terminology.

Reports to the OCMI. Three comments suggested that the OCMI be notified only in the case of *extensive* repairs to fire detecting and extinguishing equipment. For example, replacement of defective sensors or circuit cards are ''normal'' repairs that should not have to be reported.

The Coast Guard agrees that there is no reason to report minor repairs to this equipment and has made the suggested revision to § 109.425.

Delay in annual servicing. Sections 109.301(g)(1)(ii) and (h)(1) allow a 5-month delay in the annual servicing of inflatable lifesaving appliances and hydrostatic release units until the unit's next scheduled inspection. Two comments suggested revising these paragraphs to allow the delay until the unit's next scheduled lifesaving equipment inspection under § 109.301(f).

The Coast Guard does not agree with the comments. SOLAS allows a delay in servicing of up to five months to coincide with a vessel's inspection for certification when other items of equipment are often replaced or repaired. The new IMO Life-Saving Appliances (LSA) Code becomes effective on July 1, 1998, and allows extensions only when servicing within the 12-month interval is ''impracticable.'' Since the lifesaving equipment used on MODUs is built to SOLAS standards, it is appropriate that the SOLAS servicing requirements apply to this equipment.

Editorial Revisions

This final rule contains a number of editorial revisions. Many of these revisions insert missing words, delete extra words, or correct other small errors. These corrections are not discussed in detail here. Other editorial revisions include:

(1) Section 28.130(d) of Title 46 requires additional lifesaving equipment carried aboard uninspected commercial fishing vessels to meet the installation, arrangement, equipment, and maintenance requirements contained in 46 CFR part 94. Since the interim rule removed part 94, this reference has been changed to 46 CFR part 199.

(2) Section 107.231(w) was removed by the interim rule; however, this paragraph was inadvertently published in the October 1, 1996, revision of the Code of Federal Regulations. Section

107.231(w) is removed under this final rule.

(3) Section 108.500(b) requires surface type units to meet the lifesaving system requirements of subchapter W. The intent of this paragraph, as made clear in the preamble of the interim rule, was to require drillships to meet the requirements of subchapter W and not the requirements for other types of surface units. Therefore, a definition of ''drillship'' has been added to § 107.111, and the term ''surface unit'' as it appeared in the interim rule has been changed to ''drillship'' in § 108.500.

(4) Two comments indicated that the reference to ''devices for protection in launching areas'' in § 109.213(a)(2)(vi) on training material was not clear. The devices referred to are water spray systems used to protect aluminum lifeboats or launching appliances. The Coast Guard agrees with the comments and has revised the section to read as follows: ''The method and use of water spray systems in launching areas, where required for the protection of aluminum survival craft or launching appliances.'' A similar revision has been made to § 199.180(a)(2)(vi).

(5) Three comments indicated that the meaning of ''detection'' equipment was not clear in § 109.213(a)(2)(ix). Detection means the determination of the location of survivors or survival craft and is defined as such in § 199.30, but no similar definition was inserted in the subchapter I–A definitions in § 107.111. Instead of adding the definition of detection to § 107.111, the Coast Guard has revised § 109.213(a)(2)(ix) to include the definition in the text so that the text will be clearer. A similar revision has been made to § 199.180(a)(2)(ix). A related revision to clarify the meaning of ''detection equipment'' has been made to § 109.213(g)(7)(v)(G).

(6) Section 133.160(a) has been revised to identify the approval series for rescue boat launching equipment which were inadvertently omitted from the interim rule. These are the same approval series identified for rescue boats in 46 CFR part 199.

(7) One Coast Guard office noted that Table 199.610(a) taken in conjunction with § 199.610(a) could be confusing. For instance, is a vessel in lakes, bays and sounds service on a run of more than 30 minutes duration required to have distress signals or not? Section 199.610(a)(2) implies that it is. Table 199.610(a) says it is exempt from the requirement, which is what was intended. To eliminate such confusion, §§ 199.610(a)(1) through (a)(4) have been removed, and the provisions of those sections have been added to Table 199.610(a).

(8) Section 199.630(c) has been revised to make it clear that SOLAS B liferafts may be used in ocean service within 50 miles of shore and in other domestic services. These liferafts are permitted to be used on passenger vessels engaged in short international voyage service under § 199.201(a)(2)(ii), and are satisfactory for these domestic services as well.

(9) Section 199.630(f) has been revised to state that as an alternative to the survival craft requirements, certain vessels *may* have a safety assessment. In the interim rule, the word *must* was used, possibly implying that this was not an alternative as intended. All of the other sections under § 199.630 use the word *may* so this change makes § 199.630(f) consistent.

Incorporation by Reference

The Director of the Federal Register has approved the material in §§ 108.101, 125.180, and 199.05 for incorporation by reference under 5 U.S.C. 552 and 1 CFR part 51. Copies of the material are available from the sources listed in these sections.

Assessment

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866. However, due to its nature, it has been reviewed by the Office of Management and Budget under that order. It requires an assessment of potential costs and benefits under section 6(a)(3) of that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

A final assessment is available in the docket for inspection or copying where indicated under ''ADDRESSES.'' The Assessment is summarized as follows.

This rule applies to all U.S. inspected passenger vessels 100 tons gross tonnage and over, cargo vessels, tankships, manned cargo and tank barges, oceanographic research vessels, nautical school vessels (with the exception of sailing school ships), OSVs, and MODUs. Coast Guard records list 1,030 vessels that do not have SOLAS, MODU, or Special Purpose Vessel Code certificates (179 passenger vessels, 120 cargo vessels, 48 tankships, 12 manned barges, 4 oceanographic research vessels, 8 nautical school vessels, 567 OSVs, and 92 MODUs) that are currently operating under the U.S. flag, and will be affected by this rule. Because the regulations in this Final Rule are based on SOLAS, the IMO MODU Code, and the IMO Special Purpose Vessel Code, vessels with certificates indicating compliance with these standards will not be substantially affected by this rule. Therefore vessels with SOLAS, MODU, or Special Purpose Vessel Code certificates are not included in the Regulatory Assessment.

Industry Costs

Industry cost for this rule is estimated based on the implementation cost to vessels constructed before the effective date of the rule, the implementation cost to new vessels, and the recurring cost to all vessels for replacement of appliances as they become unserviceable.

Compliance cost of this rule will total about $56.9 million. The present value of the costs totals $43.7 million. This reflects a 7 percent discount to 1998 of the projected future estimated costs of this Interim Rule in accordance with current Office of Management and Budget guidance. Passenger vessels account for an estimated 80 percent of total compliance costs, and 86 percent of total recurring costs. OSVs and MODUs together account for 12 percent; cargo vessels, tankships and manned barges together account for 5 percent; and oceanographic research and nautical school vessels account for the remainder of the costs.

Comments on the Regulatory Assessment for the Interim Rule

Two comments to the IR stated that the statistical estimates and estimated costs did not justify a ''doubling'' of the lifeboat capacity on MODUs. MODUs have the lowest projected benefit by factor of 3. The Coast Guard's past experience in handling MODU casualties has demonstrated a tendency for lifeboats to be lost or made unavailable during a casualty. This was confirmed by the inclusion of a requirement for redundant lifesaving capacity in the 1989 edition of the IMO code for the construction of MODUs. The Coast Guard has determined that the IMO MODU Code requirements are appropriate, and has adopted them for this rule.

One comment disagreed with the cost estimates in the RA. Another disagreed with the assumption that the number of passenger vessels was decreasing, and with the assumption that the average number of passengers carried was 500, feeling that the number should be larger. The comment did not suggest a particular average number for passenger vessels nor did it suggest another method to determine the average number. The Coast Guard has revised the RA, and has considered the alternative cost estimates and passenger capacity issues. The RA does not make

the assumption that the number of passenger vessels is decreasing, as the comment asserts. Rather it assumes that the annual estimate of new vessels is directly proportional to the number of vessels that will retire annually, therefore resulting in a constant vessel population. The final RA uses the actual number of persons that passenger vessels are certificated to carry, therefore making the determination of an average passenger capacity unnecessary.

Two comments suggested withdrawal of Subchapter W on the basis that the RA did not demonstrate that there was a need for the regulation, in that no lives had been lost in the entire passenger vessel industry over the past five years. The comments also alleged that procedural errors had been made in the development of the rules and that it was not cost-beneficial.

Two comments challenged the IR Regulatory Assessment as flawed, with respect to passenger vessels in domestic services and concluded that the analysis stated that 124 lives had been lost over the past five years on 161 domestic passenger vessels, when in fact, no lives had been lost. One of the comments included an extensive analysis of the Coast Guard's casualty data to support the point. The other comment objected to having to prepare a safety assessment in order to maintain the status quo on lifesaving equipment, when the vessel has always operated safely. The Regulatory Assessment for the IR did not say that 124 lives had been lost over the past 5 years, but that 124 lives were at risk during that period. However, in response to these concerns the Regulatory Assessment has been revised for passenger vessels, using a different methodology which is discussed below.

The Coast Guard agrees that the industry has operated safely over the years. However, in dealing with large numbers of people using a statistically small number of vessels, the past safety record cannot accurately predict a future absence of serious accidents. To address low probability/high consequence events, a valid risk analysis is needed, and that is the intent of the safety assessment alternative. The Coast Guard views the development of a safety assessment as an important cooperative effort between the operators, the Coast Guard, and potential responders to make sure that the industry continues to operate safely.

One comment stated that a particular ferry system had operated in 1996 without a mishap, and that this safety record should be strong enough to justify no increase in safety equipment. Other comments, citing a particular operation, stated that there had never been a serious accident and implied that lifesaving equipment will therefore not be needed. The Coast Guard has not categorically analyzed 1996 data for particular ferry systems mishaps, but incidents of groundings, collisions, loss of power, near-misses and other problems have been recorded during this period. Although the Coast Guard agrees that these operations are very safe, they are not risk-free. The challenge is to determine the level of risk and to require appropriate mitigating steps. The Coast Guard notes that many domestic passenger vessel operations have excellent safety records, but that does not obviate the need to be prepared for serious casualties. A safety assessment may indeed reveal that one or more alternative lifesaving arrangements provide an equivalent safety level. The rule allows these alternatives to be evaluated on an ad hoc basis. The Coast Guard believes the safety assessment provides industry with the flexibility to justify different types of lifesaving arrangements.

One comment objected to the requirement in the interim rule for inflatable buoyant apparatus (IBA) to be carried on a particular gaming vessel operation, and listed reasons why IBAs were unnecessary and detailed the high cost of compliance. The Coast Guard believes that survival craft may not be necessary in this particular operation, as it was described in the comment letter. The option in § 199.630(f) allows for the development of a safety assessment, which will be the appropriate way to justify alternative lifesaving arrangements.

One comment noted that a safety assessment could cost as much as $10,000 or $20,000, and that this shall be reflected in the RA. The Coast Guard agrees with the estimate, and has based the RA on a similar estimate for passenger vessels in lakes, bays and sounds, and in rivers service.

Some operators commented that much of the expense of meeting the IR requirements will come from hiring persons to be on board solely for the purpose of being available to launch and operate the IBA. The Coast Guard has revised the regulations to provide for the possibility of reducing some of the cost impact of the additional manning required, recognizing that some launching and embarkation arrangements might not require a trained person to be placed in charge of each IBA. These cost-reducing arrangements are not accounted for in the RA to ensure that costs are not underestimated.

One comment suggested that revised rules for domestic passenger vessels not be published without first publishing a supplemental notice of proposed rulemaking supported by a new RA. The Coast Guard has revised the RA based on comments to the IR. However, the Coast Guard does not agree that a supplemental notice of proposed rulemaking will add any new or useful information. This project began in 1984. There have been opportunities to comment on an advance notice of proposed rulemaking, a notice of proposed rulemaking, an interim rule, and during two public hearings.

Summary of Changes to the Regulatory Analysis That Supports the FR

Passenger Vessels

The changes to costs and benefits in the regulatory analysis include costs borne by passenger vessels operating on lakes, bays and sounds, and river routes. The changes reflect modifications made based on public comments identified above. The following matrix shows differences between the costs and benefits identified in both the IR and FR.

Interim rule	Final rule
• Granted certain passenger vessels survival craft carriage exceptions and required carriage of Inflatable Buoyant Apparatuses (IBAs) to accommodate 100 percent of passengers carried aboard.	• Requires all passenger vessels operating on lakes, bays and sounds, and river routes to carry IBAs to accommodate 67 percent of the number of persons on board or develop a safety management plan for approval by the OCMI.
• Estimated safety plan development costs at $900,000	• Estimates safety plan development costs at $8.2M.
• Did not estimate additional manning costs associated with retrofitting IBAs.	• Estimates manning costs associated with retrofitting IBAs at $25.4M through 2003.

Interim rule	Final rule
• Employed Coast Guard's Search and Rescue Mission Information System rescue cases to assess the number of lives that were put at risk in capsizings, fires and explosions, flooding and sinking and collisions over the five year period preceding publication of the IR. Used this number to estimate the number of persons likely to be at risk.	• Employs MSIS vessel records of close calls (groundings, allisions, collisions, fire/explosion) and uses anticipated passenger vessel traffic growth as a basis for quantifying risk in the future. • Estimates a 50 percent probability that an incident will occur between 2004–2013 that will require abandoning the vessel. • Considers the probability of an event occurring in 2004 (1st full year of effectiveness) or in 2013 (10th full year of effectiveness) to yield a benefit range.
• Estimated total costs at $5.88M [1] for passenger vessels	• Estimates passenger vessel (over 100 gt) costs, manning and equipment, accumulated through 2004 to be $45.6M [1] accumulating to $109.2M [1] by 2013. Annual costs peak at $18.6M ($100,000/vessel) in 2004 and stabilize at $13.7M ($74,000/vessel) thereafter.
• Total benefits to passenger vessels (over 100 gt) were estimated to range from .8 to 4.8 lives saved or $810,000 [1] to $2.73M [1].	• Estimates the benefits of this rule in terms of lives saved to be 155 lives. Dollar values for these lives saved range from a high of $298.4M [1] to a low of $162.3M [1] should a passenger vessel accident occur in 2004 or 2013 respectively.
• Performed a cost-benefit analysis	• Added a sensitivity analysis to the cost-benefit analysis to portray alternative scenarios.

[1] Totals are in discounted (present value) dollars.

Other Costs and Benefits in the Final RA

• Cost and benefit estimates for cargo vessels, tank ships, manned cargo and tank barges, oceanographic research vessels, nautical school vessels, and mobile offshore drilling units are the same in both the IR and FR.

• Total costs for these vessels are estimated at $13.7 million.

• Total benefits for these vessels are estimated to range from $2.3 million to $16.9 million.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this Final Rule will have a significant economic impact on small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). ''Small entities'' also include not-for-profit organizations and small governmental jurisdictions.

The interim rule considered small business impact for vessels privately held by independent companies with less than 500 employees. It was determined that the FR would affect certain offshore supply vessels operating primarily in the Gulf of Mexico. About one-half of the OSV population is owned by 35 vessel owners, each having nine or fewer OSV's. Information provided by the International Association of Drilling Contractors and the Passenger Vessel Association, show that there is one MODU and about 10 percent of subchapter H passenger vessels that will be given consideration under the Regulatory Flexibility Act.

Flexibilities offered to vessel operators include a five-year implementation period for passenger and cargo vessels to comply with survival craft requirements. Passenger vessels may opt for meeting survival craft requirements by using the SSMACP alternative. Additionally, operators required to meet the EPIRB requirement may do so over a two-year period. Because of these accommodations, the Coast Guard certifies that this FR will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), The Office of Management and Budget (OMB) reviews each rule that contains a collection-of-information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection-of-information requirements include reporting, recordkeeping, notification, and other, similar requirements.

This FR contains collection-of-information requirements. The Coast Guard has submitted the requirements to OMB for review under section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and OMB has approved them.

The section numbers and the corresponding OMB approval numbers are as follows:

a. 31.36–1	2115–0071
b. 35.07–10	2115–0071
c. 35.10–1	2115–0071
d. 35.10–5	2115–0576, 2115–0577
e. 35.40–40	2115–0577
f. 70.28–1	2115–0071
g. 78.13–1	2115–0576, 2115–0577
h. 78.17–50	2115–0071
i. 78.37–5	2115–0071
j. 78.47–45	2115–0577
k. 90.27–1	2115–0071
l. 97.13–1	2115–0576, 2115–0577
m. 97.15–35	2115–0071
n. 97.35–5	2115–0071
o. 97.37–42	2115–0577
p. 107.305	2115–0554
q. 108.105	2115–0554
r. 108.645	2115–0577
s. 108.646	2115–0577
t. 108.647	2115–0577
u. 108.649	2115–0577
v. 108.650	2115–0577
w. 108.655	2115–0577
x. 108.901	2115–0557
y. 109.213	2115–0071
z. 109.301	2115–0071
aa. 109.323	2115–0576, 2115–0557
ab. 109.425	2115–0007
ac. 109.433	2115–0071
ad. 133.40	2115–0554
ae. 133.70	2115–0577
af. 133.80	2115–0577
ag. 133.90	2115–0577
ah. 167.55–5	2115–0577
ai. 167.65–1	2115–0071
aj. 188.27–1	2115–0071
ak. 195.06–1	2115–0071
al. 196.13–1	2115–0576, 2115–0577
am. 196.15–35	2115–0071
an. 196.35–5	2115–0071
ao. 196.37–37	2115–0577
ap. 199.10	2115–0007
aq. 199.40	2115–0554
ar. 199.60	2115–0577

as. 199.70	2115–0577
at. 199.80	2115–0577
au. 199.90	2115–0577
av. 199.100	2115–0576, 2115–0577
aw. 199.175	2115–0577
ax. 199.176	2115–0577
ay. 199.178	2115–0577
az. 199.180	2115–0071, 2115–0577
ba. 199.190	2115–0071
bb. 199.217	2115–0577
bc. 199.640	2115–0577

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number.

Federalism

The Coast Guard has analyzed this final rule under the principles and criteria contained in Executive Order 12612. Because of the minimal estimated cost to State and local governments, the Coast Guard believes that preparation of a Federalism Assessment is not warranted.

The United States Coast Guard has historically inspected vessels for their compliance with Federal regulations and international standards to which the United States is a party that address the safety of vessels and protection of life and property at sea and on waters over which the United States exercises jurisdiction. Many of these regulations implement the provisions of the International Convention for the Safety of Life at Sea, 1974, (SOLAS) as amended, to which the United States is a party. As a party to the convention, the United States has agreed to implement its provisions for vessels flying the flag of the United States and to apply these provisions to foreign vessels in accordance with the enforcement regime established within the Convention. In addition, the certificates of inspection and SOLAS certificates issued to vessels by the United States Coast Guard as a result of the comprehensive inspection program of which these regulations are a part indicates that the vessels are safe for the service in which they are engaged. Actions by state and local governments that seek to impose different standards than those imposed by these regulations would frustrate the desire of Congress to impose uniform, international and national standards relating to the lifesaving equipment and systems for vessels subject to inspection under Subtitle II of Title 46, U.S. Code. For these reasons, it is the Coast Guard's opinion that the Supremacy Clause of the Constitution would preempt state and local regulations that seek to impose different or higher standards than those established in these regulations.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, 109 Stat. 48, requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. UMRA requires a written statement of economic and regulatory alternatives for proposed and final rules that contain Federal mandates. A ''Federal mandate,'' is a new or additional enforceable duty, imposed on any State, local or tribal government, or the private sector. If any Federal mandate causes those entities, to spend, in the aggregate, $100 million or more in any one year the UMRA analysis is required.

Much of the information required in a budgetary impact statement is in the final regulatory assessment for this rule. State and local governments account for about 42 percent of the 157 passenger vessels that will require additional survival craft. The total first-year cost to public vessels will be $185,677 in current dollars. Other costs to public vessels, implemented between 2000 and 2003, total $17.2 million in current dollars. Total annual recurring costs to public vessels are $5.8 million in current dollars in 2004, and decrease annually thereafter on a present value dollar basis.

The UMRA analysis is not required because this rule results in an expenditure of less than $100 million per year by State, local, or tribal governments, or the private sector.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under Figure 2–1(34) of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. This rule enhances the safety and survivability of personnel at sea, as well as improves the effectiveness of search and rescue. It is expected to have no environmental impact. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects

46 CFR Part 28

Fire prevention, Fishing vessels, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 107

Marine safety, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 108

Fire prevention, Incorporation by reference, Marine safety, Occupational safety and health, Oil and gas exploration, Vessels.

46 CFR Part 109

Marine safety, Occupational safety and health, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 133

Marine safety, Occupational safety and health, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 168

Occupational safety and health, Schools, Seamen, Vessels.

46 CFR Part 199

Cargo vessels, Incorporation by reference, Marine safety, Oil and gas exploration, Passenger vessels, Reporting and recordkeeping requirements, Vessels.

For the reasons discussed in the preamble, part 28 is amended and the Interim Rule amending 46 CFR chapter I which was published at 61 FR 25272 on May 20, 1996, is adopted as final with the following changes to parts 107, 108, 109, 133, and 199:

PART 28—REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS

1. The authority citation for part 28 continues to read as follows:

Authority: 46 U.S.C. 3316, 4502, 4505, 4506 6104, 10603; 49 CFR 1.46.

§ 28.130 [Amended]

2. In § 28.130(d), remove the phrase ''46 CFR part 94'' and add, in its place, the phrase ''46 CFR part 199''.

PART 107—INSPECTION AND CERTIFICATION

3. The authority citation for part 107 is revised to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306; 46 U.S.C. 3316; 49 CFR 1.45, 1.46; § 107.05 also issued under the authority of 44 U.S.C. 3507.

4. In § 107.111, add definitions in alphabetical order, for ''drillship'' and ''widely-separated locations'' to read as follows:

§ 107.111 Definitions.

* * * * *

Drillship means a surface type unit with a single shipshape displacement hull.

* * * * *

Widely-separated locations as the term applies to the location of lifeboats on self-elevating units, means locations on different sides or ends of the unit separated by sufficient distance or structure to protect the lifeboats in one location from a fire or explosion occurring at or near the lifeboats in another location on the unit. Locations across from each other at the apex of a unit with a triangular deck are not widely-separated locations unless there is a substantial solid structure between them.

§ 107.231 [Amended]

5. In § 107.231 remove paragraph(w).

6. In § 107.305 revise paragraph(cc) to read as follows:

§ 107.305 Plans and information.

* * * * *

(cc) The design weight of each lifeboat, rescue boat, and davit-launched liferaft when fully equipped and loaded.

* * * * *

PART 108—DESIGN AND EQUIPMENT

7. The authority citation for part 108 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3102, 3306; 49 CFR 1.46.

8. In § 108.500 revise paragraphs (a) and (b) to read as follows:

§ 108.500 General.

(a) Each unit, other than a drillship, must meet the requirements in this subpart.

(b) Each drillship must meet the lifesaving system requirements in subchapter W of this chapter for a tank vessel certificated to carry cargoes that have a flash point less than 60° C as determined under ASTM D–93–94.

* * * * *

9. In § 108.540 revise paragraphs (h)(3) and (h)(4) to read as follows:

§ 108.540 Survival craft muster and embarkation arrangements.

* * * * *

(h) * * *

(3) If the embarkation ladders cannot be supported against a vertical flat surface, the unit must instead be provided with at least two widely-separated fixed metal ladders or stairways extending from the deck to the surface of the water and meet the following:

(i) Each inclined fixed ladder must meet the requirements under § 108.159.

(ii) Each vertical fixed ladder must meet the requirements under § 108.160 for fixed ladders, except that the vertical bars in cages must be open at least 500 millimeters (20 inches) on one side throughout the length of the ladder, and cages are not required in the area subject to wave action or on ladders inside the legs of a self-elevating unit.

(iii) If a fixed ladder cannot be installed, the OCMI may accept an alternate means of embarkation with sufficient capacity for all persons permitted on board to safely descend to the waterline.

(4) Alternate means of embarkation under paragraphs (h)(1)(ii) and (h)(3) of this section, such as portable slides, safety booms, moveable ladders, elevators, and controlled descent devices, must be acceptable to the OCMI. An alternate means of embarkation must have sufficient capacity to permit persons to safely descend to the waterline at a rate comparable to the device which the alternate means of embarkation replaces.

10. In § 108.565 revise paragraph (a)(3) to read as follows:

§ 108.565 Stowage of rescue boats.

(a) * * *

(3) Each rescue boat must be stowed in a way that neither the rescue boat nor its stowage arrangements will interfere with the operation of any survival craft at any other launching station.

* * * * *

§ 108.570 [Amended]

11. In § 108.570, in paragraph (c)(1), remove the number ''§ 108.510'' and add, in its place, the number ''§ 108.540'.

12. In § 108.575, revise entries 20 and 38 of Table 108.575(b) to read as follows:

§ 108.575 Survival craft and rescue boat equipment.

* * * * *

TABLE 108.575(b)—SURVIVAL CRAFT EQUIPMENT

Item No.	Item	International service			Other than international service		
		Lifeboat	Rigid liferaft	Rescue boat	Lifeboat	Rigid liferaft	Rescue boat
*	*	*	*	*	*	*	*
20	Oars (units)[5 6]	1		1			
	Paddles		2			2	
*	*	*	*	*	*	*	*
38	Tool Kit	1			1		

* * * * *

13. In § 108.580 revise paragraphs (b)(3)(i) and (c)(2)(i) to read as follows:

§ 108.580 Personal lifesaving appliances.

* * * * *

(b) * * *

(3) * * *

(i) Each lifejacket must have a lifejacket light approved under approval series 161.112 securely attached to the front shoulder area of the lifejacket. On a unit not in international service, a light approved under approval series 161.012 may be used. However, lifejacket lights bearing Coast Guard approval number 161.012/2/1 are not permitted unless the unit is certificated to operate only on waters between 32° N and 32° S latitude.

* * * * *

(c) * * *

(2) * * *

(i) Each immersion suit or anti-exposure suit must have a lifejacket light approved under approval series 161.112 securely attached to the front shoulder area of the immersion suit or anti-exposure suit. On a unit not in international service, a light approved under approval series 161.012 may be used. However, lifejacket lights bearing Coast Guard approval number 161.012/2/1 are not permitted on units certificated to operate on waters where

water temperature may drop below 10° C (50° F).

* * * * *

14. In § 108.645 revise paragraphs (a)(1)(ii), (a)(2), and (b)(2) to read as follows:

§ 108.645 Markings on lifesaving appliances.

(a) * * *

(1) * * *

(ii) The name of the port required to be marked on the unit to meet the requirements of subpart 67.123 of this chapter.

(2) The number of persons the boat is equipped for, which may not exceed the number shown on its nameplate, must be clearly marked in permanent characters.

* * * * *

(b) * * *

(2) The name of the port required to be marked on the unit to meet the requirements of subpart 67.123 of this chapter.

* * * * *

15. In § 108.646 revise paragraph (c) to read as follows:

§ 108.646 Marking of stowage locations.

* * * * *

(c) Survival craft should be numbered.

15. In § 108.649, revise paragraphs(b), (c), (e)(1), and (g) to read as follows:

§ 108.649 Lifejackets, immersion suits, and lifebuoys.

* * * * *

(b) The stowage positions for lifejackets, other than lifejackets stowed in staterooms, must be marked with either the word ''LIFEJACKET'' or with the appropriate symbol from IMO Resolution A.760(18).

(c) Each immersion suit or anti-exposure suit must be marked to identify the person or unit to which it belongs.

* * * * *

(e) * * *

(1) In block capital letters with the unit's name and with the name of the port required to be marked on the unit under subpart 67.123 of this chapter; and

* * * * *

(g) Each lifejacket, immersion suit, and anti-exposure suit container must be marked in block capital letters and numbers with the minimum quantity, identity, and if sizes other than adult or universal sizes are used on the unit, the size of the equipment stowed inside the container. The equipment may be identified in words or with the appropriate symbol from IMO Resolution A.760(18).

17. In § 108.901 revise paragraphs (b) introductory text, (b)(6) introductory text, (b)(6)(ix), (b)(6)(x), (b)(7) introductory text, and (c) introductory text, to read as follows:

§ 108.901 Muster list and emergency instructions.

* * * * *

(b) *Muster list.* Copies of the muster list must be posted in conspicuous places throughout the unit including on the navigating bridge, in the control room, and in accommodation spaces. The muster list must be posted at all times while the unit is in service. After the muster list has been prepared, if any change takes place that necessitates an alteration in the muster list, the person in charge must either revise the muster list or prepare a new one. Muster lists must provide the following information:

* * * * *

(6) The muster list must specify the duties assigned to the different industrial personnel and members of the crew that include—

* * * * *

(ix) Cover the duties of the crew and industrial personnel in case of collisions or other serious casualties; and

(x) Cover the duties of the crew and industrial personnel in case of severe storms.

(7) Each muster list must specify the duties assigned to industrial personnel and members of the crew in relation to visitors and other persons on board in case of an emergency that include—

* * * * *

(c) *Emergency instructions.* Illustrations and instructions in English and any other appropriate language, as determined by the OCMI, must be posted in each cabin used for persons who are not members of the crew or industrial personnel. They must be conspicuously displayed at each muster station and in other accommodation spaces to inform personnel of—

* * * * *

PART 109—OPERATIONS

18. The authority citation for part 109 continues to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 6101, 10104; 49 CFR 1.46.

19. In § 109.213 revise paragraphs (a)(2)(vi), (a)(2)(ix), (b), (c)(2), (d)(5), (d)(7), (f)(2)(vii), (g)(7)(v)(G) and (h)(1)(iv) to read as follows:

§ 109.213 Emergency training and drills.

(a) * * *

(2) * * *

(vi) The method and use of water spray systems in launching areas when required for the protection of aluminum survival craft or launching appliances;

* * * * *

(ix) The use of all detection equipment for the location of survivors or survival craft;

* * * * *

(b) *Familiarity with emergency procedures.* Each of the crew members and industrial personnel with assigned emergency duties on the muster list must be familiar with their assigned duties before working on the unit.

(c) * * *

(2) Each of the crew members and industrial personnel must participate in at least one abandonment drill and one fire drill every month. Drills must take place within 24 hours of a change in crew or industrial personnel if more than 25 percent of the persons on board have not participated in an abandonment and fire drills on board the unit in the previous month.

* * * * *

(d) * * *

(5) If a unit is fitted with marine evacuation systems, drills must include an exercising of the procedures required for the deployment of such a system up to the point immediately preceding actual deployment of the system. This aspect of drills should be augmented by regular instruction using the on board training aids. Additionally, members of the crew or industrial personnel assigned to duties involving the marine evacuation system must be further trained by participation in a full deployment of a similar system into water, either on board a unit or ashore, at intervals normally not longer than 2 years, but in no case longer than 3 years.

* * * * *

(7) On a unit carrying immersion suits or anti-exposure suits, immersion suits or anti-exposure suits must be worn by crew members and industrial personnel in at least one abandonment drill in any three-month period. If wearing the suit is impracticable due to warm weather, the crew members must be instructed on its donning and use.

* * * * *

(f) * * *

(2) * * *

(vii) Simulated operation of remote controls for stopping ventilation and fuel supplies to machinery spaces.

* * * * *

(g) * * *

(7) * * *

(v) * * *

(G) Operating equipment provided to aid in the detection of the survival craft by others, including radio distress

alerting and radio emergency procedures; and

* * * * *

(h) * * *

(1) * * *

(iv) Logbook entries must identify crew members and industrial personnel participating in drills or training sessions.

* * * * *

20. In § 109.301 revise paragraphs (d)(2) and (g)(4) to read as follows:

§ 109.301 Operational readiness, maintenance, and inspection of lifesaving equipment.

* * * * *

(d) * * *

(2) Each lifeboat engine and rescue boat engine must be run ahead and astern for a total of not less than 3 minutes, unless the ambient air temperature is below the minimum temperature required for starting the engine. During this time, demonstrations should indicate that the gear box and gear box train are engaging satisfactorily. If the special characteristics of an outboard motor fitted to a rescue boat would not allow the outboard motor to be run other than with its propeller submerged for a period of 3 minutes, the outboard motor should be run for such period as prescribed in the manufacturer's handbook.

* * * * *

(g) * * *

(4) Each inflated rescue boat must be repaired and maintained in accordance with the manufacturer's instructions. All repairs to inflated chambers must be made at a servicing facility approved by the Commandant, except for emergency repairs carried out on board the unit.

* * * * *

21. Revise § 109.425 to read as follows:

§ 109.425 Repairs and alterations: Fire detecting and extinguishing equipment.

(a) Before making repairs or alterations, except for routine maintenance, minor repairs, or emergency repairs or alterations to fire detecting and extinguishing equipment, the master or person in charge must report the nature of the repairs or alterations to the OCMI.

(b) When emergency repairs or alterations, other than minor emergency repairs, have been made to fire-detecting or fire-extinguishing equipment, the master or person in charge must report the nature of the repairs or alterations to the OCMI.

PART 133—LIFESAVING SYSTEMS

22. The authority citation for part 133 continues to read as follows:

Authority: 46 U.S.C. 3306; 46 CFR 1.46.

23. In § 133.70 revise paragraphs (a)(3)(ii), (b)(4), (c)(3) and (c)(4) to read as follows:

§ 133.70 Personal lifesaving appliances.

(a) * * *

(3) * * *

(ii) Each lifebuoy must be marked in block capital letters with the name of the OSV and the name of the port required to be marked on the stern of the OSV under subpart 67.123 of this chapter.

* * * * *

(b) * * *

(4) *Lifejacket lights.* Each lifejacket must have a lifejacket light approved under approval series 161.112 or 161.012 securely attached to the front shoulder area of the lifejacket. However, lifejacket lights bearing Coast Guard approval number 161.012/2/1 are not permitted on OSVs certificated to operate on waters where water temperature may drop below 10° C (50° F).

* * * * *

(c) * * *

(3) *Markings.* Each immersion suit or anti-exposure suit must be marked in such a way as to identify the person or OSV to which it belongs.

(4) *Lights for immersion suits or anti-exposure suits.* Each immersion suit or anti-exposure suit must have a lifejacket light approved under approval series 161.112 or 161.012 securely attached to the front shoulder area of the immersion suit or anti-exposure suit. However, lifejacket lights bearing Coast Guard approval number 161.012/2/1 are not permitted on OSVs certificated to operate on waters where water temperature may drop below 10° C (50° F).

* * * * *

24. In § 133.130 revise paragraph (a)(2) to read as follows:

§ 133.130 Stowage of survival craft.

(a) * * *

(1) * * *

(2) Each survival craft must be stowed in a way that neither the survival craft nor its stowage arrangements will interfere with the embarkation and operation of any other survival craft or rescue boat at any other launching station.

* * * * *

25. In § 133.150 revise paragraph (c)(6) to read as follows:

§ 133.150 Survival craft launching and recovery arrangements: General.

* * * * *

(c) * * *

(6) Liferafts installed on liftboats.

* * * * *

26. In § 133.160 revise paragraph (a) to read as follows:

§ 133.160 Rescue boat embarkation, launching and recovery arrangements.

(a) Each davit for a rescue boat must be approved under approval series 160.132 with a winch approved under approval series 160.115. If the launching arrangement uses a single fall, the davit may be of a type which is turned out manually, and the release mechanism may be an automatic disengaging apparatus approved under approval series 160.170 instead of a lifeboat release mechanism. Each rescue boat must be able to be boarded and launched directly from the stowed position with the number of persons assigned to crew the rescue boat on board. If the rescue boat is also a lifeboat and the other lifeboats are boarded and launched from an embarkation deck, the arrangements must be such that the rescue boat can also be boarded and launched from the embarkation deck.

* * * * *

PART 168—CIVILIAN NAUTICAL SCHOOL VESSELS

27. The authority citation for part 168 continues to read as follows:

Authority: 46 U.S.C. 3305; 3306; 46 CFR 1.46.

§ 168.05 [Amended]

28. In § 168.05–5 remove the word ''Accommadations'' and add, in its place, the word ''Accommodations'.

PART 199—LIFESAVING SYSTEMS FOR CERTAIN INSPECTED VESSELS

29. The authority citation for part 199 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 46 CFR 1.46.

30. In § 199.03 revise paragraphs (b)(9) and (b)(10) to read as follows:

§ 199.03 Relationship to international standards.

* * * * *

(b) * * *

(9) The requirements for guarding of falls in §§ 199.153 (e) and (g) must be met.

(10) The winch drum requirements described in § 199.153(f) must be met for all survival craft winches, including multiple drum winches.

* * * * *

31. Revise § 199.10 to read as follows:

§ 199.10 Applicability.

(a) *General.* Unless expressly provided otherwise in this Chapter, this part applies to all vessels inspected under U.S. law as set out in Table 199.10(a).

TABLE 199.10(A).—LIFESAVING REQUIREMENTS FOR INSPECTED VESSELS.

46 CFR Subchapter	Vessel Type	Vessel Service	Subchapter W Subparts applicable [1]						Other [2]
			A	B	C	D	E	F	
D	Tank > 500 tons	International voyage [3].	X	X		X			
D	Tank > 500 tons	International voyage [3].	X	X		X	X	X	
D	Tank	All other services	X	X		X	X	X	
H	Passenger	International voyage [3].	X	X	X	X			
H	Passenger	Short Inter'l voyage [3].	X	X	X				
H	Passenger	All other services	X	X	X		X		
I	Cargo > 500 tons	International voyage [3].	X	X		X			
I	Cargo 1< 500 tons.	International voyage [3].	X	X		X	X		
I	Cargo	All other services	X	X		X	X	X	
I–A	MODU	All							46 CFR 108
K	Small Passenger	International voyage [3].	X	X	X				
K	Small Passenger	Short Inter'l voyage [3].	X	X	X				
K	Small Passenger	All other services							46 CFR 117
L	Offshore Supply	All							46 CFR 133
R—Part 167	Public Nautical School.	International voyage [3].	X	X	X [4]	X [5]			
R—Part 167	Public Nautical School.	All other services	X	X	X [4]	X [5]	X	X	
R—Part 168	Civilian Nautical School.	International voyage [3].	X	X	X [4]	X [5]			
R—Part 168	Civilian Nautical School.	All other services	X	X	X [4]	X [5]	X	X	
R—Part 169	Sailing School	All services							46 CFR 169.500
T	Small Passenger	International voyage [3].	X	X	X				
T	Small Passenger	Short Int'l voyage [3].	X	X	X				
T	Small Passenger	All other services							46 CFR 180
U	Oceanographic Res..	International voyage [3].	X	X	X [4]	X [5]			
U	Oceanographic Res..	All other services	X	X	X [4]	X [5]	X	X	

Notes:

[1] Subchapter W does not apply to inspected nonself-propelled vessels without accommodations or work stations on board.

[2] Indicates section where primary lifesaving system requirements are located. Other regulations may also apply.

[3] Not including vessels solely navigating the Great Lakes of North America and the River Saint Lawrence as far east as a straight line drawn from Cap des Rosiers to West Point, Anticosti Island and, on the north side Anticosti Island, the 63rd meridian.

[4] Applies to vessels carrying more than 50 special personnel, or vessels carrying not more than 50 special personnel if the vessels meet the structural fire protection requirements in subchapter H of this chapter for passenger vessels of the same size.

[5] Applies to vessels carrying not more than 50 special personnel that do not meet the structural fire protection requirements in subchapter H of this chapter for passenger vessels of the same size.

(b) *Inspected vessels not covered under this subchapter.* This part does not apply to non-self-propelled vessels without accommodations or work stations on board. Unless otherwise required by this chapter, it does not apply to offshore supply vessels; mobile offshore drilling units; small passenger vessels; and sailing school vessels.

(c) *Conversion of cargo vessel to passenger vessel.* For purposes of the application of this part, a cargo vessel, whenever constructed, which is converted to a passenger vessel is deemed to be a passenger vessel that is constructed on the date on which the conversion commences.

(d) *Vessels on international voyages.* This subpart and subparts B, C, and D of this part apply to vessels engaged on international voyages, except—

(1) Cargo vessels of less than 500 tons gross tonnage;

(2) Vessels not propelled by mechanical means;

(3) Wooden vessels of primitive build; and

(4) Vessels solely navigating the Great Lakes of North America and the River Saint Lawrence as far east as a straight line drawn from Cap des Rosiers to West Point, Anticosti Island, and on the north side Anticosti Island, the 63rd meridian.

(5) Tank vessels constructed before October 1, 1996 engaged in voyages between the continental United States and Alaska or Hawaii, and all other vessels engaged on international voyages which were constructed before July 1, 1986, must meet the requirements of §§ 199.70(b)(4)(i), 199.80, 199.90, 199.100, 199.180, 199.190 (paragraph (b) applies as much as practicable), 199.214, 199.217, 199.250, 199.261 (b)(2) and (e), and 199.273, and must fit retro-reflective material on all floating appliances, lifejackets and immersion suits. Except for the requirements of §§ 199.261 (b)(2) and (e), vessels may retain the number, type, and arrangement of lifesaving appliances previously required and approved for the vessel as long as the arrangement or appliance is maintained in good condition to the satisfaction of the OCMI.

(e) *Passenger vessels.* For the purposes of this part, the following vessels must meet the requirements for passenger vessels:

(1) Passenger vessels.

(2) Special purpose vessels carrying more than 50 special personnel.

(3) Special purpose vessels carrying not more than 50 special personnel if the vessels meet the structural fire protection requirements in subchapter H of this chapter for passenger vessels of the same size.

(f) *Cargo vessels.* For the purposes of this part, the following vessels must meet the requirements for cargo vessels:

(1) Cargo vessels.

(2) Tank vessels.

(3) Special purpose vessels carrying not more than 50 special personnel that do not meet the structural fire protection requirements in subchapter H of this chapter for passenger vessels of the same size.

(g) *Subparts applying to vessels on international and short international voyages.* (1) Passenger vessels on international voyages must meet the requirements of this subpart and subparts B and C of this part.

(2) Cargo vessels on international voyages must meet the requirements of this subpart and subparts B and D of this part.

(3) The provisions for passenger vessels on short international voyages in this subpart and subparts B and C of this part do not apply to special purpose vessels described in paragraphs (f)(2) and (3) of this section.

(h) *Vessels not subject to SOLAS.* Vessels not on international voyages and vessels listed in paragraph (d) of this section must meet the requirements of this subpart and subparts B, C, D, and E of this part unless otherwise exempted or permitted by subpart F of this part.

(1) Vessels on other than international voyages and vessels listed in paragraph (d) of this section which were constructed prior to October 1, 1996, must—

(i) By October 1, 1999, meet the requirements of §§ 199.70(b)(4)(i), 199.80, 199.90, 199.100, 199.180, 199.190 (paragraph (b) applies as much as practicable), 199.217, 199.250, 199.273, and 199.510, and fit retroreflective material on all floating appliances, lifejackets, and immersion suits;

(ii) By October 1, 2003, passenger vessels must carry the number and type of survival craft specified in table 199.630 of this part and cargo vessels in oceans and coastwise service must carry the number and type of survival craft specified in § 199.261(b)(2) and (e);

(iii) By October 1, 2003, passenger vessels must carry the immersion suits and thermal protective aids specified in § 199.214; and

(iv) Except for the requirements in paragraphs (i)(1)(ii) and (i)(1)(iii) of this section, vessels may retain the number, type, and arrangement of lifesaving equipment, including lifeboats, lifeboat davits, winches, inflatable liferafts, liferaft launching equipment, rescue boats, lifefloats, and buoyant apparatus previously required and approved for the vessel as long as the arrangement or appliance is maintained in good condition to the satisfaction of the OCMI.

(2) This paragraph does not apply to public vessels.

(i) *New lifesaving appliances or arrangements.* When any lifesaving appliance or arrangement on a vessel subject to this part is replaced, or when the vessel undergoes repairs, alterations, or modifications of a major character involving replacement of, or any addition to, the existing lifesaving appliance or arrangements, each new lifesaving appliance and arrangement must meet the requirements of this part, unless the OCMI determines that the vessel cannot accommodate the new appliance or arrangement, except that—

(1) A survival craft is not required to meet the requirements of this part if it is replaced without replacing its davit and winch; and

(2) A davit and its winch are not required to meet the requirements of this part if one or both are replaced without replacing the survival craft.

(j) *Repairs and alterations to lifesaving appliances.* No extensive repairs or alterations, except in an emergency, may be made to a lifesaving appliance without advance notification to the OCMI. Insofar as possible, each repair or alteration must be made with material, and tested in the manner, specified in this subchapter and applicable to the new construction requirements in subchapter Q of this chapter. Emergency repairs or alterations must be reported as soon as practicable to the OCMI responsible for the port or location where the vessel may call after such repairs are made. Lifeboats, rescue boats, or rigid liferafts may not be reconditioned for use on a vessel other than the one they were originally built for, unless specifically accepted by the OCMI.

(k) *Vessels reflagged under Sec. 1137, Coast Guard Authorization Act of 1996.* Vessels that qualify for a certificate of inspection under the provisions of section 1137, Coast Guard Authorization Act of 1996, Public Law 104–324, 110 Stat. 3988 (46 U.S.C.A. app. 1187, Note), are not subject to the requirements of this part if such vessels meet lifesaving equipment standards required under section 1137 as determined by the Commandant.

32. Amend § 199.70 as follows:

a. Remove and reserve paragraph (b)(2)(ii); and

b. Revise paragraphs (a)(2) and (c)(3) to read as follows;

§ 199.70 Personal lifesaving appliances.

(a) * * *

(2) *Markings.* Each lifebuoy must be marked in block capital letters with the name of the vessel and the name of the port required to be marked on the stern of the vessel under §§ 67.123 of part 67 of this chapter.

* * * * *

(c) * * *

(3) *Markings.* Each immersion suit or anti-exposure suit must be marked in such a way as to identify the person or vessel to which it belongs.

* * * * *

33. In § 199.80 revise paragraph (b)(4) to read as follows:

§ 199.80 Muster list and emergency instructions.

* * * * *

(b) * * *

(4) How the order to abandon the vessel will be given;

* * * * *

34. In § 199.100 revise paragraph (f) to read as follows:

§ 199.100 Manning of survival craft and supervision.

* * * * *

(f) The master must make sure that the persons required under paragraphs (a), (b), (c), and (d) of this section are equitably distributed among the vessel's survival craft.

§ 199.110 [Amended]

35. In § 199.110, in the first sentence of paragraph (f)(4), remove the word ''man'' and add, in its place, the word ''may''.

36. In § 199.140 revise paragraph (a)(1) to read as follows:

§ 199.140 Stowage of rescue boats.

(a) * * *

(1) To be ready for launching in not more than 5 minutes;

* * * * *

37. Amend § 199.153 as follows:

a. In paragraph (h)(1) remove the word ''actula'' and add, in its place, the word ''actual'';

b. In paragraph (h)(2) remove the word ''thee'' and add, in its place, the word ''the'';

c. In paragraph (i) remove the phrase ''paragraph (g)'' and add, in its place, the phrase ''paragraph (h)''; and

d. Revise paragraph (f) to read as follows:

§ 199.153 Survival craft launching and recovery arrangements using falls and a winch.

* * * * *

(f) Each winch drum must be arranged so the fall wire winds onto the drum in one or more level wraps. A multiple drum winch must be arranged so that the falls wind off at the same rate when lowering and onto the drums at the same rate when hoisting.

* * * * *

38. In § 199.175 revise paragraph (b)(21)(i)(B) to read as follows:

§ 199.175 Survival craft and rescue boat equipment.

(b) * * *

(21) * * *

(i) * * *

(B) The painter for a lifeboat and each painter for a rescue boat must be of a length that is at least twice the distance from the stowage position of the boat to the waterline with the vessel in its lightest seagoing condition, or must be 15 meters (50 feet) long, whichever is the greater.

* * * * *

39. In § 199.176 revise paragraphs (a)(1)(ii), (a)(2) and (b)(2) to read as follows:

§ 199.176 Markings on lifesaving appliances.

(a) * * *

(1) * * *

(ii) The name of the port required to be marked on the stern of the vessel to meet the requirements of subpart 67.123 of this chapter.

(2) The number of persons for which the boat is equipped must be clearly marked, preferably on the bow, in permanent characters. The number of persons for which the boat is equipped must not exceed the number of persons shown on its nameplate.

* * * * *

(b) * * *

(2) The name of the port required to be marked on the stern of the vessel to meet the requirements of § 67.123 of this chapter must be marked on each rigid liferaft.

40. In § 199.180 revise paragraphs (a)(2)(vi), (a)(2)(ix), (d)(11), and (f)(2)(i) to read as follows:

§ 199.180 Emergency training and drills.

(a) * * *

(2) * * *

(vi) The method and use of water spray systems in launching areas when such systems are required for the protection of aluminum survival craft or launching appliances;

* * * * *

(ix) The use of all detection equipment for the location of survivors or survival craft;

(d) * * *

(11) If a vessel carries immersion suits or anti-exposure suits, the suits must be worn by crewmembers in at least one abandon ship drill in any three-month period. If wearing the suits is impracticable due to warm weather, the crewmembers must be instructed on their donning and use.

* * * * *

(f) * * *

(2) * * *

(i) Reporting to stations and preparing for the duties described in the muster list for the particular fire emergency being simulated;

* * * * *

41. In § 199.190 revise paragraphs (d)(2) and (g)(4) to read as follows:

§ 199.190 Operational readiness, maintenance, and inspection of lifesaving equipment

* * * * *

(d) * * *

(2) Each lifeboat engine and rescue boat engine must be run ahead and astern for a total of not less than 3 minutes unless the ambient temperature is below the minimum temperature required for starting the engine. During this time, demonstrations should indicate that the gear box and gear box train are engaging satisfactorily. If the special characteristics of an outboard motor fitted to a rescue boat would not allow the outboard motor to be run other than with its propeller submerged for a period of 3 minutes, the outboard motor should be run for such period as prescribed in the manufacturer's handbook.

* * * * *

(g) * * *

(4) Each inflated rescue boat must be repaired and maintained in accordance with the manufacturer's instructions. All repairs to inflated chambers must be made at a servicing facility approved by the Commandant, except for emergency repairs carried out on board the vessel.

* * * * *

42. In § 199.610, revise paragraph (a) and Table 199.610(a) to read as follows:

§ 199.610 Exemptions for vessels in specified services.

(a) *All vessels.* Vessels operating in coastwise, Great Lakes, lakes, bays and sounds, and rivers services are exempt from requirements in subparts A through E of this part as specified in table 199.610(a) of this section.

TABLE 199.610(a).—EXEMPTIONS FOR ALL VESSELS IN SPECIFIED SERVICES

Section or paragraph in this part	Service			
	Coastwise	Great Lakes	Lakes, bays, and sounds	Rivers
199.60(c): Distress signals	(1)	(1)	Exempt	Exempt.
199.70(a)(3)(iii): Lifebuoys fitted with smoke signals	Exempt	Exempt	Exempt	Exempt.
199.70(b)(1)(i): Carriage of additional child-size lifejackets	(2)	(2)	(2)	(2)
199.70(b)(4)(i): Lifejacket lights (for lifejackets)	(3)	(3)	Exempt	Exempt.
199.70(c)(4)(i): Lifejacket lights (for immersion suits)	(3)	(3)	Exempt	Exempt.

TABLE 199.610(a).—EXEMPTIONS FOR ALL VESSELS IN SPECIFIED SERVICES—Continued

Section or paragraph in this part	Service			
	Coastwise	Great Lakes	Lakes, bays, and sounds	Rivers
199.70(b)(4)(ii): Lifejacket whistles	Exempt	Exempt	Exempt	Exempt.
199.70(c): Immersion suits for rescue boat crew members	Not Exempt	Not Exempt	Exempt	Exempt.
199.70(c)(4)(ii): Immersion suit whistles	Exempt	Exempt	Exempt	Exempt.
199.100(c)(1): Requirements for person-in-charge of survival craft	Not Exempt	Not Exempt	Not Exempt	Exempt.
199.100(d): Designation of second-in-command of lifeboat	(4)	(4)	(4)	Exempt.
199.110(f): Embarkation ladders at launching stations	(5)	(5)	(5)	(5)
199.130(a)(4): Survival craft stowage position	Not Exempt	Not Exempt	Exempt	Exempt.
199.170: Line-throwing appliance	Not Exempt	Exempt	Exempt	Exempt.
199.175(b)(21)(ii)(B) or 199.640(j)(4)(E): Float-free link	(6)	(6)	(6)	(6)
199.190(j): Renewal of survival craft falls	Not Exempt	(7)	(7)	(7)
199.202 or 199.262 Rescue boats	(8)	(8)	(8)	(8)
199.510: EPIRB requirement	(8 9)	(8 10)	Exempt	Exempt.

Notes:
[1] Exempt if the vessel operates on a route with a duration of 30 minutes or less.
[2] Exempt if the vessel does not carry persons smaller than the lower size limit of the lifejackets carried.
[3] Exempt if the vessel is a ferry or has no overnight accommodations.
[4] Exempt if the lifeboat has a carrying capacity of less than 40 persons.
[5] Exempt if the distance is less than 3 meters (10 feet) from the embarkation deck to the water with the vessel in its lightest seagoing operating condition.
[6] Exempt if the vessel operates on a route on which the water depth is never more than the length of the painter.
[7] Exempt if the vessel operates on a fresh water route and inspection shows that the falls are not damaged by corrosion.
[8] Exempt if the vessel is non-self propelled and in tow, moored to or alongside a MODU or a self-propelled vessel, or moored to shore.
[9] Exempt if the vessel is a cargo vessel under 300 tons gross tonnage and operates on a route no more than 3 nautical miles from shore.
[10] Exempt if the vessel operates on a route no more than 3 nautical miles from shore.

* * * * *

43. Amend § 199.620 as follows:

a. Revise Table 199.620(a) and paragraph (e) as follows;

b. In the paragraph immediately following paragraph (k)(2), remove the paragraph designation ''1'' (the numeral ''one'') and add, in its place, the paragraph designation ''l'' (the lower case letter ''L''); and

c. Add paragraphs (o) and (p) as follows.

§ 199.620 Alternatives for all vessels in a specified service.

* * * * *

TABLE 199.620(A).—ALTERNATIVE REQUIREMENTS FOR ALL VESSELS IN A SPECIFIED SERVICE

Section or paragraph in this part	Service and reference to alternative requirement section or paragraph				
	Oceans	Coastwise	Great Lakes	Lakes, Bays and Sounds	Rivers
199.70(a): Lifebuoy approval series	199.620(b)[1]	199.620(b)[1]	199.620(b)	199.620(b)	199.620(b)
199.70(b): Lifejacket approval series	199.620(c)[2]	199.620(c)[2]	199.620(c)	199.620(c)	199.620(c)
199.70(b)(1): Number of lifejackets carried.	No Alternative	199.620(d)	199.620(d)	199.620(d)	199.620(d)
199.70(b)(4)(i): Lifejacket light approval series.	No Alternative	199.620(e)	199.620(e)	Not Applicable	Not Applicable.
199.100(b): Manning of survival craft	No Alternative	No Alternative	No Alternative	No Alternative	199.620(o)
199.110(f): Embarkation ladder	199.620(f)	199.620(f)	199.620(f)	199.620(f)	199.620(f)
199.130(b): Survival craft stowage position.	No Alternative	No Alternative	199.620(g)	199.620(g)	199.620(g)
199.170: Line-throwing appliance approval series.	199.620(h)[2]	199.620(h)[3]	Not Applicable	Not Applicable	Not Applicable.
199.175: Lifeboat, rescue boat, and rigid liferaft equipment.	199.620(i)[4]	199.620(i)	199.620(j)	199.620(j)	199.620(j)
199.180 Training and drills	199.620(p)	199.620(p)	199.620(p)	199.620(p)	199.620(p)
199.190: Spares and repair equipment	199.620(n)	199.620(n)	199.620(n)	199.620(n)	199.620(n)
199.201(a)(2) or 199.261: Inflatable liferaft equipment.	199.620(l)[4]	199.620(l)	199.620(l)	199.620(l)	199.620(l)
199.201(a)(2) or 199.621: Liferaft approval series.	No Alternative	199.620(k)	199.620(k)	199.620(k)	199.620(k)
199.510: EPIRB requirement	199.620(m)(1)	199.620(m)(1)	199.620(m)	Not Applicable	Not Applicable.

* * * * * * * * *

[1] Alternative applies if lifebuoy is orange.
[2] Alternative applies only to cargo vessels that are less than 500 tons gross tonnage.
[3] Alternative applies to cargo vessels that are less than 500 tons gross tonnage and to all passenger vessels.
[4] Alternative applies to passenger vessels limited to operating no more than 50 nautical miles from shore.

* * * * *

(e) *Lifejacket light approval series.* As an alternative to lights approved under approval series 161.112, vessels may use lights for lifejackets and immersions suits approved under series 161.012. However, lifejacket lights bearing Coast Guard approval number 161.012/2/1 are not permitted on vessels certificated to operate on waters where water temperature may drop below 10° C (50° F).

* * * * *

(o) Deckhands may be used to operate the survival craft and launching arrangements.

(p) Training and drill subjects required under § 199.180 may be omitted if the vessel is not fitted with the relevant equipment, installation or system.

44. In § 199.630 revise Table 199.630(a), paragraphs (c), (d)(2), (f), (f)(2)(iv), and (g) and add new paragraphs (l), and (m) to read as follows:

§ 199.630 Alternatives for passenger vessels in a specified service.

(a) * * *

TABLE 199.630(a).—ALTERNATIVE REQUIREMENTS FOR PASSENGER VESSELS IN A SPECIFIED SERVICE

Section or paragraph in this part	Service and reference to alternative requirement section or paragraph				
	Oceans	Coastwise	Great Lakes	Lakes, bays, and sounds	Rivers
199.60(c): Distress signals	No Alternative	No Alternative	199.630(b)	Not Applicable	Not Applicable.
199.100(c): Person in charge of survival craft.	No Alternative	199.630(l)	199.630(l)	199.630(l)	199.630(l)
199.100(d): Lifeboat second-in-command.	No Alternative	No Alternative	199.630(m)	199.630(m)	Not Applicable.
199.201(b): Number and type of survival craft carried.	199.630(c)[1]	199.630(c) or 199.630(d)[2].	199.630(c) or 199.630(d)[2] or 199.630(e) or 199.630(f)2 or 199.630(g)[2 3] or 199.630(h)[4].	199.630(c) or 199.630(d) or 199.630(e) or 199.630(f)[2] or 199.630(g)[2 3] or 199.630(h)[4].	199.630(c) or 199.630(e) or 199.630(f) or 199.630(g) or 199.630(h)[4].
199.202: Rescue boat approval series	No Alternative	No Alternative	No Alternative	199.630(i)[5]	199.630(i).
199.203: Marshaling of liferafts	No Alternative	199.630(j)	Not Applicable	Not Applicable	Not Applicable.
199.211(a): Quantity of lifebuoys	No Alternative	199.630(k)	199.630(k)	199.630(k)	199.630(k).

Notes:
[1] Alternative applies if the vessel operates on a route no more than 50 nautical miles from shore.
[2] Alternative applies if the vessel is a ferry or has no overnight accommodations for passengers.
[3] Alternative applies during periods of the year the vessel operates in warm water.
[4] Alternative applies if the vessel operates in shallow water not more than 3 miles from shore where the vessel cannot sink deep enough to submerge the topmost deck.
[5] Alternative applies if the vessel operates on sheltered lakes or harbors.

* * * * *

(c) As an alternative to the lifeboat capacity requirements of § 199.201(b)(1)(i), vessels may carry lifeboats with an aggregate capacity sufficient to accommodate not less than 30 percent of the total number of persons on board. These lifeboats must be equally distributed, as far as practicable, on each side of the vessel. Liferafts on these vessels may be either SOLAS A or SOLAS B liferafts.

(d) * * *

(2) Be stowed in accordance with the requirements of §§ 199.130(a), 199.130(c), and 199.178; and

* * * * *

(f) As an alternative to the survival craft requirements of § 199.201(b), vessels may have a safety assessment approved by the local OCMI that addresses the following:

* * * * *

(2) * * *

(iv) Lists of external organizations that the vessel's operator would call for assistance in the event of an incident;

* * * * *

(g) As an alternative to the survival craft requirements of § 199.201(b), vessels may carry inflatable buoyant apparatus having an aggregate capacity sufficient to accommodate 67 percent of the total number of persons on board, minus the capacities of any lifeboats, rescue boats and liferafts carried on board. These inflatable buoyant apparatus must meet the arrangement requirements of § 199.630 (d)(1) through (d)(3). The number of persons accommodated in an inflatable buoyant apparatus may not exceed 150% of its rated capacity.

* * * * *

(l) A deck officer, able seaman, certificated person, or person practiced in the handling of liferafts or inflatable buoyant apparatus is not required to be placed in charge of each inflatable buoyant apparatus, provided that there are a sufficient number of such persons on board to launch the inflatable buoyant apparatus and supervise the embarkation of the passengers. The number of persons on board for the purpose of launching and operating inflatable buoyant apparatus may be reduced during any voyage where the vessel is carrying less than the number of passengers permitted on board, and the number of such persons is sufficient to launch and operate the number of survival craft required to accommodate everyone on board.

(m) The person designated second-in-command of survival craft is not required to be a certificated person if the person is practiced in the handling and operation of survival craft.

45. In § 199.640, in paragraph (i)(2), in the last line of Table 199.640(i), remove the number ''256'' and add, in its place, the number ''656''; and revise paragraph (h)(2) to read as follows:

§ 199.640 Alternatives for cargo vessels in a specified service.

* * * * *

(h) * * *

(2) The rescue boat must meet the embarkation, launching, and recovery arrangement requirements in § 199.160 (b). A manually-powered winch may be used if personnel embark and disembark the rescue boat only when it is in the water. If the rescue boat is launched or recovered with personnel on board, the embarkation, launching, and recovery arrangements must also meet §§ 199.160

(c) through (f). The OCMI may allow deviations from the rescue boat launching requirements based on the characteristics of the boat and the conditions of the vessel's route.

Dated: September 23, 1998.

R.C. North,

Rear Admiral, U. S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Establishment of a Nonessential Experimental Population of Black-footed Ferrets in Northwestern Colorado and Northeastern Utah; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

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Endangered and Threatened Wildlife and Plants: Establishment of a Nonessential Experimental Population of Black-footed Ferrets in Northwestern Colorado and Northeastern Utah

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we), in cooperation with the Bureau of Land Management, the Colorado Division of Wildlife, and the Utah Division of Wildlife Resources will reintroduce black-footed ferrets (*Mustela nigripes*) into northwestern Colorado and northeastern Utah. The purposes of this reintroduction are to implement actions required for the recovery of the species and to evaluate release techniques. We will release surplus captive-raised black-footed ferrets in 1998, if possible, and release additional animals annually for several years thereafter or until we establish a self-sustaining population. If the northwestern Colorado/northeastern Utah program is successful, a wild population could be established within about 5 years. The northwestern Colorado/northeastern Utah population is designated as a nonessential experimental population in accordance with section 10(j) of the Endangered Species Act of 1973, as amended. We will manage this population under the provisions of section 10(j) through this rule.

DATES: This rule is effective October 1, 1998.

ADDRESSES: You may inspect the complete file for this rule during normal business hours at the following offices: U.S. Fish and Wildlife Service, Colorado Field Office, 755 Parfet, Suite 361, Lakewood, Colorado 80215; U.S. Fish and Wildlife Service, Ecological Service's Office at 764 Horizon Drive, South Annex A, Grand Junction, Colorado, 81506–3946; U.S. Fish and Wildlife Service, Utah Field Office, 145 East 1300 South, Suite 404, Salt Lake City, Utah, 84115.

You must make an appointment in advance if you wish to inspect the file.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Leachman at the Grand Junction address above, telephone: 970/243–2778; or Mr. Edward Owens at the Salt Lake City address above, telephone: 801/524–5001.

SUPPLEMENTARY INFORMATION:

Background

A proposal to designate a nonessential experimental population in northwestern Colorado and northeastern Utah was published in the **Federal Register** on April 29, 1997 (62 FR 23202).

1. *Legislative:* Significant changes to the Endangered Species Act of 1973 (Act), as amended, were made in 1984 with addition of subsection 10(j) to allow for the designation of specific populations of listed species as ''experimental populations.'' Previously, we were authorized to reintroduce populations into unoccupied portions of a listed species' historical range when it would foster the conservation and recovery of the species. However, local citizens often opposed these reintroductions because they were concerned about the placement of restrictions and prohibitions on Federal and private activities. Under section 10(j), the Secretary of the Interior can designate reintroduced populations established outside the species' current range but within its historical range as ''experimental.'' This designation allows us considerable flexibility in managing reintroduced populations of endangered species. The Act provides for treating experimental populations as threatened species under the Act, affording us greater discretion in devising management programs and special regulations for listed species. These regulations are usually less restrictive than those established for endangered species and can allow for greater compatibility with established human activities in the reintroduction area.

The Secretary of Interior can so designate populations under section 10(j) of the Act, and based on the best available information, must determine whether such populations are essential, or nonessential, to the continued existence of the species. Regulatory restrictions may be considerably reduced under a nonessential experimental population (NEP) designation, which is defined as being nonessential to the recovery of the species. For the purposes of section 7 of the Act, we treat NEPs as if they are species proposed for listing if they are located outside of the National Wildlife Refuge System or National Park System. If a NEP is located within a park or refuge it is treated as if it is listed as a threatened species. Section 7 provisions for Federal agency coordination have limited application to experimental populations found outside the above two systems. The two provisions that apply are: (1) section 7(a)(1)—which requires all Federal agencies to use their authority to conserve listed species; and (2) section 7(a)(4)—which requires Federal agencies to confer with the Service on actions that are likely to jeopardize the continued existence of a proposed species throughout its range. Section 7 of the Act does not affect activities undertaken on private lands unless they are authorized, funded, or carried out by a Federal agency.

However, pursuant to section 7(a)(2), a donor population can be the source of individuals used to establish an experimental population, provided their removal is not likely to jeopardize the continued existence of the species, and appropriate permits are issued in accordance with 50 CFR 17.22 prior to their removal. In this case, the donor population is a captive bred population, propagated with the intention of reestablishing wild populations where feasible, to achieve recovery goals.

2. *Biological:* The black-footed ferret has a black facemask, black legs, and a black-tipped tail; is nearly 60 centimeters (2 feet) in length and weighs up to 1.1 kilograms (2.5 pounds). It is the only ferret species native to North America. The historical range of the species, based on specimen collections, extends over 12 western States (Arizona, Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming) and the Canadian Provinces of Alberta and Saskatchewan. Prehistoric evidence indicates that ferrets once occurred from the Yukon Territory in Canada to New Mexico and Texas (Anderson et al. 1986).

Black-footed ferrets depend almost exclusively on prairie dog colonies for food, shelter, and denning (Henderson et al. 1969, Forrest et al. 1985). The range of the ferret coincides with that of prairie dogs (Anderson et al. 1986), and ferrets with young have been documented only in the vicinity of active prairie dog colonies. Historically, black-footed ferrets have been reported from black-tailed prairie dog (*Cynomys ludovicianus*), white-tailed prairie dog (*Cynomys leucurus*), and Gunnison's prairie dog (*Cynomys gunnisoni*) towns (Anderson et al. 1986).

Drastic reductions in prairie dog numbers and distribution occurred during the last century, due to widespread poisoning of prairie dogs, the conversion of native prairie to farmlands, and outbreaks of sylvatic plague; particularly in the southern portions of their range. This severe reduction in the availability of their principal prey species in combination

with other factors such as secondary poisoning from prairie dog toxicants and canine distemper, resulted in the near extinction of the black-footed ferret in the wild.

In 1974, a remnant wild population of ferrets in South Dakota, originally discovered in 1964, suddenly disappeared. We then believed the species to be extinct until 1981, when a small population was discovered near Meeteetse, Wyoming. In 1985–1986, the Meeteetse population declined to only 18 animals due to an outbreak of canine distemper. Following this critical decline, the remaining individuals were taken into captivity in 1986–1987 to serve as founders for a captive propagation program. Since that time, highly successful captive breeding efforts have provided the basis for ferret reintroductions over a broad area of their formerly occupied range. Today, the captive population of juveniles and adults annually fluctuates between 300 and 600 animals depending on time of year, yearly reproductive success, and annual mortalities. The captive ferret population is currently divided among 7 captive breeding facilities throughout the United States and Canada, with a small number on display for educational purposes at several facilities.

3. *Recovery Goals/Objectives:* The recovery plan for the black-footed ferret (U.S. Fish and Wildlife Service 1988) establishes a national recovery objective to ensure the survival of the species by:

(a) Increasing the captive population of ferrets to 200 breeding adults by 1991, which has been achieved;

(b) Establishing a prebreeding census population of 1,500 free-ranging breeding adults in 10 or more different populations, with no fewer than 30 breeding adults in each population by the year 2010; and,

(c) Encouraging the widest possible distribution of reintroduced animals throughout their historic range.

We can reclassify the black-footed ferret to threatened status when we meet the conditions of the national recovery objective, assuming that the mortality rate of established populations remains at or below a rate at which new populations are established or increasing. We have been successful in cooperative efforts to rear black-footed ferrets in captivity and in only 8 years, the captive population has increased from 18 to nearly 400 animals. In 1988, we divided the single captive population into three subpopulations to avoid the possibility of a catastrophic event (e.g., contagious disease) eliminating the entire captive population. Presently, there are 7 separate subpopulations in captivity. Current recovery efforts emphasize the reintroduction of animals back into the wild from the captive source stock. This is possible due to achievement of the minimum captive population goal of 240 breeding adults. Surplus individuals produced in captivity are now available for use in nonessential experimental populations (i.e., for reintroductions).

4. *Reintroduction Sites:* The Service, in cooperation with 11 western State wildlife agencies, identified potential ferret reintroduction sites within the historical range of the species. We selected these reintroduction sites in coordination with the Black-Footed Ferret Interstate Coordinating Committee and the Black-footed Ferret Recovery Implementation Team. The Northwestern Colorado/Northeastern Utah Black-footed Ferret Experimental Population Area (ExPA) is the fifth of these release sites selected thus far for ferrets, and occupies portions of Rio Blanco and Moffat Counties, Colorado; Sweetwater County, Wyoming; and Uintah and Duchesne Counties, Utah.

In Colorado, the ExPA occupies all of Moffat and Rio Blanco Counties west of Colorado State Highway 13, west to the Utah State line, and north to the Wyoming State line. In Wyoming, the ExPA runs between Range 96 and 97 West (eastern edge), Range 102 and 103 West (western edge), and Township 14 and 15 North (northern edge). In Utah, the ExPA occupies all of Uintah and Duchesne Counties in northeastern Utah. The eastern border of Uintah County adjoins the western borders of Moffat and Rio Blanco Counties in Colorado. Coyote Basin, located on the Utah/Colorado border is a relatively flat valley surrounded by low hills and ridges. This site is bounded on the south by the White River and the west by Kennedy Wash. The Coyote Basin Primary Management Zone is bounded by the Utah-Colorado State line on the east, by the east-west line separating Townships 7 and 8 South on the north, by the north-south line separating Ranges 23 and 24 East on the west, and by the east-west section line 1.6 kilometers (1 mile) south of Township 8 South on the south.

White-tailed prairie dog colonies in the ExPA form a complex extending from southwestern Wyoming, south to Elk Springs, Colorado, and west to Vernal, Utah. We do not expect ferrets to disperse outside the proposed experimental area. This is highly unlikely due to its large size (3,218,907 hectares or 7,953,920 acres), the absence of suitable surrounding habitat (lack of prairie dog towns), and the presence of vegetative and topographical barriers. There are approximately 95,073 hectares (234,926 acres) of white-tailed prairie dog colonies in the ExPA that could potentially support at least 139 families of ferrets.

Contiguous prairie dog colonies and the lack of any physical barriers between the White River Resource Area in Colorado and Coyote Basin in Utah should provide for the movement of ferrets between the two areas. Ferrets released in Coyote Basin are likely to disperse to suitable contiguous habitats in Colorado. Due to the presence of physical barriers and less suitable prairie dog towns, the dispersal of ferrets from the Little Snake Management Area release site to other areas within the ExPA is unlikely. The NEP designation will apply to any ferret found within the boundaries of the ExPA.

a. *Northwestern Colorado Experimental Population Sub-Area:* In 1987, the Colorado Prairie Dog Management Group and the Black-footed Ferret Recovery Working Group selected northwestern Colorado as a potential release site because of: (1) the historical presence of ferrets in the area; (2) the abundance of prairie dogs; (3) the extensive amount of lands under management by the Bureau of Land Management (BLM); and (4) the area's relative isolation from human activities.

The Northwestern Colorado Experimental Population Sub-Area includes lands in northwestern Colorado and southwestern Wyoming. Black-footed ferrets historically occurred in this area, but recent ferret surveys indicate they have been extirpated from the area. Numerous surveys conducted from 1981 to 1993 by the Service, the Colorado Division of Wildlife, the BLM, and private consultants failed to locate any ferrets and we believe this adequately confirms their absence from the area. The Wyoming Black-footed Ferret Advisory Team endorses the experimental population area as defined in this rule (Bob Luce, Wyoming Game and Fish Department, *in litt.* 1993). The Colorado sub-area is about 1,218,633 hectares (3,011,210 acres) in size, and consists of approximately 49.5 percent BLM lands, 38 percent private lands, 6 percent State school lands, 5 percent National Park Service lands, 1 percent Colorado Division of Wildlife lands, and 0.5 percent National Wildlife Refuge lands. Prairie dog towns cover approximately 65,620 hectares (162,146 acres) of this sub-area and they occur primarily on BLM lands within their Little Snake Resource Area, the White River Resource Area, and the Green River Resource Area.

b. *Northeastern Utah Experimental Population Sub-Area:* The Northeastern Utah Experimental Population Sub-Area, containing 2,001,101 hectares (4,942,720 acres) of habitat, includes all of Uintah and Duchesne Counties in Utah. Landownership in the NEP area is 54 percent Federal public lands (i.e., BLM, Forest Service, Fish and Wildlife Service, Bureau of Reclamation, National Park Service), 24 percent private lands, 16 percent Ute Indian Tribe trust reservation lands, and 6 percent state lands. The sub-area lies within the historic range of the species. The Utah Black-footed Ferret Working Group selected Coyote Basin as the preferred reintroduction site because of its prairie dog numbers and their distribution. Based on surveys in 1985 and 1986, about 4,215 hectares (10,416 acres) of occupied white-tailed prairie dog habitat occurs within the immediate release area proposed, and another 25,238 hectares (62,364 acres) occur in the surrounding ExPA. The BLM and the Utah School and Institutional Trust Lands Administration manage most of the lands in Coyote Basin.

We will release black-footed ferrets in the management areas only if suitable biological conditions exist, and the management framework developed by the Colorado Division of Wildlife, the Utah Division of Wildlife Resources, the Service, the Ute Indian Tribe, and private landowners is implemented. We will reevaluate this reintroduction effort should any of the following conditions occur:

(a) Failure to maintain sufficient habitat to support at least 30 breeding adults after 5 years.

(b) Failure to maintain at least 90 percent of prairie dog habitat that was available in 1993.

(c) A wild ferret population is found within the ExPA following the initial reintroduction and prior to the first breeding season. The only black-footed ferrets currently occurring in the wild result from reintroductions in Wyoming, Montana, South Dakota, and Arizona. Consequently, the discovery of a black-footed ferret at the proposed experimental population area prior to the reintroduction would confirm the presence of a new population, which would prevent designation of an experimental population for the area.

(d) Discovery of an active case of canine distemper or any other contagious disease in any animal on or near the reintroduction area 6 months prior to the scheduled release.

(e) Less than 20 captive black-footed ferrets are available for the first release.

(f) Funding is not available to implement the reintroduction phase of the project in northwestern Colorado/northeastern Utah.

(g) Land ownership changes or cooperators withdraw from the project.

All the above conditions will be based on information routinely collected by us or the BLM. None of the conditions are dependent on information from private parties.

5. *Reintroduction protocol:* The reintroduction protocol calls for the release of 20 or more captive ferrets in the first year of the program, and up to 50 or more animals annually for the following 2 to 4 years. Release candidates must be excess animals available for the reintroduction and not required for the continuation of the captive breeding program. Any loss of these animals will not affect the overall genetic diversity of the captive population. Since captive breeding of ferrets will continue, a source of additional ferrets will be available to replace those removed for the reintroduction effort. In future releases, it may be necessary to obtain and translocate ferrets from established, reintroduced populations in order to maintain maximum genetic diversity in other wild populations.

Release methods for reintroducing captive ferrets into the wild include varying degrees of preparation or conditioning. A hard release involves releasing ferrets raised entirely within an indoor captive breeding facility to the wild without any exposure to natural environmental conditions, or when ferrets are exposed to some degree of pre-conditioning at one site and subsequently are taken to another site for immediate release. A soft release involves an acclimation period during which the ferrets receive food, shelter, and protection from predators for an extended period of time after relocation to the release site and prior to their release. In each method, we release ferrets from above-ground cages connected to underground nest boxes. In either method, captive-bred ferrets may also undergo an extensive period of pre-conditioning by placing them in large pens enclosing a portion of a prairie-dog colony. The enclosure exposes ferrets to prairie dog burrows, requires ferrets to practice predatory skills, and allows ferrets to become physiologically fine-tuned to local environmental conditions. It may also be necessary to surround each above-ground cage with an electric fence to prevent damage from livestock or access by predators. We will decide, in coordination with our cooperators, on the best reintroduction method for the release. We are developing a specific release protocol to serve as a condition of the endangered species permit authorizing the northwestern Colorado/northeastern Utah release. To enhance reintroduction success, we will move pregnant females to the release site prior to giving birth. We will release adult ferrets and their offspring into the wild as family groups.

We vaccinate released animals against certain diseases (including canine distemper) and take appropriate measures to reduce predation from coyotes, badgers, and raptors. All ferrets we release are marked with passive integrated transponder tags (PIT tags) and we will monitor several animals with radio-collars to document their behavior and movements. Other monitoring will include spotlight surveys, snow tracking surveys, and visual surveillance.

Since captive-born ferrets are more susceptible to predation, starvation, and environmental conditions than wild animals, up to 90 percent of the animals could die during the first year of release. Mortality is usually the highest during the first month of release. In the first year of the program, a realistic goal is to have at least 10 percent of the animals survive the first winter.

The goal of the Colorado/Utah reintroduction is to establish a free-ranging population of at least 30 adults within the ExPA after 5 years of release. At the release site, we will monitor population demographics and all sources of mortality on an annual basis (for up to five years). We do not expect to change the nonessential experimental designation for this population unless: 1) we deem this reintroduction a failure (i.e., we are unable to establish a wild ferret population in the area, and no free-ranging ferrets remain in the ExPA), or 2) the black-footed ferret is fully recovered in the wild and no longer needs the protection of the Endangered Species Act.

6. *Status of Reintroduced Population:* We determine this reintroduction to be nonessential to the continued existence of the species for the following reasons:

(a) The captive population (founder population of the species) is protected against the threat of extinction from a single catastrophic event by housing ferrets in seven separate subpopulations. Hence, any loss of an experimental population in the wild will not threaten the survival of the species as a whole.

(b) The primary repository of genetic diversity for the species are the 240 adults in the captive breeding population. Animals selected for reintroduction purposes are surplus to the captive population. Hence, any loss of animals in reintroduction will not

affect the overall genetic diversity of the species.

(c) Captive breeding will provide for the replacement of any animals lost during this reintroduction attempt. Juvenile ferrets produced in excess of the numbers needed to maintain the breeding population in captivity are available for reintroduction.

This reintroduction is the fifth release of ferrets back into the wild. The other experimental populations occur in Wyoming, southwestern South Dakota, northcentral Montana, and Arizona. Reintroductions are necessary to further the recovery of this species to the extent that reclassification can occur. The nonessential experimental population designation alleviates landowner concerns about possible land use restrictions that would otherwise apply under the provisions of the Act. This nonessential designation provides a more flexible management framework for protecting and recovering black-footed ferrets while ensuring that the daily activities of landowners can continue.

7. *Location of Reintroduced Population:* Section 10(j) of the Act requires that an experimental population be geographically separate from other wild populations of the same species. Since 1991, extensive ferret surveys in the area (conducted by the Service and our cooperators) have failed to locate any ferrets or evidence of their presence (sign such as skulls, feces, trenches). Therefore, we conclude that wild ferrets are no longer present in the ExPA, and that this reintroduction will not overlap with any wild population.

Before the first breeding season, the nonessential experimental population will include all marked ferrets in the ExPA. After the first breeding season, the nonessential experimental population will include all ferrets located in the ExPA, including any unmarked offspring. All released ferrets and their offspring should remain in the ExPA because of prime prairie dog colonies and the surrounding geographic barriers. We will capture any ferret that leaves the ExPA and will either return it to the release site, translocate it to another site, place it in captivity, or leave it. If a ferret leaves the reintroduction area (but remains within the ExPA) and takes up residence on private property (including Ute Indian reservation trust lands), the landowner can request its removal. Therefore, ferrets will remain on private lands only when the landowner does not object to their presence on his/her property.

We will mark all released ferrets and will attempt to determine the source of any unmarked animals found at the release site. An endangered species designation as allowed under the Act will apply to any ferret found outside the ExPA until genetic testing can confirm that it originated in the captive population or is the progeny of the released captive ferrets. If the animal is unrelated to members of the experimental population (possibly a wild animal), we will place it in captivity as part of the breeding population to improve the overall genetic diversity of the population. Existing contingency plans allow for the capture and retention of up to nine ferrets shown to have a wild heritage. If a landowner outside the experimental population area wishes black-footed ferrets to remain on his/her property, we will develop a conservation agreement in cooperation with the landowner.

8. *Management:* This reintroduction is undertaken with the cooperation of the BLM, the Colorado Division of Wildlife, and the Utah Division of Wildlife Resources and in accordance with the Cooperative Management Plan for Black-footed Ferrets-Little Snake Management Area and the Cooperative Plan for the Reintroduction and Management of Black-footed Ferrets in Coyote Basin, Uintah County, Utah. You may obtain copies of the respective plans by contacting the District Manager, Bureau of Land Management, 455 Emerson Street, Craig, Colorado, 81625, and/or the Regional Manager, Utah Division of Wildlife Resources, Northern Region, 152 East 100 North, Vernal, Utah 84078.

We discuss additional considerations pertinent to the reintroduction below:

a. *Monitoring:* Several monitoring efforts will occur during the first five years of the program. We will annually monitor prairie dog distribution and numbers, and the occurrence of sylvatic plague. Testing for canine distemper will begin prior to the release, and continue each year. We will monitor the released ferrets and their offspring using spotlight surveys, snowtracking, other visual survey techniques, and radio-telemetry of some individuals. The survey design will incorporate methods to monitor breeding success and juvenile survival rates.

Through public outreach programs, we will inform the public and other State and Federal agencies about the presence of ferrets in the ExPA and the handling of any sick or injured animals. We have requested that the Colorado Division of Wildlife and the Utah Division of Wildlife Resources serve as the primary contacts for governmental agencies and private landowners whose jurisdictions are within the reintroduction area. To meet our responsibilities under Secretarial Order 3206, we will request that the Ute Indian Tribe in Utah inform Tribal members regarding the potential for ferrets on reservation trust lands, and the proper handling of any sick or injured ferrets that are found. The agencies and the Ute Indian Tribe will also serve as the primary contacts to report any injured or dead ferrets. Report any injured or dead ferrets to the appropriate Service Field Supervisor in each respective State (see **ADDRESSES** section). The Field Supervisor will also notify the Service's Division of Law Enforcement concerning any dead or injured ferret. It is important that we determine the cause of death for any ferret carcass found so if you discover a ferret carcass, do not disturb it, but instead report the carcass as soon as possible to the appropriate Service office.

b. *Disease Considerations:* The presence of canine distemper in any mammal on or near the reintroduction site will cause us to reevaluate the reintroduction program. Prior to a release, we will establish the presence/absence of canine distemper in the release area by collecting at least 10 coyotes (and possibly other predators), from the release site. The predators will be tested for canine distemper using accepted techniques.

We will attempt to limit the spread of distemper by discouraging people from bringing unvaccinated pets into the ExPA. We are requesting people to report any dead mammal or any unusual behavior observed in animals found within the area. Efforts are underway to develop an effective canine distemper vaccine for black-footed ferrets.

Routine sampling for sylvatic plague within prairie dog towns will take place before and during the reintroduction efforts.

c. *Genetic Considerations:* Ferrets selected for the reintroduction are excess to the needs of the captive population. Experimental populations of ferrets are usually less genetically diverse than the overall captive populations. Selecting and reestablishing breeding ferrets that compensate for any genetic biases in earlier releases can correct this disparity. The ultimate goal is to establish wild ferret populations with the maximum genetic diversity possible to attain with the founder individuals.

d. *Prairie Dog Management:* We will work with landowners, Federal and State agencies, and the Ute Indian Tribe in the ExPA to resolve any management conflicts in order to: (1) maintain sufficient prairie dog colonies to

support up to 30 adult black-footed ferrets and; (2) to maintain at least 90 percent of the prairie dog habitat that was available in 1993.

e. *Mortality:* We will only use animals which are surplus to the captive breeding program for this reintroduction. Predator control, prairie dog management, vaccination, supplemental feeding, and/or improved release methods should partially offset any natural mortality. Public education will help reduce potential sources of human-related mortality.

The Act defines ''incidental take'' as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. A person may take a ferret within the ExPA provided that any resulting injury or mortality to a ferret is unintentional, and was not due to negligence or malicious conduct. Such conduct will not constitute ''knowingly taking'' and we will not pursue any legal recourse. However, when we have evidence of knowingly (i.e., intentionally) taking a ferret we will refer matters to the appropriate authorities for prosecution. We request that you report any take of a black-footed ferret, whether incidental or not, to the local Service Field Supervisor (see **ADDRESSES** section). We expect a low level of incidental take since the reintroduction is compatible with traditional land use practices in the area.

Studies of wild black-footed ferrets at Meeteetse, Wyoming, found that ferrets were occasionally killed by motor vehicles and dogs. We expect a rate of take similar to what was documented at Meeteetse, and therefore, we estimate a human-related mortality of about 12 percent of all reintroduced ferrets and their offspring, annually. If this level is exceeded in any given year we will develop and implement measures to reduce the level of take occurring.

f. *Special Handling:* Under special regulations that apply to experimental populations, Service employees and agents acting on behalf of the Service may handle black-footed ferrets for scientific purposes, relocation efforts to avoid conflict with human activities, recovery efforts, relocation to other reintroduction sites, and in aiding sick, injured, and orphaned animals, or salvaging dead animals. We will return to captivity any ferret we determine to be unfit to remain in the wild. We will also determine the disposition of all sick, injured, orphaned, and dead animals.

g. *Coordination with Landowners and Land Managers:* The Service and our cooperators tried to identify all major issues associated with this reintroduction before the development of the proposed rule. We discussed this reintroduction with State agencies, private landowners, and the Ute Indian Tribe within the release site. The initial opposition to the project by the Ute Indian Tribe has been resolved (see part ''l''), and the state agencies support the project provided: (1) we release animals in the ExPA with the nonessential experimental population designation; and (2) we do not restrict land use activities in the ExPA without the knowledge and consent of the landowners. Some individual citizens remain opposed to the project because they still believe it will impact their use of public lands, that we intend to change the experimental population designation, and/or that the funding level necessary for the reintroduction is unacceptably high. The comment section of this final rule addresses their concerns.

h. *Potential for Conflict with Oil, Gas and Mineral Development Activities:* Development of minerals, oil and gas in the Little Snake Resource Area could reduce available ferret habitat by approximately 3 percent (890 hectares, or 2,200 acres), if oversight is not provided. Within Coyote Basin in Utah, mineral extraction is the primary land use. However, the development of existing oil, gas, and mineral resources will not jeopardize the establishment of ferrets in the release area. We will work with exploration companies to avoid any adverse impacts to ferrets and their habitat, should they develop any new oil or gas fields in the Coyote Basin. We encourage land management agencies and landowners within the management area to adopt the Coyote Basin Management Plan mineral extraction guidelines. Contingencies included in the black-footed ferret management plans developed for Utah and Colorado, the BLM's resource management plans, as well as the recommendations developed by the local black-footed ferret working groups, will guide the development of mineral resources.

i. *Potential for Conflict with Grazing and Recreational Activities:* We do not expect conflicts between livestock grazing and ferret management. Grazing or prairie dog management on private lands within the ExPA will continue without additional restriction during implementation of the ferret recovery activities. If proposed prairie dog control on private, State trust lands, or Ute Indian Tribe reservation trust lands locally affects ferret prey base within a specific area, State and Federal biologists will jointly determine potential impacts to ferrets. We do not expect adverse impacts to ferrets from big game hunting, prairie dog shooting, and trapping of furbearers or predators in the ExPA. If private activities impede the establishment of ferrets, we will work closely with landowners to develop appropriate procedures to minimize the conflicts.

j. *Protection of Black-footed Ferrets:* We will release ferrets in a manner that provides short-term protection from natural (predators, disease, lack of prey base) and human related sources of mortality. Improved release methods, vaccination, predator control, and the management of prairie dog populations should help reduce natural mortality. Releasing ferrets in areas with little human activity and development will minimize opportunities for human-related sources of mortality. We will work with landowners to help avoid certain activities that could impair ferret recovery.

k. *Public Awareness and Cooperation:* We will undertake educational efforts to inform the general public of the importance of this reintroduction project in the overall recovery of the black-footed ferret. This program should increase public awareness of the significance of the ExPA program and the habitats upon which ferrets depend.

l. *Ute Indian Tribe:* On June 10, 1997, the Ute Indian Tribe in Utah provided a letter to the BLM in Vernal adamantly opposing the reintroduction of black-footed ferrets on the Ute Indian Reservation in Utah. The Ute Indian Tribe identified the following concerns:

(1) The Service may withdraw the experimental designation in the future, or, may impose stricter rules governing activities that occur near experimental populations. The Ute Indian Tribe states that either of these circumstances could impact resource development on their reservation, cause expansion of prairie dog colonies on the reservation, and increase the cost of resource development.

(2) The Ute Indian Tribe cites circuit court decisions that require the consideration of Tribal resources and values when off-reservation activities occur near a reservation. Specifically, the Ute Indian Tribe states that in their view, the BLM did not adequately address the cultural, social, and economic impacts of ferret reintroduction in its National Environmental Policy Act (NEPA) compliance responsibilities.

Many individuals in other States where black-footed ferret reintroduction is now occurring, have also expressed concern that the Service will remove the experimental population designation (see Service response for issue #2). However, as stated at section 5 of the

final rule, the Service does not intend to make such a change unless: (1) the ferret release is determined to be a failure (i.e., we are unable to establish a wild ferret population in the area, and no free-ranging individuals remain in the ExPA), or (2) the black-footed ferret fully recovers to the extent that Endangered Species Act protection for the species is no longer needed.

Regarding the imposition of stricter rules near the experimental population area, we intend to manage all reintroduced populations of black-footed ferrets in Utah in accordance with ''A Cooperative Plan for the Reintroduction and Management of Black-footed Ferrets in Coyote Basin, Uintah County, Utah'', cited elsewhere in this final rule. This plan allows for continued, compatible natural resource development, and does not impose more strict regulations because of the reintroduction of black-footed ferrets.

Regarding the lack of adequate attention to Ute tribal concerns through NEPA, the BLM in Utah is only in the early stages of its NEPA compliance responsibilities. The BLM has determined that to comply with NEPA, its resource management plan for the Book Cliffs Resource Management Area must be amended to include the black-footed ferret. The process that the BLM is using to prepare the amendment will address all the issues the Tribe has provided to the BLM.

The Service will not release ferrets on the Ute Indian Tribe trust lands without prior approval of the Ute Tribe. We interpret the Tribe's June 10 letter, and subsequent meetings with their representatives, as concern that ferret releases off their trust lands could impact resource development on Tribal Reservation trust lands. To further clarify the Tribe's concerns, we met with representatives of the Ute Indian Tribe on April 22, 1998 to discuss our proposal to reintroduce black-footed ferrets into northeastern Utah and northwestern Colorado. During the meeting the Tribe stated that they wanted assurance from us that they would not have any obligations to provide habitat for black-footed ferrets, i.e., that no requirement would be made of them to maintain existing prairie dog populations or create more prairie dog acres. On May 7, 1998, we provided a letter to the Tribe assuring them we would not require additional protection of prairie dogs due to the release of black-footed ferrets. We, therefore, will not require any habitat protection by the Tribe for the black-footed ferret, nor will we conduct any ferret release in any portion of the nonessential, experimental population area that we determine may affect Ute Indian Tribe reservation trust lands, and that the Tribe requests not take place. The Service believes this commitment, combined with maintaining the experimental population boundary as originally proposed, maximizes future management opportunities for black-footed ferrets in the experimental population boundary, addresses the Ute Indian Tribe concerns, and meets timely recovery of the black-footed ferret in the western United States. By this coordination and commitment, we believe we have also met the requirements of Secretarial Order 3206.

m. *Overall:* The designation of the northwestern Colorado/northeastern Utah population as a nonessential experimental population should encourage local cooperation since it allows greater flexibility in conducting normal activities within the release site. This designation is necessary in order to receive full cooperation from landowners, Federal, State and local governmental agencies, and recreational interests within the release site. Based on the above information, and utilizing the best scientific and commercial data available (in accordance with 50 CFR 17.81), we find that releasing black-footed ferrets into the ExPA will further the conservation and recovery of the species.

Summary of Comments and Recommendations

The April 29, 1997, proposed rule and associated notifications requested all interested parties to submit factual reports or information that might contribute to the development of a final rule. Appropriate Federal and State agencies, county governments, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices inviting public comment and advertising public hearings on the proposal were published in Colorado in the *Denver Post* on May 13, 1997, the *Northwest Colorado Daily Press* in Craig on May 16, 1997, the *Rangely Times* on May 15, 1997. We published an invitation for public comment in Rock Springs, Wyoming, in the *Rocket Miner* on May 14, 1997. Notices were also published in Utah in the *Salt Lake City Tribune* on June 3, 1997, the *Utah Basin Standard* in Roosevelt on June 3, 1997, and the *Vernal Express* on June 4, 1997.

The Service mailed the proposed rule to 152 people representing individuals, State, Federal, and local governments and corporations, nongovernmental organizations affiliated with environmental, grazing, and recreational interests in Colorado, Utah and Wyoming, and the Ute Indian Tribe in Utah. This mailing list is from previous meetings and open houses we conducted in Utah and Colorado since 1990 regarding black-footed ferret recovery. A total of ten written comments were received from the three State area. Six supported the designation and four were opposed.

Public hearings regarding the proposal were conducted in Denver, Craig, and Rangely, Colorado on June 2, 1997, June 3, 1997, and June 4, 1997, respectively. We conducted a public hearing in Rock Springs, Wyoming on June 5, 1997. Public hearings were conducted in Salt Lake City and Vernal, Utah on June 9, 1997, and June 10, 1997, respectively. Each hearing began with verbal statements from the Service hearing officer and a Service biologist who gave background information on the rule process, described the hearing format, and provided details of black-footed ferret biology and Service recovery goals for the ferret. The hearing officer then invited the public to make statements, and a certified court reporter recorded each statement. A total of 38 verbal comments were received at the public hearings. Seven supported the proposal, 19 opposed the proposal, and 12 sought clarification of the proposals potential to impact land uses within the experimental population boundary.

Following the closure of the comment period, all written and verbal comments were grouped by issue. Most of the written and verbal comments received addressed the potential for the designation to interfere with current and proposed land uses within the experimental population boundary, the cost of the black-footed ferret recovery program, and the concern that the Service would change the experimental nonessential population designation in the future. The following summary addresses the written and verbal comments presented at the public hearings and received during the comment period. Our response to each issue is given below.

Issue #1: The Ute Indian Tribe commented that Coyote Basin, Utah ''is to some extent bordered by Indian land and lies wholly within the jurisdictional boundaries of the Ute Indian Tribe . . .'' A separate commenter suggested consideration of the present jurisdiction of the Tribe.

Service Response: The Ute Indian trust lands are wholly within the experimental population boundary, but about 9 miles west of the Coyote Basin Primary Management Zone. There will be no release of black-footed ferrets on the Ute Indian Reservation trust lands, or on lands that the Service determines

may impact the reservation trust lands, without concurrence by the Ute Indian Tribe (see above). We chose to include the Ute Indian Reservation trust lands within the experimental population boundary to extend the provisions of section 10(j) of the Endangered Species Act to the Reservation lands in the event that ferrets emigrate from the Coyote Basin Primary Management Zone to the Ute Indian trust lands. Black-footed ferrets released in Montana and South Dakota have not dispersed from their release site more than 6 miles. Lands between the Coyote Basin Primary Management Zone and the trust lands consist of pinyon-juniper woodlands and sagebrush flats which prevent occupancy by prairie dogs. Consequently, while it is conceivable that ferrets could travel 9 miles to reach the trust lands, the absence of contiguous prairie dog colonies makes such an event highly unlikely. The Ute Indian Tribe may request the removal of any ferret found within their reservation trust lands. Sections 7, 8f, 8i, and 8j under Supplementary Information in this final rule contain contingencies for the removal of ferrets from private lands when land use conflicts may occur.

Issue #2: Concern that the Service will change the experimental, nonessential population designation in the future.

Service Response: As stated in Section 5 of the Supplementary Information portion of this final rule, we do not expect to change the designation unless the reintroduction effort fails, or the species recovers. All the black-footed ferret experimental nonessential population designations made for release sites in Arizona, Montana, South Dakota, and Wyoming remain in effect as described in section (g)(9) of this final rule. Presently there are no proposals by the Service, or any requests on the part of other agencies or nongovernmental organizations, to amend any of the prior designations. Consequently, it is anticipated that the experimental, nonessential population designation for northwestern Colorado and northeastern Utah will continue in the future. If the release fails, we would likely abandon the experimental population designation because such a designation is unnecessary given the absence of the species in the area. If the release is successful and reclassification of the black-footed ferret is warranted, we will then consider whether it is appropriate to retain the designation or pursue its retraction. Success under a nonessential experimental population designation would argue against upgrading the designation to essential, or reinstating an endangered or threatened designation because of potential conflicts with ongoing activities in the area. If the Service and cooperating agencies are able to recover a species under a nonessential, experimental population designation, there would be no cause to increase the degree of protection otherwise allowed under the Endangered Species Act. In any case, with publication of this final rule, making any change to the nonessential, experimental population designation would require a new proposed rule, a public comment period, public meetings, NEPA compliance, and other documentation prior to publication of a final rule to change or abandon the designation.

Issue #3: Ferrets may disperse from their release site, potentially affecting land uses in areas outside the release area, and cause the Service to impose stricter rules governing resource development activities outside the boundaries of the experimental population area.

Service Response: Investigations of black-footed ferret dispersal at existing experimental release sites, and research conducted at Meeteetse, Wyoming, confirm that ferret dispersal to areas outside of active prairie dog colonies is rare. Ferrets are not known to establish residence off of active prairie dog colonies. Recent modifications to ferret husbandry techniques have been successful in developing captive reared animals that stay nearer to release sites than the ferrets raised in captivity and released in earlier trials. The northwestern Colorado/northeastern Utah experimental population boundary encompasses all prairie dog colonies believed to be suitable for long-term occupation by ferrets. Consequently, we believe it is unlikely that ferrets will disperse to, and establish permanent residence within, areas outside the experimental population boundary. Contingencies stated in section 7 of the Supplementary Information in this final rule allow for capture and return of ferrets to the experimental release area, should this occur. Also see response to issue #36.

Issue #4: The Ute Tribe suggested that ferret releases occur on lands that lie outside the Reservation.

Service Response: We will not release black-footed ferrets on Ute Indian Trust lands, nor is it likely that ferrets will travel to the trust lands and establish permanent residence. Contingencies included in this final rule allow for removal of ferrets from private lands when landowners do not want them on their property. We will implement these contingencies at the request of the Ute Indian Tribe. Also see response to issue 1. The Service and its cooperators evaluated the Coyote Basin Primary Management Zone and found it to be the only suitable release site within the experimental population boundary in Utah. Further investigations will continue and additional sites recommended when appropriate. Identification of additional sites outside of the designated experimental population area will require initiation of a new experimental rule process.

Issue #5: The rule ignores the wishes and needs of the Ute Tribe relating to ferret recovery.

Service Response: The Service has not ignored the wishes and needs of the Ute Indian Tribe during the evaluation of the Coyote Basin Primary Management Zone. Congress amended the Endangered Species Act to incorporate section 10(j) to enhance the opportunity for release of federally listed species on private lands. We could have chosen to select an experimental population boundary that excluded Ute trust lands. However, we believe including the trust lands within the boundary will provide the flexibility for management of ferrets sought by the Tribe and the Service. With adoption of a boundary that excluded the trust lands, any ferret found on the trust lands following the release would be subject to all prohibitions of the Endangered Species Act. We address the Ute Tribe's concern for resource development on their trust lands by including the trust lands within the experimental population boundary. As stated above, we will not release ferrets that may impact reservation trust lands without concurrence from the Ute Indian Tribe.

Issue #6: The Ute Tribe believes greater attention must be given to the cultural, social, and economic impact of ferret reintroduction, as well as tribal consultation demands, and implementing regulations and case law.

Service Response: The BLM in Utah is only in the early stages of its NEPA compliance responsibilities. The BLM has determined that to comply with NEPA, its resource management plan for the Book Cliffs Resource Management Area requires amendments to include the black-footed ferret. The process that the BLM is using to prepare the amendment will address all the issues the Tribe has provided to the BLM. The Service has also complied with Secretarial Order No. 3206, signed on June 5, 1997, and entitled ''American Indian Tribal Rights, Federal-Tribe Trust Responsibilities, and the Endangered Species Act.'' See paragraph 8.l of this final rule.

Issue #7: A commenter from Colorado said the Service did not disclose intentions to release ferrets in Utah

during previous meetings held in Colorado.

Service Response: The Service conducted a series of open houses regarding the proposal to release ferrets into northwestern Colorado in April 1995. Eighteen people attended the meeting in Rangely, Colorado on April 20, 1995. We have no official record of all issues discussed during the Rangely meeting; however, it may be that little or no attention was given to the potential for a black-footed ferret release in Utah because independent planning processes occurred in the two States. In 1996, we decided to pursue an experimental population designation that would encompass all prairie dog colonies in Utah, Colorado, and Wyoming that had a likelihood to be impacted by the release of ferrets in Utah or Colorado. While the plan to release ferrets in Utah may not have been advertised in Colorado, the public outreach process in Utah paralleled that in Colorado which included forming a local work group to address land use issues. This local work group in Utah will continue to function. Further, we have no reason to conceal a future release of ferrets in Utah from the Colorado public. We believe designation of an experimental, nonessential population of ferrets released in Utah protects land users in Colorado to a greater extent from the prohibitions of the Act.

Issue #8: Black-footed ferrets have never occurred within the experimental population area. The proposal therefore, is not a ''reintroduction,'' but rather an introduction of a species outside its historical range.

Service Response: Published literature (available on request) documents that black-footed ferrets occurred in Rio Blanco and Moffat Counties, Colorado, and San Juan County, Utah. For example, a black-footed ferret was collected at Morapos Creek about 19 miles southwest of Craig in 1941. All confirmed records of black-footed ferrets in North America overlap the prairie dog distribution in North America. Therefore, in the absence of physical evidence (e.g., carcass, bones, skulls), we assume that black-footed ferrets were historically a common predator within all active prairie dog colonies throughout North America. Consequently, while physical evidence may be lacking for specific areas within the experimental population boundary, we assume ferrets once occupied all active prairie dog colony complexes, based on the documented historical record from Colorado and Utah, and the presence of suitable habitat.

Issue #9: The short- and long-term costs of the black-footed ferret program may be prohibitively high.

Service Response: In 1995 (the most recent year analyzed), the cost of raising a black-footed ferret in captivity for delivery to a recovery site ranged from $4,000 to $5,000. The cost for each black-footed ferret surviving for 7 to 8 months after release to breed in the wild was estimated at about $100,000. These costs are all inclusive of all captive rearing facilities, recovery site administration, mortalities of release ferrets, and salaries of staff. Since 1995, rearing ferrets in captivity has become more efficient and survival of ferrets released has increased. These modifications indicate that the cost of each ferret raised in captivity and surviving in the wild for 7 to 8 months is decreasing. Continuing improvements to husbandry and field monitoring will reduce costs of these program elements. Because all costs associated with the recovery program are not static, we cannot provide a reliable estimate of the final cost of black-footed ferret recovery.

Issue #10: When designing recovery measures for endangered species, the Service leaves man ''out of the equation.''

Service Response: Social, economic, and cultural considerations are important elements in designing strategies to conserve endangered species. In light of these considerations, and in an effort to encourage public acceptance of endangered species reintroductions, Congress amended the Endangered Species Act in 1982 to include a new section 10(j) that allowed the Secretary of the Interior the opportunity to designate reintroduced populations as ''experimental.'' This section gives the Service more flexibility in the management of these populations by treating experimental populations as if they were threatened species, independent of the status of the donor populations, and providing for development of special rules for their management that are consistent with local land uses.

Issue #11: We did not adequately describe in the public notices what form of presentation the public should use at the public hearings (e.g., prepared statements, verbal testimony, etc.).

Service Response: The Service stated at the beginning of each hearing that written statements and verbal statements would receive equal consideration. Written statements were not expected, nor required, of anyone choosing to speak at the public hearings. The Service believes the 60-day comment period allowed on the proposed rule gave the public an opportunity to provide written comments if the hearings were considered an unacceptable forum.

Issue #12: A request was made for a copy of the Congressional Record reporting the commenter's verbal and written testimony.

Service Response: The commenter may be confusing the **Federal Register** with the Congressional Record. None of the comments regarding the proposal to release ferrets, or the comments received by the public on the proposal, will appear in the Congressional Record. All the verbal and written comments received were reviewed, grouped by topic, responded to by the Service, and published in this issue of the **Federal Register**. We will mail a copy of the final rule to all individuals providing either written or verbal comment on the proposed rule.

Issue #13: Release of ferrets will reduce or foreclose development of mineral and coal resources, hunting, ranching, and employment opportunities on lands within the experimental population area.

Service Response: Development of ''The Cooperative Management Plan for Black-footed Ferrets—Little Snake Management Area'' and ''A Cooperative Plan for the Reintroduction and Management of Black-footed Ferrets in Coyote Basin, Uintah County, Utah,'' included participation by representatives from oil and gas, hunting, off-highway vehicle, and ranching interests. The management plans recognize that the existing land uses are important to the cultural and economic vitality of local communities, and each plan includes specific measures to ensure the compatibility of the ferret release with these existing land uses. Specific measures are in place to ensure that oil and gas development can continue without impacting the ferret or prairie dogs to a degree that would threaten the potential success of the release effort. We will adopt an identical planning strategy to evaluate the potential for release of black-footed ferrets at other sites within the experimental population area.

Issue #14: The Utah School and Institutional Trust Lands Administration suggested that the release of black-footed ferrets in Utah duplicate the strategy used for the release of California condors.

Service Response: A Memorandum of Agreement between us and a coalition of county and local governments in Utah preceded the release of California condors in Utah. The agreement ensures, to the maximum extent practicable, that a condor release will not affect the current and future land,

water, or air uses within the experimental population area in Utah. We are a signatory to the Agreement, and will consider a similar approach for the release of ferrets in Utah.

Issue #15: The Utah School and Institutional Trust Lands Administration made a request to ''. . . allow non-federal mineral estate owners to trigger ferret removal and rule revocation in the event that they feel that reintroduction is causing a detrimental effect on mineral development.''

Service Response: The management plans adopted for the release of ferrets in Utah and Colorado provide for capture and removal of ferrets from private lands, if the private landowner does not want the ferrets on their property. The plan also provides contingencies for development of mineral resources (see section 7 and section 8h of the Supplementary Information in this final rule). The local black-footed ferret working groups will provide a forum for all land users to recommend removal of ferrets from an area when the objectives of ferret recovery and resource development appear to be in conflict, or when habitat conditions for ferrets have deteriorated. The Service cannot delegate the decision to capture and remove an endangered species to the private landowners. Similarly, we cannot delegate the authority to revoke the experimental designation to anyone else.

Issue #16: Prairie dog numbers are low in parts of the experimental population area.

Service Response: Prairie dog abundance in the experimental population area is dynamic due to disease, predation, and habitat modification. Prairie dogs are a food source for many predators, and are also highly susceptible to sylvatic plague. While prairie dog abundance and distribution may fluctuate between years, prairie dog abundance and distribution in the experimental population area is adequate to support its designation as a black-footed ferret recovery site.

Issue #17: Ferrets and their habitat should receive as much protection as possible, and the experimental, nonessential designation may not provide adequate protection for recovery of the species.

Service Response: The Service has spent many years working with local land users and agencies to fully evaluate existing and future potential threats to the black-footed ferret. We believe the nonessential experimental designation adequately protects the existing and future needs of ferrets and their habitat. Local black-footed ferret working groups will continue to alert everyone of potential conflicts between ferret recovery and proposed land uses. Furthermore, releasing ferrets as an endangered species, or an experimental, essential population, did not receive adequate support of the public or cooperating agencies. Consequently, while a stricter process for review of Federal actions would occur by releasing ferrets as endangered or as an experimental, essential population, public support would likely be absent, and the proposal would not likely be going forward. At this time, therefore, ferret release in the experimental population area would be unfeasible without the nonessential experimental population designation. This ''nonessential'' designation has proven to be an invaluable tool and has provided adequate protection for ferrets and their associated habitats at the other established release sites in Wyoming, Montana, South Dakota, and Arizona.

The Service and cooperating agencies are fully aware of the need to maintain suitable habitat. It will be the responsibility of the cooperating agencies to ensure that anticipated land use changes are compatible with the needs of the ferrets. The establishment of local working groups with the participation of local land users will allow disclosure and evaluation of potential threats to ferrets prior to project construction.

Issue #18: Several requests were made to change the experimental population boundary to protect commodity production. These requests were from Colowyo Coal Company L.P. in Colorado, a member of the public in Wyoming who stated that the boundary in Wyoming has changed since presented in 1995, and a member of the public in Utah.

Service Response: Designation of the experimental population for the area described is unlikely to have any impact on existing or future coal mining operations by Colowyo Coal Company L.P. for the following reasons: (1) There are not sufficient prairie dog colonies within the areas leased by Colowyo to qualify as suitable habitat for black-footed ferrets. Consequently, there are no plans to release ferrets into Colowyo's leased lands; (2) If ferrets released at other locations in the experimental population area disperse onto lands leased by Colowyo Coal Company, the experimental nonessential designation will relax the requirements under section 7 of the Endangered Species Act; and (3) Due to the absence of suitable ferret habitat on lands leased by Colowyo, circumstances requiring restrictions on the leased lands to protect black-footed ferrets are not foreseeable. Therefore, we conclude that the requested boundary adjustment is not warranted.

The boundary in Sweetwater County is the same as initially established in 1995. We described the boundary in this final rule to the Sweetwater County Commissioners on April 4, 1995, and to the public at an open house at Western Wyoming Community College in Rock Springs in April 1995. Amending the boundary of this proposal to include Grand County, Utah is not biologically justified for the release of ferrets in the Coyote Basin.

Issue #19: There should be more information regarding the development of new oil and gas guidelines mentioned on page 23206 of the proposed rule.

Service Response: In 1990, the Service developed draft ''Guidelines for Oil and Gas Activities in Prairie Dog Ecosystems Managed for Black-footed Ferret Recovery.'' We abandoned adoption of the guidelines in 1995. Oil and gas activities on Federal lands within the experimental population boundary will implement the strategies identified in the Little Snake Black-footed Ferret Management Plan, the Little Snake Resource Area Resource Management Plan, the White River Resource Area Resource Management Plan, the Cooperative Plan for the Reintroduction and Management of Black-footed Ferrets in Coyote Basin, Uintah County, Utah, the Book Cliffs Resource Area Resource Management Plan, and the Green River Resource Area Resource Management Plan. We will invite oil and gas industry representatives to participate in the local working group to help us and our cooperators to determine when ferret activities may conflict with their proposals, and what specific measures are available to ensure compatibility between the two objectives. Because the oil and gas guidelines do not exist, the text in the Supplementary Information section 8.h of the final rule is re-worded.

Issue #20: Canine distemper and/or sylvatic plague in parts of the experimental population area may prevent the long-term success of the reintroduction proposal.

Service Response: Section 8.b of the Supplementary Information of this final rule addresses the implications of disease to the success of the proposal. The management plans for releases in Utah and Colorado also have contingencies developed relating to disease management. These contingencies include vaccinating all black-footed ferrets prior to release into

pre-release conditioning pens; vaccinating black-footed ferret kits at least once prior to release; re-administering medications to ferrets captured during monitoring; discouraging presence of domestic dogs near the pre-conditioning pens; encouraging routine vaccination of dogs; and educating upland bird hunters regarding the impact of distemper to ferrets. Additionally, local residents are encouraged in this rule to report wildlife that appear to be sick. Cooperators in the ferret recovery program will also conduct sylvatic plague research to more fully understand its consequences and identify potential remediation techniques.

Issue #21: The Coyote Basin area is not suitable for the release of black-footed ferrets, due to ongoing and potential natural resource development.

Service Response: Several commenters suggested that the Cisco Desert in west central Utah, areas in the vicinity of Flaming Gorge Reservoir, and other areas in the vicinity of existing Federal monuments, would be better alternative ferret release locations. At this time no adequate inventory of prairie dog abundance in the Cisco Desert to determine its suitability for ferret release is available. Because the Cisco Desert is outside the experimental population boundary, its designation as a future recovery site requires confirmation of its biological suitability as well as an additional rulemaking process comparable to the process described in this rule. Also, data indicates that there is not a sufficient prey base in the vicinity of Flaming Gorge Reservoir, nor at existing Federal monuments in Utah. We will evaluate other potential acceptable sites when they become known.

Issue #22: If a black-footed ferret population is found in Utah, will oil and gas drilling continue?

Service Response: The ''Cooperative Plan for the Reintroduction and Management of Black-footed Ferrets in Coyote Basin, Uintah County, Utah'' will direct the management of the black-footed ferrets within the Coyote Basin in Utah. This management plan contains recommendations on how to offset impacts of surface disturbance associated with potential oil and gas drilling. With this final rule, we conclude there are no wild ferrets occurring within the experimental population area, and we assume any ferret found within the experimental population area boundary to be a released animal. We will not require the oil and gas industry to search for black-footed ferrets; cooperators will conduct all necessary searches.

Issue #23: The Service should comply with the guidelines developed by the Coyote Basin Black-footed Ferret Steering Committee if ferrets are reintroduced.

Service Response: We agree. The local working groups established in both Utah and Colorado continue to evaluate and review the ferret release and its potential impacts to commodity production and recreation on an ongoing basis.

Issue #24: The working group established for preparation of the BLM's Little Snake Resource Area Resource Management Plan should be reestablished and consider all views of Moffat County land users.

Service Response: We will convene a local black-footed ferret working group to review release activities, identify potential conflicts with current land uses, and where appropriate, select alternatives or modifications to ensure that ferret release activities are compatible with existing land uses. We will invite Moffat County and other members of the public to be members of the working group.

Issue #25: The Service should notify all interested parties of all the efforts on reintroduction of the ferret, and allow parties participation in the working groups.

Service Response: As stated in response to the above issue, we will form a local black-footed ferret working group, and invite participation from all people that have expressed an interest in this proposal. Recent events in the release program will be broadcast to the public in a local newsletter.

Issue #26: Thousands of prairie dogs occur in the Rangely, Colorado, area and have no natural enemies.

Service Response: Studies conducted by the cooperators since 1989 confirm that prairie dogs are abundant in the experimental population area, although prairie dog abundance can fluctuate due to sylvatic plague. Contrary to the commenter's statement, prairie dogs have many natural enemies in the experimental population area, including coyote, badger, red fox, ferruginous hawk, golden eagle, and the sport-hunting public. The reintroduction of the black-footed ferret as a natural predator of the prairie dog is unlikely to reduce prairie dog abundance in the experimental population area by an amount that would be noticeable by the public.

Issue #27: It is difficult to obtain prairie dog control in the Rangely, Colorado area, and the presence of black-footed ferrets may make control more difficult to obtain in the future.

Service Response: The proposed designation will not affect the ability to control prairie dogs in Rangely using currently available rodenticides. Most of these rodenticides require coordination with the Service prior to their use to determine whether a black-footed ferret search should precede prairie dog control. Existing label restrictions will continue to regulate rodenticide use on private lands. If there is a request for prairie dog control on private lands following release of ferrets, the cooperating agencies will determine whether it is likely that ferrets occupy the control site. To make sure that prairie dog control does not impact ferrets, the Service and cooperators will determine whether ferrets occur on the control site, remove the ferrets prior to release, or provide an alternative for control that poses no risk to black-footed ferrets.

Issue #28: A commenter recalled the Service making a statement at the open house in Rangely, Colorado in 1995, that the ferret population was very low, and that a ferret release was very unlikely.

Service Response: In 1995, the Service budget for endangered species recovery was not sufficient to allow any consideration of ferret release, and the outlook for funding in the future was poor. Black-footed ferret funding is not a line item in the Congressional budget process; consequently, funding for specific ferret recovery tasks do not receive approval years in advance of implementation. Due to the increase in funds available to the endangered species recovery program above levels in 1995, we can now initiate ferret reintroduction to the sites described in this rule. Since 1995, the BLM, the Colorado Division of Wildlife, the Animal and Plant Health Inspection Service, and Great Outdoors Colorado (lottery funds) have agreed to participate in ferret recovery activities.

In 1995, there were fewer ferret kits produced in captivity than in any other year. Consequently, had all approvals been in place at that time, a ferret release was unlikely in Utah/Colorado due to the needs at existing release sites in Wyoming, South Dakota, and Montana. Ferret production in 1998 exceeded that of previous years, and ferret allocations to release sites now include adults as well as juveniles. Consequently, as the availability of ferrets has increased, conditions for releases at the Utah/Colorado sites are now more favorable.

Issue #29: The Service has not shown the same diligence to full disclosure of issues relating to ferret recovery that the

public must demonstrate when defending their individual tax returns to the IRS.

Service Response: Since 1990, no fewer than 24 open houses, public hearings, and other meetings have occurred to disclose the proposal to release ferrets into the experimental population area. We have always been candid regarding the proposed release, its implications to land uses, and the likelihood of the release in the near future. We have clearly stated our long-term commitment to ferret recovery in Colorado and Utah, but also stated that a target release date is dependent on availability of ferrets, an adequate prey base (prairie dogs), the prevalence of disease, and the compatibility of the release with existing land uses. We have fulfilled our commitment to the public to fully disclose details of the release and its potential impacts to them.

Issue #30: What are the penalties for killing black-footed ferrets while driving cars or conducting other activities in the experimental population area?

Service Response: Section (g)(5) of this final rule addresses the issue of incidental take of black-footed ferrets within the experimental population boundary. Basically, any take of a ferret within the experimental population boundary that is incidental to an otherwise lawful activity will not constitute ''knowing take'' for the purposes of this regulation. Consequently, we will investigate any ferret killed by an automobile to determine if the collision was entirely accidental, or whether there was any intention to deliberately strike the ferret. We will notify proper authorities and investigate any incident we conclude to be ''knowing take'' of ferrets.

Issue #31: There is a conflict in terminology in the Service's use of the terms ''critically endangered'' and ''experimental'' when referring to black-footed ferrets. How can an experimental population designation and release to the wild be appropriate for an animal classified as critically endangered?

Service Response: Paragraph 6 under the Supplementary Information section of this final rule provides the Service's rationale for designating this reintroduction as experimental, nonessential. Briefly, the experimental population designation relaxes certain prohibitions under the Endangered Species Act to assure compatibility with existing land uses and thus acceptability to the general public. Critically endangered relates to those animals remaining in captivity, and the absence of any known, self-sustaining populations of the ferrets in the wild.

Issue #32: How will the public be brought into the 5-year review of the release?

Service Response: We will re-convene local black-footed ferret working groups to assist in the review of specific land use proposals or ferret recovery actions, and determine how the implementation of each can be compatible. Public representation on the working groups will ensure the public an opportunity to provide input along with the agencies and other cooperators.

Issue #33: We were asked to provide a more complete description of the experimental population boundary.

Service Response: The proposed rule and this final rule provides a complete description of the experimental population boundary using township/range demarcations, county lines, and highway numbers. The experimental population boundary in Wyoming covers about 16 miles north to south, and 36 miles east to west (about 560 square miles). During final preparation of the release sites in Colorado or Utah, we will place signs to alert the public of the location of the management areas, experimental population boundary, and pre-release conditioning pen sites.

Issue #34: A commenter stated that the Sweetwater County Commissioners previously requested expansion of the nonessential experimental boundary north to Interstate Highway 80.

Service Response: The Service, the Wyoming Game and Fish Department, and the BLM briefed the Sweetwater County Commissioners regarding the proposal to release ferrets in Colorado and its implications to Wyoming on April 4, 1995. The Service presented the experimental boundary in this final rule to the Commissioners at that time. We have no record that the Sweetwater County Commissioners requested that an expansion of the boundary to Interstate 80, and the Sweetwater County Commissioners did not provide comments on the proposed rule. The established boundary includes all known prairie dog colony complexes that may be within the range of black-footed ferrets released in Colorado. It is unlikely that ferrets would successfully establish residence in any area outside this boundary, and the Wyoming Game and Fish Department does not consider prairie dog colonies in Sweetwater County suitable for the establishment of a self-sustaining population of ferrets. Consequently, there is no biological basis for extending the boundary to Interstate 80, and we have not adopted this suggestion.

Issue #35: What are the effects of the proposal on private lands?

Service Response: This experimental, nonessential designation will impose no additional restrictions on activities on private lands other than those that currently exist, but would relax the consultation process under section 7 of the Endangered Species Act for any activity requiring Federal approval. For example, prairie dog control on private lands will continue to be subject to the rodenticide label restrictions that require contact with the Service prior to their use. Killing a black-footed ferret on private lands, requires reporting the incident to the proper authorities for determination of whether the take was incidental or intentional. The black-footed ferret management plans prepared for both the Little Snake Management Area and Coyote Basin Primary Management Zone predict that all current lands uses on private lands in these areas will continue to operate following reintroduction of black-footed ferrets.

Issue #36: A black-footed ferret may disperse up to 35 miles, which could result in overlap with future coal mining proposals.

Service Response: (SEE ALSO #4 AND #10) We address the basic concerns expressed here under Supplementary Information Item 7 of this rule. Black-footed ferrets may travel up to 4.5 miles each day searching for food. A black-footed ferret raised in an indoor caged environment and released at Shirley Basin, Wyoming traveled about 16 miles from its initial release site. Ferrets raised in pre-conditioning pens and released in Montana and South Dakota have not traveled more than about 6 miles from their initial release site. Therefore, we expect ferrets reared in outdoor pre-release conditioning pens to disperse considerably shorter distances than those raised in indoor cages.

The experimental boundary in Wyoming includes all prairie dog colonies within the range of ferrets potentially released in Colorado. It is unlikely that ferrets would establish residence outside of the experimental boundary, due to the lack of suitable ferret habitat. The discovery of a ferret outside the experimental population boundary will trigger genetic testing to determine whether it is a released ferret, or offspring of a released ferret. If the animal is genetically unrelated to members of the experimental population (possibly a wild animal), it will become part of the captive breeding population; however, we will return it to the release site if genetic testing proves it is part of the experimental population. Any ferret found outside the experimental population area will be

fully protected by the Act pending conclusion of the genetic testing.

Effective Date Justification

The 30-day delay between publication of this final rule and its effective date as provided by the Administrative Procedure Act (5 U.S.C. 533(d)(3)) is waived. This is to allow for the timely transfer of suitable black-footed ferret release candidates to pens for acclimation and breeding purposes. The following biological considerations necessitate this approach. The approved reintroduction of captive black-footed ferrets requires transfer from indoor, captive breeding facilities to outdoor pre-conditioning/breeding pens in the recovery area. The purpose of the pens is to increase successful reproduction of ferrets in field situations, and increase the probability of the survival of ferret progeny upon their release to the wild. The outdoor pens expose ferrets to prairie dog burrows and local climatic events, which demands that they become familiar with prairie dog burrows, practice their predatory instincts, and adapt to local environmental rigors. An acclimation period of several months at the release site prior to the breeding period maximizes breeding and whelping success.

Ferret experts have concluded that placement of breeding aged females into the pens at least several months prior to the breeding period allows adequate time to adapt to the local environment. Because ferrets can begin breeding in February, breeding aged ferrets require placement in pens no later than early November. However, approval of the pens requires testing pen integrity against escape by ferrets as well as invasion by predators. Prairie dogs and male black-footed ferrets are used to test for escapement, which can require 2 months. The pens must prevent escapement of the prairie dogs and male black-footed ferrets prior to introduction of breeding aged females and/or juveniles. Delaying the effective date of the rule for 30 days following its publication would postpone the introduction of ferrets to pre-conditioning/breeding pens, which would prevent us from meeting local and national recovery objectives.

The proposed rule for this designation was made available for public review and comment as part of the ferret reintroduction proposal. The 60-day comment period, combined with the public meetings and hearings throughout the ExPA provided sufficient opportunity for public discussion and debate. The rule making process was responsive to extensive input from the public, Ute Indian Tribe, and agencies and further review is unlikely to reveal new substantive issues. Because of the biological conditions described above, the extensive public review of the proposed rule, and the Record of Decision for this action, ferret reintroduction should begin as soon as possible after the publication of this rule. Therefore, due to biological considerations and the extensive public review process already conducted, good cause exists under 5 U.S.C. 553(d) for the rule to be effective immediately upon publication.

National Environmental Policy Act

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act of 1969 (NEPA). We have prepared an environmental assesssment (EA) as defined under the authority of NEPA, which is available from the Service Offices identified in the **ADDRESSES** section. In that EA we determined that this rule does not constitute a major Federal action significantly affecting the quality of the human environment.

Required Determinations

The designation of a reintroduced population of a federally listed species as NEPs significantly reduces regulatory requirements regarding the take of the reintroduced species. Under NEP designations, the Act requires a Federal agency to confer with the Service if the agency determines that its actions within the NEP is likely to jeopardize the continued existence of the reintroduced species. However, the Act does not compel a Federal agency to stop a project, deny issuing a permit, or cease any activity. Additionally, this rule includes stipulations that unavoidable and unintentional take of reintroduced ferrets, when such take is non-negligent and incidental to an otherwise lawful activity, and the activity is in accordance with State laws or regulations, do not constitute a violation of the Act. The Colorado Division of Wildlife, the Utah Division of Wildlife Resources, and the Wyoming Game and Fish Department have endorsed the ferret reintroduction under a NEP designation, however, such designation will not require any of these state agencies to specifically manage for any reintroduced species.

This final rule contains collections of information requiring the approval of the Office of Management and Budget (OMB) under 44 U.S.C. 3501 *et seq.* A request for renewal and revision of the authorization for this information collection has been approved by OMB and has been assigned control number 1018–0095. The Service may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

This rule was not subject to review by the Office of Management and Budget under Executive Order 12866.

This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. A cost-benefit and economic analysis is not required.

This rule will not create inconsistencies with other agencies' actions. The Federal agencies that will be most interested in this rulemaking are primarily other Department of Interior bureaus (i.e., BLM, National Park Service). The action proposed by this rulemaking is consistent with the policies and guidelines of the other Interior bureaus. Additional coordination will be required of the other agencies, but they are in support of the proposal to release ferrets under the nonessential, experimental population (NEP) designation. Because of the substantial regulatory relief provided by the NEP designation, we believe the reintroduction of the black-footed ferret in the areas described will not conflict with existing human activities or hinder public utilization of the area.

This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. User fees may be imposed by the BLM for the exploration of minerals and grazing domestic livestock on public lands. The user fee rates for these activities are not influenced by the establishment of a population of black-footed ferrets. Some mineral exploration and development companies may be required to modify their operations, but the modifications will not significantly affect their rights for mineral development, extraction, or marketing.

This rule does not raise novel legal or policy issues. The Service has previously designated experimental populations of black-footed ferrets at four other locations (in Montana, South Dakota, Arizona, and Wyoming), and for other species at numerous locations throughout the nation.

Reintroduction of ferrets as proposed in this rulemaking would not have any significant effect on recreational activities in the experimental area. No closures or roads, trails or other recreation areas are expected, and only voluntary reductions in prairie dog

shooting activities are expected. Because present regulations require that oil, gas and other mineral operations within the affected area comply with restrictions associated with wildlife, special status plant species, and livestock lambing grounds, ferret reintroduction is not expected to cause any significant change in these activities. Current mining projects would proceed as planned and any conflicts with future projects would be worked out in the early planning stages. No changes in current BLM grazing allotments are expected as a result of ferret reintroduction, and only temporary grazing restrictions within one quarter mile of release cages or other equipment are expected. Because only voluntary participation in ferret reintroduction by private landowners is proposed, this rulemaking is not expected to have any significant impact on private activities in the affected area.

We reviewed this rule under provisions of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) to determine whether this reintroduction would have a significant effect on a substantial number of small entities, including businesses, organizations, or governmental jurisdictions. Because no substantial changes in economic activity are expected, we certify that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act.

The nonessential experimental population designation will not place any additional requirements on any city, county, or other local municipalities. The site designated for release of the experimental population is predominantly public land administered by the BLM. Some affected lands are state school lands managed by Department's of Natural Resource agencies in their respective states. These agencies have expressed their desire for accomplishing the reintroduction through a nonessential experimental designation. Accordingly, this rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required.

Because this rulemaking does not require that any action be taken by local or state government or private entities, we have determined and certify pursuant to the Unfunded Mandates Act, 2, U.S.A. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or state governments or private entities, i.e., it is not a ''significant regulatory action'' under the Act.

Designating reintroduced populations of federally listed species as NEPs significantly reduces the Act's regulatory requirements regarding the reintroduced listed species within the NEP. Under NEP designations, the Act does require a Federal agency to confer with the Service if the agency determines that its action within the NEP is likely to jeopardize the continued existence of the reintroduced species. However, even if an agency action totally eliminated a reintroduced species from a NEP and jeopardized the species' continued existence, the Act does not compel a Federal agency to stop a project, deny issuing a permit, or cease any activity. Additionally, regulatory relief can be provided regarding take of reintroduced species within NEP areas. A special rule has been developed stipulating that there would be no violation of the Act for unavoidable and unintentional take (including killing or injuring) of the reintroduced black-footed ferrets, when such take is non-negligent and incidental to a legal activity (e.g., livestock management, mineral development) and the activity is in accordance with State laws or regulations.

Most of the lands within the experimental population area are public lands administered by the BLM. Multiple use management of these lands for industry and recreation will not change as a result of the experimental designation. Private landowners within the experimental population area will still be allowed to control prairie dogs, and may elect to have black-footed ferrets removed from their land should ferrets seek private lands for food and/or shelter.

Because of the substantial regulatory relief provided by NEP designations, the Service does not believe the reintroduction of the ferrets would conflict with existing human activities or hinder public use of the area. In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required.

As stated above, most of the lands within the experimental population area are public lands, and multiple use management of these lands will not change to accommodate black-footed ferrets. The designation will not impose any new restrictions on the states of Colorado, Utah, or Wyoming. The Service has coordinated extensively with each of these states on the proposed reintroduction. Each of the states endorses pursuit of the NEP designation as the only feasible way to pursue ferret recovery in the area. In accordance with Executive Order 12612, the rule does not have significant Federalism effects. A Federalism assessment is not required.

The Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of section 3(a) and 3(b)(2) of Executive Order 12988, and provides a clear standard for compliance.

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2 we have identified potential effects on Indian trust resources and they are addressed in this rule. We have met with the Ute Indian Tribe and their legal counsel to fully discuss the potential for the release of ferrets to impact the Ute Indian Tribe's ability to manage natural resources occurring on their reservation trust lands in Utah. The Fish and Wildlife Service has communicated to the Tribe that the release of ferrets will place no additional burden on the Tribe to maintain a population of prairie dogs to achieve recovery objectives for the black-footed ferret. Accordingly:

a. We have consulted with the Ute Indian Tribe in Utah.

b. We have coordinated this proposal with the Ute Indian Tribe on a government-to-government basis and the consultations have been open and candid in order for the Ute Indian Tribe to fully evaluate the potential impact of the rule on their trust resources.

c. We have fully considered and addressed tribal views in the final rule.

d. We have consulted with the appropriate bureaus and offices of the Department about the identified effects of this rule on the Ute Indian Tribe. The Bureau of Indian Affairs at the Regional level is aware of our consultation with the Ute Indian Tribe and know of the results.

References Cited

Anderson E., S.C. Forrest, T.W. Clark, and L. Richardson. 1986. Paleobiology, biogeography, and systematics of the black-footed ferret *Mustela nigripes* (Audubon and Bachman), 1851. Great Basin Naturalist Memoirs 8:11–62.

Forrest, S.C., T.W. Clark, L. Richardson, and T.M. Campbell III. 1985. Black-footed ferret habitat: some management and reintroduction considerations. Wyoming Bureau of Land Management, Wildlife Technical Bulletin, No. 2. 49 pages.

Henderson, F.R., P.F. Springer, and R. Adrian. 1969. The black-footed ferret in South Dakota. South Dakota Department of Game, Fish and Parks, Technical Bulletin 4:1–36.

U.S. Fish and Wildlife Service. 1988. Black-footed ferret recovery plan. U.S. Fish and Wildlife Service, Denver, Colorado. 154 pages.

Authors

The primary authors of this rule are Robert Leachman (see **FOR FURTHER INFORMATION CONTACT** section) and Marilet A. Zablan (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, the Service amends Part 17, Subchapter B of Chapter I, Title 50 of the U.S. Code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.11(h) by revising the existing entry for the ''Ferret, black-footed'' under ''MAMMALS'' to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
MAMMALS							
*	*	*	*	*	*		*
Ferret, black-footed	Mustela nigripes	Western U.S.A., Western Canada.	Entire, except where listed as an experimental population.	E	1, 3, 433, 545, 546, 582, 646.	NA	NA
Do	.....do...	.....do...	U.S.A. [specific portions of WY, SD, MT, AZ, CO, and UT, see 17.84(g)(9)].	XN	433, 545, 546, 582, 646.	NA	17.84(g)
*	*	*	*	*	*		*

3. Amend § 17.84 by revising the text of paragraph (g) as follows and adding a map to follow the existing maps at the end of this paragraph (g):

§ 17.84 Special rules—vertebrates.

* * * * *

(g) Black-footed ferret (*Mustela nigripes*).

(1) The black-footed ferret populations identified in paragraph (g)(9)(i), (g)(9)(ii), and (g)(9)(iii), and (g)(9)(iv) of this section are nonessential experimental populations. We will manage each of these populations will be managed in accordance with their respective management plans.

(2) No person may take this species in the wild in the experimental population area, except as provided in paragraphs (g)(3), (4), (5), and (10) of this section.

(3) Any person with a valid permit issued by the U.S. Fish and Wildlife Service (Service) under section 17.32 may take black-footed ferrets in the wild in the experimental population areas.

(4) Any employee or agent of the Service or appropriate State wildlife agency designated for such purposes, acting in the course of official duties, may take a black-footed ferret in the wild in the experimental population areas if such action is necessary:

(i) For scientific purposes;

(ii) To relocate a ferret to avoid conflict with human activities;

(iii) To relocate a ferret that has moved outside the Little Snake Black-footed Ferret Management Area/Coyote Basin Primary Management Zone when removal is necessary to protect the ferret, or is requested by an affected landowner or land manager, or whose removal is requested pursuant to paragraph (g)(12) of this section;

(iv) To relocate ferrets within the experimental population area to improve ferret survival and recovery prospects;

(v) To relocate ferrets from the experimental population areas into other ferret reintroduction areas or captivity;

(vi) To aid a sick, injured, or orphaned animal; or

(vii) To salvage a dead specimen for scientific purposes.

(5) A person may take a ferret in the wild within the experimental population areas, provided such take is incidental to and not the purpose of, the carrying out of an otherwise lawful activity and if such ferret injury or mortality was unavoidable, unintentional, and did not result from negligent conduct. Such conduct is not considered intentional or ''knowing take'' for the purposes of this regulation, and the Service will not take legal action for such conduct. However, we will refer cases of knowing take to the appropriate authorities for prosecution.

(6) You must report any taking pursuant to paragraphs (g)(3), (4)(vi) and (vii), and (5) of this section to the appropriate Service Field Supervisor, who will determine the disposition of any live or dead specimens.

(i) Report such taking in the Shirley Basin/Medicine Bow experimental population area to the Field Supervisor, Ecological Services, Fish and Wildlife Service, Cheyenne, Wyoming (telephone: 307/772–2374).

(ii) Report such taking in the Conata Basin/Badlands experimental population area to the Field Supervisor, Ecological Services, Fish and Wildlife Service, Pierre, South Dakota (telephone: 605/224–8693).

(iii) Report such taking in the northcentral Montana experimental population area to the Field Supervisor, Ecological Services, Fish and Wildlife Service, Helena, Montana (telephone: 406/449–5225).

(iv) Report such taking in the Aubrey Valley experimental population area to the Field Supervisor, Ecological Services, Fish and Wildlife Service, Phoenix, Arizona (telephone: 602/640–2720).

(v) Report such taking in the northwestern Colorado/northeastern Utah experimental population area to the appropriate Field Supervisor, Ecological Services, U.S. Fish and Wildlife Service, Lakewood, Colorado (telephone: 303/275–2370), or Salt Lake City, Utah (telephone: 801/524–5001).

(7) No person shall possess, sell, deliver, carry, transport, ship, import, or export by any means whatsoever, any ferret or part thereof from the experimental populations taken in violation of these regulations or in violation of applicable State fish and wildlife laws or regulations or the Endangered Species Act.

(8) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to commit, any offense defined in paragraphs (g)(2) and (7) of this section.

(9) The sites for reintroduction of black-footed ferrets are within the historical range of the species.

(i) We consider the Shirley Basin/Medicine Bow Management Area on the attached map of Wyoming to be the core recovery area for this species in southeastern Wyoming. The boundaries of the nonessential experimental population are that part of Wyoming south and east of the North Platte River within Natrona, Carbon, and Albany Counties (see Wyoming map). All marked ferrets found in the wild within these boundaries prior to the first breeding season following the first year of releases constituted the nonessential experimental population during this period. All ferrets found in the wild within these boundaries during and after the first breeding season following the first year of releases comprise the nonessential experimental population, thereafter.

(ii) We consider the Conata Basin/Badlands Reintroduction Area on the attached map for South Dakota to be the core recovery area for this species in southwestern South Dakota. The boundaries of the nonessential experimental population area occur north of State Highway 44 and BIA Highway 2 east of the Cheyenne River and BIA Highway 41, south of I–90, and west of State Highway 73 within Pennington, Shannon, and Jackson Counties, South Dakota. Any black-footed ferret found in the wild within these boundaries is part of the nonessential experimental population after the first breeding season following the first year of releases of black-footed ferret in the Reintroduction Area. A black-footed ferret occurring outside the experimental population area in South Dakota is considered as endangered but may be captured for genetic testing. We will dispose of the captured animal in one of the following ways if necessary:

(A) We may return an animal genetically related to the experimental population to the Reintroduction Area or to a captive facility.

(B) Under an existing contingency plan, we will use up to nine black-footed ferrets genetically unrelated to the experimental population in the captive-breeding program. If a landowner outside the experimental population area wishes to retain black-footed ferrets on his property, we will develop a conservation agreement or easement with the landowner.

(iii) We consider the Northcentral Montana Reintroduction Area shown on the attached map for Montana to be the core recovery area for this species in northcentral Montana. The boundaries of the nonessential experimental population are those parts of Phillips and Blaine Counties, Montana, described as the area bounded on the north beginning at the northwest corner of the Fort Belknap Indian Reservation on the Milk River; east following the Milk River to the east Phillips County line; then south along said line to the Missouri River; then west along the Missouri River to the west boundary of Phillips County; then north along said county line to the west boundary of Fort Belknap Indian Reservation; then further north along said boundary to the point of origin at the Milk River. All marked ferrets found in the wild within these boundaries prior to the first breeding season following the first year of releases constituted the nonessential experimental population during this period. All ferrets found in the wild within these boundaries during and after the first breeding season following the first year of releases comprise the nonessential experimental population thereafter. A black-footed ferret occurring outside the experimental area in Montana is initially considered as endangered but may be captured for genetic testing. We will dispose of the captured animal in one of the following ways if necessary:

(A) We may return an animal genetically related to the experimental population to the reintroduction area or to a captive facility.

(B) Under an existing contingency plan, we will use up to nine black-footed ferrets genetically unrelated to the experimental population in the captive-breeding program. If a landowner outside the experimental population area wishes to retain black-footed ferrets on his property, we will develop a conservation agreement or easement with the landowner.

(iv) We consider the Aubrey Valley Experimental Population Area shown on the attached map for Arizona to be the core recovery area for this species in northwestern Arizona. The boundary of the nonessential experimental population area is those parts of Coconino, Mohave, and Yavapai Counties that include the Aubrey Valley west of the Aubrey Cliffs, starting from Chino Point, north along the crest of the Aubrey cliffs to the Supai Road (State Route 18), southwest along the Supai Road to Township 26 North, then west to Range 11 West, then south to the Hualapai Indian Reservation boundary, then east and northeast along the Hualapai Indian Reservation boundary to U.S. Highway Route 66; then southeast along Route 66 for approximately 6 km (2.3 miles) to a point intercepting the east boundary of section 27, Township 25 North, Range 9 West; then south along a line to where the Atchison-Topeka Railroad enters Yampa Divide Canyon; then southeast along the Atchison-Topeka Railroad alignment to the intersection of the Range 9 West/Range 8 West boundary; then south to the SE corner of section 12, Township 24 North, Range 9 West; then southeast to SE corner section 20, Township 24 West, Range 8 West; then south to the SE corner section 29, Township 24 North, Range 8 West; then southeast to the half section point on the east boundary line of section 33, Township 24 North, Range 8 West; then northeast to the SE corner of section 27, Township 24 North, Range 8 West; then southeast to the SE corner Section 35, Township 24 North, Range 8 West; then southeast to the half section point on the east boundary line of section 12, Township 23 North, Range 8 West; then southeast to the SE corner of section 8, Township 23 North, Range 7 West; then southeast to the SE corner of section 16, Township 23 North, Range 7 West; then east to the half section point of the north boundary line of section 14, Township 23 North, Range 7 West; then south to the half section point on the north boundary line of section 26, Township 23 North, Range 7 West; then east along section line to route 66; then southeast along route 66 to the point of origin at Chino Point. Any black-footed ferrets found in the wild within these boundaries is part of the nonessential experimental population after the first breeding season following the first year of releases of ferrets into the

reintroduction area. A black-footed ferret occurring outside the experimental area in Arizona is initially considered as endangered but may be captured for genetic testing. We will dispose of the captured animal in one of the following ways if necessary:

(A) We may return an animal genetically related to the experimental population to the reintroduction area or to a captive facility. If a landowner outside the experimental population area wishes to retain black-footed ferrets on his property, we will develop a conservation agreement or easement with the landowner.

(B) Under an existing contingency plan, we will use up to nine black-footed ferrets genetically unrelated to the experimental population in the captive-breeding program. If a landowner outside the experimental population area wishes to retain black-footed ferrets on his property, we will develop a conservation agreement or easement with the landowner.

(v) We consider the Little Snake Black-footed Ferret Management Area in Colorado and the Coyote Basin Black-footed Ferret Primary Management Zone in Utah as the initial recovery sites for this species within the Northwestern Colorado/Northeastern Utah Experimental Population Area (see Colorado/Utah map). The boundaries of the nonessential Experimental Population Area will be all of Moffat and Rio Blanco Counties in Colorado west of Colorado State Highway 13; all of Uintah and Duchesne Counties in Utah; and in Sweetwater County, Wyoming, the line between Range 96 and 97 West (eastern edge), Range 102 and 103 West (western edge), and Township 14 and 15 North (northern edge). All marked ferrets found in the wild within these boundaries prior to the first breeding season following the first year of release will constitute the nonessential experimental population during this period. All ferrets found in the wild within these boundaries during and after the first breeding season following the first year of releases of ferrets into the reintroduction area will comprise the nonessential experimental population thereafter. A black-footed ferret occurring outside the Experimental Population Area is initially considered as endangered but may be captured for genetic testing. We will dispose of the captured animal in one of the following ways if necessary:

(A) We may return an animal genetically related to the experimental population to the Reintroduction Area or to a captive facility.

(B) Under an existing contingency plan, we will use up to nine black-footed ferrets genetically unrelated to the experimental population in the captive-breeding program. If a landowner outside the experimental population area wishes to retain black-footed ferrets on his property, we will develop a conservation agreement or easement with the landowner.

(10) Monitoring the reintroduced populations will occur continually during the life of the project, including the use of radio telemetry and other remote sensing devices, as appropriate. Vaccination of all released animals will occur prior to release, as appropriate, to prevent diseases prevalent in mustelids. Any animal that is sick, injured, or otherwise in need of special care may be captured by authorized personnel of the Service or appropriate State wildlife agency or their agents and given appropriate care. Such an animal may be released back to its appropriate reintroduction area or another authorized site as soon as possible, unless physical or behavioral problems make it necessary to return the animal to captivity.

(11) We will reevaluate the status of the experimental population within the first five years after the first year of release of black-footed ferrets to determine future management needs. This review will take into account the reproductive success and movement patterns of the individuals released into the area, as well as the overall health of the experimental population and the prairie dog ecosystem in the above described areas. We will propose reclassification of the black-footed ferret when we meet the appropriate recovery objectives for the species.

(12) We will not include a reevaluation of the ''nonessential experimental'' designation for these populations during our review of the initial five year reintroduction program. We do not foresee any likely situation justifying alteration of the nonessential experimental status of these populations. Should any such alteration prove necessary and it results in a substantial modification to black-footed ferret management on non-Federal lands, any private landowner who consented to the introduction of black-footed ferrets on their lands may rescind their consent, and at their request, we will relocate the ferrets pursuant to paragraph (g)(4)(iii) of this section.

* * * * *

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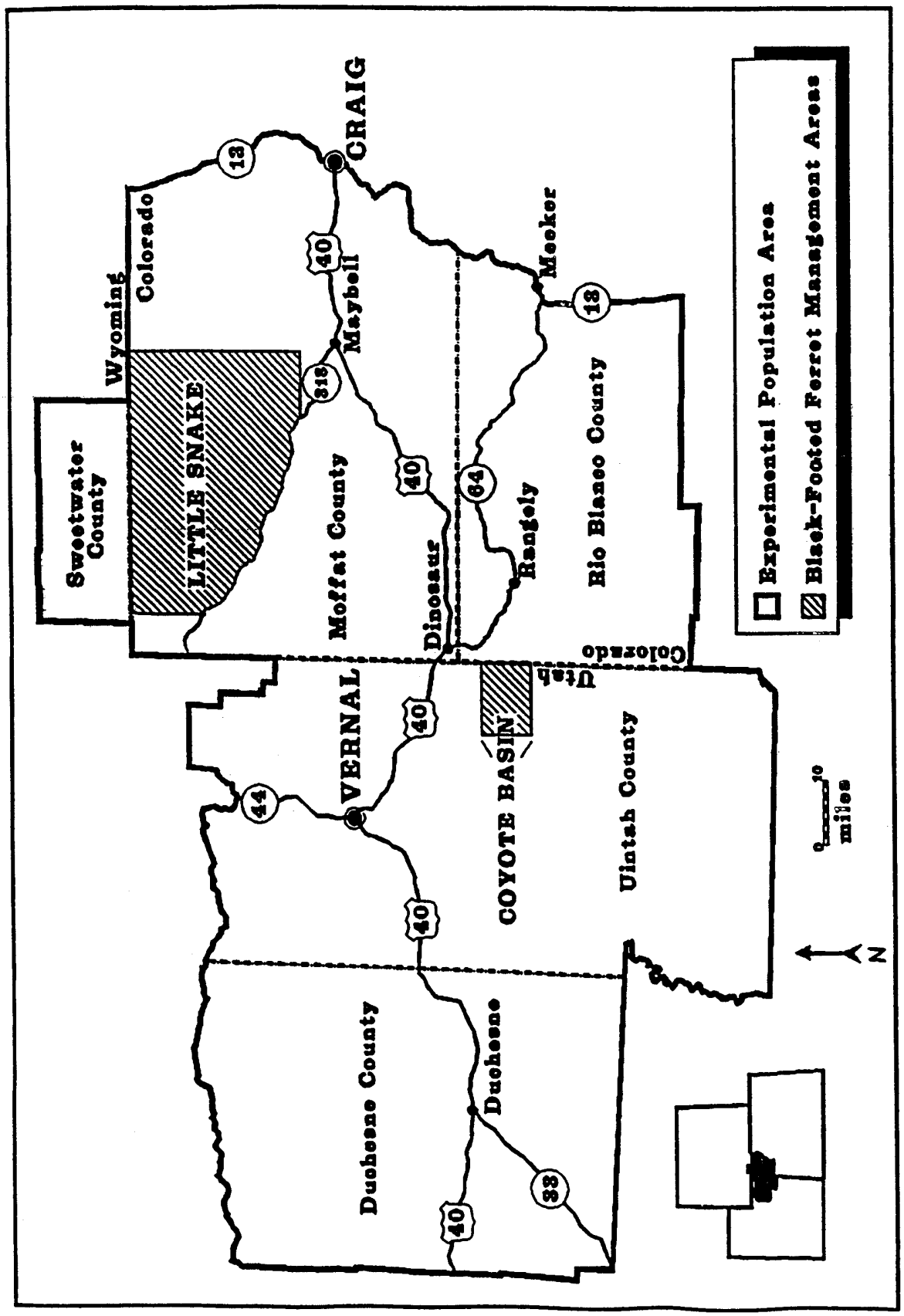

Map Showing the Boundaries of the Black-footed Ferret Experimental Population Area and the Management Area/PMZ for Northwestern Colorado/Northeastern Utah.

Dated: September 22, 1998.

Stephen C. Saunders,

Acting Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 98–26096 Filed 9–30–98; 8:45 am]

BILLING CODE 4310–55–C

federal register

Thursday
October 1, 1998

Part IV

Department of Transportation

Research and Special Programs Administration

49 CFR Part 107, et al.

Hazardous Materials Regulations; Editorial Corrections and Clarifications; Final Rule

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 107, 171, 172, 173, 175, 176, 177, 178, 179, and 180

[Docket No. RSPA–98–4404 (HM–189O)]

RIN 2137–AD27

Hazardous Materials Regulations; Editorial Corrections and Clarifications

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

ACTION: Final rule.

SUMMARY: This final rule corrects editorial errors, makes minor regulatory changes, and in response to requests for clarification, improves the clarity of certain provisions in the Hazardous Materials Regulations (HMR). The intended effect of this rule is to enhance the accuracy and reduce misunderstandings of the HMR. This non-substantive final rule correcting minor errors in the hazardous materials regulations was not preceded by a notice of proposed rulemaking because RSPA finds that notice and public comment are unnecessary under the Administrative Procedure Act.

EFFECTIVE DATE: October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Charles E. Betts, Office of Hazardous Materials Standards, (202) 366–8553, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

RSPA annually reviews the Hazardous Materials Regulations (HMR) to identify errors which may confuse readers. Inaccuracies corrected in this final rule include typographical errors, incorrect references to other rules and regulations in the CFR, inconsistent use of terminology, and misstatements of certain regulatory requirements. In response to inquiries RSPA received concerning the clarity of particular requirements specified in the HMR, certain other changes are made to reduce uncertainties.

Because these amendments do not impose new requirements, notice and public procedure are unnecessary. In addition, making these amendments effective without the customary 30-day delay following publication will allow the changes to appear in the next revision of 49 CFR.

The following is a section-by-section summary of the amendments made under this final rule. It does not discuss minor editorial corrections (*e.g.*, typographical, capitalization and punctuation errors), changes to legal authority citations and certain other minor adjustments to enhance the clarity of the HMR.

Section-by-Section Review

Part 107

Section 107.503

Paragraph (a)(3) is revised to remove an obsolete section reference.

Section 107.606

Paragraph (a)(5) is revised to update a 49 CFR part reference. In 1976, 49 CFR part 1057 was redesignated as part 376. That change was never corrected in the registration requirements at § 107.606(a)(5).

Part 171

Section 171.7

In paragraph (a)(3), in the table of material incorporated by reference, in the entry ''IME Safety Library Publication No. 22'', in the second column, a reference to ''173.63'' is added immediately before ''177.835''.

Section 171.8

A minor editorial change is made to the ''Marine pollutant'' definition to enhance its clarity.

In the ''Reportable Quantity'' definition, a reference to ''column 3'' is corrected to read ''column 2''.

Section 171.14

Paragraph (c) (1) is revised to clarify that the authorization allowing a fiber drum with a removable head to be used for a liquid hazardous material in Packing Group III that is not poisonous by inhalation expired on September 30, 1997.

Part 172

Section 172.101

In paragraph (c)(11), a reference to ''§ 173.51'' is corrected to read ''§ 173.54''.

In paragraph (f), in the first sentence, the word ''ORD-D'' is removed and the word ''ORM-D'' is added in its place.

The Hazardous Materials Table (the Table). The Table is amended to read as follows:

The entry ''Anhydrous ammonia see Ammonia, anhydrous, liquefied'' is corrected by removing the word ',liquefied''. Separate entries for ''Ammonia, anhydrous'' and ''ammonia solutions'' were created under Docket HM–215B [62 FR 24707; May 6, 1997].

In the following proper shipping names, the word ''gases'' is revised to read ''gas'', for consistency with the way they are shown in the UN Recommendations:

Compressed gases, flammable, n.o.s.;

Compressed gases, n.o.s.;

Compressed gases, toxic, flammable, n.o.s. *Inhalation hazard Zone A;*

Compressed gases, toxic, flammable, n.o.s. *Inhalation hazard Zone B;*

Compressed gases, toxic, flammable, n.o.s. *Inhalation hazard Zone C;*

Compressed gases, toxic, flammable, n.o.s. *Inhalation hazard Zone D;*

Compressed gases, toxic, n.o.s. *Inhalation Hazard Zone A;*

Compressed gases, toxic, n.o.s. *Inhalation Hazard Zone B;*

Compressed gases, toxic, n.o.s. *Inhalation Hazard Zone C;*

Compressed gases, toxic, n.o.s. *Inhalation Hazard Zone D.*

The entry ''Diphenylmethane-4,4' diisocyanate'' is removed. This material does not meet the toxicity criteria for a Division 6.1 Packing Group III material, and this entry was also deleted from the List of Dangerous Goods in the ninth revised edition of the UN Recommendations.

The entry ''Dichlorodifluoromethane *or* Refrigerant gas R 122'' is corrected by removing ''122'' and replacing it with ''12''.

For the entry ''Methyl isocyanate, 6.1,UN2480'', Column (7) is corrected by removing Special Provision ''A7''. This material is forbidden for transportation by aircraft.

For the entry ''Sodium hydrogendifluoride, solid'', the word ''solid'' is italicized.

For the entry ''Sodium hydrogendifluoride, liquid'', the word ''liquid'' is italicized.

For the entry ''Uranium hexafluoride, fissile excepted or non-fissile, 7, UN2978'', columns 8B and 8C are corrected by removing the reference ''425'' and replacing it with ''427''.

For the entry ''Water-reactive, solid, oxidizing, n.o.s., 4.3, UN3133'', in column 5, packing group ''II'' is added, in column (10A) ''E'' is added, and in column (10B), ''40'' is added. In addition, a new entry for the material in packing group III is added.

Section 172.102

In paragraph (c) (1), special Provision 114B is corrected by removing the wording ''US006'' and replacing it with ''US1''.

Section 172.203

Paragraph (m)(1) is revised by removing the wording ''Poison or Toxic'' and replacing it with '' 'Poison' or 'Toxic' ''.

Section 172.400a

In paragraph (a)(7), the reference ''§ 173.425(b)'' is corrected to read ''§ 173.427(a)(6)(vi)''.

Section 172.504

Footnote 1 of Table 1 is revised to correct a section reference.

Part 173

Section 173.6

In paragraph (c)(2), as amended by 63 FR 8142 the last sentence stating ''Each digit in the identification number marking must be displayed in 100 mm (3.9 inches) black Helvetica Medium, Alpine Gothic or Alternate Gothic No. 3 numerals.'' is removed. The size used for the identification number marking is prescribed in § 172.332, depending on whether the identification number is placed on a placard, white square-on-point configuration, or an orange panel.

Section 173.33

Paragraph (a)(3) is revised to correct a section reference.

Section 173.34

In paragraph (e)(18)(i), in the table for DOT 8 or 8AL cylinders used to transport acetylene, under ''Porous filler requalification'', the entry ''3 to 30 yrs[2]'' is corrected to read ''3 to 20 yrs[2]'' to correct a printing error. The ''3 to 20 yrs'' interval is correctly shown in the referenced Note 2.

Section 173.58

Paragraph (a) is amended to correct the title of the referenced document from ''Explosive Test Manual,'' to read ''UN Manual of Tests and Criteria,''. The ''Explosive Test Manual'' was the title of an earlier edition of this document.

Section 173.62

In paragraph (c), the Table of Packing Methods is revised to correct a printing error.

Section 173.247

On June 5, 1996, RSPA issued Docket HM–216 that added the DOT 120 tank car specification to §§ 173.240, 241, 242, 243, 244, and 314 but failed to add the ''120'' specification to § 173.247 (a). This oversight is corrected.

Section 173.403

A printing error is corrected in the definition of ''LSA—II''.

Section 173.416

A minor editorial change is made in paragraph (f) for clarity.

Section 173.422

Paragraph (b)(1) is revised to correct section references.

Section 173.425

Section 173.421 defines a limited quantity of Class 7 (radioactive) material as having an activity per package value not exceeding the limits specified in § 173.425. In Table 7 of § 173.425, the limited quantity values are not specifically identified, which leads to confusion. To eliminate this confusion, the column heading ''Materials package limits[1]'' is revised to read ''Limited quantity package limits[1]''.

Section 173.427

Paragraph (a)(3) is revised to replace reference to obsolete § 173.451 with references to §§ 173.453, 173.457, 173.459 and 173.467. This change does not impose any new requirement.

Section 173.433

In paragraph (g), in ''Table 10.—General Values For A_1 and A_2'', in the first column, the second sentence is amended by adding the wording ''no'' immediately before ''relevant'' to enhance its clarity.

Section 173.461

Paragraph (a) is revised to remove reference to obsolete, § 173.463 and to include a reference to the design requirements in § 173.412 for clarity. These changes do not impose any new requirement. Also paragraph (b) is revised to remove a reference to obsolete § 173.463.

Part 175

Section 175.700

In § 175.700, in paragraph (b), in the first sentence, the reference ''§ 175.15'' is corrected to read ''§ 171.15''.

Part 176

Section 176.704

Paragraph (e)(1) is revised to remove a reference to obsolete § 176.451.

In paragraph (f), in ''Table III—Limits for Freight Containers and Conveyances'', the table heading is amended by adding the wording ''TI'' immediately before ''Limits'' to enhance clarity.

Part 177

Section 177.835

Paragraph (g), in the second sentence, is corrected by removing a comma between the words ''detonating cord'' and ''Division 1.4''. This change is made to clarify that the detonating cord is classed in Division 1.4.

Section 177.842

In the first sentence of paragraph (a), the wording ''or storage location'' is revised to read ''or in any single group in any storage location,''. Paragraph (a) currently reads: ''The number of packages of Class 7 (radioactive) materials in any transport vehicle or storage location must be limited so that the total transport index number does not exceed 50''. The revision to paragraph (a) is made to clarify that groups of up to 50 TI are allowed in storage if each group is separated by at least 6 meters (20 feet). This revision is consistent with the wording in current paragraph (b)(2).

Section 177.843

Paragraph (c) is revised to correct a section reference.

Section 177.854

The introductory text preceding paragraph (a) is unnecessary and therefore is removed.

Part 178

Section 178.338

The section heading is amended by adding the wording ''motor vehicle'' immediately following the word ''tank'' to enhance clarity.

Part 179

Part 179—Specifications for Tank Cars

The Table of Sections to Part 179 is amended by revising the heading for Subpart C to read as follows: ''Subpart C—Specifications for Pressure Tank Car Tanks (Classes DOT–105, 109, 112, 114, and 120)''. On June 5, 1996 (61 FR 28666, 28679), RSPA amended § 179.101–1 by adding the DOT 120 specification to the table. However, the title to Subpart C of Part 179 was not changed to reflect addition of the new DOT 120 tank car.

Section 179.2

Paragraph (a)(2) is updated to reflect a minor name change of an organizational committee within the Association of American Railroads.

Section 179.3

Paragraph (a) is updated to reflect a minor name change of an organizational committee within the Association of American Railroads.

Section 179.4

Paragraphs (a) and (b) are updated to reflect a minor name change of an organizational committee within the Association of American Railroads.

Section 179.5

Paragraph (a) is updated to reflect a minor name change of an organizational committee within the Association of American Railroads, and to reflect that the construction and testing of multi-unit tank car tanks are approved by RSPA.

Part 180

Section 180.403

The introductory text, referencing the definitions contained in §§ 171.8 and 178.345–1, is revised to include a reference to the definitions of cargo tank terms in § 178.320(a).

Section 180.417

Paragraph (a)(3)(ii) is revised to clarify that a ''data report'' is the cargo tank ''manufacturer's data report'' required by the ASME.

Section 180.509

Paragraph (c)(3)(ii) is amended to add an explanation of the terms used in the preceding formula. This information was inadvertently omitted.

Section 180.515

In paragraph (b), in the first sentence, the word ''pressure'' is added immediately after the word ''Converted''. The word pressure was unintentionally removed in a final rule (HM–175 A/201 60 FR 49048; September 21, 1995).

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not subject to review by the Office of Management and Budget. This rule is not significant according to the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034). Because of the minimal economic impact of this rule, preparation of a regulatory impact analysis or a regulatory evaluation is not warranted.

B. Executive Order 12612

This final rule has been analyzed in accordance with the principles and criteria in Executive Order 12612 (''Federalism''). The Federal hazardous material transportation law, (49 U.S.C. 5101–5127) contains express preemption provisions at 49 U.S.C. 5125.

RSPA is not aware of any State, local, or Indian tribe requirements that would be preempted by correcting editorial errors and making minor regulatory changes. This final rule does not have sufficient federalism impacts to warrant the preparation of a federalism assessment.

C. Executive Order 13084

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13084 (''Consultation and Coordination with Indian Tribal Governments''). Because this rule would not significantly or uniquely affect the communities of the Indian tribal governments, the funding and consultation requirements of this Executive Order do not apply.

D. Regulatory Flexibility Act

I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This rule makes minor editorial changes which will not impose any new requirements on persons subject to the HMR; thus, there are no direct or indirect adverse economic impacts for small units of government, businesses or other organizations.

E. Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

F. Paperwork Reduction Act

There are no new information collection requirements in this final rule.

G. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

49 CFR Part 171

Exports, Hazardous materials transportation, Hazardous waste, Imports, Reporting and recordkeeping requirements.

49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 175

Air carriers, Hazardous materials transportation, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 176

Hazardous materials transportation, Maritime carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 177

Hazardous materials transportation, Motor carriers, Radioactive materials, Reporting and recordkeeping requirements.

49 CFR Part 178

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 179

Hazardous materials transportation, Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 180

Hazardous materials transportation, Motor carriers, Motor vehicle safety, Packaging and containers, Railroad safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Chapter I is amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; Sec. 212–213, Pub. L. 104–121, 110 Stat. 857; 49 CFR 1.45, 1.53.

§ 107.503 [Amended]

2. In § 107.503, in the first sentence of paragraph (a)(3), the wording ‘‘, except

as provided by § 107.502(f) of this part'' is removed.

§ 107.606 [Amended]

3. In § 107.606, in paragraph (a)(5), the wording ''1057'' is removed and ''376'' is added in its place.

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

4. The authority citation for part 171 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 171.7 [Amended]

5. In paragraph (a)(3), in the table of material incorporated by reference, in the entry ''IME Safety Library Publication No. 22 (IME Standard 22), Recommendation for the Safe Transportation of Detonators in a Vehicle with Certain Other Explosive Materials, May 1993'', in the second column, ''173.63,'' is added immediately before ''177.835''.

§ 171.8 [Amended]

6. In § 171.8, the following changes are made:

a. In the definition for ''Marine pollutant'', in the first sentence, the wording ''a hazardous material'' is removed and the wording ''a material'' is added in its place.

b. In the definition for ''Reportable Quantity (RQ)'', the wording ''column 3'' is removed and the wording ''column 2'' is added in its place.

7. In § 171.14, paragraph (c)(1) is revised to read as follows:

§ 171.14 Transitional provisions for implementing requirements based on the UN Recommendations.

* * * * *

(c) *Non-specification fiber drums.* (1) Until September 30, 1997, a non-specification fiber drum with a removable head was authorized for a liquid hazardous material in Packing Group III that is not poisonous by inhalation provided the packaging was authorized for the material under the requirements of Part 172 or Part 173 of this subchapter in effect on September 30, 1991. A filled non-specification drum may be offered for transportation and transported domestically prior to October 1, 1999, if it: (i) Was filled on or prior to September 30, 1997; and (ii) Is not emptied and refilled on or after October 1, 1997.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

8. The authority citation for part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 172.101 [Amended]

9. In § 172.101, the following changes are made:

a. In paragraph (c)(11) introductory text, at the beginning of the sentence, the reference ''173.51'' is removed and the reference ''173.54'' is added in its place.

b. In paragraph (f), in the first sentence, the phrase ''ORD–D'' is removed and the phrase ''ORM–D'' is added in its place.

10. In § 172.101, the Hazardous Material Table is amended by removing, adding, in appropriate alphabetical sequence, and revising, the following entries to read as follows:

§ 172.101 Purpose and use of hazardous materials table.

* * * * *

§ 172.101 HAZARDOUS MATERIALS TABLE

Symbols	Hazardous materials descriptions and proper shipping names	Hazard class or division	Identification numbers	PG	Label codes	Special provisions	(8) Packaging authorizations (§ 173.***)			(9) Quantity limitations		(10) Vessel stowage	
							Exceptions	Non-bulk	Bulk	Passenger aircraft/rail	Cargo aircraft only	Location	Other
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8A)	(8B)	(8C)	(9A)	(9B)	(10A)	(10B)
	[REMOVE:]												
			*	*	*	*		*	*		*		
	Diphenylmethane-4,4' diisocyanate.												
			*	*	*	*		*	*		*		
	[ADD:]												
			*	*	*	*		*	*		*		
	Water-reactive, solid, oxidizing, n.o.s.	4.3	UN3133	III	4.3, 5.1		None	214	214	Forbidden	Forbidden	E	40
			*	*	*	*		*	*		*		
	[REVISED:]												
			*	*	*	*		*	*		*		
	Water-reactive, solid, oxidizing, n.o.s..	4.3	UN3133	II	4.3, 5.1		None	214	214	Forbidden	Forbidden	E	40
			*	*	*	*		*	*		*		

§ 172.101 [Amended]

11. In addition, in § 172.101, in the Hazardous Materials Table, the following changes are made:

a. The entry ''Anhydrous ammonia'' is amended by removing the word ',liquefied''.

b. The entry ''Compressed gases, flammable, n.o.s.'' is amended by removing the word ''gases'' and adding the word ''gas'' and placing the entry in alphabetical order.

c. The entry ''Compressed gases, n.o.s.'' is amended by removing the word ''gases'' and adding the word ''gas'' and placing the entry in alphabetical order.

d. The entry ''Compressed gases, toxic, flammable, n.o.s. *Inhalation hazard Zone A*'' is amended by removing the word ''gases'' and adding the word ''gas'' and placing the entry in alphabetical order.

e. The entry ''Compressed gases, toxic, flammable, n.o.s. *Inhalation hazard Zone B*'' is amended by removing the word ''gases'' and adding the word ''gas'' and placing the entry in alphabetical order.

f. The entry ''Compressed gases, toxic, flammable, n.o.s. *Inhalation hazard Zone C*'' is amended by removing the word ''gases'' and adding the word ''gas'' and placing the entry in alphabetical order.

g. The entry ''Compressed gases, toxic, flammable, n.o.s. *Inhalation hazard Zone D*'' is amended by removing the word ''gases'' and adding the word ''gas'' and placing the entry in alphabetical order.

h. The entry ''Compressed gases, toxic, n.o.s. *Inhalation Hazard Zone A*'' is amended by removing the word ''gases'' and adding the word ''gas'' and placing the entry in alphabetical order.

i. The entry ''Compressed gases, toxic, n.o.s. *Inhalation Hazard Zone B*'' is amended by removing the word ''gases'' and adding the word ''gas'' and placing the entry in alphabetical order.

j. The entry ''Compressed gases, toxic, n.o.s. *Inhalation Hazard Zone C*'' is amended by removing the word ''gases'' and adding the word ''gas'' and placing the entry in alphabetical order.

k. The entry ''Compressed gases, toxic, n.o.s. *Inhalation Hazard Zone D*'' is amended by removing the word ''gases'' and adding the word ''gas'' and placing the entry in alphabetical order.

l. The entry ''Dichlorodifluoromethane *or* Refrigerant gas R 122'' is amended by removing the number ''122'' and adding the number ''12''.

m. For the entry ''Methyl isocyanate, 6.1, UN2480'' Column (7) is amended by removing Special Provision ''A7''.

n. The entry ''Sodium hydrogendifluoride, solid'' is amended by removing ''solid'' and adding ''*solid*'' in its place.

o. The entry ''Sodium hydrogendifluoride, liquid'' is amended by removing ''liquid'' and adding ''*liquid*'' in its place.

p. For the entry ''Uranium hexafluoride, *fissile excepted or non-fissile*, 7, UN2978'', columns 8B and 8C are amended by removing the wording ''420, 425'' and adding the wording ''420, 427''.

§ 172.102 [Amended]

12. In § 172.102, in paragraph (c)(1), in Special Provision 114 b., the reference ''US006'' is removed and ''US 1'' is added in its place.

§ 172.203 [Amended]

13. In § 172.203, paragraph (m)(1) is amended by removing the wording '' 'Poison or Toxic' '' and adding in its place the wording '' 'Poison' or 'Toxic' ''.

§ 172.400a [Amended]

14. In § 172.400a, in paragraph (a)(7), the reference § 173.425(b)'' is revised to read ''§ 173.427(a)(6)(vi)''.

§ 172.504 [Amended]

15. In § 172.504, in Table 1 as revised at 62 FR 1230 effective October 1, 1998, in footnote 1, the reference § 173.425(b) or (c)'' is removed and ''§ 173.427(a)'' is added in its place.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

16. The authority citation for part 173 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

§ 173.6 [Amended]

17. In paragraph (c)(2), the last sentence is removed.

§ 173.33 [Amended]

18. In § 173.33, in paragraph (a)(3), the reference ''§ 177.824'' is revised to read ''§ 180.407 (a)(1)''.

§ 173.34 [Amended]

19. In § 173.34, in paragraph (e)(18)(i), in the table, under the column heading ''Porous filler requalification'', under ''Initial'', the entry ''3 to 30 yrs [2]'' is revised to read ''3 to 20 yrs [2]''.

§ 173.58 [Amended]

20. In § 173.58, paragraph (a) introductory text is amended by removing ''Explosive Test Manual'' and adding the ''UN Manual of Tests and Criteria'' in its place.

§ 173.62 [Amended]

21. In § 173.62 (c), in the Table of Packing Methods, the following changes are made:

a. For the entry 114(b), under column 3 ''Intermediate packagings'', the text under ''Not necessary'' is transferred to column 4 ''Outer packagings'' under ''Boxes''.

b. For the entry 133, under column 3 ''Intermediate packagings'', the text under ''Receptacles'' is transferred to column 4 ''Outer packagings'' under ''Boxes''.

c. For the entry 133, under column 2 ''Inner packagings'', the text under ''Receptacles'' is transferred to column 3 ''Intermediate packagings'' under ''Receptacles''.

d. For the entry 137, under column 3 ''Intermediate packagings'', the text under ''Not necessary'' is transferred to column 4 ''Outer Packagings'' under ''Boxes''.

§ 173.247 [Amended]

22. In § 173.247, in paragraph (a), the wording ''115 tank car tanks'' is revised to read ''115, or 120 tank car tanks''.

§ 173.403 [Amended]

23. In § 173.403, in paragraph (2)(ii), in the definition for ''Low Specific Activity (LSA) material'', remove the wording ''average specific a- activity'' and add ''average specific activity'' in its place.

§ 173.416 [Amended]

24. In § 173.416, in paragraph (f), in the last sentence, the wording ''inner packaging if subjected'' is revised to read ''inner packaging if the overpack containing it is subjected''.

§ 173.422 [Amended]

25. In § 173.422, in paragraph (b)(1), the wording ''Sections 171.15, 171.16, 174.750, 176.710, and 177.861'' is removed and the wording ''Sections 171.15, 171.16, 174.750 and 176.710'' is added in its place.

§ 173.425 [Amended]

26. In § 173.425, in Table 7, in the fourth column, in the heading, the wording ''Materials package limits [1]'' is removed and the wording ''Limited quantity package limits [1]'' is added in its place.

§ 173.427 [Amended]

27. In § 173.427, in paragraph (a)(3), the wording §§ 173.451 and 173.467'' is revised to read ''§§ 173.453, 173.457, 173.459 and 173.467''.

§ 173.433 [Amended]

28. In § 173.433, in paragraph (g), in Table 10, in the first column, the

wording ''Alpha emitting nuclides are known to be present or relevant data are available'' is revised to read ''Alpha emitting nuclides are known to be present or no relevant data are available''.

§ 173.461 [Amended]

29. In § 173.461, the following changes are made:

a. In paragraph (a) introductory text, the wording ''Compliance with the test requirements in §§ 173.463 through 173.469'' is revised to read ''Compliance with the design requirements in § 173.412 and the test requirements in §§ 173.465 through 173.469''.

b. In paragraph (b), the wording ''§§ 173.463 through 173.469'' is revised to read ''§§ 173.465 through 173.469''.

PART 175—CARRIAGE BY AIRCRAFT

30. The authority citation for part 175 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 175.700 [Amended]

31. In § 175.700, in paragraph (b), in the first sentence, the reference ''§ 175.15'' is revised to read ''§ 171.15 of this subchapter''.

PART 176—CARRIAGE BY VESSEL

32. The authority citation for part 176 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 176.704 [Amended]

33. In § 176.704, the following changes are made:

a. In paragraph (e)(1), the wording ''§ 173.451 through § 173.459'' is revised to read ''§§ 173.457 and 173.459''.

b. In paragraph (f), in table III, the heading ''Table III—Limits for Freight Containers and Conveyances'' is revised to read ''Table III—TI Limits for Freight Containers and Conveyances''.

PART 177—CARRIAGE BY PUBLIC HIGHWAY

34. The authority citation for part 177 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 177.835 [Amended]

35. In § 177.835, in paragraph (g) introductory text, in the second sentence, the comma between the words ''detonating cord'' and ''Division 1.4'' is removed.

§ 177.842 [Amended]

36. In § 177.842, in paragraph (a), in the first sentence, the wording ''or storage location'' is revised to read ''or in any single group in any storage location''.

§ 177.843 [Amended]

37. In paragraph (c), the wording ''see § 177.861'' is removed and the wording ''see § 177.854'' is added in its place.

§ 177.854 [Amended]

38. In § 177.854, the introductory text is removed.

PART 178—SPECIFICATIONS FOR PACKAGINGS

39. The authority citation for part 178 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 178.338 [Amended]

40. In § 178.338, in the heading, the wording ''motor vehicle'' is added immediately following the word ''tank''.

PART 179—SPECIFICATIONS FOR TANK CARS

41. The authority citation for part 179 is revised to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

42. In § 179.2, paragraph (a)(2)is revised to read as follows:

§ 179.2 Definitions and abbreviations.

(a) * * *

(2) *Approved* means approval by the AAR Tank Car Committee.

* * * * *

43. In § 179.3, paragraph (a) is revised to read as follows:

§ 179.3 Procedure for securing approval.

(a) Application for approval of designs, materials and construction, conversion or alteration of tank car tanks under these specifications, complete with detailed prints, must be submitted in prescribed form to the Executive Director—Tank Car Safety, AAR, for consideration by its Tank Car Committee and other appropriate committees. Approval or rejections of applications based on appropriate committee action will be issued by the executive director.

* * * * *

44. In § 179.4, the first sentence in paragraph (a) and paragraph (b) are revised to read as follows:

§ 179.4 Changes in specifications for tank cars.

(a) Proposed changes in or additions to specifications for tanks must be submitted to the Executive Director—Tank Car Safety, AAR, for consideration by its Tank Car Committee. * * *

(b) The Tank Car Committee will review the proposed specifications at its earliest convenience and report its recommendations through the Executive Director—Tank Car Safety to the Department. The recommendation will be considered by the Department in determining appropriate action.

45. In § 179.5, paragraphs (a) and (b) are revised to read as follows:

§ 179.5 Certificate of construction.

(a) Before a tank car is placed in service, the party assembling the completed car shall furnish a Certificate of Construction, Form AAR 4–2 to the owner, the Department, and the Executive Director—Tank Car Safety, AAR, certifying that the tank, equipment, and car fully conforms to all requirements of the specification.

(b) When cars or tanks are covered in one application and are identical in all details are built in series, one certificate will suffice for each series when submitted to the Executive Director—Tank Car Safety, AAR. One copy of the Certificate of Construction must be furnished to the Department for each car number of consecutively numbered group or groups covered by the original application.

* * * * *

46. The heading for Subpart C is revised to read as follows:

Subpart C—Specifications for Pressure Tank Car Tanks (Classes DOT–105, 109, 112, 114, and 120)

PART 180—CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGINGS

47. The authority citation for part 180 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

§ 180.403 [Amended]

48. In § 180.403, in the introductory text, the reference ''§§ 171.8 and 178.345–1'' is revised to read ''§§ 171.8, 178.320(a) and 178.345–1''.

49. In § 180.417, the first sentence in paragraph (a)(3)(ii) is revised to read as follows:

§ 180.417 Reporting and record retention requirement.

(a) * * *

(3) * * *

(ii) *ASME Code Stamped cargo tanks.* If the owner does not have the manufacturer's certificate required by the specification and the manufacturer's data report required by the ASME, the owner may contact the National Board for a copy of the manufacturer's data report, if the cargo tank was registered

with the National Board, or copy the information contained on the cargo tank's identification and ASME Code plates. * * *

* * * * *

50. In § 180.509, in paragraph (c)(3)(ii) text is added immediately following the formula, to read as follows:

§ 180.509 Requirements for inspection and test of specification tank cars.

* * * * *

(c) * * *

(3) * * *

(ii) * * *

Where:

i is the inspection and test interval.

t^1 is the actual thickness.

t^2 is the allowable minimum thickness under paragraph (g) of this section.

r is the corrosion rate per year.

* * * * *

§ 180.515 [Amended]

51. In § 180.515, in paragraph (b), in the first sentence, the word ''Converted'' is removed and the wording ''Pressure converted'' is added in its place.

Issued in Washington, DC, on September 18, 1998, under authority delegated in 49 CFR part 1.

Kelley S. Coyner,

Administrator.

[FR Doc. 98–25616 Filed 9–30–98; 8:45 am]

BILLING CODE 4910–60–P

federal register

Thursday
October 1, 1998

Part V

Department of Education

34 CFR Part 675

Federal Work-Study Programs; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 675

RIN 1840–AC56

Federal Work-Study Programs

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Federal Work-Study (FWS) Program authorized under title IV of the Higher Education Act of 1965, as amended (title IV, HEA programs). The Secretary makes these changes in response to the national need to improve student achievement in mathematics by providing for an additional waiver of the FWS institutional-share requirement for mathematics tutors of children who are in elementary school through the ninth grade.

EFFECTIVE DATE: These regulations take effect on July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Kathy S. Gause, U.S. Department of Education, 600 Independence Avenue, S.W., Regional Office Building 3, Room 3045, Washington, DC 20202–5447. Telephone: (202) 708–8242. 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.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Part 675—Federal Work-Study Programs

The Secretary is providing for an additional waiver of the FWS institutional-share requirement in § 675.26. The Secretary will authorize a Federal share of 100 percent of the compensation earned by a student during an award year if both of the following criteria are met:

1. The work performed by the student is for the institution itself, for a Federal, State, or local public agency, or for a private nonprofit organization.

2. The student is employed as a mathematics tutor for children who are in elementary school through the ninth grade.

This regulatory change will provide an institution with additional flexibility necessary to respond to the national need to improve student achievement in mathematics. Student achievement in mathematics in the United States is not at an internationally competitive level. Thirty-six percent of fourth graders and 38 percent of eighth graders score below the basic level in mathematics. The recent Third International Math and Science Study shows that, while U.S. students perform above the international average in mathematics at the fourth-grade level, by the eighth grade, relative performance is below the international average.

The President has issued a challenge to public officials, business leaders, professional organizations, institutions of higher education, teachers, parents, and students to take the steps necessary to improve student achievement in mathematics in order to prepare our students and the Nation for the twenty-first century. This challenge seeks to mobilize resources to ensure that all students are prepared to pursue rigorous high school mathematics and science courses that prepare them for college and careers. A mastery of mathematics, including a strong foundation in algebra and geometry, is a gateway to college and the job market.

One important step to improving student achievement in mathematics is to ensure that students who need it get support and activities that reinforce the classroom experience and convey the importance of acquiring a solid foundation in mathematics. The tutoring of children who are in elementary school through the ninth grade in mathematics can build a firm foundation for success throughout their lives. This investment in our youth is an investment in this country's future. The efforts associated with this new waiver for mathematics tutors of children, including the preparation of the FWS students as tutors, are justified by the benefits of preparing children to compete in the global economy and ensuring our Nation's economic growth.

This new waiver builds on the success of the ''America Reads Challenge.'' Effective with the 1997–98 award year, the Secretary waived the FWS institutional-share requirement for reading tutors of children from infancy through elementary school. *See* 61 FR 60392 (November 27, 1996). That waiver provided institutions with the flexibility necessary to respond to the ''America Reads Challenge,'' which is mobilizing resources to ensure that all children can read independently and well by the end of the third grade. The Secretary is pleased with the overwhelming response to that reading initiative. Over one thousand institutions have joined the ''America Reads Challenge'' by committing FWS students to tutor young children in reading. A diverse array of institutions, representing all types of students, made the commitment to tutor children in their communities. The ''America Reads Challenge'' is helping thousands of children learn to read. The FWS students not only help children read better by giving them extra learning time, they also build confidence, boost motivation, and send each child an important message: that reading counts!

Effective with the 1998–99 award year, the Secretary added a waiver of the institutional-share requirement under the FWS Program for students employed as tutors in a family literacy program that provides literacy services to children from infancy through elementary school or to their parents or caregivers. *See* 62 FR 63438 (November 28, 1997). This waiver for tutors working in family literacy programs is based on research that shows that children whose parents work with them on literacy skills during early childhood have a better chance of reading well and independently.

This new waiver for mathematics tutors will help ensure that students have a solid foundation in mathematics as they enter high school. The Department, in a 1997 report entitled ''Mathematics Equals Opportunity,'' noted that low-income students who take algebra and geometry are almost three times as likely to attend college as those who do not. Although taking algebra by the eighth grade is a gateway to college preparatory courses, only 15 percent of low-income students enroll in algebra by the eighth grade. Mathematics tutors working with students who are in elementary school through the ninth grade can be one component of an institution's efforts to get students on the track to college.

The Secretary strongly encourages all institutions to employ FWS students as reading and mathematics tutors for children and as tutors in family literacy programs that provide services to families with preschool age children or children who are in elementary school. The placement of students in these jobs is, in many instances, an important way for institutions to meet the community service expenditure requirement under the FWS Program, serve the needs of the community, and give the FWS students a rewarding and enriching experience. As with programs providing tutoring in reading and family literacy, programs providing mathematics tutoring may take place during the children's school hours, after school, on weekends, or in the summer in order to extend learning time. The institution may create a

mathematics-tutoring program, expand an existing reading tutoring program to incorporate mathematics, or continue to focus solely on reading. In addition, the institution may construct its own tutoring program or become involved in existing tutoring programs.

The new waiver of the FWS institutional-share requirement in § 675.26 for mathematics tutors of children who are in elementary school through the ninth grade does not require the institution to make a request for a waiver. Also, the institution has the option of still providing an institutional share and determining the amount of that share.

It is important to note that the Secretary continues the current exceptions that authorize a Federal share of 100 percent of the compensation earned by students employed as reading tutors of preschool age children or children who are in elementary school, students employed as tutors in a family literacy program that provides services to families with preschool age children or children who are in elementary school, and students enrolled at eligible institutions under the Strengthening Institutions Program, the Strengthening Historically Black Colleges and Universities Program, or the Strengthening Historically Black Graduate Institutions Program.

Goals 2000: Educate America Act

The Goals 2000: Educate America Act (Goals 2000) focuses the Nation's education reform efforts on the eight National Education Goals and provides a framework for meeting them. Goals 2000 promotes new partnerships to strengthen schools and expands the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

These regulations address the National Education Goal that calls for increasing the rate at which students graduate from high school and pursue high quality postsecondary education.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the Secretary is specifically authorized under section 443(b)(5) of the Higher Education Act of 1965, as amended (42 U.S.C. 2753(b)(5)) to determine, through the promulgation of regulations, that the Federal share of compensation for FWS students may exceed 75 percent if required in furtherance of the purposes of the program. The Secretary has made such a determination in this case. Revising § 675.26(d) will increase institutional flexibility and help to meet an important educational need for mathematics tutors in elementary school through the ninth grade without imposing any burden on the affected parties. For these reasons, the Secretary has determined, pursuant to 5 U.S.C. 553(b)(B), that public comment on the amendment to § 675.26(d) is unnecessary and contrary to the public interest.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations would not have a significant economic impact on a substantial number of small entities. Small entities affected by these regulations are small institutions of postsecondary education.

The provisions of these regulations provide added flexibility to institutions. Thus, no significant adverse economic impacts on small entities are expected to occur.

Paperwork Reduction Act of 1995

These regulations have been examined under the Paperwork Reduction Act of 1995 and have been found to contain no information collection requirements.

Intergovernmental Review

The Federal Work-Study Program is not subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79.

Assessment of Educational Impact

Based on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

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Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

List of Subjects in 34 CFR Part 675

Loan programs—education, Student aid.

Dated: September 28, 1998.

Richard W. Riley,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number: 84.033 Federal Work-Study Program)

The Secretary amends chapter VI of Title 34 of the Code of Federal Regulations as follows:

PART 675—FEDERAL WORK-STUDY PROGRAMS

1. The authority citation for Part 675 continues to read as follows:

Authority: 42 U.S.C. 2751–2756a, unless otherwise noted.

2. Section 675.26 is amended by revising paragraph (d) to read as follows:

§ 675.26 FWS Federal share limitations.

* * * * *

(d) For each award year, the Secretary authorizes a Federal share of 100 percent of the compensation earned by a student under this part if—

(1) The work performed by the student is for the institution itself, for a Federal, State, or local public agency, or for a private nonprofit organization; and

(2)(i) The institution in which the student is enrolled—

(A) Is designated as an eligible institution under the Strengthening Institutions Program (34 CFR part 607), the Strengthening Historically Black Colleges and Universities Program (34 CFR part 608), or the Strengthening Historically Black Graduate Institutions Program (34 CFR part 609); and

(B) Requests that increased Federal share as part of its regular FWS funding application for that year;

(ii) The student is employed as a reading tutor for preschool age children or children who are in elementary school;

(iii) The student is employed as a tutor in a family literacy program that provides services to families with preschool age children or children who are in elementary school; or

(iv) The student is employed as a mathematics tutor for children who are in elementary school through the ninth grade.

[FR Doc. 98–26256 Filed 9–30–98; 8:45 am]

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federal register

Thursday
October 1, 1998

Part VI

Department of Housing and Urban Development

24 CFR Part 888

Fair Market Rents for the Section 8 Housing Assistance Payments Program—Fiscal Year 1999; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 888

[Docket No. FR–4362–N–02]

Fair Market Rents for the Section 8 Housing Assistance Payments Program—Fiscal Year 1999

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of Final Fiscal Year (FY) 1999 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.

Today's notice provides final FY 1999 FMRs for all areas. It includes increased FMRs for nine areas that submitted public comments and for two areas as a result of HUD-contracted Random Digit Dialing (RDD) surveys conducted through July 1998. In addition, it includes increases for mobile home space FMRs in the five areas that submitted comments.

Today's notice also makes effective FMR reductions for 12 areas that were proposed for reduction in the May 5, 1998 notice (63 FR 24846), based on the results of recent RDD and American Housing Surveys (AHSs).

EFFECTIVE DATE: The FMRs published in this notice are effective on October 1, 1998.

FOR FURTHER INFORMATION CONTACT: Gerald Benoit, Director, Real Estate and Housing Performance Division, Office of Public and Assisted Housing Delivery, telephone (202) 708–0477. For technical information on the development of schedules for specific areas or the method used for the rent calculations, contact Alan Fox, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 708–0614, Extension 5863 (e-mail: alan____fox@hud.gov). Hearing-or speech-impaired persons may contact the Federal Information Relay Service at 1–800–877–8339 (TTY). (Other than the ''800'' TTY number, telephone numbers are not toll free.)

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

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 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 used 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) 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 99 metropolitan FMR areas. RDD regional rent change factors are developed annually for the metropolitan and nonmetropolitan parts of each of the 10 HUD 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.

State Minimum FMRs

FMRs are established at the higher of the local 40th percentile rent level or the Statewide average of nonmetropolitan counties, subject to a ceiling rent cap. The State minimum also affects a small number of metropolitan areas whose rents would otherwise fall below the State minimum.

Bedroom Size Adjustments

FMRs have been calculated separately for each bedroom size category. For areas whose FMRs are based on the State minimums, the rents for each bedroom size are the higher of the rent for the area or the Statewide average of nonmetropolitan counties for that bedroom size. For all other FMR areas, the bedroom intervals are based on data for the specific area. Exceptions have been made for some areas with local bedroom size rent intervals below an acceptable range. For those areas the intervals selected were the minimums determined after outliers had been excluded from the distribution of bedroom intervals 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. The FMRs for unit sizes larger than 4 bedroom are calculated by adding 15 percent to the 4 bedroom FMR for each extra bedroom. For example, the FMR for a 5 bedroom unit is 1.15 times the 4 bedroom FMR, and the FMR for a 6 bedroom unit is 1.30 times the 4 bedroom FMR. FMRs for single-room-occupancy (SRO) units are 0.75 times the 0 bedroom FMR.

Public Comments

In response to the May 5, 1998 proposed FMRs, HUD received public comments covering 38 FMR areas. Rental housing survey information was provided for 17 of those FMR areas. All of the survey information submitted was evaluated and, based on that review, the FMRs for 9 areas are being revised. The

information submitted for the other FMR areas was not considered sufficient to provide a basis for revising the FMRs.

Areas with approved FMR revisions:

Tucson, AZ
San Diego, CA
Carbon County, MT
LaSalle County, IL
Marshall County, IA
Fayette County, IN
Lawrence, MA–NH
Portsmouth-Rochester, NH–ME
Hood River County, OR

Areas with approved manufactured home space FMR revisions:

Los Angeles, CA
Riverside-San Bernardino, CA
San Jose, CA
Reno, NV
Deschutes County, OR

HAs and other interested parties should be aware that FMR comments received too late for adjusting the current year's final FMRs will be held for use in the following year. In such cases HUD will trend the survey results to the date of the FMR estimate. If the HA is concerned that rents are changing rapidly, surveys should be timed to be received as close as possible to HUD's deadline for public comments.

AHS and RDD Surveys

This notice makes effective the FMRs for the 12 areas proposed with reductions based on recent RDD or AHS surveys:

Late-1997 RDD

Chicago, IL
Bergen-Passaic, NJ
Newark, NJ
Buffalo-Niagara Falls, NY

Early-1998 RDD

Fresno, CA
Santa Cruz-Watsonville, CA
Bridgeport, CT
Honolulu, HI
Jersey City, NJ
Newburgh, NY–PA
McAllen-Edinburg-Mission, TX

American Housing Survey

Sacramento, CA

HUD is increasing FMRs for the following 2 areas, based on HUD-sponsored RDDs that were completed after the date of the proposed FMR notice:

Franklin County, KS
Clinton County, OH

FMR Area Definition Changes

This notice includes FMRs for one new metropolitan FMR area based on new metropolitan statistical area definitions made effective by OMB on June 30, 1998. It is the Missoula, Montana FMR area, which consists of Missoula County.

Manufactured Home Space Surveys

FMRs for the rental of manufactured home spaces are 30 percent of the applicable Section 8 existing housing program FMR for two-bedroom unit. HUD accepts public comments requesting modifications of these FMRs where the 30 percent FMRs are thought to be inadequate. 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. However, the sampling requirements for manufactured home space rent surveys are easier to meet than for regular FMR comments, and interested parties should contact HUD for suggestions. HUD uses the same FMR area definitions for manufactured home space rental as for the Section 8 existing housing FMRs shown in Schedule B. 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 Section 8 existing housing program FMRs.

HUD Rental Housing Survey Guides

HUD recommends the use of professionally-conducted 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 local two-bedroom rents are thought to be significantly different than that proposed by HUD. In addition, HUD has developed a simplified version of the RDD survey methodology for smaller, nonmetropolitan HAs. This methodology is designed to be simple enough to be done by the HA itself, rather than by professional survey organizations, at a cost of about $5,000.

HAs in nonmetropolitan areas may, in certain circumstances, do surveys of groups of counties. All grouped county surveys must be approved in advance by HUD. HAs are cautioned that the resulting 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 group of FMR areas.

HAs 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 HAs should request ''Random Digit Dialing Surveys; A Guide to Assist Larger Housing Agencies in Preparing Fair Market Rent Comments.'' Smaller HAs should obtain ''Rental Housing Surveys; A Guide to Assist Smaller Housing Agencies in Preparing Fair Market Rent Comments.'' These guides are also available on the Internet at http://www.huduser.org/publications/publicassist/assisted/fmrsurvey.html.

HUD prefers, but does not mandate, the use of RDD telephone surveys, or the more traditional method described in the small HA survey guide. Other survey methodologies are acceptable as long as they 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. All survey results must be fully documented.

The cost of an RDD survey may vary, depending on the characteristics of the telephone system used in the FMR area. RDDs (and simplified telephone surveys) of some non-metropolitan areas have been unusually expensive because of telephone system characteristics. An HA or contractor that cannot obtain the recommended number of sample responses after reasonable efforts should consult with HUD before abandoning its survey; in such situations HUD is prepared to relax normal sample size requirements.

FMRs for Federal Disaster Areas

Under the authority granted in 24 CFR part 899, the Secretary of HUD finds good cause to waive and hereby waives the regulatory requirements that govern requests for geographic area exception rents for areas that are declared disaster areas by the Federal Emergency Management Agency (FEMA). HUD is prepared to grant disaster-related exceptions up to 10 percent above the applicable FMRs for those areas. 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 HA 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 exception rents must be requested in writing by the responsible HAs. Exception rents approved by HUD during FY 1999 will remain in effect until superseded by the publication of the final FY 2001 FMRs.

Other Matters

Environmental Impact

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).

Regulatory Flexibility Act

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.

Federalism Impact

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: September 25, 1998.

Andrew M. Cuomo,

Secretary.

Fair Market Rents for the Section 8 Housing Assistance Payments Program

Schedules B and D—General Explanatory Notes

1. Geographic Coverage

a. Metropolitan Areas—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. The FMRs shown in Schedule B incorporate OMB's 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.

b. Exceptions to OMB Definitions—The exceptions are counties deleted from several large metropolitan areas whose revised OMB metropolitan area 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

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
Flagstaff, AZ–UT—Kane County, UT
New Orleans, LA—St. James Parish
Washington, DC–MD–VA–WV—Berkeley and Jefferson Counties in West Virginia; and Clarke, Culpeper, King George and Warren Counties in Virginia

c. Nonmetropolitan Area FMRs—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. Virginia Independent Cities—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 INDEPENDENT CITIES INCLUDED WITH COUNTY

County	Cities
Allegheny	Clifton Forge and Covington.
Augusta	Staunton and Waynesboro.
Carroll	Galax.
Frederick	Winchester.
Greensville	Emporia.
Henry	Martinsville.
Montgomery	Radford.
Rockbridge	Buena Vista and Lexington.
Rockingham	Harrisonburg.
Southhampton	Franklin.
Wise	Norton.

2. Bedroom Size Adjustments

Schedule B shows the FMRs for 0-bedroom through 4-bedroom units. The FMRs for unit sizes larger than 4 bedrooms are calculated by adding 15 percent to the 4-bedroom FMR for each extra bedroom. For example, the FMR for a 5-bedroom unit is 1.15 times the 4-bedroom FMR, and the FMR for a 6-bedroom unit is 1.30 times the 4 bedroom FMR. FMRs for single-room-occupancy (SRO) units are 0.75 times the 0 bedroom FMR.

3. FMRs for Manufactured Home Spaces

FMRs for Section 8 manufactured home spaces are established at 30 percent of the two-bedroom Section 8 existing housing program FMRs, with the exception of the areas listed in Schedule D whose FMRs have been modified 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 Section 8 existing housing FMRs. The FMR area definitions used for the rental of manufactured home spaces are the same as the area definitions used for the Section 8 existing FMRs.

4. 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.

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	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Anniston, AL MSA	258	305	381	532	603	Calhoun
Birmingham, AL MSA	366	413	481	653	724	Blount, Jefferson, St. Clair, Shelby
Columbus, GA-AL MSA	348	387	464	607	658	Russell
Decatur, AL MSA	342	346	436	564	674	Lawrence, Morgan
Dothan, AL MSA	310	317	394	542	550	Dale, Houston
Florence, AL MSA	290	333	429	535	600	Colbert, Lauderdale
Gadsden, AL MSA	258	315	364	472	581	Etowah
Huntsville, AL MSA	359	421	518	690	822	Limestone, Madison
Mobile, AL MSA	377	421	482	649	762	Baldwin, Mobile
Montgomery, AL MSA	393	420	496	675	813	Autauga, Elmore, Montgomery
Tuscaloosa, AL MSA	339	363	482	663	701	Tuscaloosa

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Barbour	245	291	347	450	516
Bullock	245	291	347	450	516
Chambers	245	291	347	450	517
Chilton	253	291	347	450	516
Clarke	245	291	347	450	516
Cleburne	245	291	347	450	516
Conecuh	245	291	347	450	516
Covington	245	291	347	450	516
Cullman	245	291	347	461	560
Dekalb	245	291	347	450	516
Fayette	245	291	347	450	516
Geneva	245	291	347	450	516
Hale	245	291	347	450	516
Jackson	264	291	347	450	552
Lee	258	361	463	602	761
Macon	267	300	400	501	561
Marion	245	291	347	450	516
Monroe	245	291	347	450	516
Pickens	245	291	347	450	516
Randolph	245	291	347	450	516
Talladega	245	291	347	450	516
Walker	245	302	356	460	585
Wilcox	245	291	347	450	516

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Bibb	245	291	347	468	561
Butler	245	291	347	450	516
Cherokee	245	291	347	450	516
Choctaw	245	291	347	450	516
Clay	245	291	347	450	516
Coffee	245	344	447	622	698
Coosa	245	291	347	450	516
Crenshaw	245	291	347	450	516
Dallas	245	291	347	450	516
Escambia	245	291	347	450	516
Franklin	245	291	347	450	516
Greene	245	291	347	450	516
Henry	245	291	347	450	516
Lamar	245	291	347	450	516
Lowndes	245	291	347	450	516
Marengo	245	291	347	450	516
Marshall	281	291	354	490	580
Perry	245	291	347	450	516
Pike	250	291	347	450	524
Sumter	245	291	347	450	516
Tallapoosa	246	291	347	450	516
Washington	245	291	347	450	516
Winston	245	291	347	450	516

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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 2

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	493	583	773	1075	1270	Anchorage

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aleutian East	518	584	659	822	1077	Aleutian West	444	502	563	706	790
Bethel	669	837	1060	1327	1485	Bristol Bay	537	619	696	968	1053
Dillingham	646	657	874	1094	1225	Fairbanks North Star	408	555	728	1001	1180
Haines	482	597	680	925	952	Juneau	720	832	1059	1409	1464
Kenai Peninsula	438	559	673	935	1104	Ketchikan Gateway	529	647	866	1206	1269
Kodiak Island	689	757	983	1230	1595	Lake & Peninsula	414	670	753	940	1055
Matanuska-Susitna	462	626	705	957	1130	Nome	681	843	946	1317	1486
North Slope	773	792	979	1362	1587	Northwest Arctic	819	922	1034	1440	1698
Pr.Wales-Outer Ketchikan	361	575	661	917	969	Sitka	570	677	759	1057	1247
Skagway-Yakutat-Angoon	442	450	583	730	819	Southeast Fairbanks	454	476	575	719	807
Valdez-Cordova	541	663	736	940	1119	Wade Hampton	387	583	657	821	920
Wrangell-Petersburg	394	581	706	899	987	Yukon-Koyukuk	516	582	656	820	949

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	423	458	594	797	957	Coconino
Las Vegas, NV-AZ MSA	491	582	693	965	1139	Mohave
Phoenix-Mesa, AZ MSA	417	505	634	882	1039	Maricopa, Pinal
Tucson, AZ MSA	378	454	603	839	990	Pima
Yuma, AZ MSA	365	423	563	782	788	Yuma

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Apache	360	379	481	628	746	Cochise	360	379	481	628	746
Gila	360	379	481	628	746	Graham	360	379	481	628	746
Greenlee	360	379	481	628	746	La Paz	360	379	481	628	746
Navajo	360	379	481	628	746	Santa Cruz	360	399	494	628	746
Yavapai	383	399	532	742	817						

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	306	385	506	684	708	Benton, Washington
Fort Smith, AR-OK MSA	303	307	404	540	567	Crawford, Sebastian
Jonesboro, AR MSA	310	337	397	547	578	Craighead
Little Rock-North Little Rock, AR MSA	377	418	497	688	803	Faulkner, Lonoke, Pulaski, Saline
Memphis, TN-AR-MS MSA	387	451	530	736	774	Crittenden

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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

A R K A N S A S continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Pine Bluff, AR MSA	288	342	450	568	737	Jefferson
Texarkana, TX-Texarkana, AR MSA	307	375	458	604	641	Miller

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Arkansas	260	282	361	493	535
Baxter	237	302	401	516	628
Bradley	237	282	361	478	535
Carroll	279	305	361	478	572
Clark	260	282	366	478	578
Cleburne	269	282	361	478	542
Columbia	237	282	361	478	535
Cross	246	312	361	485	573
Desha	237	282	361	478	535
Franklin	248	282	361	478	535
Garland	237	302	404	564	666
Greene	254	282	361	478	535
Hot Spring	237	282	361	478	535
Independence	249	289	361	478	535
Jackson	245	282	361	478	535
Lafayette	248	282	361	478	535
Lee	261	282	361	478	535
Little River	237	282	367	509	600
Madison	271	282	367	478	535
Mississippi	270	293	392	517	580
Montgomery	237	282	361	478	535
Newton	237	282	361	478	535
Perry	237	282	361	478	535
Pike	237	282	361	478	535
Polk	237	282	361	478	535
Prairie	237	282	361	478	535
St. Francis	237	288	361	488	575
Searcy	237	282	361	478	535
Sharp	237	282	361	478	535
Union	297	314	377	506	619
White	237	282	361	494	535
Yell	246	282	361	478	535

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ashley	237	282	361	478	566
Boone	281	286	379	528	623
Calhoun	237	282	361	478	535
Chicot	237	282	361	478	535
Clay	237	282	361	478	535
Cleveland	237	282	361	478	535
Conway	237	293	392	489	549
Dallas	237	282	361	478	535
Drew	237	307	410	567	577
Fulton	245	282	361	478	535
Grant	246	293	361	478	540
Hempstead	237	282	361	478	535
Howard	237	282	361	478	535
Izard	237	282	361	478	535
Johnson	237	282	361	478	535
Lawrence	237	282	361	478	535
Lincoln	256	282	367	490	535
Logan	248	282	361	478	535
Marion	237	282	361	478	535
Monroe	241	282	361	478	535
Nevada	237	282	361	494	535
Ouachita	277	282	361	498	588
Phillips	237	282	361	478	535
Poinsett	237	282	361	478	535
Pope	237	310	392	544	627
Randolph	237	282	361	478	535
Scott	237	282	361	478	535
Sevier	259	282	361	478	535
Stone	237	282	361	478	535
Van Buren	237	282	361	478	591
Woodruff	237	282	361	478	535

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 PAGE 4

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	360	405	508	706	781	Kern
Chico-Paradise, CA MSA	330	424	564	773	924	Butte
Fresno, CA MSA	374	419	500	695	802	Fresno, Madera
Los Angeles-Long Beach, CA PMSA	494	592	749	1011	1206	Los Angeles
Merced, CA MSA	393	443	538	743	878	Merced
Modesto, CA MSA	435	468	572	797	939	Stanislaus
Oakland, CA PMSA	567	686	861	1180	1410	Alameda, Contra Costa
Orange County, CA PMSA	645	704	871	1212	1349	Orange
Redding, CA MSA	374	415	519	722	850	Shasta
Riverside-San Bernardino, CA PMSA	439	489	597	829	980	Riverside, San Bernardino
Sacramento, CA PMSA	434	490	613	850	1002	El Dorado, Placer, Sacramento
Salinas, CA MSA	529	619	746	1038	1089	Monterey
San Diego, CA MSA	510	583	729	1014	1196	San Diego
San Francisco, CA PMSA	713	923	1167	1601	1693	Marin, San Francisco, San Mateo
San Jose, CA PMSA	808	922	1139	1561	1753	Santa Clara
San Luis Obispo-Atascadero-Paso Robles, CA MSA	507	573	727	1009	1192	San Luis Obispo
Santa Barbara-Santa Maria-Lompoc, CA MSA	616	684	867	1207	1362	Santa Barbara
Santa Cruz-Watsonville, CA PMSA	600	714	954	1326	1554	Santa Cruz
Santa Rosa, CA PMSA	564	640	829	1153	1361	Sonoma
Stockton-Lodi, CA MSA	408	461	592	823	971	San Joaquin
Vallejo-Fairfield-Napa, CA PMSA	543	617	753	1045	1234	Napa, Solano
Ventura, CA PMSA	545	627	793	1055	1228	Ventura
Visalia-Tulare-Porterville, CA MSA	365	388	506	706	806	Tulare
Yolo, CA PMSA	470	537	664	920	1088	Yolo
Yuba City, CA MSA	325	379	488	680	786	Sutter, Yuba

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alpine	306	458	518	720	775
Calaveras	369	427	569	792	934
Del Norte	313	428	569	793	936
Humboldt	315	436	572	798	944
Inyo	316	427	548	719	775
Lake	344	437	584	736	957
Mariposa	330	419	539	706	833
Modoc	334	374	481	671	775
Nevada	383	523	696	968	1122
San Benito	458	539	675	941	1101
Siskiyou	320	374	481	671	775
Trinity	343	374	481	671	775

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Amador	421	464	620	863	961
Colusa	334	374	481	671	775
Glenn	306	374	481	671	775
Imperial	345	431	531	740	775
Kings	354	411	514	715	842
Lassen	374	379	492	671	775
Mendocino	422	509	625	870	876
Mono	466	559	743	1033	1221
Plumas	337	374	481	671	775
Sierra	306	409	504	700	827
Tehama	319	374	481	671	775
Tuolumne	338	461	615	856	1009

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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

C O L O R A D O

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Boulder-Longmont, CO PMSA	499	598	766	1067	1258	Boulder
Colorado Springs, CO MSA	435	467	623	868	1025	El Paso
Denver, CO PMSA	418	499	664	922	1088	Adams, Arapahoe, Denver, Douglas, Jefferson
Fort Collins-Loveland, CO MSA	430	531	656	911	1076	Larimer
Grand Junction, CO MSA	396	411	515	693	825	Mesa
Greeley, CO PMSA	418	462	582	807	955	Weld
Pueblo, CO MSA	417	432	540	727	867	Pueblo

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alamosa	382	396	495	667	795
Baca	382	396	495	667	795
Chaffee	382	396	495	667	795
Clear Creek	382	445	504	701	826
Costilla	382	396	495	667	795
Custer	382	396	495	667	795
Dolores	382	396	495	667	795
Elbert	421	467	534	667	875
Garfield	443	475	600	749	981
Grand	453	457	579	725	877
Hinsdale	382	403	495	667	795
Jackson	382	396	495	667	795
Kit Carson	382	396	495	667	795
La Plata	499	551	727	1012	1194
Lincoln	382	396	495	667	795
Mineral	382	396	495	667	795
Montezuma	382	396	495	667	795
Morgan	382	396	495	667	795
Ouray	382	396	501	667	810
Phillips	382	396	495	667	795
Prowers	382	396	495	667	795
Rio Grande	382	396	495	667	795
Saguache	382	396	495	667	795
San Miguel	702	1014	1114	1392	1796
Summit	492	589	754	1050	1292
Washington	382	396	495	667	795

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Archuleta	456	500	591	797	948
Bent	382	396	495	667	795
Cheyenne	382	396	495	667	795
Conejos	382	396	495	667	795
Crowley	382	396	495	667	795
Delta	382	396	495	667	795
Eagle	513	559	746	1038	1223
Fremont	382	396	495	667	795
Gilpin	382	507	644	851	941
Gunnison	382	396	495	667	795
Huerfano	382	396	495	667	795
Kiowa	382	396	495	667	795
Lake	382	396	495	667	795
Las Animas	382	407	495	667	795
Logan	382	396	495	667	795
Moffat	382	396	495	667	795
Montrose	382	396	501	694	818
Otero	382	396	495	667	795
Park	382	422	550	763	868
Pitkin	572	783	1044	1376	1564
Rio Blanco	382	396	495	667	795
Routt	382	461	610	847	998
San Juan	382	396	495	667	795
Sedgwick	382	396	495	667	795
Teller	382	452	603	838	845
Yuma	382	396	495	667	795

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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 6

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	448	583	703	878	1096	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	605	725	905	1194	1376	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	435	541	692	868	1054	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	517	634	785	1005	1164	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	491	594	723	905	1034	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. 090898

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	774	906	1106	1482	1637	Fairfield county towns of Darien town, Greenwich town New Canaan town, Norwalk town, Stamford town Weston town, Westport town, Wilton town
Waterbury, CT MSA	439	594	735	917	1027	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	418	506	632	789	884	Windham county towns of Thompson town

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Hartford	360	582	657	913	1076	Hartland town
Litchfield	418	570	760	949	1080	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	620	702	938	1304	1538	Chester town, Deep River town, Essex town Westbrook town
New London	525	643	730	943	1196	Lyme town, Voluntown town
Tolland	360	582	657	913	919	Union town
Windham	414	507	657	822	1032	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	486	538	613	795	904	Kent
Wilmington-Newark, DE-MD PMSA	436	576	671	911	1100	New Castle

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Sussex	427	454	579	761	812

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	615	699	820	1118	1347	District of Columbia

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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 8

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	387	453	580	770	817	Flagler, Volusia
Fort Lauderdale, FL PMSA	479	564	698	971	1143	Broward
Fort Myers-Cape Coral, FL MSA	416	479	578	807	842	Lee
Fort Pierce-Port Lucie, FL MSA	462	507	657	854	921	Martin, St. Lucie
Fort Walton Beach, FL MSA	404	440	500	678	799	Okaloosa
Gainesville, FL MSA	404	440	536	734	867	Alachua
Jacksonville, FL MSA	422	472	569	752	836	Clay, Duval, Nassau, St. Johns
Lakeland-Winter Haven, FL MSA	387	424	479	594	648	Polk
Melbourne-Titusville-Palm Bay, FL MSA	387	452	566	758	883	Brevard
Miami, FL PMSA	449	563	702	965	1118	Dade
Naples, FL MSA	432	609	732	1018	1135	Collier
Ocala, FL MSA	404	440	500	657	771	Marion
Orlando, FL MSA	501	569	678	891	1087	Lake, Orange, Osceola, Seminole
Panama City, FL MSA	404	440	500	638	684	Bay
Pensacola, FL MSA	404	440	500	669	789	Escambia, Santa Rosa
Punta Gorda, FL MSA	404	463	616	855	1009	Charlotte
Sarasota-Bradenton, FL MSA	405	514	654	841	915	Manatee, Sarasota
Tallahassee, FL MSA	413	457	603	788	949	Gadsden, Leon
Tampa-St. Petersburg-Clearwater, FL MSA	396	472	584	776	940	Hernando, Hillsborough, Pasco, Pinellas
West Palm Beach-Boca Raton, FL MSA	495	578	715	950	1175	Palm Beach

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Baker	385	421	476	591	642
Calhoun	385	421	476	591	642
Columbia	385	421	476	591	642
Dixie	385	421	476	591	642
Gilchrist	385	421	476	591	642
Gulf	385	421	476	591	642
Hardee	385	421	476	591	642
Highlands	385	421	476	593	662
Indian River	385	481	619	774	866
Jefferson	385	421	476	591	642
Levy	385	421	476	591	642
Madison	385	421	476	591	642
Okeechobee	385	421	476	591	648
Sumter	385	421	476	591	642
Taylor	385	421	476	591	643
Wakulla	385	421	476	591	642
Washington	385	421	476	591	642

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bradford	385	421	476	591	642
Citrus	385	421	476	591	642
Desoto	385	421	476	591	642
Franklin	385	421	476	591	642
Glades	385	421	476	591	642
Hamilton	385	421	476	591	642
Hendry	385	421	490	615	689
Holmes	385	421	476	591	642
Jackson	385	421	476	591	642
Lafayette	385	421	476	591	642
Liberty	385	421	476	591	642
Monroe	551	622	799	1101	1310
Putnam	385	421	476	591	642
Suwannee	385	421	476	591	642
Union	385	421	476	591	642
Walton	385	421	476	613	766

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. 090898

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	301	353	431	588	636	Dougherty, Lee
Athens, GA MSA	371	400	517	706	850	Clarke, Madison, Oconee
Atlanta, GA MSA	530	590	688	916	1109	Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett Henry, Newton, Paulding, Pickens, Rockdale, Spalding Walton
Augusta-Aiken, GA-SC MSA	357	427	503	683	808	Columbia, Mcduffie, Richmond
Chattanooga, TN-GA MSA	364	425	510	659	751	Catoosa, Dade, Walker
Columbus, GA-AL MSA	348	387	464	607	658	Chattahoochee, Harris, Muscogee
Macon, GA MSA	389	434	504	695	715	Bibb, Houston, Jones, Peach, Twiggs
Savannah, GA MSA	363	450	524	707	735	Bryan, Chatham, Effingham

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Appling	280	337	412	534	607
Bacon	280	337	412	534	607
Baldwin	280	358	437	559	611
Ben Hill	280	337	412	534	615
Bleckley	280	337	412	534	607
Brooks	280	337	412	534	607
Burke	280	337	412	534	607
Calhoun	280	337	412	534	607
Candler	280	337	412	534	607
Chattooga	280	337	412	534	607
Clinch	280	337	412	534	607
Colquitt	280	337	412	534	607
Crawford	280	337	412	534	607
Dawson	280	364	484	606	747
Dodge	280	337	412	534	607
Early	280	337	412	534	607
Elbert	280	337	412	534	607
Evans	280	337	412	534	607
Floyd	280	337	413	545	607
Gilmer	280	337	412	534	607
Glynn	390	437	494	663	813
Grady	285	337	412	534	607
Habersham	300	337	412	534	612
Hancock	280	337	412	534	607
Hart	280	337	412	534	607
Irwin	280	337	412	534	607
Jasper	280	337	417	566	607
Jefferson	280	337	412	534	615

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Atkinson	280	337	412	534	607
Baker	280	337	412	534	607
Banks	280	337	412	534	607
Berrien	280	337	412	534	607
Brantley	280	337	412	534	607
Bulloch	337	342	440	566	719
Butts	280	370	491	657	689
Camden	391	443	495	689	814
Charlton	280	337	412	534	607
Clay	280	337	412	534	607
Coffee	280	337	412	534	615
Cook	280	337	412	534	607
Crisp	283	337	412	534	607
Decatur	280	337	412	534	607
Dooly	280	337	412	534	607
Echols	280	337	412	534	607
Emanuel	280	337	412	534	607
Fannin	280	337	412	534	607
Franklin	280	337	412	534	607
Glascock	280	337	412	534	607
Gordon	332	337	420	542	692
Greene	280	337	412	534	607
Hall	296	450	529	662	739
Haralson	280	337	412	534	607
Heard	280	337	412	534	607
Jackson	311	337	423	534	696
Jeff Davis	280	337	412	534	607
Jenkins	280	337	412	534	607

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 PAGE 10

G E O R G I A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Johnson	280	337	412	534	607
Lanier	280	337	412	534	607
Liberty	348	388	442	614	619
Long	280	364	412	534	607
Lumpkin	280	377	424	567	696
Macon	280	337	412	534	607
Meriwether	280	337	412	534	607
Mitchell	280	337	412	534	607
Montgomery	280	337	412	534	607
Murray	280	337	412	534	607
Pierce	280	337	412	534	607
Polk	280	337	412	557	607
Putnam	280	337	412	534	615
Rabun	280	337	412	534	607
Schley	280	337	412	534	607
Seminole	280	337	412	534	607
Stewart	280	337	412	534	607
Talbot	280	337	412	534	607
Tattnall	280	337	412	534	607
Telfair	280	337	412	534	607
Thomas	280	347	412	534	607
Toombs	280	337	412	534	607
Treutlen	280	337	412	534	607
Turner	280	337	412	534	607
Upson	289	337	412	534	607
Warren	280	337	412	534	607
Wayne	289	337	412	534	607
Wheeler	280	337	412	534	607
Whitfield	280	367	442	564	665
Wilkes	280	337	412	534	607
Worth	280	337	412	534	607

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Lamar	280	346	412	534	653
Laurens	286	337	412	534	607
Lincoln	280	337	412	534	607
Lowndes	313	379	458	643	711
Mcintosh	280	337	412	534	607
Marion	280	337	412	534	607
Miller	280	337	412	534	607
Monroe	280	337	412	543	607
Morgan	280	337	427	534	607
Oglethorpe	280	337	412	534	607
Pike	325	352	446	621	625
Pulaski	280	337	412	534	607
Quitman	280	337	412	534	607
Randolph	280	337	412	534	607
Screven	280	337	412	534	607
Stephens	280	337	412	534	607
Sumter	280	342	412	534	607
Taliaferro	280	337	412	534	607
Taylor	280	337	412	534	607
Terrell	280	337	412	534	607
Tift	280	337	412	534	607
Towns	280	337	412	534	607
Troup	280	381	429	536	607
Union	280	337	430	539	607
Ware	309	347	412	534	641
Washington	280	337	412	534	607
Webster	280	337	412	534	607
White	280	337	412	534	621
Wilcox	280	337	412	534	607
Wilkinson	280	337	412	534	607

H A W A I I

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Honolulu, HI MSA	613	733	863	1167	1262	Honolulu

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

H A W A I I continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hawaii	477	622	715	950	1170
Maui	770	955	1165	1505	1704
Kauai	609	910	1108	1466	1585

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	390	445	540	750	887	Ada, Canyon
Pocatello, ID MSA	279	324	417	568	671	Bannock

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	278	323	416	551	652
Benewah	278	323	416	551	652
Blaine	430	473	630	879	1035
Bonner	320	396	490	679	781
Boundary	278	323	416	551	652
Camas	278	323	416	551	652
Cassia	278	323	416	551	652
Clearwater	278	323	416	551	652
Elmore	278	323	416	551	652
Fremont	278	323	416	551	652
Gooding	278	323	416	551	652
Jefferson	286	323	416	551	652
Kootenai	353	416	544	757	895
Lemhi	278	323	416	551	652
Lincoln	278	323	416	551	652
Minidoka	278	323	416	551	652
Oneida	279	323	416	551	652
Payette	278	323	416	551	652
Shoshone	278	323	416	551	652
Twin Falls	278	323	421	555	652
Washington	278	323	416	551	652
Bear Lake	278	323	416	551	652
Bingham	296	323	416	551	652
Boise	278	358	416	551	652
Bonneville	283	356	490	659	804
Butte	278	323	416	551	652
Caribou	278	323	416	551	652
Clark	278	323	416	551	652
Custer	278	323	416	551	652
Franklin	278	323	416	551	652
Gem	278	323	416	551	652
Idaho	278	323	416	551	652
Jerome	278	323	416	551	652
Latah	278	323	416	551	661
Lewis	278	323	416	551	652
Madison	278	323	416	551	652
Nez Perce	283	323	416	551	652
Owyhee	278	323	416	551	652
Power	278	323	416	551	652
Teton	303	323	416	563	666
Valley	289	323	416	551	652

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	337	411	551	765	807	Mclean
Champaign-Urbana, IL MSA	371	455	589	808	968	Champaign
Chicago, IL	516	619	737	922	1031	Cook, Dupage, Kane, Lake, Mchenry, Will
Davenport-Moline-Rock Island, IA-IL MSA	279	385	477	617	668	Henry, Rock Island

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 PAGE 12

I L L I N O I S continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Decatur, IL MSA	268	347	447	604	626	Macon
De Kalb County, IL	426	496	628	873	1012	Dekalb
Grundy County, IL	372	430	571	754	802	Grundy
Kankakee, IL PMSA	338	409	546	697	765	Kankakee
Kendall County, Il	514	586	706	983	988	Kendall
Peoria-Pekin, IL MSA	374	412	553	735	903	Peoria, Tazewell, Woodford
Rockford, IL MSA	358	459	559	703	819	Boone, Ogle, Winnebago
St. Louis, MO-IL MSA	317	386	501	652	721	Clinton, Jersey, Madison, Monroe, St. Clair
Springfield, IL MSA	309	383	510	679	773	Menard, Sangamon

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	259	291	374	491	596
Bond	259	291	374	491	551
Bureau	259	326	383	491	551
Carroll	259	291	374	491	551
Christian	279	291	376	493	551
Clay	259	291	374	491	551
Crawford	259	291	374	491	551
De Witt	263	291	374	495	551
Edgar	259	291	374	491	551
Effingham	259	300	374	491	551
Ford	246	346	450	577	631
Fulton	267	299	385	505	567
Greene	259	291	374	491	551
Hancock	259	291	374	491	551
Henderson	259	291	374	491	551
Jackson	314	315	398	564	632
Jefferson	260	305	381	520	551
Johnson	259	291	374	491	551
La Salle	314	368	491	663	744
Lee	289	297	397	496	557
Logan	290	308	410	514	644
Macoupin	259	291	374	491	551
Marshall	259	291	374	491	551
Massac	260	291	374	491	551
Montgomery	259	291	374	491	551
Moultrie	259	291	374	504	551
Piatt	259	315	409	558	573
Pope	259	291	374	491	551
Putnam	259	291	374	491	551

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alexander	259	291	374	491	551
Brown	259	291	374	491	551
Calhoun	259	291	374	491	551
Cass	260	291	374	491	551
Clark	259	291	374	491	551
Coles	274	325	433	575	680
Cumberland	259	291	374	491	551
Douglas	277	291	374	491	551
Edwards	259	291	374	491	551
Fayette	259	291	374	491	551
Franklin	259	291	374	491	551
Gallatin	259	291	374	491	551
Hamilton	259	292	374	491	551
Hardin	259	291	374	491	551
Iroquois	259	291	374	491	551
Jasper	259	293	374	491	551
Jo Daviess	287	310	374	491	551
Knox	259	291	374	491	569
Lawrence	259	291	374	491	551
Livingston	259	319	426	549	599
Mcdonough	259	296	374	491	590
Marion	264	291	374	491	551
Mason	259	291	374	491	558
Mercer	259	291	374	491	551
Morgan	259	328	436	581	612
Perry	260	291	374	491	551
Pike	259	291	374	491	551
Pulaski	259	291	374	491	551
Randolph	259	291	374	491	551

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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 13

I L L I N O I S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Richland	259	291	374	491	551
Schuyler	259	291	374	491	551
Shelby	259	291	374	491	551
Stephenson	274	313	396	495	555
Vermilion	259	330	412	516	577
Warren	274	291	374	491	551
Wayne	259	291	374	491	551
Whiteside	274	311	414	519	584
Saline	259	291	374	491	551
Scott	259	291	374	491	551
Stark	259	291	374	491	551
Union	259	291	374	491	551
Wabash	259	291	374	491	582
Washington	259	310	413	518	672
White	259	291	374	491	551
Williamson	259	291	376	523	551

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	366	474	631	876	1035	Monroe
Cincinnati, OH-KY-IN	309	397	531	712	769	Dearborn
Elkhart-Goshen, IN MSA	370	421	533	682	783	Elkhart
Evansville-Henderson, IN-KY MSA	317	377	489	612	685	Posey, Vanderburgh, Warrick
Fort Wayne, IN MSA	317	404	501	646	702	Adams, Allen, De Kalb, Huntington, Wells, Whitley
Gary, IN PMSA	378	497	620	778	870	Lake, Porter
Indianapolis, IN MSA	361	453	545	682	765	Boone, Hamilton, Hancock, Hendricks, Johnson, Madison Marion, Morgan, Shelby
Kokomo, IN MSA	340	403	525	675	735	Howard, Tipton
Lafayette, IN MSA	344	438	583	811	958	Clinton, Tippecanoe
Louisville, KY-IN MSA	316	406	498	687	725	Clark, Floyd, Harrison, Scott
Muncie, IN MSA	294	366	434	588	695	Delaware
Ohio County, IN	287	322	412	531	584	Ohio
South Bend, IN MSA	318	422	556	694	779	St. Joseph
Terre Haute, IN MSA	286	335	427	533	595	Clay, Vermillion, Vigo

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bartholomew	397	427	516	644	847
Blackford	280	315	415	520	582
Carroll	280	315	403	519	570
Crawford	280	315	403	519	570
Decatur	280	341	436	564	614
Fayette	296	333	426	548	645
Franklin	280	315	403	519	638
Gibson	280	315	403	519	570
Greene	280	315	403	519	570
Jackson	343	359	444	587	631
Jay	280	315	403	519	570
Benton	280	315	403	519	570
Brown	280	371	489	679	703
Cass	280	315	403	519	570
Daviess	280	315	403	519	570
Dubois	280	315	403	519	588
Fountain	280	315	403	519	570
Fulton	308	322	403	542	570
Grant	295	315	403	521	570
Henry	280	315	403	519	570
Jasper	280	339	403	519	570
Jefferson	280	315	403	519	570

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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
Jennings	292	315	403	519	570
Kosciusko	280	370	447	579	626
La Porte	285	344	461	590	645
Marshall	331	336	447	562	626
Miami	280	315	403	519	570
Newton	292	315	403	519	570
Orange	280	315	403	519	570
Parke	280	315	403	519	596
Pike	280	315	403	519	570
Putnam	304	354	435	584	589
Ripley	280	315	403	527	597
Spencer	280	315	403	519	570
Steuben	342	386	462	577	645
Switzerland	280	315	403	519	570
Wabash	280	315	403	519	570
Washington	280	315	403	519	570
White	280	315	403	519	630

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Knox	285	315	408	519	571
Lagrange	285	328	418	544	633
Lawrence	280	315	403	523	570
Martin	280	315	403	519	570
Montgomery	326	343	428	543	601
Noble	322	329	409	528	584
Owen	280	315	403	519	597
Perry	280	315	403	519	570
Pulaski	280	315	403	519	570
Randolph	280	315	403	519	570
Rush	288	315	403	519	597
Starke	280	315	403	519	570
Sullivan	280	315	403	519	570
Union	280	315	403	519	570
Warren	280	315	403	519	570
Wayne	280	315	403	519	570

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	272	384	494	688	738	Linn
Davenport-Moline-Rock Island, IA-IL MSA	279	385	477	617	668	Scott
Des Moines, IA MSA	354	447	551	715	751	Dallas, Polk, Warren
Dubuque, IA MSA	290	354	455	581	709	Dubuque
Iowa City, IA MSA	342	441	567	787	930	Johnson
Omaha, NE-IA MSA	334	458	578	758	850	Pottawattamie
Sioux City, IA-NE MSA	340	408	509	635	725	Woodbury
Waterloo-Cedar Falls, IA MSA	269	344	430	573	673	Black Hawk

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	264	326	409	519	573
Allamakee	264	326	409	525	601
Audubon	264	326	409	519	573
Boone	264	346	409	525	622
Buchanan	278	326	409	519	573
Butler	281	326	409	519	573
Carroll	264	326	409	519	573
Cedar	264	330	409	519	573
Cherokee	264	326	409	519	573

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	264	326	409	519	573
Appanoose	264	326	409	519	577
Benton	271	326	409	519	573
Bremer	264	326	409	519	609
Buena Vista	279	326	409	519	573
Calhoun	264	326	409	519	573
Cass	264	326	409	519	573
Cerro Gordo	264	345	428	570	598
Chickasaw	264	326	409	519	573

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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
Clarke	271	326	409	519	573
Clayton	264	326	409	519	573
Crawford	264	326	409	519	573
Decatur	264	326	409	519	573
Des Moines	264	336	433	542	605
Emmet	264	326	409	519	605
Floyd	287	326	409	519	573
Fremont	290	326	409	519	603
Grundy	264	326	409	519	589
Hamilton	301	341	414	519	580
Hardin	264	326	409	519	573
Henry	264	334	425	531	601
Humboldt	264	326	409	519	573
Iowa	264	326	409	519	573
Jasper	264	334	424	529	593
Jones	273	326	409	519	573
Kossuth	264	326	409	519	573
Louisa	264	326	409	519	573
Lyon	264	326	409	519	573
Mahaska	264	326	409	519	573
Marshall	291	359	451	572	632
Mitchell	264	326	409	519	573
Monroe	264	343	409	519	603
Muscatine	264	326	433	576	605
Osceola	264	326	409	519	573
Palo Alto	264	326	409	519	573
Pocahontas	264	326	409	519	573
Ringgold	264	326	409	519	573
Shelby	264	326	409	519	573
Story	343	417	492	681	780
Taylor	264	326	409	519	574
Van Buren	264	326	409	519	573
Washington	264	326	409	519	603
Webster	264	326	415	522	582
Winneshiek	264	326	409	519	573
Wright	264	326	409	519	573

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Clay	264	326	409	519	573
Clinton	264	326	415	519	581
Davis	264	326	409	519	573
Delaware	264	326	409	519	573
Dickinson	264	326	409	519	573
Fayette	264	326	409	519	573
Franklin	271	326	409	519	573
Greene	264	326	409	519	573
Guthrie	264	326	409	519	602
Hancock	264	326	409	519	573
Harrison	264	326	409	519	573
Howard	264	326	409	519	598
Ida	271	326	409	519	573
Jackson	264	326	412	519	577
Jefferson	264	333	444	578	729
Keokuk	264	326	409	519	573
Lee	264	326	422	528	592
Lucas	264	326	409	519	573
Madison	264	326	426	545	597
Marion	264	362	444	555	622
Mills	264	352	416	522	583
Monona	264	326	409	519	573
Montgomery	290	327	409	519	573
O'Brien	264	326	409	519	573
Page	264	326	409	519	573
Plymouth	264	326	428	534	598
Poweshiek	279	346	444	555	622
Sac	264	326	409	519	573
Sioux	264	326	409	519	573
Tama	264	326	409	519	573
Union	264	326	409	519	603
Wapello	264	326	413	519	578
Wayne	264	326	409	519	573
Winnebago	264	331	409	519	573
Worth	264	326	409	519	582

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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 16

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	353	444	534	739	819	Johnson, Leavenworth, Miami, Wyandotte
Lawrence, KS MSA	352	421	541	752	866	Douglas
Topeka, KS MSA	330	380	494	668	753	Shawnee
Wichita, KS MSA	324	389	521	704	761	Butler, Harvey, Sedgwick

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	269	305	391	504	561
Atchison	269	305	391	504	601
Barton	269	305	391	504	561
Brown	269	305	391	504	561
Chautauqua	269	305	391	504	561
Cheyenne	269	305	391	504	561
Clay	269	305	391	504	561
Coffey	278	305	391	504	586
Cowley	287	305	391	516	561
Decatur	269	305	391	504	561
Doniphan	269	305	391	504	561
Elk	269	305	391	504	561
Ellsworth	269	305	391	504	561
Ford	309	365	455	573	645
Geary	330	347	435	561	608
Graham	269	305	391	504	561
Gray	269	305	391	504	561
Greenwood	269	305	391	504	561
Harper	269	305	391	504	561
Hodgeman	269	305	391	504	561
Jefferson	269	305	398	528	561
Kearny	299	305	402	541	594
Kiowa	269	305	391	504	561
Lane	269	305	391	504	561
Linn	269	305	391	504	561
Lyon	269	305	391	504	598
Marion	269	305	391	504	561
Meade	269	305	391	504	561
Montgomery	269	305	391	504	561
Morton	269	327	391	504	561
Neosho	269	305	391	504	561
Norton	269	305	391	504	561
Osborne	269	305	391	504	562
Pawnee	269	305	391	504	561

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Anderson	269	305	391	504	561
Barber	269	305	391	504	561
Bourbon	269	305	391	504	561
Chase	269	305	391	504	561
Cherokee	269	305	391	504	561
Clark	269	305	391	504	561
Cloud	269	305	391	504	561
Comanche	269	305	391	504	561
Crawford	269	305	398	504	561
Dickinson	269	305	391	504	561
Edwards	269	305	391	504	561
Ellis	269	305	391	504	561
Finney	352	376	482	628	794
Franklin	302	317	409	523	638
Gove	269	305	391	504	561
Grant	279	353	405	554	604
Greeley	269	305	391	504	561
Hamilton	269	305	391	504	561
Haskell	269	312	391	504	561
Jackson	269	305	391	504	561
Jewell	269	305	391	504	561
Kingman	269	305	391	504	561
Labette	269	305	391	504	561
Lincoln	269	305	391	504	561
Logan	269	305	391	504	561
Mcpherson	271	305	391	504	561
Marshall	269	305	391	504	561
Mitchell	269	305	391	504	561
Morris	269	305	391	504	561
Nemaha	269	305	391	504	561
Ness	269	305	391	504	561
Osage	269	305	391	504	561
Ottawa	269	305	391	504	561
Phillips	269	305	391	504	561

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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 17

K A N S A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Pottawatomie	269	305	391	504	574
Rawlins	269	305	391	504	561
Republic	269	305	391	504	561
Riley	333	367	489	610	741
Rush	269	305	391	504	561
Saline	351	363	479	662	670
Seward	324	353	470	589	657
Sherman	269	305	391	504	561
Stafford	269	305	391	504	561
Stevens	269	306	391	504	577
Thomas	269	305	391	504	561
Wabaunsee	269	305	391	504	561
Washington	269	305	391	504	561
Wilson	269	305	391	504	561

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Pratt	269	305	391	514	561
Reno	269	305	391	504	609
Rice	269	305	391	504	561
Rooks	269	305	391	504	561
Russell	269	305	391	504	561
Scott	269	305	391	514	591
Sheridan	269	305	391	504	561
Smith	269	305	391	504	561
Stanton	269	305	391	504	561
Sumner	269	305	391	528	561
Trego	269	305	391	504	561
Wallace	269	305	391	504	561
Wichita	269	305	402	504	626
Woodson	269	305	391	504	561

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	309	397	531	712	769	Boone, Campbell, Kenton
Clarksville-Hopkinsville, TN-KY MSA	337	378	443	605	621	Christian
Evansville-Henderson, IN-KY MSA	317	377	489	612	685	Henderson
Gallatin County, KY	257	351	429	538	703	Gallatin
Grant County, KY	256	305	404	564	667	Grant
Huntington-Ashland, WV-KY-OH MSA	302	354	437	557	613	Boyd, Carter, Greenup
Lexington, KY MSA	342	426	521	711	802	Bourbon, Clark, Fayette, Jessamine, Madison, Scott Woodford
Louisville, KY-IN MSA	316	406	498	687	725	Bullitt, Jefferson, Oldham
Owensboro, KY MSA	298	309	406	545	570	Daviess
Pendleton County, KY	258	299	399	501	560	Pendleton

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	249	304	359	475	522
Anderson	274	290	376	469	527
Barren	249	301	359	464	522
Bell	249	290	362	464	522
Bracken	249	290	359	464	522
Breckinridge	249	290	359	464	522
Caldwell	249	290	359	464	522
Carlisle	249	290	359	464	522
Casey	249	290	359	464	522
Clinton	249	290	359	464	522

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	249	290	359	464	522
Ballard	249	290	359	464	522
Bath	249	290	359	464	522
Boyle	296	300	400	501	561
Breathitt	249	290	359	464	522
Butler	249	290	359	464	522
Calloway	249	290	359	464	522
Carroll	249	290	359	464	522
Clay	249	290	359	464	522
Crittenden	249	290	359	464	522

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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 18

K E N T U C K Y continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Cumberland	249	290	359	464	522
Elliott	249	290	359	464	522
Fleming	249	290	359	464	522
Franklin	249	366	449	579	732
Garrard	249	290	359	464	522
Grayson	249	290	359	464	522
Hancock	249	290	359	468	555
Harlan	249	378	431	562	663
Hart	249	290	359	464	522
Hickman	249	290	359	464	522
Jackson	249	290	359	464	522
Knott	249	290	359	464	522
Larue	249	290	359	464	522
Lawrence	249	290	359	464	522
Leslie	249	290	359	464	522
Lewis	249	290	359	464	522
Livingston	287	290	387	538	542
Lyon	249	290	359	464	522
Mccreary	249	290	359	464	522
Magoffin	249	290	359	464	522
Marshall	249	296	359	464	558
Mason	249	290	359	464	522
Menifee	249	290	359	464	522
Metcalfe	249	290	359	464	522
Montgomery	249	290	359	464	522
Muhlenberg	249	290	359	464	522
Nicholas	249	290	359	464	522
Owen	249	290	359	464	535
Perry	279	290	374	467	524
Powell	249	290	359	464	522
Robertson	249	290	359	464	522
Rowan	249	290	359	464	542
Shelby	250	329	368	514	522
Spencer	249	296	359	464	522
Todd	249	290	359	464	522
Trimble	249	290	359	464	522
Warren	249	322	430	537	621
Wayne	249	290	359	464	522
Whitley	249	290	359	464	522

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Edmonson	249	290	359	464	522
Estill	249	290	359	464	522
Floyd	262	319	359	498	572
Fulton	249	290	359	464	522
Graves	249	290	359	464	522
Green	249	290	359	464	522
Hardin	309	318	397	535	634
Harrison	249	291	368	464	568
Henry	249	290	359	464	522
Hopkins	249	290	359	464	527
Johnson	249	290	359	464	522
Knox	249	344	441	552	678
Laurel	325	367	436	587	609
Lee	249	290	359	464	522
Letcher	249	290	359	464	522
Lincoln	249	290	359	464	522
Logan	249	290	359	473	522
Mccracken	282	303	379	485	623
Mclean	249	290	359	464	522
Marion	249	290	359	464	522
Martin	249	290	359	464	522
Meade	257	320	368	486	606
Mercer	249	290	359	473	522
Monroe	249	290	359	464	522
Morgan	249	290	359	464	522
Nelson	273	290	370	464	522
Ohio	249	290	359	464	522
Owsley	249	290	359	464	522
Pike	267	305	370	464	548
Pulaski	273	290	368	465	522
Rockcastle	249	290	359	464	522
Russell	249	290	359	464	522
Simpson	249	311	364	465	522
Taylor	300	355	397	532	601
Trigg	249	290	359	464	522
Union	249	290	359	464	522
Washington	249	294	359	464	522
Webster	249	290	359	464	522
Wolfe	249	290	359	464	522

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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

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	279	349	438	607	617	Rapides
Baton Rouge, LA MSA	303	376	467	648	765	Ascension, East Baton Rouge, Livingston, West Baton Rouge
Houma, LA MSA	275	322	413	574	679	Lafourche, Terrebonne
Lafayette, LA MSA	292	336	400	551	652	Lafayette, Acadia, St. Landry, St. Martin
Lake Charles, LA MSA	375	436	553	725	908	Calcasieu
Monroe, LA MSA	302	338	451	608	632	Ouachita
New Orleans, LA	364	417	520	708	856	Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles St. John the Baptist, St. Tammany
St. James Parish, LA	274	311	414	516	579	St. James
Shreveport-Bossier City, LA MSA	340	387	486	650	797	Bossier, Caddo, Webster

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allen	268	291	358	469	523
Avoyelles	268	291	358	469	525
Bienville	268	291	358	475	562
Cameron	268	291	358	469	523
Claiborne	268	291	358	469	523
De Soto	268	291	358	469	527
East Feliciana	268	291	358	469	523
Franklin	268	291	358	469	527
Iberia	283	295	366	469	523
Jackson	268	291	358	469	523
La Salle	268	291	358	469	527
Madison	268	291	358	469	523
Natchitoches	286	293	378	524	527
Red River	268	291	358	469	527
Sabine	268	298	358	469	552
St. Mary	293	314	394	537	560
Tensas	268	291	358	469	523
Vermilion	268	291	358	469	523
Washington	268	291	358	469	523
West Feliciana	268	348	466	583	654

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Assumption	293	315	373	469	523
Beauregard	326	355	421	550	605
Caldwell	268	291	358	469	523
Catahoula	268	291	358	469	523
Concordia	268	291	358	469	523
East Carroll	268	291	358	469	523
Evangeline	268	291	358	469	523
Grant	268	291	358	469	523
Iberville	268	291	358	469	539
Jefferson Davis	268	291	358	469	531
Lincoln	315	317	395	542	650
Morehouse	268	291	358	469	523
Pointe Coupee	268	291	358	469	568
Richland	268	291	358	469	527
St. Helena	268	291	358	469	523
Tangipahoa	287	298	383	502	535
Union	268	291	358	469	527
Vernon	307	342	390	505	596
West Carroll	268	291	358	469	523
Winn	268	291	358	469	523

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	347	424	543	709	761	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

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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 20

M A I N E continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Waldo county towns of Winterport town
Lewiston-Auburn, ME MSA	319	385	495	620	703	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	378	487	641	802	899	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	461	552	710	910	1116	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	319	394	523	654	732	Durham town, Leeds town, Livermore town Livermore Falls to, Minot town
Aroostook	319	374	480	611	703	
Cumberland	467	476	634	862	989	Baldwin town, Bridgton town, Brunswick town Harpswell town, Harrison town, Naples town New Gloucester tow, Pownal town, Sebago town
Franklin	326	374	480	611	703	
Hancock	344	421	521	657	729	
Kennebec	332	414	498	625	703	
Knox	319	411	533	711	749	
Lincoln	415	462	525	730	862	
Oxford	319	374	480	611	703	
Penobscot	319	374	480	611	703	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

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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 21

M A I N E continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Piscataquis	319	374	480	611	703	
Sagadahoc	449	514	634	843	1041	
Somerset	334	381	480	611	721	
Waldo	319	374	480	611	703	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	319	374	480	611	703	
York	394	451	604	756	845	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	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Baltimore, MD	421	515	628	831	951	Anne Arundel, Baltimore, Carroll, Harford, Howard Queen Anne's, Baltimore city
Columbia, MD	566	760	885	1170	1462	Columbia
Cumberland, MD-WV MSA	334	402	497	657	750	Allegany
Hagerstown, MD PMSA	330	397	495	649	741	Washington
Washington, DC-MD-VA	615	699	820	1118	1347	Calvert, Charles, Frederick, Montgomery, Prince George's
Wilmington-Newark, DE-MD PMSA	436	576	671	911	1100	Cecil

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Caroline	367	396	495	649	737
Garrett	328	440	495	645	813
St. Mary's	501	595	686	956	1093
Talbot	434	460	613	768	1006
Worcester	328	396	496	689	737

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Dorchester	328	424	495	645	737
Kent	332	409	546	682	822
Somerset	391	439	495	687	812
Wicomico	369	427	551	700	771

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	465	623	831	1040	1165	Barnstable county towns of Barnstable town, Brewster town Chatham town, Dennis town, Eastham town, Harwich town Mashpee town, Orleans town, Sandwich town, Yarmouth 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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 22

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
Boston, MA-NH PMSA	643	723	906	1132	1329	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 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	430	567	695	865	986	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

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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
						Hanson town, Lakeville town, Middleborough town Plympton town, West Bridgewater t, Whitman town
Fitchburg-Leominster, MA MSA	337	473	614	790	858	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	466	563	708	885	1089	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	472	610	737	924	1033	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	452	552	628	785	881	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	320	454	560	702	870	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	405	551	662	831	1024	Bristol county towns of Attleboro city, Fall River city North Attleborough, Rehoboth town, Seekonk town Somerset town, Swansea town, Westport town
Springfield, MA MSA	416	514	649	811	997	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 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	418	506	632	789	884	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

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 24

M A S S A C H U S E T T S continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						Uxbridge town, Webster town, Westborough town West Boylston town, West Brookfield to, Worcester city

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Barnstable	449	616	821	1026	1149	Bourne town, Falmouth town, Provincetown town Truro town, Wellfleet town
Berkshire	378	460	542	744	891	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	607	617	822	1027	1152	
Franklin	408	506	647	810	978	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	412	561	749	996	1229	Blandford town, Brimfield town, Chester town Granville town, Tolland town, Wales town
Hampshire	577	584	780	977	1094	Chesterfield town, Cummington town, Goshen town Middlefield town, Pelham town, Plainfield town Westhampton town, Worthington town
Nantucket	729	977	1303	1629	1824	
Worcester	459	479	638	799	893	Athol town, Hardwick town, Hubbardston town 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	467	566	698	915	1026	Lenawee, Livingston, Washtenaw
Benton Harbor, MI MSA	375	379	497	622	698	Berrien
Detroit, MI PMSA	386	525	634	793	889	Lapeer, Macomb, Monroe, Oakland, St. Clair, Wayne
Flint, MI PMSA	366	416	521	666	729	Genesee
Grand Rapids-Muskegon-Holland, MI MSA	392	458	559	701	784	Allegan, Kent, Muskegon, Ottawa
Jackson, MI MSA	295	397	502	628	704	Jackson
Kalamazoo-Battle Creek, MI MSA	348	420	530	664	741	Calhoun, Kalamazoo, Van Buren
Lansing-East Lansing, MI MSA	393	462	597	780	901	Clinton, Eaton, Ingham

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 25

M I C H I G A N continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Saginaw-Bay City-Midland, MI MSA	342	378	502	628	704	Bay, Midland, Saginaw

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR	NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Alcona	289	329	417	542	618	Alger	289	329	417	542	618
Alpena	289	329	417	542	622	Antrim	289	346	417	542	618
Arenac	289	329	417	542	618	Baraga	289	329	417	542	618
Barry	289	356	474	594	665	Benzie	302	329	417	560	618
Branch	334	342	420	574	618	Cass	289	329	419	572	618
Charlevoix	351	355	450	611	633	Cheboygan	304	329	417	542	634
Chippewa	289	329	417	542	618	Clare	300	329	417	542	618
Crawford	316	329	426	582	618	Delta	289	329	417	542	618
Dickinson	289	355	438	547	618	Emmet	322	386	457	599	638
Gladwin	289	329	417	542	618	Gogebic	289	329	417	542	618
Grand Traverse	382	409	546	683	766	Gratiot	302	329	417	542	618
Hillsdale	289	329	417	542	618	Houghton	289	329	417	542	618
Huron	289	329	417	542	618	Ionia	354	358	449	559	629
Iosco	289	329	417	542	654	Iron	289	329	417	542	618
Isabella	322	344	461	622	755	Kalkaska	289	329	418	544	688
Keweenaw	289	329	417	542	618	Lake	292	329	417	542	618
Leelanau	391	423	495	647	812	Luce	289	329	417	542	618
Mackinac	289	329	417	542	618	Manistee	289	329	417	542	618
Marquette	289	329	417	542	618	Mason	289	329	417	542	618
Mecosta	289	329	417	564	670	Menominee	289	329	417	542	618
Missaukee	304	329	417	542	618	Montcalm	293	329	417	542	618
Montmorency	289	329	417	542	618	Newaygo	332	356	418	542	618
Oceana	308	329	417	542	618	Ogemaw	301	330	417	542	618
Ontonagon	289	329	417	542	618	Osceola	289	329	417	542	618
Oscoda	289	329	417	542	618	Otsego	296	358	452	628	728
Presque Isle	289	329	417	542	618	Roscommon	319	329	417	542	618
St. Joseph	289	336	417	544	618	Sanilac	289	339	417	544	618
Schoolcraft	289	329	417	542	618	Shiawassee	289	362	436	607	650
Tuscola	314	342	457	570	638	Wexford	289	333	432	566	670

M I N N E S O T A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Duluth-Superior, MN-WI MSA	277	357	459	613	714	St. Louis
Fargo-Moorhead, ND-MN MSA	331	456	550	763	817	Clay
Grand Forks, ND-MN MSA	342	408	536	739	825	Polk

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 26

M I N N E S O T A continued

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
La Crosse, WI-MN MSA	281	362	461	617	747	Houston
Minneapolis-St. Paul, MN-WI MSA	405	521	666	901	1020	Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey Scott, Sherburne, Washington, Wright
Rochester, MN MSA	310	435	569	788	884	Olmsted
St. Cloud, MN MSA	322	415	491	621	791	Benton, Stearns

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Aitkin	269	348	464	581	649
Beltrami	265	339	454	594	635
Blue Earth	361	436	543	696	883
Carlton	265	322	409	513	586
Chippewa	265	322	409	513	586
Cook	314	322	421	575	599
Crow Wing	265	322	430	538	676
Douglas	265	322	409	513	586
Fillmore	265	322	409	513	586
Goodhue	306	393	525	669	735
Hubbard	271	322	409	513	586
Jackson	265	322	409	513	586
Kandiyohi	326	412	502	629	757
Koochiching	320	326	434	542	711
Lake	265	322	409	513	586
Le Sueur	265	322	409	513	632
Lyon	265	322	409	513	607
Mahnomen	265	322	409	513	586
Martin	265	322	409	513	586
Mille Lacs	282	322	410	571	673
Mower	265	322	409	513	586
Nicollet	332	355	473	627	663
Norman	265	322	409	513	586
Pennington	265	322	409	547	586
Pipestone	265	322	409	513	586
Red Lake	265	334	409	513	586
Renville	265	322	409	513	586
Rock	265	322	409	513	586
Sibley	265	322	409	513	586
Stevens	302	381	430	538	603
Todd	265	322	409	513	586
Wabasha	287	349	442	554	633
Waseca	345	379	481	603	690

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Becker	265	380	427	534	599
Big Stone	265	322	409	513	586
Brown	265	342	409	513	586
Cass	265	322	409	513	586
Clearwater	265	322	409	513	586
Cottonwood	265	322	409	513	586
Dodge	265	322	409	513	586
Faribault	265	322	409	513	586
Freeborn	265	322	417	549	588
Grant	265	322	409	513	586
Itasca	339	343	448	559	627
Kanabec	265	333	432	540	605
Kittson	265	322	409	513	586
Lac qui Parle	265	322	409	513	586
Lake of the Woods	265	322	409	513	586
Lincoln	265	322	409	513	586
Mcleod	315	405	540	671	753
Marshall	265	322	409	513	586
Meeker	316	371	471	591	675
Morrison	294	322	409	513	586
Murray	265	322	409	513	586
Nobles	265	322	409	513	586
Otter Tail	265	322	409	513	586
Pine	293	322	409	516	586
Pope	265	322	409	513	586
Redwood	265	322	409	513	586
Rice	314	429	572	714	799
Roseau	320	326	428	552	601
Steele	314	364	485	606	679
Swift	265	322	409	513	586
Traverse	265	322	409	513	586
Wadena	265	322	409	513	586
Watonwan	265	322	409	513	586

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 27

M I N N E S O T A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Wilkin	265	322	409	513	586
Yellow Medicine	265	322	409	513	586
Winona	309	402	510	637	714

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	355	417	479	668	788	Hancock, Harrison, Jackson
Hattiesburg, MS MSA	265	325	398	534	637	Forrest, Lamar
Jackson, MS MSA	361	412	504	670	707	Hinds, Madison, Rankin
Memphis, TN-AR-MS MSA	387	451	530	736	774	Desoto

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	248	294	366	468	597
Amite	248	294	364	468	527
Benton	248	294	364	468	527
Calhoun	248	294	364	468	527
Chickasaw	248	294	364	468	527
Claiborne	248	294	364	468	527
Clay	248	294	364	468	532
Copiah	248	294	364	468	527
Franklin	251	294	364	468	527
Greene	248	294	364	468	527
Holmes	248	294	364	468	527
Issaquena	260	358	475	595	666
Jasper	248	294	364	468	527
Jefferson Davis	248	294	364	468	527
Kemper	250	294	364	468	527
Lauderdale	248	320	402	522	564
Leake	248	294	364	468	527
Leflore	248	294	364	469	563
Lowndes	306	330	391	490	553
Marshall	248	294	364	468	535
Montgomery	248	294	364	468	527
Newton	248	294	364	468	527
Oktibbeha	304	317	387	538	635
Pearl River	260	294	364	470	527
Pike	252	294	364	468	527
Prentiss	251	294	364	468	527
Scott	248	294	364	468	527
Simpson	251	294	364	468	527

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alcorn	248	294	364	468	527
Attala	248	294	364	468	527
Bolivar	282	294	379	473	541
Carroll	248	294	364	468	527
Choctaw	248	294	364	468	527
Clarke	248	294	364	468	527
Coahoma	288	294	388	487	545
Covington	248	294	364	468	527
George	248	294	364	468	527
Grenada	248	295	364	497	527
Humphreys	248	294	364	468	527
Itawamba	248	294	364	468	527
Jefferson	248	294	364	468	527
Jones	248	294	364	468	527
Lafayette	251	344	458	574	642
Lawrence	248	294	364	468	527
Lee	310	334	402	503	564
Lincoln	248	294	364	468	527
Marion	248	294	364	468	527
Monroe	248	294	364	468	527
Neshoba	248	294	364	468	527
Noxubee	252	294	364	468	527
Panola	256	294	364	468	527
Perry	248	294	364	468	527
Pontotoc	248	294	364	468	527
Quitman	248	294	364	468	527
Sharkey	252	294	364	468	527
Smith	248	294	364	468	527

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 28

M I S S I S S I P P I continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Stone	248	294	364	468	527
Tallahatchie	248	294	364	468	527
Tippah	248	294	364	468	527
Tunica	248	294	364	468	527
Walthall	248	294	364	468	527
Washington	268	319	426	550	606
Webster	250	294	364	468	527
Winston	248	294	364	468	527
Yazoo	252	294	364	468	527

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Sunflower	274	298	364	468	559
Tate	248	335	387	485	637
Tishomingo	248	294	364	468	527
Union	248	294	364	468	527
Warren	248	324	404	558	669
Wayne	248	294	364	468	527
Wilkinson	248	294	364	468	527
Yalobusha	250	294	364	468	527

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	259	365	475	660	778	Boone
Joplin, MO MSA	253	293	388	511	550	Jasper, Newton
Kansas City, MO-KS MSA	353	444	534	739	819	Cass, Clay, Clinton, Jackson, Lafayette, Platte, Ray
St. Joseph, MO MSA	243	295	393	496	551	Andrew, Buchanan
St. Louis, MO-IL MSA	317	386	501	652	721	Crawford-Sullivan (part), Franklin, Jefferson, Lincoln St. Charles, St. Louis, Warren, St. Louis city
Springfield, MO MSA	265	336	435	601	626	Christian, Greene, Webster

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	238	297	394	496	595
Audrain	254	274	352	476	550
Barton	238	274	352	458	525
Benton	268	274	364	458	525
Butler	238	274	352	458	525
Callaway	281	285	379	481	623
Cape Girardeau	245	301	400	533	654
Carter	238	274	352	458	525
Chariton	238	274	352	458	525
Cole	238	314	418	558	585
Crawford	261	314	353	466	525
Dallas	238	274	352	458	525
Dekalb	246	274	352	463	525
Douglas	238	274	352	458	525
Gasconade	238	274	352	458	525
Grundy	238	274	352	458	525
Henry	271	276	368	461	605
Holt	238	274	352	458	525
Howell	238	274	352	458	525

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Atchison	238	274	352	458	525
Barry	238	283	352	458	525
Bates	238	274	352	458	535
Bollinger	238	274	352	458	525
Caldwell	238	276	371	464	525
Camden	313	316	422	586	689
Carroll	238	274	352	458	525
Cedar	238	274	352	458	525
Clark	238	274	352	458	525
Cooper	238	274	352	458	525
Dade	238	274	352	458	525
Daviess	238	274	352	458	525
Dent	238	274	352	458	525
Dunklin	238	274	352	458	525
Gentry	238	274	352	458	525
Harrison	238	274	352	458	525
Hickory	238	274	352	458	525
Howard	238	274	352	458	527
Iron	238	274	352	458	525

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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
Johnson	286	319	416	551	652
Laclede	238	274	352	461	525
Lewis	238	274	352	458	525
Livingston	238	274	353	458	525
Macon	238	274	352	458	525
Maries	238	274	352	458	525
Mercer	238	274	352	458	525
Mississippi	238	274	352	458	525
Monroe	238	274	352	458	525
Morgan	238	274	352	458	525
Nodaway	251	304	374	475	573
Osage	238	274	352	458	525
Pemiscot	238	274	352	458	525
Pettis	255	299	400	503	602
Pike	238	274	352	458	552
Pulaski	238	333	374	495	552
Ralls	238	274	352	458	525
Reynolds	238	274	352	458	525
St. Clair	238	274	352	458	525
St. Francois	251	316	400	502	658
Schuyler	238	274	352	458	525
Scott	286	288	385	519	598
Shelby	238	274	352	458	525
Stone	276	294	365	466	525
Taney	269	297	389	525	617
Vernon	238	274	352	469	525
Wayne	238	274	352	458	525
Wright	238	274	352	458	525

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Knox	238	274	352	458	525
Lawrence	252	281	352	458	525
Linn	238	274	352	458	525
Mcdonald	238	274	352	458	525
Madison	238	274	352	458	525
Marion	238	274	352	458	525
Miller	261	314	352	461	545
Moniteau	238	274	352	458	525
Montgomery	238	274	352	458	525
New Madrid	238	274	352	458	525
Oregon	238	274	352	458	525
Ozark	238	274	352	458	525
Perry	276	281	375	499	525
Phelps	246	295	378	513	557
Polk	238	275	352	458	550
Putnam	238	274	352	458	525
Randolph	238	274	352	458	525
Ripley	238	274	352	458	525
Ste. Genevieve	238	283	364	466	590
Saline	238	274	362	458	525
Scotland	238	274	352	458	525
Shannon	238	274	352	458	525
Stoddard	238	274	352	458	525
Sullivan	238	274	352	458	525
Texas	238	274	352	458	525
Washington	278	336	377	471	528
Worth	238	274	352	458	525

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	322	374	501	673	816	Yellowstone
Great Falls, MT MSA	322	372	491	639	761	Cascade
Missoula County, MT PMSA	322	378	504	649	825	Missoula

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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 30

M O N T A N A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Beaverhead	295	341	450	585	683
Blaine	295	341	450	585	683
Carbon	336	394	512	666	777
Chouteau	295	341	450	585	683
Daniels	295	362	450	585	683
Deer Lodge	295	341	450	585	683
Fergus	295	341	450	585	683
Gallatin	364	424	569	731	935
Glacier	295	341	450	585	683
Granite	295	341	450	585	683
Jefferson	311	341	450	585	683
Lake	321	341	450	585	683
Liberty	295	341	450	585	683
Mccone	295	360	450	585	683
Meagher	295	362	450	585	683
Musselshell	300	341	450	585	683
Petroleum	295	341	450	585	683
Pondera	295	361	450	585	683
Powell	300	341	450	585	683
Ravalli	295	341	450	585	683
Roosevelt	308	341	450	585	683
Sanders	295	341	450	585	683
Silver Bow	295	341	450	585	683
Sweet Grass	318	341	450	585	683
Toole	301	341	450	585	683
Valley	295	341	450	585	683
Wibaux	295	362	450	585	683

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Big Horn	295	341	450	585	683
Broadwater	295	341	450	585	729
Carter	295	362	450	585	683
Custer	295	341	450	585	683
Dawson	295	341	450	585	683
Fallon	295	341	450	585	683
Flathead	295	342	457	637	750
Garfield	295	341	450	585	683
Golden Valley	295	361	450	585	683
Hill	304	341	450	585	683
Judith Basin	295	362	450	585	683
Lewis and Clark	328	385	511	711	842
Lincoln	321	341	450	585	683
Madison	301	341	450	585	683
Mineral	295	341	450	585	698
Park	295	341	450	585	691
Phillips	295	341	450	585	683
Powder River	295	346	450	585	683
Prairie	295	341	450	585	683
Richland	295	369	450	585	683
Rosebud	295	341	450	585	683
Sheridan	303	341	450	585	683
Stillwater	301	341	450	585	683
Teton	295	341	450	585	683
Treasure	295	341	450	585	683
Wheatland	295	341	450	585	683

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	310	398	525	697	813	Lancaster
Omaha, NE-IA MSA	334	458	578	758	850	Cass, Douglas, Sarpy, Washington
Sioux City, IA-NE MSA	340	408	509	635	725	Dakota

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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N E B R A S K A continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	247	330	437	547	656
Arthur	237	305	389	497	566
Blaine	237	305	389	497	566
Box Butte	257	305	389	498	588
Brown	237	305	389	497	578
Burt	237	305	389	497	566
Cedar	237	305	389	497	566
Cherry	237	320	389	500	589
Clay	237	305	389	497	566
Cuming	237	321	389	497	566
Dawes	253	305	389	501	591
Deuel	237	305	389	497	566
Dodge	237	305	401	528	566
Fillmore	237	305	389	497	566
Frontier	266	305	389	497	566
Gage	237	306	396	504	566
Garfield	237	305	389	497	566
Grant	237	305	389	497	566
Hall	284	374	498	656	734
Harlan	237	305	389	498	566
Hitchcock	237	305	389	497	566
Hooker	237	319	389	498	566
Jefferson	237	305	389	497	566
Kearney	237	305	389	497	591
Keya Paha	237	305	389	497	566
Knox	237	316	389	497	566
Logan	237	305	389	497	592
Mcpherson	237	305	389	498	566
Merrick	237	305	389	497	566
Nance	237	305	389	497	566
Nuckolls	237	305	389	497	566
Pawnee	237	305	389	501	566
Phelps	265	305	389	498	591
Platte	237	305	389	543	566
Red Willow	237	305	389	497	576
Rock	237	312	389	497	566
Saunders	237	305	389	497	566
Seward	294	305	397	497	566
Sherman	237	307	389	497	592
Stanton	237	305	389	497	566

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Antelope	237	320	389	500	566
Banner	237	305	389	498	566
Boone	237	305	389	497	589
Boyd	237	318	389	497	566
Buffalo	255	369	463	578	698
Butler	237	305	389	497	566
Chase	237	321	389	497	593
Cheyenne	265	305	389	497	566
Colfax	258	317	389	497	566
Custer	265	307	389	497	588
Dawson	260	317	389	501	566
Dixon	264	305	389	497	566
Dundy	237	305	389	497	566
Franklin	237	305	389	502	566
Furnas	237	305	389	497	589
Garden	237	317	389	500	591
Gosper	237	305	389	497	573
Greeley	237	305	389	497	576
Hamilton	237	305	389	501	566
Hayes	237	319	389	497	589
Holt	237	305	389	497	566
Howard	237	305	389	497	566
Johnson	237	309	389	497	566
Keith	237	305	389	497	566
Kimball	237	305	389	498	591
Lincoln	243	317	389	497	566
Loup	237	305	389	497	590
Madison	243	319	422	546	666
Morrill	237	307	389	497	589
Nemaha	237	305	389	497	566
Otoe	237	305	389	497	592
Perkins	237	305	389	497	566
Pierce	237	305	389	497	566
Polk	237	305	389	497	566
Richardson	237	305	389	497	566
Saline	237	318	389	497	566
Scotts Bluff	241	316	401	497	589
Sheridan	237	305	389	497	567
Sioux	237	305	389	497	591
Thayer	237	320	389	497	566

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 32

N E B R A S K A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Thomas	237	305	389	497	566
Valley	237	305	389	497	566
Webster	237	305	389	497	566
York	237	305	394	497	566
Thurston	237	305	389	497	566
Wayne	271	305	389	497	589
Wheeler	237	305	389	498	566

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	491	582	693	965	1139	Clark, Nye
Reno, NV MSA	475	551	708	986	1165	Washoe

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Churchill	438	445	595	820	973
Elko	399	455	607	801	997
Eureka	323	527	594	739	827
Lander	326	505	594	742	972
Lyon	387	462	594	826	973
Pershing	449	455	607	759	868
White Pine	324	446	594	801	842
Douglas	394	574	720	999	1112
Esmeralda	422	527	594	740	830
Humboldt	475	498	601	788	843
Lincoln	324	487	594	743	831
Mineral	328	448	597	782	978
Storey	455	461	607	845	997
Carson City	341	466	623	866	1022

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	643	723	906	1132	1329	Rockingham county towns of Seabrook town South Hampton town
Lawrence, MA-NH PMSA	466	563	708	885	1089	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	472	610	737	924	1033	Hillsborough county towns of Pelham town
Manchester, NH PMSA	380	542	677	846	948	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	448	624	774	1053	1253	Hillsborough county towns of Amherst town, Brookline town Greenville town, Hollis town, Hudson town Litchfield town, Mason town, Merrimack town Milford town, Mont Vernon town, Nashua city New Ipswich town, Wilton town
Portsmouth-Rochester, NH-ME PMSA	461	552	710	910	1116	Rockingham county towns of Brentwood town East Kingston town, Epping town, Exeter town Greenland town, Hampton town, Hampton Falls town

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 33

N E W H A M P S H I R E continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Components of FMR AREA within STATE
						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	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Belknap	428	495	651	879	1069	
Carroll	358	491	654	819	1022	
Cheshire	444	527	674	878	1041	
Coos	306	374	480	626	741	
Grafton	394	476	634	819	1035	
Hillsborough	420	525	700	926	1114	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	442	528	659	844	943	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	459	537	719	997	1151	Deerfield town, Northwood town, Nottingham town
Strafford	406	551	735	922	1033	Middleton town, New Durham town, Strafford town
Sullivan	427	434	563	740	789	

N E W J E R S E Y

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Atlantic-Cape May, NJ PMSA	488	555	739	926	1058	Atlantic, Cape May
Bergen-Passaic, NJ PMSA	615	749	878	1170	1443	Bergen, Passaic
Jersey City, NJ PMSA	565	666	776	986	1085	Hudson
Middlesex-Somerset-Hunterdon, NJ PMSA	702	769	960	1304	1506	Hunterdon, Middlesex, Somerset
Monmouth-Ocean, NJ PMSA	578	693	879	1168	1370	Monmouth, Ocean
Newark, NJ PMSA	533	681	820	1033	1306	Essex, Morris, Sussex, Union, Warren
Philadelphia, PA-NJ PMSA	475	584	722	903	1132	Burlington, Camden, Gloucester, Salem
Trenton, NJ PMSA	477	665	810	1097	1325	Mercer
Vineland-Millville-Bridgeton, NJ PMSA	471	573	692	862	969	Cumberland

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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	392	467	584	805	950	Bernalillo, Sandoval, Valencia
Las Cruces, NM MSA	292	367	436	598	705	Dona Ana
Santa Fe, NM MSA	422	599	740	993	1124	Los Alamos, Santa Fe

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Catron	271	317	393	528	596
Cibola	282	308	393	528	596
Curry	271	315	412	528	596
Eddy	278	307	393	528	614
Guadalupe	271	307	393	528	600
Hidalgo	271	307	393	528	596
Lincoln	307	315	415	547	684
Mckinley	271	340	433	539	604
Otero	271	307	393	548	596
Rio Arriba	317	324	398	528	596
San Juan	306	328	409	568	673
Sierra	271	307	393	528	596
Taos	465	471	628	785	1034
Union	271	330	393	528	596

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Chaves	271	308	406	559	596
Colfax	271	315	393	528	596
Debaca	271	308	393	528	596
Grant	321	366	468	628	709
Harding	271	307	393	528	596
Lea	271	307	393	528	596
Luna	298	328	420	563	635
Mora	271	307	393	528	596
Quay	271	392	442	553	618
Roosevelt	271	307	393	528	596
San Miguel	300	307	405	528	596
Socorro	271	307	393	528	612
Torrance	297	321	393	528	596

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	397	488	601	754	843	Albany, Montgomery, Rensselaer, Saratoga, Schenectady Schoharie
Binghamton, NY MSA	356	400	498	634	710	Broome, Tioga
Buffalo-Niagara Falls, NY PMSA	346	421	507	634	710	Erie, Niagara
Dutchess County, NY PMSA	559	710	877	1140	1332	Dutchess
Elmira, NY MSA	356	400	490	621	740	Chemung
Glens Falls, NY MSA	356	464	565	707	791	Warren, Washington
Jamestown, NY MSA	356	400	480	621	710	Chautauqua
Nassau-Suffolk, NY PMSA	752	906	1105	1537	1647	Nassau, Suffolk
New York, NY PMSA	704	785	891	1114	1249	Bronx, Kings, New York, Putnam, Queens, Richmond Rockland
Westchester County, NY	676	881	1073	1395	1665	Westchester
Newburgh, NY-PA PMSA	448	582	712	903	1030	Orange
Rochester, NY MSA	383	498	606	777	849	Genesee, Livingston, Monroe, Ontario, Orleans, Wayne
Syracuse, NY MSA	381	460	569	726	806	Cayuga, Madison, Onondaga, Oswego
Utica-Rome, NY MSA	356	400	489	621	710	Herkimer, Oneida

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 35

N E W Y O R K continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allegany	355	399	479	620	709
Chenango	378	399	479	620	709
Columbia	444	466	598	783	838
Delaware	355	399	479	620	761
Franklin	355	399	479	620	709
Greene	355	460	552	713	869
Jefferson	382	451	530	664	743
Otsego	355	420	483	624	792
Schuyler	384	409	486	677	797
Steuben	367	418	479	627	709
Tompkins	463	499	641	894	1054
Wyoming	355	399	479	620	709

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Cattaraugus	355	399	479	620	709
Clinton	355	399	516	645	723
Cortland	355	424	531	664	785
Essex	355	404	507	635	709
Fulton	355	399	479	620	709
Hamilton	355	427	491	620	709
Lewis	355	399	479	620	709
St. Lawrence	355	399	479	620	709
Seneca	379	407	492	636	709
Sullivan	460	516	629	869	881
Ulster	436	606	729	949	1195
Yates	355	399	479	620	709

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	341	413	538	701	756	Buncombe, Madison
Charlotte-Gastonia-Rock Hill, NC-SC MSA	434	489	551	726	870	Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union
Fayetteville, NC MSA	374	425	476	659	784	Cumberland
Goldsboro, NC MSA	306	353	429	552	644	Wayne
Greensboro--Winston-Salem--High Point, NC MSA	405	461	550	758	771	Alamance, Davidson, Davie, Forsyth, Guilford, Randolph Stokes, Yadkin
Greenville, NC MSA	400	405	525	708	866	Pitt
Hickory-Morganton, NC MSA	386	421	488	615	730	Alexander, Burke, Caldwell, Catawba
Jacksonville, NC MSA	349	407	460	638	755	Onslow
Norfolk-Virginia Beach-Newport News, VA-NC MSA	433	487	576	803	944	Currituck
Raleigh-Durham-Chapel Hill, NC MSA	453	550	645	866	1021	Chatham, Durham, Franklin, Johnston, Orange, Wake
Rocky Mount, NC MSA	326	353	429	568	626	Edgecombe, Nash
Wilmington, NC MSA	447	491	602	823	981	Brunswick, New Hanover

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alleghany	292	342	409	527	624
Ashe	292	337	409	527	598
Beaufort	292	337	409	527	598
Bladen	292	337	409	527	598
Carteret	331	362	442	614	683
Cherokee	292	337	409	527	598
Clay	292	337	409	527	598
Columbus	292	337	409	527	598
Dare	303	480	553	758	775
Gates	292	337	409	527	598

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Anson	292	337	409	527	598
Avery	326	367	447	560	626
Bertie	292	337	409	527	598
Camden	292	373	497	622	698
Caswell	292	337	409	527	598
Chowan	292	337	409	527	598
Cleveland	292	343	409	542	598
Craven	292	365	440	575	616
Duplin	292	337	409	527	598
Graham	292	337	409	527	598

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 36

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
Granville	308	337	409	542	613
Halifax	292	337	409	527	598
Haywood	304	346	421	565	615
Hertford	292	337	409	527	598
Hyde	292	337	409	527	598
Jackson	292	337	409	572	748
Lee	292	373	442	572	620
Mcdowell	292	356	427	583	691
Martin	292	337	409	527	598
Montgomery	292	337	409	527	598
Northampton	292	337	409	527	598
Pasquotank	337	360	449	624	630
Perquimans	292	337	409	527	598
Polk	292	370	415	527	598
Robeson	292	344	409	527	598
Rutherford	295	337	409	527	598
Scotland	292	337	409	527	598
Surry	292	337	409	527	598
Transylvania	338	361	457	606	648
Vance	309	350	409	527	598
Washington	292	337	409	527	598
Wilkes	332	374	421	582	654
Yancey	292	343	409	527	617

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Greene	292	337	409	527	598
Harnett	292	337	409	529	598
Henderson	378	389	481	640	737
Hoke	292	337	409	527	598
Iredell	394	404	533	666	745
Jones	292	337	409	527	598
Lenoir	292	337	409	527	598
Macon	292	349	409	527	598
Mitchell	292	382	439	599	626
Moore	292	352	420	574	689
Pamlico	292	337	409	527	598
Pender	292	354	409	527	644
Person	292	337	439	572	670
Richmond	292	337	409	527	598
Rockingham	292	337	409	527	598
Sampson	292	337	409	527	598
Stanly	292	337	415	560	598
Swain	292	337	409	527	598
Tyrrell	292	337	409	527	598
Warren	292	337	409	527	598
Watauga	381	457	578	787	949
Wilson	305	337	414	527	598

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	337	377	503	700	828	Burleigh, Morton
Fargo-Moorhead, ND-MN MSA	331	456	550	763	817	Cass
Grand Forks, ND-MN MSA	342	408	536	739	825	Grand Forks

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	227	285	368	478	558
Benson	258	285	368	478	558
Bottineau	227	285	368	478	558
Burke	247	285	368	478	558
Dickey	247	285	368	478	558
Dunn	227	285	368	478	558
Emmons	227	285	368	478	558
Golden Valley	227	292	389	486	558

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Barnes	227	287	380	497	558
Billings	247	285	368	478	558
Bowman	227	285	368	478	558
Cavalier	227	293	391	487	601
Divide	227	285	368	478	558
Eddy	227	285	368	478	558
Foster	227	285	370	478	558
Grant	227	285	368	478	558

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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

N O R T H D A K O T A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Griggs	227	285	368	478	558
Kidder	227	285	368	478	558
Logan	227	285	368	478	558
Mcintosh	227	285	368	478	558
Mclean	241	285	368	478	558
Mountrail	251	285	368	478	558
Oliver	227	285	368	478	558
Pierce	227	285	368	493	558
Ransom	232	285	368	478	558
Richland	239	285	375	478	558
Sargent	227	285	368	478	558
Sioux	227	285	368	478	558
Stark	227	285	368	478	558
Stutsman	272	285	372	518	611
Traill	239	303	368	478	558
Ward	227	312	416	563	671
Williams	227	285	368	478	558

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hettinger	227	285	368	478	558
Lamoure	247	285	368	478	558
Mchenry	227	285	368	478	558
Mckenzie	227	285	368	478	558
Mercer	227	285	368	478	558
Nelson	227	285	368	478	558
Pembina	227	285	368	485	576
Ramsey	234	312	416	521	681
Renville	263	285	368	481	568
Rolette	246	313	378	478	558
Sheridan	227	285	368	478	558
Slope	227	285	368	478	558
Steele	227	285	368	478	558
Towner	260	292	389	486	639
Walsh	302	323	401	503	562
Wells	242	285	368	478	558

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	356	432	554	693	778	Portage, Summit
Brown County, OH	286	336	419	543	599	Brown
Canton-Massillon, OH MSA	284	370	472	590	663	Carroll, Stark
Cincinnati, OH-KY-IN	309	397	531	712	769	Clermont, Hamilton, Warren
Cleveland-Lorain-Elyria, OH PMSA	382	480	594	755	851	Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina
Columbus, OH MSA	364	431	553	702	807	Delaware, Fairfield, Franklin, Licking, Madison, Pickaway
Dayton-Springfield, OH MSA	379	424	542	700	785	Clark, Greene, Miami, Montgomery
Hamilton-Middletown, OH PMSA	311	442	566	708	793	Butler
Huntington-Ashland, WV-KY-OH MSA	302	354	437	557	613	Lawrence
Lima, OH MSA	284	340	448	571	627	Allen, Auglaize
Mansfield, OH MSA	284	340	433	541	606	Crawford, Richland
Parkersburg-Marietta, WV-OH MSA	304	364	417	541	586	Washington
Steubenville-Weirton, OH-WV MSA	284	335	419	535	597	Jefferson
Toledo, OH MSA	355	432	528	680	738	Fulton, Lucas, Wood
Wheeling, WV-OH MSA	310	339	419	535	597	Belmont
Youngstown-Warren, OH MSA	297	350	439	552	628	Columbiana, Mahoning, Trumbull

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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 38

O H I O continued

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Adams	278	329	410	524	586
Athens	328	371	436	571	702
Clinton	317	406	488	680	686
Darke	305	329	413	524	586
Erie	278	370	462	623	755
Gallia	278	329	410	524	586
Hancock	352	356	451	575	630
Harrison	278	329	410	524	586
Highland	278	329	410	524	586
Holmes	278	329	410	524	586
Jackson	278	329	410	524	586
Logan	325	330	426	573	597
Meigs	278	329	410	524	586
Monroe	278	329	410	524	586
Morrow	278	329	410	524	586
Noble	278	329	410	524	594
Paulding	278	329	410	524	586
Pike	292	347	431	552	616
Putnam	288	329	410	524	586
Sandusky	278	360	462	582	644
Seneca	279	329	410	528	586
Tuscarawas	278	329	430	538	603
Van Wert	278	333	410	524	586
Wayne	278	367	452	573	632
Wyandot	278	329	410	524	586

NONMETROPOLITAN COUNTIES	0 BR	1 BR	2 BR	3 BR	4 BR
Ashland	278	329	433	541	606
Champaign	278	338	440	549	615
Coshocton	278	329	410	524	586
Defiance	290	329	434	547	608
Fayette	302	329	410	524	586
Guernsey	278	329	410	524	586
Hardin	278	329	410	524	586
Henry	300	332	414	534	608
Hocking	278	329	410	524	586
Huron	321	350	436	575	612
Knox	326	359	461	595	658
Marion	278	329	410	524	586
Mercer	278	329	410	524	603
Morgan	278	334	410	524	586
Muskingum	278	329	410	524	586
Ottawa	278	410	472	642	686
Perry	278	329	410	524	586
Preble	285	337	420	538	601
Ross	321	335	410	524	586
Scioto	278	329	410	524	586
Shelby	278	338	452	563	632
Union	278	384	507	634	734
Vinton	278	329	410	524	586
Williams	295	329	410	524	586

O K L A H O M A

METROPOLITAN FMR AREAS	0 BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Enid, OK MSA	296	300	398	554	634	Garfield
Fort Smith, AR-OK MSA	303	307	404	540	567	Sequoyah
Lawton, OK MSA	366	368	469	651	713	Comanche
Oklahoma City, OK MSA	331	361	468	651	728	Canadian, Cleveland, Logan, Mcclain, Oklahoma Pottawatomie
Tulsa, OK MSA	332	397	520	724	853	Creek, Osage, Rogers, Tulsa, Wagoner

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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING

O K L A H O M A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adair	247	284	354	471	540
Atoka	247	284	354	471	540
Beckham	251	284	354	471	540
Bryan	247	284	354	471	540
Carter	247	286	357	497	540
Choctaw	247	284	354	471	540
Coal	247	284	354	471	540
Craig	247	284	354	483	572
Delaware	247	284	354	471	550
Ellis	247	284	354	471	540
Grady	271	284	367	499	602
Greer	247	284	354	471	540
Harper	247	284	354	471	540
Hughes	247	284	354	471	540
Jefferson	247	284	354	471	540
Kay	274	290	381	531	622
Kiowa	247	284	354	471	540
Le Flore	247	284	354	471	540
Love	247	284	358	471	540
Mcintosh	247	284	354	471	540
Marshall	247	284	354	471	540
Murray	247	284	354	471	540
Noble	247	284	354	471	540
Okfuskee	247	284	354	471	540
Ottawa	266	284	354	471	540
Payne	286	337	432	596	669
Pontotoc	247	284	354	471	540
Roger Mills	247	284	354	471	540
Stephens	251	284	354	471	562
Tillman	247	284	354	471	540
Washita	247	284	354	471	540
Woodward	247	284	354	471	540

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Alfalfa	247	284	354	471	540
Beaver	247	288	354	471	540
Blaine	247	284	354	471	540
Caddo	247	284	354	471	540
Cherokee	259	293	354	471	548
Cimarron	247	284	354	471	540
Cotton	247	284	354	471	540
Custer	247	284	363	505	583
Dewey	247	284	354	471	540
Garvin	247	284	354	471	544
Grant	247	284	354	471	540
Harmon	247	284	354	471	540
Haskell	247	284	354	471	540
Jackson	247	321	391	514	580
Johnston	247	284	354	471	540
Kingfisher	247	292	362	474	540
Latimer	247	284	354	471	540
Lincoln	265	284	354	471	540
Mccurtain	247	284	354	471	540
Major	247	297	354	491	540
Mayes	247	288	383	483	540
Muskogee	268	301	354	489	540
Nowata	247	284	354	471	540
Okmulgee	251	284	354	471	540
Pawnee	279	284	367	472	540
Pittsburg	247	284	354	471	540
Pushmataha	247	284	354	471	540
Seminole	247	284	354	471	540
Texas	247	294	354	472	540
Washington	247	339	413	548	640
Woods	247	284	354	471	540

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	334	458	597	833	963	Lane
Medford-Ashland, OR MSA	343	450	601	835	931	Jackson
Portland-Vancouver, OR-WA PMSA	425	523	645	897	974	Clackamas, Columbia, Multnomah, Washington, Yamhill

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 40

O R E G O N continued

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Salem, OR PMSA	376	443	568	782	819	Marion, Polk

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Baker	311	368	477	657	732
Clatsop	358	425	556	758	851
Crook	311	368	477	657	732
Deschutes	384	441	590	822	951
Gilliam	311	392	477	657	732
Harney	311	368	477	657	732
Jefferson	311	368	477	657	732
Klamath	311	368	477	657	777
Lincoln	377	383	510	710	771
Malheur	311	368	477	657	732
Sherman	311	368	477	657	732
Umatilla	311	368	477	657	732
Wallowa	311	368	477	657	732
Wheeler	311	368	477	657	732

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Benton	371	481	610	918	975
Coos	311	379	503	701	732
Curry	311	423	561	718	883
Douglas	311	368	477	657	782
Grant	311	368	477	657	732
Hood River	365	411	558	726	858
Josephine	311	377	485	657	766
Lake	311	368	477	657	732
Linn	373	443	575	790	881
Morrow	311	368	477	657	732
Tillamook	311	368	477	657	732
Union	311	368	477	657	732
Wasco	378	468	524	714	802

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	414	562	669	871	979	Carbon, Lehigh, Northampton
Altoona, PA MSA	283	359	431	562	628	Blair
Erie, PA MSA	287	374	441	569	636	Erie
Harrisburg-Lebanon-Carlisle, PA MSA	340	436	559	704	784	Cumberland, Dauphin, Lebanon, Perry
Johnstown, PA MSA	287	364	439	569	636	Cambria, Somerset
Lancaster, PA MSA	377	462	576	752	809	Lancaster
Newburgh, NY-PA PMSA	448	582	712	903	1030	Pike
Philadelphia, PA-NJ PMSA	475	584	722	903	1132	Bucks, Chester, Delaware, Montgomery, Philadelphia
Pittsburgh, PA PMSA	335	411	495	620	693	Allegheny, Beaver, Butler, Fayette, Washington Westmoreland
Reading, PA MSA	298	441	544	679	766	Berks
Scranton--Wilkes-Barre--Hazleton, PA MSA	287	401	480	599	724	Columbia, Lackawanna, Luzerne, Wyoming
Sharon, PA MSA	315	364	439	569	636	Mercer
State College, PA MSA	412	504	624	818	875	Centre
Williamsport, PA MSA	287	366	441	569	636	Lycoming
York, PA MSA	320	439	544	678	759	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	282	379	503	652	825
Bedford	282	358	429	560	626
Cameron	282	358	429	560	626
Clearfield	282	358	429	560	626
Crawford	282	358	429	560	626
Forest	282	358	429	560	626
Fulton	282	358	429	560	626
Huntingdon	282	358	429	560	626
Jefferson	282	358	429	560	626
Lawrence	282	358	429	560	626
Mifflin	313	358	429	560	626
Montour	333	358	451	626	739
Potter	282	358	429	560	626
Snyder	339	358	430	560	626
Susquehanna	337	358	429	560	665
Union	340	452	564	706	788
Warren	282	358	429	560	626

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Armstrong	286	378	429	560	704
Bradford	286	362	442	578	633
Clarion	282	358	429	560	626
Clinton	282	358	429	560	626
Elk	282	358	429	560	626
Franklin	282	358	435	599	626
Greene	282	358	429	560	626
Indiana	323	360	429	560	626
Juniata	282	358	429	560	626
Mc Kean	282	360	429	560	626
Monroe	451	537	664	907	1013
Northumberland	298	376	460	611	680
Schuylkill	282	358	447	560	626
Sullivan	282	358	429	560	626
Tioga	282	358	429	560	626
Venango	282	358	429	560	626
Wayne	283	437	515	656	843

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	491	594	723	905	1034	Washington county towns of Hopkinton town, Westerly town
Providence-Fall River-Warwick, RI-MA PMSA	405	551	662	831	1024	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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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 42

R H O D E I S L A N D continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR	Towns within non metropolitan counties
Newport	554	646	829	1038	1161	Middletown town, Newport city, Portsmouth town
Washington	655	737	828	1069	1177	New Shoreham town

S O U 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
Augusta-Aiken, GA-SC MSA	357	427	503	683	808	Aiken, Edgefield
Charleston-North Charleston, SC MSA	401	465	534	710	827	Berkeley, Charleston, Dorchester
Charlotte-Gastonia-Rock Hill, NC-SC MSA	434	489	551	726	870	York
Columbia, SC MSA	430	473	544	719	827	Lexington, Richland
Florence, SC MSA	325	362	470	587	658	Florence
Greenville-Spartanburg-Anderson, SC MSA	354	428	483	609	716	Anderson, Cherokee, Greenville, Pickens, Spartanburg
Myrtle Beach, SC MSA	422	429	549	686	769	Horry
Sumter, SC MSA	344	381	433	592	703	Sumter

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Abbeville	287	335	407	523	598
Bamberg	287	335	407	523	598
Beaufort	410	503	579	723	810
Chester	287	335	407	523	598
Clarendon	287	335	407	523	598
Darlington	287	335	407	523	598
Fairfield	287	385	439	547	613
Greenwood	288	335	407	523	598
Jasper	287	335	407	523	598
Lancaster	301	336	407	523	598
Lee	287	335	407	523	598
Marion	287	335	407	523	598
Newberry	287	335	407	523	598
Orangeburg	287	335	407	523	598
Union	287	335	407	523	598

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Allendale	287	335	407	523	598
Barnwell	302	335	409	523	598
Calhoun	287	335	407	523	598
Chesterfield	287	335	407	523	598
Colleton	287	335	407	523	598
Dillon	287	335	407	523	598
Georgetown	287	365	410	523	623
Hampton	287	335	407	523	598
Kershaw	287	335	407	523	598
Laurens	287	335	407	523	598
Mccormick	287	335	407	523	637
Marlboro	287	335	407	523	598
Oconee	287	335	407	523	598
Saluda	287	335	407	523	598
Williamsburg	287	335	407	523	598

S O U 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
Rapid City, SD MSA	349	415	553	752	909	Pennington
Sioux Falls, SD MSA	337	466	591	748	859	Lincoln, Minnehaha

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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	252	337	419	555	642
Bennett	252	334	419	555	642
Brookings	270	427	474	640	755
Brule	252	334	419	555	642
Butte	290	396	526	688	811
Charles Mix	252	334	419	555	642
Clay	252	334	419	555	689
Corson	252	334	419	555	642
Davison	264	334	419	562	642
Deuel	252	334	419	555	642
Douglas	280	334	419	555	642
Fall River	287	334	419	555	642
Grant	252	334	419	555	642
Haakon	252	342	419	555	642
Hand	252	334	419	555	642
Harding	252	342	419	555	642
Hutchinson	252	334	419	555	642
Jackson	252	339	419	555	642
Jones	252	334	419	555	642
Lake	252	339	419	555	642
Lyman	252	334	419	555	642
Mcpherson	252	334	419	555	642
Meade	354	399	532	697	823
Miner	252	339	419	555	642
Perkins	252	334	419	555	642
Roberts	252	334	419	555	642
Shannon	252	339	419	555	642
Stanley	252	342	419	555	642
Todd	278	334	419	555	642
Turner	252	334	419	555	642
Walworth	252	342	419	555	642
Ziebach	252	334	419	555	642

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Beadle	252	334	419	555	642
Bon Homme	280	334	419	555	642
Brown	252	334	419	555	642
Buffalo	252	334	419	555	648
Campbell	252	334	419	555	642
Clark	252	334	419	555	642
Codington	252	334	419	555	642
Custer	252	334	419	555	642
Day	281	334	419	555	642
Dewey	252	334	419	555	642
Edmunds	252	334	419	555	642
Faulk	252	334	442	555	642
Gregory	253	334	419	555	642
Hamlin	252	334	419	555	642
Hanson	256	350	466	586	655
Hughes	277	334	442	582	689
Hyde	252	340	419	555	642
Jerauld	252	337	419	555	642
Kingsbury	275	334	419	555	642
Lawrence	288	415	522	716	810
Mccook	252	334	419	555	642
Marshall	297	334	419	555	642
Mellette	300	339	419	555	642
Moody	252	334	419	555	642
Potter	252	334	419	555	642
Sanborn	252	334	419	555	642
Spink	274	334	426	555	642
Sully	252	334	419	555	642
Tripp	252	334	419	555	642
Union	265	334	419	555	642
Yankton	252	334	419	555	642

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	364	425	510	659	751	Hamilton, Marion
Clarksville-Hopkinsville, TN-KY MSA	337	378	443	605	621	Montgomery
Jackson, TN MSA	262	345	462	639	643	Madison, Chester

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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 44

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	303	362	447	581	688	Carter, Hawkins, Sullivan, Unicoi, Washington
Knoxville, TN MSA	303	373	468	624	750	Anderson, Blount, Knox, Loudon, Sevier, Union
Memphis, TN-AR-MS MSA	387	451	530	736	774	Fayette, Shelby, Tipton
Nashville, TN MSA	425	508	626	853	958	Cheatham, Davidson, Dickson, Robertson, Rutherford Sumner, Williamson, Wilson

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Bedford	238	306	374	471	524
Bledsoe	238	279	352	463	519
Campbell	240	279	352	463	519
Carroll	238	289	352	463	519
Clay	242	279	352	463	519
Coffee	238	332	373	519	591
Cumberland	251	279	365	509	519
Dekalb	238	279	352	463	519
Fentress	238	279	352	463	519
Gibson	238	279	352	463	519
Grainger	242	279	352	463	519
Grundy	238	279	352	463	519
Hancock	238	279	352	463	519
Hardin	238	279	352	463	519
Henderson	238	279	352	463	519
Hickman	281	285	378	498	529
Humphreys	238	290	352	463	519
Jefferson	259	279	361	463	574
Lake	238	279	352	463	519
Lawrence	238	279	352	463	519
Lincoln	238	279	356	463	519
Mcnairy	238	279	352	463	519
Marshall	280	305	397	502	558
Meigs	238	279	352	463	519
Moore	238	279	352	463	519
Obion	276	280	358	474	519
Perry	238	281	352	463	519
Polk	238	279	352	463	519
Rhea	238	297	352	468	519
Scott	238	279	352	463	519
Smith	238	279	352	463	519
Trousdale	238	292	388	487	638
Warren	264	279	360	463	519

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Benton	256	292	352	463	519
Bradley	238	300	400	542	658
Cannon	238	279	352	463	519
Claiborne	238	279	352	463	519
Cocke	238	279	352	463	519
Crockett	238	279	352	463	519
Decatur	238	279	352	463	519
Dyer	297	301	401	502	626
Franklin	249	279	352	484	569
Giles	238	303	375	469	525
Greene	238	279	352	463	519
Hamblen	238	280	367	488	519
Hardeman	238	279	352	463	519
Haywood	250	290	387	484	542
Henry	238	279	352	463	519
Houston	238	279	352	463	519
Jackson	238	279	352	463	519
Johnson	238	279	352	463	519
Lauderdale	238	279	355	463	519
Lewis	238	279	352	463	519
Mcminn	238	279	352	465	519
Macon	238	279	352	463	519
Maury	341	348	463	580	647
Monroe	238	279	352	463	519
Morgan	238	279	352	463	519
Overton	238	279	352	463	519
Pickett	238	279	352	463	519
Putnam	289	292	375	516	555
Roane	256	279	352	473	569
Sequatchie	238	279	352	463	519
Stewart	238	279	352	463	519
Van Buren	238	279	352	463	519
Wayne	238	279	352	463	519

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. 090898

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
Weakley	257	279	352	463	519
White	242	279	352	463	519

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	333	371	479	646	785	Taylor
Amarillo, TX MSA	282	356	443	618	729	Potter, Randall
Austin-San Marcos, TX MSA	434	525	699	970	1147	Bastrop, Caldwell, Hays, Travis, Williamson
Beaumont-Port Arthur, TX MSA	321	389	474	628	665	Hardin, Jefferson, Orange
Brazoria, TX PMSA	444	495	619	862	1014	Brazoria
Brownsville-Harlingen-San Benito, TX MSA	338	426	532	666	831	Cameron
Bryan-College Station, TX MSA	376	437	553	771	909	Brazos
Corpus Christi, TX MSA	352	432	552	752	888	Nueces, San Patricio
Dallas, TX	487	560	718	994	1175	Collin, Dallas, Denton, Ellis, Hunt, Kaufman, Rockwall
El Paso, TX MSA	397	445	527	730	865	El Paso
Fort Worth-Arlington, TX PMSA	417	453	588	820	967	Hood, Johnson, Parker, Tarrant
Galveston-Texas City, TX PMSA	436	448	562	780	920	Galveston
Henderson County, TX	292	347	424	579	695	Henderson
Houston, TX PMSA	413	464	601	837	986	Chambers, Fort Bend, Harris, Liberty, Montgomery, Waller
Killeen-Temple, TX MSA	396	412	522	726	797	Bell, Coryell
Laredo, TX MSA	320	369	485	606	682	Webb
Longview-Marshall, TX MSA	317	358	439	599	654	Gregg, Harrison, Upshur
Lubbock, TX MSA	304	385	499	695	770	Lubbock
Mc Allen-Edinburg-Mission, TX MSA	267	365	418	522	586	Hidalgo
Odessa-Midland, TX MSA	304	351	469	652	756	Ector, Midland
San Angelo, TX MSA	282	360	437	600	708	Tom Green
San Antonio, TX MSA	371	428	554	771	911	Bexar, Comal, Guadalupe, Wilson
Sherman-Denison, TX MSA	282	386	466	595	712	Grayson
Texarkana, TX-Texarkana, AR MSA	307	375	458	604	641	Bowie
Tyler, TX MSA	353	390	476	660	698	Smith
Victoria, TX MSA	349	353	446	619	698	Victoria
Waco, TX MSA	307	376	495	659	694	Mclennan
Wichita Falls, TX MSA	338	378	456	607	716	Archer, Wichita

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 46

T E X A S continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Anderson	330	372	417	581	587
Angelina	300	348	392	544	641
Armstrong	275	318	415	521	587
Austin	275	318	383	525	587
Bandera	295	318	383	521	587
Bee	275	318	383	514	587
Borden	275	318	383	514	587
Brewster	275	318	383	518	620
Brooks	275	318	383	514	587
Burleson	275	318	402	544	663
Calhoun	294	318	383	530	627
Camp	372	377	471	590	659
Cass	275	318	383	514	587
Cherokee	307	319	390	514	587
Clay	275	324	383	514	598
Coke	275	318	383	514	587
Collingsworth	275	318	383	514	587
Comanche	275	318	383	514	587
Cooke	298	318	403	548	608
Crane	275	318	383	514	587
Crosby	275	318	383	514	587
Dallam	275	318	383	514	587
Deaf Smith	275	318	383	514	596
Dewitt	275	318	383	514	587
Dimmit	275	318	383	514	587
Duval	275	318	383	514	587
Edwards	275	318	383	514	587
Falls	275	318	383	514	587
Fayette	275	318	383	514	587
Floyd	275	318	383	514	587
Franklin	275	318	383	530	587
Frio	275	318	383	514	587
Garza	275	318	383	514	587
Glasscock	275	318	383	514	587
Gonzales	275	318	383	514	587
Grimes	275	318	383	518	611
Hall	275	318	383	514	587
Hansford	275	318	383	514	602
Hartley	275	318	383	514	587
Hemphill	275	354	396	553	587

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Andrews	275	318	383	514	587
Aransas	275	338	451	627	631
Atascosa	275	318	383	514	587
Bailey	275	318	383	514	587
Baylor	275	318	383	514	587
Blanco	275	318	405	565	595
Bosque	275	318	383	514	587
Briscoe	275	318	383	514	587
Brown	275	318	384	516	630
Burnet	275	318	391	543	635
Callahan	275	318	383	514	587
Carson	275	318	383	514	587
Castro	277	318	383	514	587
Childress	275	318	383	514	587
Cochran	275	318	383	514	587
Coleman	275	318	383	514	587
Colorado	275	318	383	514	587
Concho	275	318	383	514	587
Cottle	275	318	383	514	587
Crockett	275	318	383	514	587
Culberson	275	318	383	514	587
Dawson	275	318	383	514	587
Delta	275	329	383	514	587
Dickens	275	318	383	514	587
Donley	275	318	383	514	587
Eastland	275	318	383	514	587
Erath	285	323	417	540	587
Fannin	279	318	383	516	587
Fisher	275	318	383	514	587
Foard	275	318	383	514	587
Freestone	275	318	383	514	587
Gaines	281	318	383	514	587
Gillespie	275	346	449	617	629
Goliad	275	318	383	514	587
Gray	301	318	408	514	606
Hale	275	318	383	514	587
Hamilton	275	318	383	514	587
Hardeman	275	318	383	514	587
Haskell	275	318	383	514	587
Hill	275	318	383	514	587

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. 090898

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	281	328	383	519	587
Houston	275	318	383	514	587
Hudspeth	331	374	417	524	688
Irion	275	318	383	514	587
Jackson	275	319	383	514	587
Jeff Davis	275	318	383	514	587
Jim Wells	275	318	383	514	594
Karnes	275	318	383	514	587
Kenedy	275	318	383	514	587
Kerr	275	356	445	619	730
King	275	318	383	514	587
Kleberg	334	346	422	590	694
Lamar	275	341	401	561	663
Lampasas	275	318	383	521	615
Lavaca	275	318	383	514	587
Leon	275	353	395	514	651
Lipscomb	275	318	383	514	587
Llano	275	354	471	591	774
Lynn	275	318	383	514	587
Mcmullen	275	318	383	514	587
Marion	275	318	383	514	608
Mason	275	318	383	514	587
Maverick	275	318	383	514	587
Menard	275	318	383	514	587
Mills	275	318	383	514	587
Montague	275	318	383	514	587
Morris	275	318	383	514	587
Nacogdoches	290	350	454	567	670
Newton	275	318	383	514	587
Ochiltree	275	318	383	514	587
Palo Pinto	275	318	383	514	610
Parmer	275	318	383	514	587
Polk	307	335	390	525	637
Rains	275	356	431	597	602
Real	275	318	383	514	587
Reeves	275	318	383	514	587
Roberts	275	321	383	514	587
Runnels	275	318	383	514	587
Sabine	275	318	383	514	587
San Jacinto	288	325	383	514	600

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Hopkins	321	345	405	565	608
Howard	293	318	383	518	587
Hutchinson	275	318	396	553	653
Jack	275	318	383	514	587
Jasper	275	318	391	521	639
Jim Hogg	275	318	383	514	587
Jones	275	318	383	514	587
Kendall	275	401	451	627	741
Kent	275	318	383	514	587
Kimble	275	318	417	523	587
Kinney	275	318	383	514	587
Knox	275	318	383	514	587
Lamb	275	318	383	514	587
La Salle	275	318	383	514	587
Lee	312	350	393	549	616
Limestone	275	318	383	514	587
Live Oak	275	318	383	514	587
Loving	275	318	383	514	587
Mcculloch	283	318	383	514	587
Madison	275	327	383	514	604
Martin	275	318	383	514	587
Matagorda	318	347	431	597	602
Medina	275	318	383	514	587
Milam	275	318	383	514	587
Mitchell	275	318	383	514	587
Moore	275	323	383	514	596
Motley	275	318	383	514	587
Navarro	329	346	416	528	587
Nolan	283	318	383	514	587
Oldham	275	318	415	521	609
Panola	275	324	383	514	587
Pecos	275	318	383	518	611
Presidio	275	318	383	514	587
Reagan	350	356	473	594	777
Red River	275	354	396	514	587
Refugio	275	318	383	514	587
Robertson	275	364	406	514	587
Rusk	287	318	383	514	587
San Augustine	275	318	383	514	587
San Saba	275	318	383	514	587

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. 090898

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
Schleicher	275	318	383	514	587
Shackelford	275	318	383	514	587
Sherman	275	318	383	514	587
Starr	275	318	383	514	587
Sterling	275	318	383	514	587
Sutton	275	318	383	514	587
Terrell	275	318	383	514	587
Throckmorton	275	318	383	514	587
Trinity	286	323	383	514	587
Upton	275	318	383	514	587
Val Verde	275	365	430	536	632
Walker	371	394	482	640	676
Washington	341	348	465	581	763
Wheeler	275	318	383	514	587
Willacy	275	318	383	514	587
Wise	275	321	385	537	587
Yoakum	275	362	445	556	730
Zapata	275	318	383	514	587

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Scurry	275	318	397	555	655
Shelby	275	318	383	514	587
Somervell	315	354	396	544	587
Stephens	275	318	383	514	587
Stonewall	275	318	383	514	587
Swisher	275	318	383	514	587
Terry	275	318	383	514	587
Titus	292	363	411	568	587
Tyler	275	318	409	514	674
Uvalde	275	318	383	514	587
Van Zandt	294	318	397	542	655
Ward	275	318	383	514	587
Wharton	275	318	383	514	587
Wilbarger	275	318	383	514	605
Winkler	275	318	383	514	587
Wood	275	318	396	553	653
Young	275	318	383	514	594
Zavala	275	318	383	514	587

U T A H

METROPOLITAN FMR AREAS	O BR	1 BR	2 BR	3 BR	4 BR	Counties of FMR AREA within STATE
Kane County, UT	306	376	470	630	759	Kane
Provo-Orem, UT MSA	423	447	553	766	906	Utah
Salt Lake City-Ogden, UT MSA	432	501	635	884	1036	Davis, Salt Lake, Weber

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Beaver	295	362	453	607	730
Cache	329	404	507	678	816
Daggett	321	439	583	731	819
Emery	295	362	453	607	730
Grand	295	362	453	607	730
Juab	295	362	453	607	730
Morgan	295	362	453	607	730
Rich	295	362	453	607	730
Sanpete	295	362	453	607	730
Summit	437	539	673	908	1104
Uintah	295	362	453	607	730
Washington	364	448	595	795	973

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Box Elder	329	365	457	612	737
Carbon	317	362	453	607	730
Duchesne	295	362	453	607	730
Garfield	295	362	453	607	730
Iron	301	410	511	639	751
Millard	295	362	453	607	730
Piute	295	362	453	607	730
San Juan	295	362	453	607	730
Sevier	299	362	453	607	730
Tooele	295	376	453	607	730
Wasatch	295	376	453	607	730
Wayne	295	362	453	607	730

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SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 49

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	424	519	692	943	1138	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	418	505	587	818	918	
Bennington	371	468	602	765	891	
Caledonia	329	393	480	605	694	
Chittenden	384	621	700	972	1146	Bolton town, Buels gore, Huntington town, Underhill town Westford town
Essex	322	387	480	605	694	
Franklin	346	391	480	609	700	Bakersfield town, Berkshire town, Enosburg town Fairfield town, Fletcher town, Franklin town Highgate town, Montgomery town, Richford town Sheldon town
Grand Isle	322	387	480	605	694	Alburg town, Isle La Motte town, North Hero town
Lamoille	334	464	553	758	869	
Orange	347	455	560	740	829	
Orleans	322	387	480	605	694	
Rutland	375	487	595	746	835	
Washington	360	446	602	753	844	
Windham	407	471	625	793	873	
Windsor	438	495	619	795	942	

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	427	504	645	857	961	Albemarle, Fluvanna, Greene, Charlottesville city
Clarke County, VA	305	430	556	764	780	Clarke
Culpeper County, VA	375	548	637	842	1008	Culpeper
Danville, VA MSA	291	366	431	578	697	Pittsylvania, Danville city
Johnson City-Kingsport-Bristol, TN-VA MSA	303	362	447	581	688	Scott, Washington, Bristol city
King George County, VA	369	491	551	766	772	King George
Lynchburg, VA MSA	346	381	440	578	697	Amherst, Bedford, Campbell, Bedford city, Lynchburg city
Norfolk-Virginia Beach-Newport News, VA-NC MSA	433	487	576	803	944	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 PAGE 50

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	470	533	620	863	1018	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	293	366	475	610	760	Botetourt, Roanoke, Roanoke city, Salem city
Warren County, VA	298	408	544	713	891	Warren
Washington, DC-MD-VA	615	699	820	1118	1347	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	339	366	428	568	685	Alleghany	298	360	423	568	685
Amelia	286	360	423	568	685	Appomattox	286	360	423	568	685
Augusta	286	370	450	592	721	Bath	286	360	423	568	685
Bland	286	360	423	568	685	Brunswick	286	360	423	568	685
Buchanan	286	360	423	568	685	Buckingham	286	360	423	568	685
Caroline	405	410	548	728	767	Carroll	286	360	423	568	685
Charlotte	286	360	423	568	685	Craig	286	360	423	568	685
Cumberland	286	392	455	568	685	Dickenson	286	360	423	568	685
Essex	286	402	475	661	779	Floyd	286	360	423	568	685
Franklin	286	360	423	568	685	Frederick	388	448	538	737	883
Giles	286	360	423	568	685	Grayson	286	360	423	568	685
Greensville	286	370	423	568	685	Halifax	286	360	423	568	685
Henry	286	360	423	568	685	Highland	286	360	423	568	685
King and Queen	286	410	462	577	685	King William	286	392	439	568	685
Lancaster	357	401	453	603	734	Lee	286	360	423	568	685
Louisa	286	372	459	637	685	Lunenburg	286	360	423	568	685
Madison	287	426	480	601	786	Mecklenburg	286	360	423	568	685
Middlesex	286	362	423	568	685	Montgomery	294	386	454	630	745
Nelson	286	360	423	568	685	Northampton	286	360	423	568	685
Northumberland	286	360	423	568	685	Nottoway	286	360	423	568	685
Orange	317	431	577	803	942	Page	332	374	423	568	685
Patrick	286	360	423	568	685	Prince Edward	320	362	423	568	685
Pulaski	286	360	423	568	685	Rappahannock	290	470	528	733	865
Richmond	286	381	427	568	702	Rockbridge	286	360	423	568	685
Rockingham	286	396	501	687	805	Russell	286	360	423	568	685
Shenandoah	376	386	476	659	748	Smyth	286	360	423	568	685
Southampton	286	360	423	568	685	Surry	297	360	423	568	685
Sussex	286	360	423	568	685	Tazewell	286	360	423	568	685

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. 090898

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V I R G I N I A continued

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Westmoreland	286	386	513	645	835
Wythe	299	360	423	568	685
Wise	286	360	423	568	685

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	395	512	682	942	1117	Whatcom
Bremerton, WA PMSA	415	479	620	838	1019	Kitsap
Olympia, WA PMSA	427	524	655	901	1062	Thurston
Portland-Vancouver, OR-WA PMSA	425	523	645	897	974	Clark
Richland-Kennewick-Pasco, WA MSA	492	564	675	940	1103	Benton, Franklin
Seattle-Bellevue-Everett, WA PMSA	478	582	736	1022	1208	Island, King, Snohomish
Spokane, WA MSA	316	430	519	705	790	Spokane
Tacoma, WA PMSA	369	440	586	815	921	Pierce
Yakima, WA MSA	356	438	543	728	760	Yakima

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	315	377	490	647	718
Chelan	315	377	490	647	718
Columbia	315	377	490	647	718
Douglas	368	389	490	647	718
Garfield	315	377	490	647	718
Grays Harbor	322	377	495	668	770
Kittitas	315	377	490	647	718
Lewis	315	377	490	647	718
Mason	357	443	545	716	770
Pacific	315	377	490	647	718
San Juan	389	531	708	933	1110
Skamania	315	377	490	647	718
Wahkiakum	315	377	490	647	718
Whitman	339	386	514	714	845
Asotin	315	377	490	647	718
Clallam	367	454	578	743	812
Cowlitz	353	395	509	707	718
Ferry	315	377	490	647	718
Grant	338	377	490	647	718
Jefferson	315	407	500	678	718
Klickitat	315	377	490	647	718
Lincoln	315	377	490	647	718
Okanogan	315	377	490	647	718
Pend Oreille	315	377	490	647	861
Skagit	429	524	618	772	863
Stevens	315	377	490	647	718
Walla Walla	315	377	490	656	775

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	401	428	504	629	707	Berkeley
Charleston, WV MSA	285	386	490	673	736	Kanawha, Putnam
Cumberland, MD-WV MSA	334	402	497	657	750	Mineral
Huntington-Ashland, WV-KY-OH MSA	302	354	437	557	613	Cabell, Wayne
Jefferson County, WV	406	449	556	723	819	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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 52

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	304	364	417	541	586	Wood
Steubenville-Weirton, OH-WV MSA	284	335	419	535	597	Brooke, Hancock
Wheeling, WV-OH MSA	310	339	419	535	597	Marshall, Ohio

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Barbour	254	322	360	464	539
Braxton	254	310	360	464	539
Clay	254	310	360	464	539
Fayette	254	310	360	464	539
Grant	254	310	360	464	539
Hampshire	254	310	362	477	539
Harrison	279	343	396	494	593
Lewis	254	339	360	464	539
Logan	260	310	360	467	552
Marion	254	320	395	506	584
Mercer	254	310	360	464	539
Monongalia	319	353	430	593	701
Morgan	345	389	436	547	610
Pendleton	254	310	360	464	539
Pocahontas	254	310	360	464	539
Raleigh	293	345	402	518	606
Ritchie	254	310	360	464	539
Summers	254	310	360	464	539
Tucker	254	310	360	464	539
Upshur	254	310	362	464	539
Wetzel	287	310	389	486	613
Wyoming	254	310	360	464	539

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Boone	254	310	360	464	539
Calhoun	254	310	360	464	539
Doddridge	263	310	360	464	539
Gilmer	279	310	360	464	539
Greenbrier	254	350	373	466	539
Hardy	254	310	360	464	539
Jackson	254	317	360	493	539
Lincoln	254	310	360	464	539
Mcdowell	254	310	360	464	539
Mason	254	310	360	464	554
Mingo	254	310	360	464	546
Monroe	254	310	360	464	539
Nicholas	254	310	360	464	539
Pleasants	262	310	360	464	553
Preston	254	325	360	464	539
Randolph	254	310	360	464	539
Roane	254	310	360	464	539
Taylor	311	335	366	464	539
Tyler	254	310	379	475	539
Webster	254	310	360	464	539
Wirt	254	310	360	464	539

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	317	390	495	625	720	Calumet, Outagamie, Winnebago
Duluth-Superior, MN-WI MSA	277	357	459	613	714	Douglas
Eau Claire, WI MSA	341	372	488	626	705	Chippewa, Eau Claire
Green Bay, WI MSA	375	413	530	736	740	Brown
Janesville-Beloit, WI MSA	348	440	545	682	765	Rock
Kenosha, WI PMSA	379	470	577	794	893	Kenosha
La Crosse, WI-MN MSA	281	362	461	617	747	La Crosse
Madison, WI MSA	433	545	658	914	1078	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. 090898

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	368	482	605	758	847	Milwaukee, Ozaukee, Washington, Waukesha
Minneapolis-St. Paul, MN-WI MSA	405	521	666	901	1020	Pierce, St. Croix
Racine, WI PMSA	327	405	535	691	756	Racine
Sheboygan, WI MSA	302	389	475	593	736	Sheboygan
Wausau, WI MSA	371	384	480	654	725	Marathon

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Adams	275	320	408	521	587
Barron	275	320	408	521	587
Buffalo	275	320	408	521	587
Clark	275	320	408	521	587
Crawford	275	320	408	521	587
Door	275	340	422	543	659
Florence	275	320	408	521	587
Forest	275	320	408	521	587
Green	280	320	408	549	587
Iowa	285	320	408	536	587
Jackson	275	320	408	521	587
Juneau	281	320	408	521	587
Lafayette	280	320	408	521	587
Lincoln	275	320	408	521	587
Marinette	275	320	408	521	587
Menominee	275	320	408	521	587
Oconto	275	320	408	521	587
Pepin	275	320	408	521	587
Portage	334	353	458	571	707
Richland	275	320	408	521	587
Sauk	321	332	443	552	619
Shawano	280	320	408	521	587
Trempealeau	275	320	408	521	587
Vilas	275	320	408	521	587
Washburn	275	320	408	521	587
Waushara	275	320	408	521	587

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Ashland	300	332	408	521	587
Bayfield	275	320	408	521	587
Burnett	275	320	408	521	587
Columbia	275	326	429	562	631
Dodge	348	353	464	581	649
Dunn	275	320	419	560	692
Fond du Lac	319	432	512	696	718
Grant	279	320	408	521	587
Green Lake	275	320	408	521	587
Iron	275	320	408	521	587
Jefferson	275	364	473	611	668
Kewaunee	275	320	408	521	587
Langlade	275	320	408	521	587
Manitowoc	278	320	408	521	587
Marquette	275	320	408	521	587
Monroe	275	320	408	544	587
Oneida	275	321	408	525	629
Polk	275	320	415	521	587
Price	275	320	408	521	587
Rusk	275	320	408	521	587
Sawyer	275	320	408	521	587
Taylor	275	320	408	521	587
Vernon	275	320	408	521	587
Walworth	287	403	524	682	766
Waupaca	275	320	408	521	617
Wood	298	341	423	531	596

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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 54

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	316	367	468	642	759	Natrona
Cheyenne, WY MSA	357	448	598	764	928	Laramie

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Albany	305	383	510	709	838
Campbell	314	334	428	570	673
Converse	290	334	428	568	653
Fremont	290	334	428	568	653
Hot Springs	290	334	428	568	653
Lincoln	290	334	428	568	653
Park	290	334	428	568	660
Sheridan	290	334	428	568	660
Sweetwater	302	334	428	570	673
Uinta	304	334	428	569	688
Weston	290	334	428	568	653

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Big Horn	290	334	428	568	653
Carbon	290	334	428	568	653
Crook	290	334	428	568	653
Goshen	290	334	428	568	653
Johnson	290	334	428	568	653
Niobrara	290	334	428	568	653
Platte	290	334	428	568	653
Sublette	323	364	428	568	653
Teton	388	494	655	881	961
Washakie	290	334	428	568	653

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	680	818	968	1214	1366

NONMETROPOLITAN COUNTIES O BR 1 BR 2 BR 3 BR 4 BR

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	210	256	304	378	426	Aguada Municipio, Aguadilla Municipio, Moca Municipio
Arecibo, PR PMSA	227	275	323	406	456	Arecibo Municipio, Camuy Municipio, Hatillo Municipio
Caguas, PR PMSA	265	319	377	474	527	Caguas Municipio, Cayey Municipio, Cidra Municipio Gurabo Municipio, San Lorenzo Municipio
Mayaguez, PR MSA	250	304	361	448	505	Anasco Municipio, Cabo Rojo Municipio Hormigueros Municipio, Mayaguez Municipio Sabana Grande Municipio, San German Municipio
Ponce, PR MSA	248	303	357	446	501	Guayanilla Municipio, Juana Diaz Municipio Penuelas Municipio, Ponce Municipio, Villalba Municipio Yauco Municipio
San Juan-Bayamon, PR PMSA	333	407	480	601	674	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. 090898

SCHEDULE B - 40TH PERCENTILE FAIR MARKET RENTS FOR EXISTING HOUSING PAGE 55

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.....	200	247	289	365	404
Arroyo Municipio.....	200	247	289	365	404
Ciales Municipio.....	200	247	289	365	404
Culebra Municipio.....	200	247	289	365	404
Guayama Municipio.....	200	247	289	365	404
Jayuya Municipio.....	200	247	289	365	404
Lares Municipio.....	200	247	289	365	404
Maricao Municipio.....	200	247	289	365	404
Orocovis Municipio.....	200	247	289	365	404
Quebradillas Municipio..	200	247	289	365	404
Salinas Municipio.....	200	247	289	365	404
Santa Isabel Municipio..	200	247	289	365	404
Vieques Municipio.....	200	247	289	365	404

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
Aibonito Municipio.....	200	247	289	365	404
Barranquitas Municipio..	200	247	289	365	404
Coamo Municipio.....	200	247	289	365	404
Guanica Municipio.....	200	247	289	365	404
Isabela Municipio.....	200	247	289	365	404
Lajas Municipio.....	200	247	289	365	404
Las Marias Municipio....	200	247	289	365	404
Maunabo Municipio.....	200	247	289	365	404
Patillas Municipio.....	200	247	289	365	404
Rincon Municipio.....	200	247	289	365	404
San Sebastian Municipio.	200	247	289	365	404
Utuado Municipio.....	200	247	289	365	404

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
St. Croix.....	477	579	683	853	956

NONMETROPOLITAN COUNTIES	O BR	1 BR	2 BR	3 BR	4 BR
St. Johns/St. Thomas....	613	743	875	1094	1225

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. 090898

Schedule D: FY 1999 40th Percentile Fair Market Rents For Manufactured Home Spaces In The Section 8 Certificate Program

Area Name	Space Rent
California	
Los Angeles, CA	$375
Orange County, CA	$458
Riverside-San Bernardino, CA	$298
San Diego, CA	$405
San Jose, CA	$456
Vallejo-Fairfield-Napa, CA	$300
Mendocino County, CA	$245
Colorado	
Boulder-Longmont, CO	$327
Denver, CO	$311
Delaware	
Dover, DE	$175
Sussex County, DE	$121
Maryland	
Hagerstown, MD	$215
St. Mary's County, MD	$264
Minnesota	
Minneapolis-St. Paul, MN-WI	$268
Nevada	
Reno, NV	$285
New York	
Dutchess County, NY	$360
Jamestown, NY	$175
Newburgh, NY-PA	$338
Rochester, NY	$244
Utica-Rome, NY	$218
Tompkins County, NY	$204
Oregon	
Salem, OR	$227
Portland-Vancouver, OR-WA	$274
Benton County, OR	$207
Deschutes County, OR	$257
Linn County, OR	$187
Utah	
Provo-Orem, UT	$219
Vermont	
Washington County, VT	$209
West Virginia	
Berkeley County, WV	$141
Jefferson County, WV	$145
Morgan County, WV	$140

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federal register

Thursday
October 1, 1998

Part VII

Department of Education

Notice Inviting Applications and Pre-Application Meetings for a New Award for a Disability and Rehabilitation Research Project (DRRP) and a Rehabilitation Engineering Research Center (RERC) for Fiscal Year (FY) 1999

DEPARTMENT OF EDUCATION

[CFDA Nos.: 84.133A and 84.133E–3]

Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research; Notice Inviting Applications and Pre-application Meetings for a New Award for a Disability and Rehabilitation Research Project (DRRP) and a Rehabilitation Engineering Research Center (RERC) for Fiscal Year (FY) 1999

Purpose: The purposes of this notice are to: (1) invite interested parties to participate in pre-application meetings to discuss the funding priorities and receive technical assistance through individual consultation and information about the funding priorities; (2) invite applications for a DRRP on supported living and choice for persons with mental retardation; and (3) invite applications for an RERC on wheeled mobility.

Pre-Application Meetings: Interested parties are invited to participate in pre-application meetings to discuss the funding priorities for a DRRP on supported living and choice for persons with mental retardation and for an RERC on wheeled mobility, and to receive technical assistance through individual consultation and information about the funding priorities.

The pre-application meeting for a DRRP on supported living and choice for persons with mental retardation will be held on Monday, October 26, 1998 at the Department of Education, Office of Special Education and Rehabilitative Services, Room 1002 Switzer Building, 330 C Street, S.W., Washington, DC between 10:00 a.m. and 12:00 p.m. NIDRR staff will also be available at this location from 1:30 p.m. to 5:00 p.m. on that same day to provide technical assistance through individual consultation and information about the funding priority. For further information contact Ellen Blasotti, U.S. Department of Education, Room 3427 Switzer Building, 600 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 205–9800. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–5516.

The pre-application meeting for an RERC on wheeled mobility will be held on Monday, October 19, 1998 at the Department of Education, Office of Special Education and Rehabilitative Services, Room 3065 Switzer Building, 330 C Street, S.W., Washington, DC between 10:00 a.m. and 12:00 p.m. NIDRR staff will also be available at this location from 1:30 p.m. to 5:00 p.m. on that same day to provide technical assistance through individual consultation and information about the funding priority. For further information contact William Peterson, U.S. Department of Education, Room 3425 Switzer Building, 600 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 205–9192. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–5516.

NIDRR will make alternate arrangements to accommodate interested parties who are unable to attend the pre-application meetings in person.

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the programs and applicable regulations governing the programs, including the Education Department General Administrative Regulations (EDGAR), this notice contains information, application forms, and instructions needed to apply for a grant under these competitions.

These programs support the National Education Goal that calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The estimated funding levels in this notice do not bind the Department of Education to make awards in any of these categories, or to any specific number of awards or funding levels, unless otherwise specified in statute.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 80, 81, 82, 85, 86, and 34 CFR Part 350.

Program Title: Disability and Rehabilitation Research Project and Centers Program.

CFDA Numbers: 84.133A and 84.133E–3.

Purpose of Program: The purpose of the Disability and Rehabilitation Research Project and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities. In addition, the purpose of the Disability and Rehabilitation Research Project and Centers Program is to improve the effectiveness of services authorized under the Act.

Eligible Applicants: Parties eligible to apply for grants under this program are States; public or private agencies, including for-profit agencies; public or private organizations, including for-profit organizations, institutions of higher education; and Indian tribes and tribal organizations.

Program Authority: 29 U.S.C. 762(a) and (b)(6).

APPLICATION NOTICE FOR FISCAL YEAR 1999—DISABILITY AND REHABILITATION RESEARCH PROJECTS, CFDA NO. 84–133A REHABILITATION ENGINEERING RESEARCH CENTERS, CFDA NO. 84–133E–3

Funding priorities	Deadline for transmittal of applications	Estimated number of awards	Maximum award amount (per year)	Project period (months)
(1) DRRP—Supported Living and Choice for Persons with Mental Retardation	11/30/98	1	$400,000	60
(2) RERC—Wheeled Mobility	11/30/98	1	900,000	60

*Note: The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount per year (See 34 CFR 75.104(b)).

Priority 1: The DRRP final priority on supported living and choice for persons with mental retardation was published on May 11, 1998 in the **Federal Register** (63 FR 26030).

Supported Living and Choice for Persons With Mental Retardation

Selection Criteria: The Secretary uses the following selection criteria to evaluate applications for a DRRP on supported living and choice for persons

with mental retardation under the Disability and Rehabilitation Research Project and Centers Program (See 34 CFR § 350.54).

(a) *Importance of the problem* (9 points total).

(1) The Secretary considers the importance of the problem.

(2) In determining the importance of the problem, the Secretary considers the following factors:

(i) The extent to which the applicant clearly describes the need and target population (3 points).

(ii) The extent to which the proposed activities address a significant need of those who provide services to individuals with disabilities (3 points).

(iii) The extent to which the proposed project will have beneficial impact on the target population (3 points).

(b) *Responsiveness to an absolute or competitive priority* (4 points total).

(1) The Secretary considers the responsiveness of the application to the absolute or competitive priority published in the **Federal Register**.

(2) In determining the responsiveness of the application to the absolute or competitive priority, the Secretary considers the following factors:

(i) The extent to which the applicant addresses all requirements of the absolute or competitive priority (2 points).

(ii) The extent to which the applicant's proposed activities are likely to achieve the purposes of the absolute or competitive priority (2 points).

(c) *Design of training activities* (13 points total).

(1) The Secretary considers the extent to which the design of training activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the proposed training materials are likely to be effective, including consideration of their quality, clarity, and variety (4 points).

(ii) The extent to which the proposed training methods are of sufficient quality, intensity, and duration (3 points).

(iii) The extent to which the proposed training materials, methods, and content are appropriate to the trainees, including consideration of the skill level of the trainees and the subject matter of the materials (4 points).

(iv) The extent to which the proposed training materials and methods are accessible to individuals with disabilities (2 points).

(d) *Design of dissemination activities* (24 points total).

(1) The Secretary considers the extent to which the design of dissemination activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the materials to be disseminated are likely to be effective and usable, including consideration of their quality, clarity, variety, and format (7 points).

(ii) The extent to which the methods for dissemination are of sufficient quality, intensity, and duration (7 points).

(iii) The extent to which the materials and information to be disseminated and the methods for dissemination are appropriate to the target population, including consideration of the familiarity of the target population with the subject matter, format of the information, and subject matter (7 points).

(iv) The extent to which the information to be disseminated will be accessible to individuals with disabilities (3 points).

(e) *Design of utilization activities* (8 points total).

(1) The Secretary considers the extent to which the design of utilization activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the extent to which the utilization strategies are likely to be effective (8 points).

(f) *Design of technical assistance activities* (10 points total).

(1) The Secretary considers the extent to which the design of technical assistance activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the methods for providing technical assistance are of sufficient quality, intensity, and duration (3 points).

(ii) The extent to which the information to be provided through technical assistance covers all of the relevant aspects of the subject matter (2 points).

(iii) The extent to which the technical assistance is appropriate to the target population, including consideration of the knowledge level of the target population, needs of the target population, and format for providing information (3 points).

(iv) The extent to which the technical assistance is accessible to individuals with disabilities (2 points).

(g) *Plan of operation* (6 points total).

(1) The Secretary considers the quality of the plan of operation.

(2) In determining the quality of the plan of operation, the Secretary considers the following factors:

(i) The adequacy of the plan of operation to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, and timelines for accomplishing project tasks (3 points).

(ii) The adequacy of the plan of operation to provide for using resources, equipment, and personnel to achieve each objective (3 points).

(h) *Collaboration* (2 points total).

(1) The Secretary considers the quality of collaboration.

(2) In determining the quality of collaboration, the Secretary considers the following factors:

(i) The extent to which the applicant's proposed collaboration with one or more agencies, organizations, or institutions is likely to be effective in achieving the relevant proposed activities of the project (1 point).

(ii) The extent to which agencies, organizations, or institutions demonstrate a commitment to collaborate with the applicant (1 point).

(i) *Adequacy and reasonableness of the budget* (4 points total).

(1) The Secretary considers the adequacy and the reasonableness of the proposed budget.

(2) In determining the adequacy and the reasonableness of the proposed budget, the Secretary considers the following factors:

(i) The extent to which the costs are reasonable in relation to the proposed project activities (2 point).

(ii) The extent to which the budget for the project, including any subcontracts, is adequately justified to support the proposed project activities (2 point).

(j) *Plan of evaluation* (7 points total).

(1) The Secretary considers the quality of the plan of evaluation.

(2) In determining the quality of the plan of evaluation, the Secretary considers the following factors:

(i) The extent to which the plan of evaluation provides for periodic assessment of progress toward—

(A) Implementing the plan of operation (1 point); and

(B) Achieving the project's intended outcomes and expected impacts (1 point).

(ii) The extent to which the plan of evaluation will be used to improve the performance of the project through the feedback generated by its periodic assessments (1 point).

(iii) The extent to which the plan of evaluation provides for periodic assessment of a project's progress that is based on identified performance measures that—

(A) Are clearly related to the intended outcomes of the project and expected impacts on the target population (2 points); and

(B) Are objective, and quantifiable or qualitative, as appropriate (2 points).

(k) *Project staff* (9 points total).

(1) The Secretary considers the quality of the project staff.

(2) In determining the quality of the project staff, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (2 points).

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the key personnel and other key staff have appropriate training and experience in disciplines required to conduct all proposed activities (2 points).

(ii) The extent to which the commitment of staff time is adequate to accomplish all the proposed activities of the project (2 points).

(iii) The extent to which the key personnel are knowledgeable about the methodology and literature of pertinent subject areas (2 points).

(iv) The extent to which key personnel have up-to-date knowledge from research or effective practice in the subject area covered in the priority (1 point).

(l) *Adequacy and accessibility of resources* (4 points total).

(1) The Secretary considers the adequacy and accessibility of the applicant's resources to implement the proposed project.

(2) In determining the adequacy and accessibility of resources, the Secretary considers the following factors:

(i) The extent to which the applicant is committed to provide adequate facilities, equipment, other resources, including administrative support, and laboratories, if appropriate (2 points).

(ii) The extent to which the facilities, equipment, and other resources are appropriately accessible to individuals with disabilities who may use the facilities, equipment, and other resources of the project (2 points).

Priority 2: The RERC final priority on wheeled mobility was published on June 12, 1998 in the **Federal Register** (63 FR 32536).

Wheeled Mobility Selection Criteria: The Secretary uses the following selection criteria to evaluate applications for an RERC on wheeled mobility under the Disability and Rehabilitation Research Project and Centers Program (See 34 CFR § 350.54).

(a) *Importance of the problem* (8 points total).

(1) The Secretary considers the importance of the problem.

(2) In determining the importance of the problem, the Secretary considers the following factors:

(i) The extent to which the applicant clearly describes the need and target population (3 points).

(ii) The extent to which the proposed activities address a significant need of rehabilitation service providers (2 points).

(iii) The extent to which the proposed project will have beneficial impact on the target population (3 points).

(b) *Responsiveness to an absolute or competitive priority* (4 points total).

(1) The Secretary considers the responsiveness of an application to the absolute or competitive priority published in the **Federal Register**.

(2) In determining the application's responsiveness to the absolute or competitive priority, the Secretary considers the following factors:

(i) The extent to which the applicant addresses all requirements of the absolute or competitive priority (2 points).

(ii) The extent to which the applicant's proposed activities are likely to achieve the purposes of the absolute or competitive priority (2 points).

(c) *Design of research activities* (20 points total).

(1) The Secretary considers the extent to which the design of research activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the research activities constitute a coherent, sustained approach to research in the field, including a substantial addition to the state-of-the-art (3 points).

(ii) The extent to which the methodology of each proposed research activity is meritorious, including consideration of the extent to which—

(A) The proposed design includes a comprehensive and informed review of the current literature, demonstrating knowledge of the state-of-the-art (3 points);

(B) Each research hypothesis is theoretically sound and based on current knowledge (3 points);

(C) Each sample population is appropriate and of sufficient size (3 points);

(D) The data collection and measurement techniques are appropriate and likely to be effective (3 points); and

(E) The data analysis methods are appropriate (3 points).

(iii) The extent to which anticipated research results are likely to satisfy the original hypotheses and could be used for planning additional research, including generation of new hypotheses where applicable (2 points).

(d) *Design of development activities* (20 points total).

(1) The Secretary considers the extent to which the design of development activities is likely to be effective in accomplishing the objectives of the project.

(2)(i) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(ii) The extent to which the plan for development, clinical testing, and evaluation of new devices and technology is likely to yield significant products or techniques, including consideration of the extent to which—

(A) The proposed project will use the most effective and appropriate technology available in developing the new device or technique (3 points);

(B) The proposed development is based on a sound conceptual model that demonstrates an awareness of the state-of-the-art in technology (4 points);

(C) The new device or technique will be developed and tested in an appropriate environment (3 points);

(D) The new device or technique is likely to be cost-effective and useful (3 points);

(E) The new device or technique has the potential for commercial or private manufacture, marketing, and distribution of the product (4 points); and

(F) The proposed development efforts include adequate quality controls and, as appropriate, repeated testing of products (3 points).

(e) *Design of training activities* (4 points total).

(1) The Secretary considers the extent to which the design of training activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factor: The extent to which the type, extent, and quality of the proposed clinical and laboratory research experience, including the opportunity to participate in advanced-level research, are likely to develop highly qualified researchers (4 points).

(f) *Design of dissemination activities* (7 points total).

(1) The Secretary considers the extent to which the design of dissemination activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the content of the information to be disseminated—

(A) Covers all of the relevant aspects of the subject matter (2 points); and

(B) If appropriate, is based on new knowledge derived from research activities of the project (2 points).

(ii) The extent to which the materials to be disseminated are likely to be effective and usable, including consideration of their quality, clarity, variety, and format (2 points).

(iii) The extent to which the information to be disseminated will be accessible to individuals with disabilities (1 point).

(g) *Design of utilization activities* (2 points total).

(1) The Secretary considers the extent to which the design of utilization activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factor: The extent to which the potential new users of the information or technology have a practical use for the information and are likely to adopt the practices or use the information or technology, including new devices (2 points).

(h) *Design of technical assistance activities* (2 points total).

(1) The Secretary considers the extent to which the design of technical assistance activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factor: The extent to which the methods for providing technical assistance are of sufficient quality, intensity, and duration (2 points).

(i) *Plan of operation* (4 points total).

(1) The Secretary considers the quality of the plan of operation.

(2) In determining the quality of the plan of operation, the Secretary considers the following factors:

(i) The adequacy of the plan of operation to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, and timelines for accomplishing project tasks (2 points).

(ii) The adequacy of the plan of operation to provide for using resources, equipment, and personnel to achieve each objective (2 points).

(j) *Collaboration* (4 points total).

(1) The Secretary considers the quality of collaboration.

(2) In determining the quality of collaboration, the Secretary considers the following factors:

(i) The extent to which agencies, organizations, or institutions demonstrate a commitment to collaborate with the applicant (2 points).

(ii) The extent to which agencies, organizations, or institutions that commit to collaborate with the applicant have the capacity to carry out collaborative activities (2 points).

(k) *Adequacy and reasonableness of the budget* (3 points total).

(1) The Secretary considers the adequacy and the reasonableness of the proposed budget.

(2) In determining the adequacy and the reasonableness of the proposed budget, the Secretary considers the following factors:

(i) The extent to which the costs are reasonable in relation to the proposed project activities (1 point).

(ii) The extent to which the budget for the project, including any subcontracts, is adequately justified to support the proposed project activities (2 points).

(l) *Plan of evaluation* (9 points total).

(1) The Secretary considers the quality of the plan of evaluation.

(2) In determining the quality of the plan of evaluation, the Secretary considers the following factors: The extent to which the plan of evaluation provides for periodic assessment of a project's progress that is based on identified performance measures that—

(i) Are clearly related to the intended outcomes of the project and expected impacts on the target population (5 points); and

(ii) Are objective, and quantifiable or qualitative, as appropriate (4 points).

(m) *Project staff* (9 points total).

(1) The Secretary considers the quality of the project staff.

(2) In determining the quality of the project staff, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (1 point).

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the key personnel and other key staff have appropriate training and experience in disciplines required to conduct all proposed activities (2 points).

(ii) The extent to which the commitment of staff time is adequate to accomplish all the proposed activities of the project (2 points).

(iii) The extent to which the key personnel are knowledgeable about the methodology and literature of pertinent subject areas (2 points).

(iv) The extent to which the project staff includes outstanding scientists in the field (2 points).

(n) *Adequacy and accessibility of resources* (4 points total).

(1) The Secretary considers the adequacy and accessibility of the applicant's resources to implement the proposed project.

(2) In determining the adequacy and accessibility of resources, the Secretary considers the following factors:

(i) The extent to which the applicant is committed to provide adequate facilities, equipment, other resources, including administrative support, and laboratories, if appropriate (2 points).

(ii) The extent to which the applicant has appropriate access to clinical populations and organizations representing individuals with disabilities to support advanced clinical rehabilitation research (1 point).

(iii) The extent to which the facilities, equipment, and other resources are appropriately accessible to individuals with disabilities who may use the facilities, equipment, and other resources of the project (1 point).

Instructions for Application Narrative

The Secretary strongly recommends that applicants:

(1) Include a one-page abstract in their application;

(2) Limit Part III—Application Narrative to no more than 75 pages for DRRPs and 125 pages for RERCs;

(3) Use pages that are 8½ x 11″ (one side only) with one inch margins (top, bottom, and sides);

(4) Double-space (no more than 3 lines per vertical inch) all sections of text in the application narrative; and

(5) Use no smaller than a 12-point font, and an average character density no greater than 14 characters per inch.

The recommended application narrative page limit does not apply to: Part I—the electronically scannable form; Part II—the budget section (including the narrative budget justification); and Part IV—the assurances and certifications. Also, the one-page abstract, resume(s), bibliography, or letters of support, while considered part of the application, are not subject to the recommended page limitation. Applicants should note that reviewers are not required to review any information provided in addition to the application information listed above.

The recommendations for double-spacing and font do not apply within charts, tables, figures, and graphs, but the information presented in those formats should be easily readable.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Washington, D.C. 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. [Washington, D.C. time] on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Room #3633, Regional Office Building #3, 7th and D Streets, S.W., Washington, D.C.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped self-addressed postcard containing the CFDA number and title of this program.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

Application Forms and Instructions

The appendix to this application is divided into four parts. These parts are organized in the same manner that the submitted application should be organized. These parts are as follows:

PART I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

PART II: Budget Form—Non-Construction Programs (Standard Form 524A) and instructions.

PART III: Application Narrative.

Additional Materials

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters: and Drug-Free Work-Place Requirements (ED Form 80–0013).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form 80–0014) and instructions. (NOTE: ED Form GCS–014 is intended for the use of primary participants and should not be transmitted to the Department.)

Disclosure of Lobbying Activities (Standard Form LLL (if applicable) and instructions; and Disclosure of Lobbying Activities Continuation Sheet (Standard Form LLL–A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an *original signature.* No grant may be awarded unless a completed application form has been received.

FOR APPLICATIONS CONTACT: The Grants and Contracts Service Team (GCST), Department of Education, 600 Independence Avenue S.W., Switzer Building, 3317, Washington, D.C. 20202, or call (202) 205–8207. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9860. The preferred method for requesting information is to FAX your request to (202) 205–8717.

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the GCST. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

For Further Information Contact: Donna Nangle, U.S. Department of Education, 600 Maryland Avenue, S.W., room 3418, Switzer Building, Washington, D.C. 20202–2645. Telephone: (202) 205–5880. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9136. Internet: Donna__Nangle@ed.gov

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm

http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the preceding sites. If you have questions about using the pdf, call the U.S. Government Printing Office at (202) 512–1530 or, toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Program Authority: 29 U.S.C. 760–762.

Dated: September 28, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

Appendix

Application Forms and Instructions

Applicants are advised to reproduce and complete the application forms in this section. Applicants are required to submit an original and two copies of each application as provided in this section. However, applicants are encouraged to submit an original and seven copies of each application in order to facilitate the peer review process and minimize copying errors.

Frequent Questions

1. Can I Get an Extension of the Due Date?

No! On rare occasions the Department of Education may extend a closing date for all applicants. If that occurs, a notice of the revised due date is published in the **Federal Register**. However, there are no extensions or exceptions to the due date made for individual applicants.

2. What Should Be Included in the Application?

The application should include a project narrative, vitae of key personnel, and a budget, as well as the Assurances forms included in this package. Vitae of staff or consultants should include the individual's title and role in the proposed project, and other information that is specifically pertinent to this proposed project. The budgets for both the first year and all subsequent project years should be included.

If collaboration with another organization is involved in the proposed activity, the application should include assurances of participation by the other parties, including written agreements or assurances of cooperation. It is *not* useful to include general letters of support or endorsement in the application.

If the applicant proposes to use unique tests or other measurement instruments that are not widely known in the field, it would be helpful to include the instrument in the application.

Many applications contain voluminous appendices that are not helpful and in many cases cannot even be mailed to the reviewers. It is generally not helpful to include such things as brochures, general capability statements of collaborating organizations, maps, copies of publications, or descriptions of other projects completed by the applicant.

3. What Format Should Be Used for the Application?

NIDRR generally advises applicants that they may organize the application to follow the selection criteria that will be used. The specific review criteria vary according to the specific program and are contained in this Consolidated Application Package.

4. May I Submit Applications to More Than One NIDRR Program Competition or More Than One Application to a Program?

Yes, you may submit applications to any program for which they are responsive to the program requirements. You may submit the same application to as many competitions as you believe appropriate. You may also submit more than one application in any given competition.

5. What is the Allowable Indirect Cost Rate?

The limits on indirect costs vary according to the program and the type of application.

An applicant for a DRRP or RERC should limit indirect charges to the organization's approved indirect cost rate. If the organization does not have an approved indirect cost rate, the application should include an estimated actual rate.

6. Can Profitmaking Businesses Apply for Grants?

Yes. However, for-profit organizations will not be able to collect a fee or profit on the grant, and in some programs will be required to share in the costs of the project.

7. Can Individuals Apply for Grants?

No. Only organizations are eligible to apply for *grants* under NIDRR programs. However, individuals are the only entities eligible to apply for fellowships.

8. Can NIDRR Staff Advise Me Whether My Project is of Interest to NIDRR or Likely to be Funded?

No. NIDRR staff can advise you of the requirements of the program in which you propose to submit your application. However, staff cannot advise you of whether your subject area or proposed approach is likely to receive approval.

9. How Do I Assure That my Applicaiton Will be Referred to the Most Appropriate Panel for Review?

Applicants should be sure that their applications are referred to the correct competition by clearly including the competition title and CFDA number, including alphabetical code, on the Standard Form 424, and including a project title that describes the project.

10. How Soon After Submitting My Application Can I Find Out if it Will be Funded?

The time from closing date to grant award date varies from program to program. Generally speaking, NIDRR endeavors to have awards made within five to six months of the closing date. Unsuccessful applicants generally will be notified within that time frame as well. For the purpose of estimating a project start date, the applicant should estimate approximately six months from the closing date, but no later than the following September 30.

11. Can I Call NIDRR To Find Out if My Application Is Being Funded?

No. When NIDRR is able to release information on the status of grant applications, it will notify applicants by letter. The results of the peer review cannot be released except through this formal notification.

12. If My Application Is Successful, Can I Assume I Will Get the Requested Budget Amount in Subsequent Years?

No. Funding in subsequent years is subject to availability of funds and project performance.

13. Will All Approved Applications Be Funded?

No. It often happens that the peer review panels approve for funding more applications than NIDRR can fund within available resources. Applicants who are approved but not funded are encouraged to consider submitting similar applications in future competitions.

BILLING CODE 4000–01–P

Application for Federal Education Assistance

U.S. Department of Education

Form Approved
OMB No. 1875-0106
Exp. 06/30/2001

Applicant Information

1. Name and Address

Legal Name: _____

Address: _____

_____

City _____ State _____ County _____ ZIP Code _____ - _____

Organizational Unit

2. Applicant's D-U-N-S Number [ ][ ][ ][ ][ ][ ][ ][ ][ ]

3. Catalog of Federal Domestic Assistance #: 8 4 [ ][ ][ ][ ] ➡ Title: _____

4. Project Director: _____

Address: _____

City _____ State _____ ZIP Code _____ - _____

Tel. #: ( ) _____-_____ Fax #: ( ) _____-_____

E-Mail Address: _____

5. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No

(If "Yes," attach an explanation.)

6. Type of Applicant *(Enter appropriate letter in the box.)* ☐

A State	H Independent School District
B County	I Public College or University
C Municipal	J Private, Non-Profit College or University
D Township	K Indian Tribe
E Interstate	L Individual
F Intermunicipal	M Private, Profit-Making Organization
G Special District	N Other *(Specify)*: _____

7. Novice Applicant ☐ Yes ☐ No

Application Information

8. Type of Submission:

—PreApplication	*—Application*
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

9. Is application subject to review by Executive Order 12372 process?

Yes *(Date made available to the Executive Order 12372 process for review):* ____/____/_____

No *(If "No," check appropriate box below.)*

☐ Program is not covered by E.O. 12372.

☐ Program has not been selected by State for review.

10. Proposed Project Dates: **Start Date:** ____/____/_____ **End Date:** ____/____/_____

11. Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No

a. If "Yes," Exemption(s) #:

OR

b. Assurance of Compliance #:

c. IRB approval date: _____ ☐ Full IRB **or** ☐ Expedited Review

12. Descriptive Title of Applicant's Project:

Estimated Funding

13a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

Authorized Representative Information

14. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative

b. Title

c. Tel. #: ( ) _____-_____ Fax #: ( ) _____-_____

d. E-Mail Address: _____

e. Signature of Authorized Representative Date:

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505 or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

4. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

5. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

6. **Type of Applicant.** Enter the appropriate letter in the box provided.

7. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

8. **Type of Submission.** Self-explanatory.

9. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. Otherwise, check **"No."**

10. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

11. **Human Subjects.** If research activities involving human subjects are **not** planned **at any time** during the proposed project period, check **"No."** The remaining parts of item 11 are then not applicable.

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, **are** planned **at any time** during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If the research activities are designated to be exempt under the regulations, enter, in item 11a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"PROTECTION OF HUMAN SUBJECTS IN RESEARCH"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions are appropriate.

    If the planned research activities involving human subjects are covered (not exempt), complete the remaining parts of item 11 and follow the instructions in **"PROTECTION OF HUMAN SUBJECTS IN RESEARCH"** attached to this form. If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 11b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 11c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may review an application through an expedited review procedure only if it complies with Section 97.110 of the human subjects regulations 34 CFR 97. If the IRB review is unavoidably delayed beyond the submission of the application, enter **"Pending"** in item 11c. A follow-up certification of IRB approval from an official signing for the applicant organization must then be sent to and received by the designated ED official. The certification must be received within 30 days of a specific formal request from the designated ED official. The certification must include: the PR Award number, title of the project from item #12, name of the principal investigator, project director, fellow, or other, institution, Multiple Assurance number, date of IRB approval, and appropriate signatures.

    If the applicant organization does not have on file with GPOS or OPRR an approved Assurance of Compliance that covers the proposed research activity, enter **"None"** in item 11b. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days of a specific formal request from the designated ED official.

    For additional instructions regarding proposals that involve human subjects research see, **"PROTECTION OF HUMAN SUBJECTS IN RESEARCH"** attached to this form.

12. **Project Title.** Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

13. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate **only** the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 13.

14. **Certification.** To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 14e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH (Attachment to ED 424)

I. Instructions to Applicants if Research Activities Involving Human Subjects are Planned

If you marked item 11 on the application "Yes" and designated exemptions from the human subjects regulations, provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below.

If you marked "Yes" to item 11 on the Face Page, and designated no exemptions from the regulations, address the following six points. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Be sure to provide this information on a separate page(s) entitled "Protection of Human Subjects Attachment."

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control No. 1880--0538

Expiration Date: 10/31/99

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	**Total (f)**
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	**Total (f)**
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours, 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 U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington, D.C. 20503.

INSTRUCTIONS FOR ED FORM NO. 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

BILLING CODE 4000–01–C

Public reporting burden for these collections of information is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for reducing this burden to: the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project 1820–0027, Washington, D.C. 20503.

Disability and Rehabilitation Research Projects (CFDA No. 84.133A) 34 CFR Part 350 Subpart B.

Rehabilitation Engineering Research Center (CFDA No. 84.133E–3) CFR Part 350 Subpart C.

BILLING CODE 4000–01–P

ESTIMATED PUBLIC REPORTING BURDEN

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is [fill in OMB control number with hyphen]. Expiration date: [fill in date]. The time required to complete this information collection is estimated to average [fill in number, then add the word hours or minutes, as appropriate] per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate[s] or suggestions for improving this form, please write to: U.S. Department of Education, Washington, D.C. 20202-4651.

If you have comments or concerns regarding the status of your individual submission of this form, write directly to: [Name or appropriate principal office], U.S. Department of Education, 600 Independence Avenue, SW. [or] [555 New Jersey Avenue, NW.], room [fill in room number and, if necessary, building designation] Washington D.C. 20202-[fill in last four digits of Zip Code].

OMB Approval No. 0348-0040

ASSURANCES- NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management, and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §§874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to

EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official	Title	
Applicant Organization		Date Submitted

SF 424 (4-88) Back

OMB Control No. 1801-0004 (Exp. 8/31/2001)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs.

This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single

narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, DC 20202-4651.

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110--

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c)Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about-

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will-

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address. city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 600 Independence Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APP LICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant,' " person," "primary covered transaction," " principal," proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C 1352
(See reverse for public burden disclosure.)

1. **Type of Federal Action:**
   a. contract
   b. grant
   c. cooperative agreement
   d. loan
   e. loan guarantee
   f. loan insurance

2. **Status of Federal Action:**
   a. bid/offer/application
   b. initial award
   c. post-award

3. **Report Type:**
   a. initial filing
   b. material change

   For Material Change Only:
   year _____ quarter ____
   date of last report

4. **Name and Address of Reporting Entity:**
   ☐ Prime ☐ Subawardee
   Tier _____, *if known:*

   Congressional District, *if known:*

5. **If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime:**

   Congressional District, *if known:*

6. **Federal Department/Agency:**

7. **Federal Program Name/Description:**

   CFDA Number, *if applicable*:

8. **Federal Action Number,** *if known:*

9. **Award Amount,** *if known:*

   $

10. a. **Name and Address of Lobbying ~~Entity~~ Registrant** *(if individual, last name, first name, MI):*

    b. **Individuals Performing Services** *(including address if different from No. 10a) (last name, first name, MI):*

~~11. **Amount of Payment** *(check all that apply):*~~

~~$ _____ ☐ actual ☐ planned~~

~~12. **Form of Payment** *(check all that apply):*~~

~~☐ a. cash~~
~~☐ b. in-kind; specify: nature _____ value _____~~

~~13. **Type of Payment** *(Check all that apply):*~~

~~☐ a. retainer~~
~~☐ b. one-time fee~~
~~☐ c. commission~~
~~☐ d. contingent fee~~
~~☐ e. deferred~~
~~☐ f. other; specify: _____~~

~~14. **Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:**~~

~~*(attach Continuation Sheet(s) SF-LLL-A, if necessary)*~~

~~15. **Continuation Sheet(s) SF-LLL attached:** ☐ Yes ☐ No~~

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Print Name: _____

Title: _____

Telephone No.: _____ **Date:**

Federal Use Only

Authorized for Local Reproduction
Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. ~~Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate.~~ Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and conract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee" then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number, grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state, and zip code of the ~~lobbying entity~~ registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

~~11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this a material change report, enter the cumulative amount of payment made or planned to be made.~~

~~12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of in-kind payment.~~

~~13. Check the appropriate box(es). Check all boxes that apply. If other specify nature.~~

~~14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.~~

~~15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.~~

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including 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 the burden estimate or any other aspect of this collection of information, including suggestions

[FR Doc. 98–26332 Filed 9–30–98; 8:45 am]
BILLING CODE 4000–01–C

federal register

Thursday
October 1, 1998

Part VIII

Department of Education

National Assessment of Educational Progress (NAEP)—Secondary Analysis Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.902B]

National Assessment of Educational Progress (NAEP)—Secondary Analysis Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999

Purpose of Program: The purpose of the NAEP Secondary Analysis program is to encourage eligible parties to prepare reports that would not otherwise be available utilizing new ideas or state-of-the-art techniques to analyze and report the information contained in NAEP and NAEP High School Transcript Studies. Analyses and reports prepared under this program should potentially be useful to the general public, parents, educators, educational researchers, or policy makers.

Eligible Applicants: Public or private organizations and consortia of organizations.

Deadline for Transmittal of Applications: November 30, 1998.

Applications Available: October 9, 1998.

Available Funds: $700,000.

The Administration's budget request for FY 1999 does not include funds for this program. However, applications are being invited to allow sufficient time to complete the grant process before the end of the fiscal year, should the Congress appropriate funds for this program.

Estimated Range of Awards: $15,000—$100,000.

Estimated Average Size of Awards: $85,000.

Estimated Number of Awards: 5–7.

Maximum Award: The Secretary will not consider an application that proposes a budget exceeding $100,000.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 18 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 80, 81, 82, 85, and 86; and (b) the regulations in 34 CFR Part 700.

Invitational Priorities: The Secretary is particularly interested in applications that meet one or more of the invitational priorities in this notice. However, an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Invitational Priority 1—Projects that use NAEP achievement data alone or in combination with other data sets to assist policymakers and educators who make decisions about curriculum and instruction.

Invitational Priority 2—Projects designed to assist States in analyzing, interpreting and reporting their State-level NAEP results.

Invitational Priority 3—Projects that include the development of analytic procedures that improve precision with which NAEP estimates group and subgroup performance.

Invitational Priority 4—Projects that develop improved sampling procedures for national or State-level NAEP.

Invitational Priority 5—Projects to analyze and report data using statistical software developed by the project to permit more advanced analytic techniques to be readily applied to NAEP data.

Evaluation Criteria: The Secretary selects from the criteria in 34 CFR 700.30(e) to evaluate applications for new grants under this competition. Under 34 CFR 700.30(a), the Secretary announces in the application package the evaluation criteria selected for this competition and the maximum weight assigned to each criterion.

For Applications on Information Contact: For an application package send written request to Alex Sedlacek, U.S. Department of Education, National Center for Education Statistics, Office of Educational Research and Improvement, Room 404B, 555 New Jersey Avenue, NW, Washington, DC 20208–5653; Internet (alex—sedlacek@ed.gov); or FAX your request to (202) 219–2061 (include CFDA number listed above and the surface mail address to which the application should be sent). *For information* contact Alex Sedlacek at (202) 219–1734. 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.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register,** in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm

http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office, (202) 512-1530 or, toll free, at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 9010.

Dated: September 28, 1998.

C. Kent McGuire,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 98–26333 Filed 9–30–98; 8:45 am]

BILLING CODE 4000–01–P

federal register

Thursday
October 1, 1998

Part IX

Department of the Interior

Bureau of Land Management

43 CFR Part 3100, et al.

Public Availability of Mineral Resources Information; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3100, 3150, 3160, 3180, 3200, 3500, 3510, 3520, 3530, 3540, 3550, 3580, 3590, 3600, 3800, 3860

[WO–890–1270–02–24 1A]

RIN 1004–AB55

Public Availability of Mineral Resources Information

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: This final rule of the Bureau of Land Management (BLM) amends regulations addressing the public availability of mineral resource information. The purpose of this rule is to remove conflicts between the Department of the Interior (the Department) regulations implementing the Freedom of Information Act (FOIA), and existing regulations that relate to public availability of mineral resource information. The rule also removes inconsistencies among the various mineral resources regulations relating to release of information under FOIA. Finally, it addresses the protection afforded Indian mineral information under the Indian Mineral Development Act (IMDA) and FOIA.

EFFECTIVE DATE: November 2, 1998.

ADDRESSES: Inquiries or suggestions should be sent to: Director (630), Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sid Vogelpohl, Jackson District, Division of Mineral Resources (601) 977–5400.

SUPPLEMENTARY INFORMATION:

I. Background
II. Responses to Comments
III. Final Rule as Adopted
IV. Procedural Matters

I. Background

BLM issued the proposed rule on May 31, 1991 (56 FR 24767) with a 60-day public comment period. The proposed rule was designed to conform several mineral resource regulations with the regulations implementing the Freedom of Information Act, 5 U.S.C. 552 (FOIA), in 43 CFR part 2, subpart B, which provides for withholding certain types of information from release under FOIA. In administering FOIA, BLM makes some information available without a written FOIA request at any agency office possessing such information, as provided in standard paragraph (a) as revised in this final rule. Other information may be available to the public only if a written FOIA request is submitted.

FOIA provides various exemptions to its disclosure requirements. Three of them govern release of information under this rule, Exemptions 3, 4, and 9, numbered according to their paragraph designations in the statute. FOIA ''does not apply to matters that are—

* * * (3) specifically exempted from disclosure by statute (other than section 552b of this title [which pertains to agency meetings that may be closed to the public under certain circumstances]), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

''(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential; * * * or

''(9) geological and geophysical information and data, including maps, concerning wells.''

Reference in the **SUPPLEMENTARY INFORMATION** to ''standard paragraphs'' is reference to the proposed rule wherein it was proposed that the regulations for each mineral commodity, including oil and gas, solid minerals other than coal, and so forth, would include common or standard section provisions consisting of 2 or more of paragraphs (a), (b), (c), and (d), which appear in final form in section III of this preamble as well as in the regulatory text itself.

II. Responses to Comments

BLM received comments on the proposed rule from 11 sources: 2 from industry associations, 1 from a business entity, 2 from Indian tribes, and 6 from government entities. Three additional business entities requested and were provided copies of the list of ''public'' and ''non-public'' mineral resource information noted to be available on request in the proposed rule.

The following paragraphs provide summaries of the submitted comments and the BLM response to those comments.

1. Public Land Mineral Interests

The two industry associations, representing geophysical contractors and petroleum companies, expressed concern that confidential information would be released as a result of the proposed rule. They stated, for example, that geophysical data obtained at considerable cost would become available to competitors if the protection provided by existing regulations specific to Alaska (43 CFR 3152.6(b)) is removed. Specifically, the comments questioned whether such a change would affect the ''automatic'' protection currently provided by 43 CFR 3152.6(b).

The same respondents objected to the removal of § 3162.8, which excepts geophysical and geological data from public inspection, as well as removal of the provision for consent from the submitter.

By cross-referencing the Department's FOIA regulations, the regulatory amendments adopted in this final rule will protect geophysical and geologic data to the extent that the applicable law, FOIA, allows protection. Exemption 9 of FOIA ''protects geological and geophysical information and data, including maps, concerning wells.'' Geological and geophysical data obtained through surface methods, as opposed to wells, also may be subject to protection under Exemption 4 if it qualifies as confidential commercial or financial information.

BLM recognizes the cost associated with developing geophysical data, and information about such costs may qualify for exemption from disclosure under exemption 4 of FOIA. Therefore, in most cases, geophysical data will be protected from disclosure. The protection of information urged in the comments exists in current FOIA regulations and, by reference, remains in the oil and gas regulations. The amendment of section 3152.6(b) refers to 43 CFR part 2, the Department's FOIA regulations. Section 2.15(d) of that part requires the BLM to contact the submitter whenever the BLM has reason to believe that ''disclosure of information may result in commercial or financial injury to the submitter.'' On the other hand, in those cases where BLM can determine, without additional information, that release will result in competitive harm or injury, the request for data will be denied without contacting the submitter as provided by § 2.15(d)(4)(i). That paragraph provides that notification to the submitter is not required if the bureau determines that disclosure of the record should be denied. The changes were necessary to conform the rule to the terms of FOIA, which mandate release in situations not addressed by FOIA exemptions.

Another comment related to the proposed removal of paragraph (d) of § 3162.8, which specifically referred to information submitted to BLM that was not required by regulation. The concern expressed was that voluntarily submitted information could be released without the submitter's consent under the proposed regulations. Voluntarily submitted commercial or financial

information may be protected by FOIA exemption 4, which allows a Government agency to withhold voluntarily submitted information when the information is of a kind that customarily would not be released to the public by the person from whom it was obtained.

The comment interpreted the proposed rule to require marking of data as confidential ''before any right to protect the data would even arise.'' This is not a correct reading of the provision. Absent another specific regulation to the contrary, the FOIA regulations of the Department require protection of confidential commercial or financial information regardless of whether it is marked. Section 2.15(d)(4)(v) of title 43 provides for notification of the submitter in the absence of marking ''if there is substantial reason to believe that disclosure of the information would result in competitive harm.'' Under FOIA, the agency is required to make its own determination as to whether the information meets this standard for withholding and cannot rely solely on the submitter's marking of information as its basis for deciding not to release information. The rule requires marking the confidential material solely to help the review of material for disclosure or protection under FOIA. It will be to the advantage of the submitter to mark the material it considers confidential to reduce the possibility of it being disclosed inadvertently. Further, if the submitter fails to mark every page that it considers confidential, the administrative costs of BLM compliance with FOIA will increase.

Based on the public comments regarding paragraph (b) of the proposed standard FOIA provision, and in recognition that the specific marking used by a private party to mark information as confidential is not critical, we are amending paragraph (b) in the final rule to remove the requirement that specific wording be used for this purpose. Specific reference to 43 CFR 2.15 has also been removed so that the paragraph refers to 43 CFR part 2 as a whole. The requirement that material requested to be kept confidential be submitted separately has also been removed in the final rule. The BLM is responsible for determining whether it is appropriate to withhold information from a person requesting information under FOIA, even in the absence of marking or separate submission.

The same comment also made specific reference to a form of protection for proprietary information that would be lost if the oil and gas regulations were amended merely to refer to the FOIA regulations: the current oil and gas regulations state that certain information is not to be made available to the public without the consent of the submitter. FOIA does not authorize agencies to give submitters a veto over disclosure. An agency must disclose commercial and financial information that is not competitively sensitive and that it had required to be submitted. However, experience indicates that information typically considered confidential by industry will also typically be viewed as potentially confidential by the BLM. In any case of doubt, BLM will notify the submitter before deciding to disclose information, as detailed in the FOIA regulations and further discussed below.

A comment agreed that exemptions 4 and 9 would adequately protect confidential information from disclosure. No change is necessary in the final rule as a result of this comment.

2. Indian Mineral Interests

Comments of two Indian tribes expressed concern that information considered confidential by the Indian mineral owner would be released to the public. They pointed out that information in the possession of the BLM as a result of its oversight responsibilities may be confidential as to the Indian mineral owners, even if the submitter does not consider it confidential. BLM recognizes this characteristic of information relating to Indian mineral resources, as noted in the preamble of the proposed rule, and has addressed the concern by adding new paragraph (d) to the proposed rule. BLM will also address the subject in internal guidance, as discussed below.

For each category of Indian and Federal mineral resource information, one Departmental office or bureau has been identified in the Tripartite Agreement of September 6, 1991, (Tripartite Agreement) among BLM, the Bureau of Indian Affairs (BIA) and the Minerals Management Service (MMS), as the Office of Primary Control (OPC) for information shared among agencies, as provided by FOIA. The OPC, under 43 CFR 2.15(b)(2), decides whether to grant or deny the FOIA request based on provisions in the FOIA regulations. The BLM, in concert with BIA and MMS, in Appendix D of the Tripartite Agreement, classified various types of mineral resources information as ''public'' or ''non-public.'' ''Public'' information is available without a written FOIA request at any agency office possessing such information. ''Non-public'' information may be available to the public only if a written FOIA request is submitted. ''Public'' Indian and Federal information would be available on request from any agency possessing the information, without a FOIA request. See BLM Manual Section 1278—External Access to BLM Information. BLM is preparing further internal guidance: guidelines that list public and other information for various mineral commodities, and an Instruction Memorandum further explaining the FOIA exemptions and IMDA, and directing agency officials how to proceed under each.

Any FOIA request for information that is obviously confidential will be denied by the OPC without contacting the submitter or BIA. Information that may arguably be confidential would be reviewed by the OPC for possible disclosure. The OPC would first contact the submitter, as provided by 43 CFR part 2, and then, if necessary, BIA. If either the submitter or BIA acting on behalf of an Indian mineral owner can demonstrate that the requested information is exempt from disclosure based on the FOIA regulations, the disclosure request would be denied.

Lists of ''non-public'' information were developed by mineral specialists. The lists are broad and include commercial and financial information, trade secrets, reserve data, solid mineral production data, geologic and geophysical data, and similar data. The lists are available for public review and information as noted in the preamble of the proposed rule.

A comment on behalf of an Indian tribe referred to the tribe's development of its own mineral resources and noted that disclosure of those items specifically identified by the FOIA exemptions, e.g., commercial and financial information, could harm the competitive position of the tribe. The BLM agrees with this comment in principle. Procedures to consider the impact on Indian mineral owners are provided for in paragraph (d) of the standard section.

The comment also noted that the proposed ''regulations do not make it absolutely clear that if an objection is raised by an Indian tribe * * * the information will not be released.'' FOIA places the responsibility to make an informed decision on a FOIA request with the agency. The agency, in turn, considers input from the submitter and Indian mineral owner in light of the guidelines in the FOIA regulations and any applicable case law. In some instances, the OPC may be obligated to disclose information even though the submitter or the Indian mineral owner objects.

The same comment questioned the interpretation of IMDA (25 U.S.C. 2101 *et seq.*) as it relates to public access to information. In the preamble of the proposed rule, BLM took the position that Section 4(c) of IMDA, 25 U.S.C. 2103(c), protects information relating to the findings that form the basis of the decision of the Secretary of the Interior (the Secretary) to approve or disapprove an agreement, including the terms and conditions of such agreements and the agreed manner of disposition of the mineral resource. Such information is confidential under the IMDA statute and thus is not subject to disclosure, as recognized by exemption 3 of FOIA (specifically exempted from disclosure by statute).

Two comments inquired as to why exemption 3 status was not also provided to mineral production information received after approval of an IMDA agreement, since ''production,'' ''products,'' and ''proceeds'' are referred to in Section 4(c) of IMDA. BLM agrees with the comment, noting that the legislative history of Section 4(c) of IMDA reflects an intention to protect ''all information of a business or financial character relating to such agreements.'' H.R. Rep. No. 746, 97th Cong. 2nd Sess. 5 (1982). Therefore, projections, studies, data, or other information regarding the terms and conditions of the agreement, the financial return from the agreement, and information as to the extent, nature, value, or disposition of mineral resources, all enjoy exemption 3 status. So does proprietary information on exploration, development, and production pertaining to an agreement, but created after the Secretary's approval of the agreement. We have revised standard paragraph (c) in the final rule accordingly.

A tribal comment noted that the Indian mineral owner does not have the opportunity to mark Indian information as confidential as required by the proposed rule. The comment recommended that the standard paragraphs be changed to require Indian mineral owners to mark all Indian information as confidential, allowing no release without prior approval of the mineral owner. For the submitter to mark all Indian information confidential is not appropriate, because Indian information held by BLM is subject to FOIA disclosure except to the extent it is protected by a specific exemption. Moreover, marking is not a prerequisite to protection. Whether the information is marked or not, BLM must review it to determine whether disclosure is appropriate. As noted above, the impact of disclosure on both the Indian mineral owner and submitter, based on the FOIA exemptions, will be considered in the OPC's decision.

The same comment requested that standard paragraph (c) be expanded to state that all Indian information relating to IMDA, or the Indian Mineral Leasing Act of 1938, or any other act of Congress, including well applications and reports, will be held confidential unless disclosure is approved by the Indian mineral owner. Paragraph (c) codifies the special protections afforded information furnished in connection with the Secretary's approval of mineral development agreements authorized by IMDA. There is no similar basis for exempting all other Indian information from the disclosure requirements of FOIA. As noted above, a change in standard paragraph (c) has been made to clarify the scope of Section 4(c) of the IMDA.

The comment recommended a provision that would give Indian and Indian land information a presumption of privilege and confidentiality. The writer also expressed concern that the rule as proposed would adversely affect Indian tribes whose land holdings have oil and gas development potential. The oil and gas regulations, as previously written at section 3162.8, specifically made reference to ''confidential and privileged'' Indian information, requiring that such information not be released without ''the express authorization'' of the Indian mineral owner. We do not anticipate any significant impact on Indian mineral owners, because FOIA has always required disclosure in the absence of a FOIA exemption or a statutory guarantee of confidentiality. To the extent that prior regulations may have been read otherwise, those regulations were unenforceable. Under the final rule, ''confidential and privileged'' Indian information will not be disclosed. However, it is the responsibility of the OPC to reach an informed decision as to whether particular information is ''confidential and privileged,'' based on FOIA regulations, which would include considering the effect of disclosure on the Indian mineral owner. Additionally, as previously stated, it will be BLM policy to consult with the Indian mineral owner through the BIA, if the requested information is not clearly confidential. In situations where it is clear, the OPC would reach a decision without consultation.

A second Indian tribe also commented that the Indian information differs from Federal information in the BLM's possession in that it was obtained to fulfill a trust responsibility to the Indians. The comment went on to state that disclosure of Indian information, when it does not protect the best interests of the Indian mineral owner, would violate that trust. The comment noted that exemption 4 protects certain information from disclosure, that FOIA does not limit consultation to the submitter, and that contact must be made with the land or mineral owner.

Absent statutory authority otherwise, records in the possession and control of the United States are subject to FOIA, regardless of the reason the government received the information. However, being subject to FOIA does not mean that all information will be disclosed. The information exempted from disclosure under FOIA will not be disclosed. While certain information is obviously exempt from disclosure, the status of some information is ambiguous. It is this ambiguity which requires a review of any request for some borderline information with specific attention to the interests of the submitter and the Indian mineral owner. Abiding by the provisions of FOIA fulfills BLM's trust responsibilities.

BLM agrees with the comment that Indian mineral owners may have a commercial interest in data submitted by a company that through lease or other contract has information concerning the Indian minerals, even if the submitting company does not have such an interest in protecting that information. For example, the company may be prepared to relinquish the lease, whereupon the Indian mineral owner is likely to re-offer the tract for lease. The disclosure of data from the existing lessee's seismic work, drilling, or production could significantly affect the number and level of potential bids to lease the Indian minerals.

The protection of exemption 4 of FOIA extends to commercial and financial information of an Indian mineral owner obtained from a person outside the government, if release would be competitively harmful to the Indian mineral owner. That protection is not lost merely because the immediate submitter of the data to the Department was not the Indian mineral owner, but a party in contractual privity with the Indian mineral owner. Sensitive data concerning the Indian's minerals must be provided to the government by the lessee/contractor, because of the trust relationship, which the government does not receive for other private lands. Therefore, construing the exemption to protect only the immediate submitter (lessee/contractor) would put the Indian in a disadvantageous position vis-a-vis other

mineral owners. Contrariwise, the United States owes special duties to the Indian mineral owner. While the trust relationship, in and of itself, does not afford confidentiality to data that would otherwise be releasable, the trust relationship should not cause Indian mineral owners to lose the confidentiality enjoyed by those private mineral owners whose mineral information is not disclosed to the Federal Government. Therefore, BLM agrees with the comment that the Indian mineral owner should have notice, and an opportunity to object if the submitter has not established that the Indian interest in the record can be protected. The bases for such consultation are the submitter's contractual privity with the Indian mineral owner and the trust responsibility of the Secretary.

In the preamble of the proposed rule, BLM announced its intention to consult with the Indian mineral owner when it receives a request for commercial or financial information that may be protected by exemption 4. BLM received no comments opposing this policy. Accordingly, the final rule contains an additional paragraph (d) providing Indian mineral owners an opportunity to object to disclosure, when BLM is uncertain whether the information is data protected by exemption 4.

Paragraph (d)(1) reflects BLM's commitment to asserting such FOIA exemptions as are available to protect the confidentiality of Indian information. Paragraph (2) addresses the situation in which, following consultation with the submitter, BLM determines that the submitter has no interest in withholding the data that can be protected, but Indian mineral owners may have interests protected by exemption 4. It provides that the agency will notify the Indian mineral owners of record of such requests and offer to consider the owner's view as to whether there are grounds under exemption 4 for withholding the information requested.

This parallels the procedures for consultation with submitters and will apply only in the cases in which BLM is unable to determine independently whether the information is protected under exemption 4, taking into account the nature and age of the data. No notification will take place if BLM can determine that the data is commercial or financial information that can be protected. BLM is dependent on the records of BIA for the identity and addresses of the Indian mineral owners. BLM fulfills the requirements of paragraph (d) when it mails notice of the opportunity to object to disclosure to the last known address of the record mineral owner and waits a reasonable time for a response.

The same comment also stated that Indian tribes have enacted tribal laws prohibiting their lessees from publicly disclosing information regardless of the authorizing leasing statute. The comment stated that the BLM may not ''undercut'' tribal law. The FOIA places statutory requirements and responsibilities on the BLM. Public disclosure is required by FOIA, but FOIA also provides exemptions to avoid competitive harm, protect trade secrets, and prevent unwarranted invasion of personal privacy. Tribal laws cannot exempt BLM from compliance with Federal statutes, such as FOIA. However, the OPC will fully weigh the reasons for any objection from the Indian mineral owner, and to the extent permitted by Federal law will protect the confidentiality of these data. With the range of exemptions and court interpretation of those exemptions, BLM expects to be able to protect justifiable Indian mineral owner expectations of confidentiality. To emphasize the BLM policy of consulting with the Indian or Indian tribe when appropriate, paragraph (d) is added as noted in the previous paragraph.

The comment further noted that exemption 4 protects certain information from disclosure, that FOIA does not limit consultation to the submitter, and that contact must be made with the landowner. FOIA requires contact with the ''submitter.'' However, in the case of public request for Indian mineral information, when BLM determines that it is appropriate to contact the submitter, we will contact the industry submitter first as provided in 43 CFR 2.15(d). If BLM determines that the submitter does not have an interest in withholding the records that can be protected under FOIA, and we have reason to believe but are not certain that disclosure of the information may result in commercial or financial injury to the Indian mineral owner, we will give notice to the Indian mineral owner. The OPC will be particularly sensitive to impacts on the Indian mineral owner to the extent allowed by law.

The comment noted that exemption 9 pertains to a myriad of information in BLM files and would permit the BLM to withhold most Indian mineral information. The comment is correct, but this exemption concerns ''wells'' only. Under BLM policy, this exemption applies to geologic and geophysical information obtained from a well, exploration hole, or any excavation revealing such information. Information that does not concern a ''well'' could be exempt under another exemption, especially exemption 4 (commercial and financial information).

The comment rejected ''the notion that compliance with FOIA requires that the BLM adopt the proposed regulations.'' As stated above, BLM cannot by regulation protect what Federal statute requires to be disclosed.

The comment noted that contact with the Indian mineral owner would be helpful in determining whether the Indian mineral owner will be adversely affected, and that contact would be needed for consent to disclosure. As noted previously, the OPC will consult the submitter and then, if necessary, the Indian mineral owner, when such consultation is appropriate under FOIA. Once the OPC has determined that certain information is exempt from disclosure, the FOIA request would be denied without further contact with the Indian mineral owner or the submitter. Nonconsent, absent protection by a FOIA exemption, cannot prevent disclosure after full consideration of relevant information and consultation.

All of the commenting governmental agencies generally supported the goals of the proposed rule. One comment suggested that the BLM coordinate closely with the BIA or the Indian mineral owner prior to disclosure of information. As previously discussed, the OPC will contact the submitter first, and then, if necessary because there is a question as to whether Indian interests will be put at risk, the Indian mineral owner(s) as disclosed in BIA records. A FOIA request may be denied if either of these parties demonstrates to the satisfaction of BLM that the information may be withheld from the public based on the FOIA exemptions.

Another agency's comment suggested that to expect a private party to mark confidential information with specific notations, and to separate it from other information, is not realistic. The comment suggested that any marking that clearly indicates confidential information is sufficient. BLM agrees. As noted above, a change in standard paragraph (b) should resolve this concern.

One internal comment stated that removal of section 3590.1 would hamper administration of solid mineral leases and permits. The section has not been restored in the final rule, but section 3500.5–2 of the final rule pertains to information submitted under part 3590 as well as the rest of the regulations on leasing and management of solid minerals other than coal.

III. Final Rule as Adopted

To summarize, the standard paragraphs presented in the proposed rule have been modified and paragraph (d) has been added. These paragraphs are added to BLM's mineral regulations in this final rule where and as appropriate. All four paragraphs have been added to the introductory regulations on oil and gas leasing in part 3100, the regulations on geothermal resources leasing in part 3200, and the regulations on leasing of solid minerals other than coal and oil shale in part 3500. Only paragraphs (a) and (b) have been incorporated in the regulations on mineral material disposal and sale in part 3600 and the regulations on mining under the mining laws in part 3800.

The standard paragraphs are:

(a) All data and information concerning Federal and Indian minerals submitted under parts _____ are subject to part 2 of this title, except as provided in paragraph (c) of this section. Part 2 of this title includes the regulations of the Department of the Interior covering the public disclosure of data and information contained in Department of the Interior records. Certain mineral information not protected from public disclosure under part 2 of this title may be made available for inspection without a Freedom of Information Act (5 U.S.C. 552) request.

(b) When you submit data and information under parts _____ that you believe to be exempt from disclosure to the public, you must clearly mark each page that you believe contains confidential information. BLM will keep all data and information confidential to the extent allowed by § 2.13(c) of this title.

(c) Under the Indian Mineral Development Act of 1982 (IMDA) (25 U.S.C. 2101 *et seq.*), the Department of the Interior will hold as privileged proprietary information of the affected Indian or Indian tribe—

(1) All findings forming the basis of the Secretary's intent to approve or disapprove any Minerals Agreement under IMDA; and

(2) All projections, studies, data, or other information concerning a Minerals Agreement under IMDA, regardless of the date received, related to—

(i) The terms, conditions, or financial return to the Indian parties;

(ii) The extent, nature, value, or disposition of the Indian mineral resources; or

(iii) The production, products, or proceeds thereof.

(d) For information concerning Indian minerals not covered by paragraph (c) of this section—

(1) BLM will withhold such records as may be withheld under an exemption to the Freedom of Information Act (FOIA) when it receives a request for information related to tribal or Indian minerals held in trust or subject to restrictions on alienation;

(2) BLM will notify the Indian mineral owner(s) identified in the records of the Bureau of Indian Affairs (BIA), and BIA, and give them a reasonable period of time to state objections to disclosure, using the standards and procedures of § 2.15(d) of this title, before making a decision about the applicability of FOIA exemption 4 to:

(i) Information obtained from a person outside the United States Government; when

(ii) Following consultation with a submitter under § 2.15(d) of this title, BLM determines that the submitter does not have an interest in withholding the records that can be protected under FOIA; but

(iii) BLM has reason to believe that disclosure of the information may result in commercial or financial injury to the Indian mineral owner(s), but is uncertain that such is the case.

As indicated in the proposed rule, the standard paragraphs will eventually be incorporated in all BLM mineral regulations. The provision for coal (part 3400), will be added in a subsequent proposed rule amending other aspects of that program.

We have amended sections 3514.5, 3524.5, 3534.5, 3544.5, 3554.5, and 3585.5–9 editorially in this final rule to restore language to the provision that was inadvertently removed in the proposed rule. This language allows BLM to make public any information submitted under an exploration license once BLM has issued a solid mineral lease.

In response to a Congressional moratorium on publishing amendments of 43 CFR subpart 3809 (see Section 339 of the Department of the Interior and Related Agencies Appropriations Act of 1998, P.L. 105–83), we have removed from this final rule the provision adding standard paragraphs (a) and (b) to subpart 3809.

IV. Procedural Matters

The principal author of this final rule is Sid Vogelpohl, Jackson District, Division of Mineral Resources, assisted by Ted Hudson of the Regulatory Affairs Group, BLM, and Dennis Daugherty of the Office of the Solicitor, Department of the Interior.

National Environmental Policy Act

It is hereby determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required. The BLM has determined that this final rule is categorically excluded from further environmental review pursuant to 516 Departmental Manual (DM), Chapter 2, Appendix 1, Item 1.10, and that the proposal would not significantly affect the 10 criteria for exceptions listed in 516 DM 2, Appendix 2. Pursuant to the Council on Environmental Quality regulations (40 CFR 1508.4) and environmental policies and procedures of the Department, ''categorical exclusions'' means a category of actions that the Department has determined ordinarily do not individually or cumulatively have a significant effect on the human environment. In this case, the regulations are purely of an administrative and procedural nature, relating to the form in which information relating to mineral exploration and development must be submitted to keep it confidential, and how BLM will handle such information.

Executive Order No. 12866

This rule was not subject to review by the Office of Management and Budget under Executive Order 12866. The rule enhances competition by providing mechanisms to protect proprietary and other information used by mineral interests to protect their competitive positions, among other purposes. The only substantive requirement the rule imposes on the regulated public is to mark the material that such public wishes to be kept confidential. (Some of the regulations that are superseded by this final rule have similar requirements.) The effect of the rule on the national economy will be minimal, and would by no means approach $100 million annually.

As of September 30, 1997, there were on public and related lands:

19,061 competitive oil and gas and geothermal leases;

27,014 noncompetitive oil and gas and geothermal leases;

538 solid mineral (other than coal) leases, permits, licenses, etc.;

3,239 mineral material sales & free use permits;

3,040,117 recorded mining claims (324,651 active), of which 1,073 filed notices with BLM, and 248 filed plans of operations with BLM.

Comparatively few of these mineral authorizations involve the submission of proprietary, financial, or other data that need to be marked as confidential. For example, of the 46,000 fluid mineral

leases shown above in the data for FY 1997, on only about 2,700 were there new wells started or producible wells completed during the year. Of these, a very small percentage probably involved submission of such data. Even assuming that all 2,700 involved such data, the clerical costs of marking it would have to exceed $37,000 per lease to approach the $100 million annual threshold.

Of course, oil and gas is just one of the mineral programs affected by this final rule, but the amount of confidential material submitted to BLM is probably greatest in this program. The cost of complying with the rule is clearly minimal.

A large number of entities are affected in a small-to-minuscule way by this rule. Of course, not all of these entities submit information that is affected by the final rule, and it is impossible to quantify those that do each year.

Regulatory Flexibility Act

The Department has determined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that it will not have a significant economic impact on a substantial number of small entities. Many of BLM's customers are small businesses, and both business entities and government entities, including local governments that may qualify as small entities, can apply for benefits under BLM's mineral development regulations. BLM cannot quantify the number of business and government entities that may explore for minerals, obtain mineral leases, locate mining claims, obtain mineral material permits, or seek patents under the mining laws, and qualify as small under the Act. However, the only cost imposed by this final rule is the clerical cost of marking each page that the entity wishes to protect from disclosure under FOIA, a cost that is already required by some of the existing regulations that are being replaced.

Small Business Regulatory Enforcement Fairness Act.

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

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

Very many of the leases, permits, claims, etc., referred to in the previous two sections are held or operated by small entities, including individual mining claimants with 10 or fewer claims, small towns that buy sand and gravel from public lands, and probably 90 percent of oil and gas operators. From the data available, however, it is impossible to say precisely how many meet the definition of a small entity. However, even if it is a substantial number, it is very unlikely, as shown in the previous section, that the economic effects on any of them will be measurable, much less significant.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. The rule will not affect government agencies other than BLM, for which we hope it will marginally reduce costs. Based on the discussion in the section on Executive Order 12866, above, we conclude that the effect of the rule on industry and ripple effects on the economy will be *de minimis*.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. See the discussion in the section on Executive Order No. 12866, above.

Unfunded Mandates Reform Act

This final rule does not include any Federal mandate that may result in expenditures of $100 million or more in any one year by State, local, and tribal governments in the aggregate, or to the private sector. The only expenditure resulting from the rule will be the additional clerical cost to the entity submitting mineral information of marking certain pages of that information ''confidential'' that the entity wishes to be withheld from disclosure. Therefore, a Section 202 statement under the Unfunded Mandates Reform Act is not required.

Executive Order No. 12612

Because the rule does not impose requirements on any government entity other than the Federal Government, BLM has determined that the final rule does not have sufficient federalism implications to warrant BLM preparation of a Federalism Assessment.

Executive Order No. 12630

The Department has determined that this final rule does not represent a governmental action capable of interference with constitutionally protected property rights. The rule does not relate to the physical taking of real or personal property. The rule does provide mechanisms for protection of property rights in proprietary information to the extent allowed by law. Therefore, as required by Executive Order 12630, the Department certifies that the rule would not cause a taking of private property.

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Executive Order No. 12988

The Department hereby certifies to the Office of Management and Budget that this final rule meets the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

List of Subjects

43 CFR Part 3100

Confidential business information, Freedom of information, Government contracts, Indians—lands, Mineral royalties, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds.

43 CFR Part 3150

Administrative practice and procedure, Alaska, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds.

43 CFR Part 3160

Administrative practice and procedure, Government contracts, Indians—lands, Mineral royalties, Oil and gas exploration, Penalties, Public lands—mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3180

Government contracts, Mineral royalties, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3200

Confidential business information, Freedom of information, Geothermal energy, Government contracts, Indians—lands, Mineral royalties, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds.

43 CFR Part 3500

Confidential business information, Freedom of information, Government contracts, Indians—lands, Mineral royalties, Mines, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds.

43 CFR Part 3510

Government contracts, Mineral royalties, Mines, Phosphate, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds.

43 CFR Part 3520

Government contracts, Mineral royalties, Mines, Public lands—mineral resources, Reporting and recordkeeping requirements, Sodium, Surety bonds.

43 CFR Part 3530

Government contracts, Mineral royalties, Mines, Potassium, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds.

43 CFR Part 3540

Government contracts, Mineral royalties, Mines, Public lands—mineral resources, Reporting and recordkeeping requirements, Sulfur, Surety bonds.

43 CFR Part 3550

Government contracts, Hydrocarbons, Mineral royalties, Mines, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds.

43 CFR Part 3580

Government contracts, Mineral royalties, Mines, Public lands—mineral resources, Recreation and recreation areas, Surety bonds.

43 CFR Part 3590

Environmental protection, Government contracts, Indians—lands, Mines, Public lands—mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3600

Confidential business information, Freedom of information, Public lands—mineral resources, Reporting and recordkeeping requirements.

43 CFR Part 3800

Administrative practice and procedure, Confidential business information, Environmental protection, Freedom of information, Intergovernmental relations, Mines, Public lands—mineral resources, Reporting and recordkeeping requirements, Surety bonds, Wilderness areas.

43 CFR Part 3860

Mines, Public lands—mineral resources, Reporting and recordkeeping requirements.

Dated: September 28, 1998.

Sylvia V. Baca,

Deputy Assistant Secretary of the Interior.

For the reasons stated in the Preamble, and under the authority of the Freedom of Information Act as amended and supplemented (5 U.S.C. 552), parts 3100, 3150, 3160, 3180, 3200, 3500, 3510, 3520, 3530, 3540, 3550, 3580, 3590, 3600, 3800, and 3860, Subchapter C, Chapter II, Title 43 of the Code of Federal Regulations are amended as set forth below:

PART 3100—OIL AND GAS LEASING

1. The authority citation for part 3100 is revised to read as follows:

Authority: 16 U.S.C. 3150(b) and 668dd; 30 U.S.C. 189, 306, and 359; 43 U.S.C. 1201, 1732(b), 1733, 1734, and 1740; 95 Stat. 748; and 111 Stat. 1629.

2. Section 3100.4 is added to read as follows:

§ 3100.4 Public availability of information.

(a) All data and information concerning Federal and Indian minerals submitted under this part 3100 and parts 3110 through 3190 of this chapter are subject to part 2 of this title, except as provided in paragraph (c) of this section. Part 2 of this title includes the regulations of the Department of the Interior covering the public disclosure of data and information contained in Department of the Interior records. Certain mineral information not protected from public disclosure under part 2 of this title may be made available for inspection without a Freedom of Information Act (FOIA) (5 U.S.C. 552) request.

(b) When you submit data and information under this part 3100 and parts 3110 through 3190 of this chapter that you believe to be exempt from disclosure to the public, you must clearly mark each page that you believe includes confidential information. BLM will keep all such data and information confidential to the extent allowed by § 2.13(c) of this title.

(c) Under the Indian Mineral Development Act of 1982 (IMDA) (25 U.S.C. 2101 *et seq.*), the Department of the Interior will hold as privileged proprietary information of the affected Indian or Indian tribe—

(1) All findings forming the basis of the Secretary's intent to approve or disapprove any Minerals Agreement under IMDA; and

(2) All projections, studies, data, or other information concerning a Minerals Agreement under IMDA, regardless of the date received, related to—

(i) The terms, conditions, or financial return to the Indian parties;

(ii) The extent, nature, value, or disposition of the Indian mineral resources; or

(iii) The production, products, or proceeds thereof.

(d) For information concerning Indian minerals not covered by paragraph (c) of this section—

(1) BLM will withhold such records as may be withheld under an exemption to FOIA when it receives a request for information related to tribal or Indian minerals held in trust or subject to restrictions on alienation;

(2) BLM will notify the Indian mineral owner(s) identified in the records of the Bureau of Indian Affairs (BIA), and BIA, and give them a reasonable period of time to state objections to disclosure, using the standards and procedures of § 2.15(d) of this title, before making a decision about the applicability of FOIA exemption 4 to:

(i) Information obtained from a person outside the United States Government; when

(ii) Following consultation with a submitter under § 2.15(d) of this title, BLM determines that the submitter does not have an interest in withholding the records that can be protected under FOIA; but

(iii) BLM has reason to believe that disclosure of the information may result in commercial or financial injury to the Indian mineral owner(s), but is uncertain that such is the case.

PART 3150—ONSHORE OIL AND GAS GEOPHYSICAL EXPLORATION

3. The authority citation for part 3150 is revised to read as follows:

Authority: 16 U.S.C. 3150(b) and 668dd; 30 U.S.C. 189 and 359; 42 U.S.C. 6508; 43 U.S.C. 1201, 1732(b), 1733, 1734, 1740.

4. Section 3152.6(b) is revised to read as follows:

§ 3152.6 Collection and submission of data.

* * * * *

(b) All information submitted under this section is subject to part 2 of this title, which sets forth the rules of the Department of the Interior relating to public availability of information contained in Departmental records, as provided at § 3100.4 of this chapter.

PART 3160—ONSHORE OIL AND GAS OPERATIONS

5. The authority citation for part 3160 is revised to read as follows:

Authority: 25 U.S.C. 396d and 2107; 30 U.S.C. 189, 306, 359, and 1751; and 43 U.S.C. 1732(b), 1733, and 1740.

§ 3162.8 [Removed]

6. Section 3162.8 is removed in its entirety.

PART 3180—ONSHORE OIL AND GAS UNIT AGREEMENTS: UNPROVEN AREAS

7. The authority citation for part 3180 is revised to read as follows:

Authority: 30 U.S.C. 189.

8. Section 3181.2 is amended by revising the sixth sentence, to read as follows:

§ 3181.2 Designation of unit area; depth of test well.

* * * All information submitted under this section is subject to part 2 of this title, which sets forth the rules of the Department of the Interior relating to public availability of information contained in Departmental records, as provided under this part at § 3100.4 of this chapter. * * *

PART 3200—GEOTHERMAL RESOURCES LEASING: GENERAL

9. The authority citation for part 3200 is revised to read as follows:

Authority: 5 U.S.C. 552; 25 U.S.C. 396d, 2107; 30 U.S.C. 1023.

10. Section 3255.13 is added to read as follows:

§ 3255.13 How will BLM treat Indian information submitted under the Indian Mineral Development Act?

Under the Indian Mineral Development Act of 1982 (IMDA) (25 U.S.C. 2101 *et seq.*), the Department of the Interior will hold as privileged proprietary information of the affected Indian or Indian tribe—

(a) All findings forming the basis of the Secretary's intent to approve or disapprove any Minerals Agreement under IMDA; and

(b) All projections, studies, data, or other information concerning a Minerals Agreement under IMDA, regardless of the date received, related to—

(1) The terms, conditions, or financial return to the Indian parties;

(2) The extent, nature, value, or disposition of the Indian mineral resources; or

(3) The production, products, or proceeds thereof.

11. Section 3255.14 is added to read as follows:

§ 3255.14 How will BLM administer information concerning other Indian minerals?

For information concerning Indian minerals not covered by § 3255.13, BLM will withhold such records as may be withheld under an exemption to the Freedom of Information Act (FOIA) (5 U.S.C. 552) when it receives a request for information related to tribal or Indian minerals held in trust or subject to restrictions on alienation.

12. Section 3255.15 is added to read as follows:

§ 3255.15 When will BLM consult with Indian mineral owners when information concerning their minerals is the subject of a FOIA request?

BLM will notify the Indian mineral owner(s) identified in the records of the Bureau of Indian Affairs (BIA), and BIA, and give them a reasonable period of time to state objections to disclosure, using the standards and procedures of § 2.15(d) of this title, before making a decision about the applicability of FOIA exemption 4 to:

(a) Information obtained from a person outside the United States Government; when

(b) Following consultation with a submitter under § 2.15(d) of this title, BLM determines that the submitter does not have an interest in withholding the records that can be protected under FOIA; but

(c) BLM has reason to believe that disclosure of the information may result in commercial or financial injury to the Indian mineral owner(s), but is uncertain that such is the case.

PART 3500—LEASING OF SOLID MINERALS OTHER THAN COAL AND OIL SHALE

13. The authority citation for part 3500 is revised to read as follows:

Authority: 5 U.S.C. 552; 5 U.S.C. appendix; 16 U.S.C. 90c–1, 460n–5, 460q–5, 460dd–2, 460mm–4, 508(b); 25 U.S.C. 396d, 2107; 30 U.S.C. 189, 192c, 293, 359; 31 U.S.C. 9701; 43 U.S.C. 1201, 1732(b), 1733, 1740; 47 Stat. 1487.

14. Section 3500.5 is revised to read as follows:

§ 3500.5 Document submission and availability.

15. Section 3500.5–1 is added to read as follows:

§ 3500.5–1 Filing of documents.

All necessary documents must be filed in the proper BLM office. A document will be considered filed when it is received in the proper BLM office.

16. Section 3500.5–2 is added to read as follows:

§ 3500.5–2 Public availability of information.

(a) All data and information concerning Federal and Indian minerals submitted under this part 3500 and parts 3510, 3520, 3530, 3540, 3550, 3560, 3570, 3580, and 3590 of this chapter are subject to part 2 of this title, except as provided in paragraph (c) of this section. Part 2 of this title includes the regulations of the Department of the Interior covering the public disclosure of data and information contained in Department of the Interior records. Certain mineral information not protected from public disclosure under part 2 of this title may be made available for inspection without a Freedom of Information Act (FOIA) (5 U.S.C. 552) request.

(b) When you submit data and information under this part 3500 and parts 3510, 3520, 3530, 3540, 3550, 3560, 3570, 3580, and 3590 of this chapter that you believe to be exempt from disclosure to the public, you must clearly mark each page that you believe includes confidential information. BLM will keep all data and information confidential to the extent allowed by § 2.13(c) of this title.

(c) Under the Indian Mineral Development Act of 1982 (IMDA) (25 U.S.C. 2101 *et seq.*), the Department of the Interior will hold as privileged proprietary information of the affected Indian or Indian tribe—

(1) All findings forming the basis of the Secretary's intent to approve or disapprove any Minerals Agreement under IMDA; and

(2) All projections, studies, data, or other information concerning a Minerals Agreement under IMDA, regardless of the date received, related to—

(i) The terms, conditions, or financial return to the Indian parties;

(ii) The extent, nature, value, or disposition of the Indian mineral resources; or

(iii) The production, products, or proceeds thereof.

(d) For information concerning Indian minerals not covered by paragraph (c) of this section—

(1) BLM will withhold such records as may be withheld under an exemption to FOIA when it receives a request for information related to tribal or Indian minerals held in trust or subject to restrictions on alienation;

(2) BLM will notify the Indian mineral owner(s), as identified in the records of the Bureau of Indian Affairs (BIA), and BIA, and give them a reasonable period of time to state objections to disclosure using the standards and procedures of § 2.15(d) of this title, before making a decision about the applicability of FOIA exemption 4 to:

(i) Information obtained from a person outside the United States Government; when

(ii) Following consultation with a submitter under § 2.15(d) of this title, BLM determines that the submitter does not have an interest in withholding the records that can be protected under FOIA; but

(iii) BLM has reason to believe that disclosure of the information may result in commercial or financial injury to the

Indian mineral owner(s), but is uncertain that such is the case.

PART 3510—PHOSPHATE

17. The authority citation for part 3510 is revised to read as follows:

Authority: 16 U.S.C. 90c–1, 460n–5, 460q–5, 460dd–2, 460mm–4; 30 U.S.C. 189, 359; 31 U.S.C. 9701; 43 U.S.C. 1201, 1732(b), 1733, 1740; 47 Stat. 1487.

18. Section 3514.5 is revised to read as follows:

§ 3514.5 Submission of data.

The licensee must furnish to BLM copies of all data obtained during exploration. If part 2 of this title requires any of such data to be held confidential, BLM will not make it public.

PART 3520—SODIUM

19. The authority citation for part 3520 is revised to read as follows:

Authority: 16 U.S.C. 90c–1, 460n–5, 460q–5, 460dd–2, 460mm–4; 30 U.S.C. 189, 359; 31 U.S.C. 9701; 43 U.S.C. 1201, 1732(b), 1733, 1740; 47 Stat. 1487.

20. Section 3524.5 is revised to read as follows:

§ 3524.5 Submission of data.

The licensee must furnish to BLM copies of all data obtained during exploration. If part 2 of this title requires any such data to be held confidential, BLM will not make it public.

PART 3530—POTASSIUM

21. The authority citation for part 3530 is revised to read as follows:

Authority: 16 U.S.C. 90c–1, 460n–5, 460q–5, 460dd–2, 460mm–4; 30 U.S.C. 189, 359; 31 U.S.C. 9701; 43 U.S.C. 1201, 1732(b), 1733, 1740; 47 Stat. 1487.

22. Section 3534.5 is revised to read as follows:

§ 3534.5 Submission of data.

The licensee must furnish to BLM copies of all data obtained during exploration. If part 2 of this title requires any such data to be held confidential, BLM will not make it public.

PART 3540—SULPHUR

23. The authority citation for part 3540 is revised to read as follows:

Authority: 16 U.S.C. 90c–1, 460n–5, 460q–5, 460dd–2, 460mm–4; 30 U.S.C. 189, 359; 31 U.S.C. 9701; 43 U.S.C.1201, 1732(b), 1733, 1740; 47 Stat. 1487.

24. Section 3544.5 is revised to read as follows:

§ 3544.5 Submission of data.

The licensee must furnish to BLM copies of all data obtained during exploration. If part 2 of this title requires any such data to be held confidential, BLM will not make it public.

PART 3550—''GILSONITE'' (INCLUDING ALL VEIN-TYPE SOLID HYDROCARBONS)

25. The authority citation for part 3550 is revised to read as follows:

Authority: 30 U.S.C. 189, 359; 31 U.S.C. 9701; 43 U.S.C. 1201, 1732(b), 1733, 1740.

26. Section 3554.5 is revised to read as follows:

§ 3554.5 Submission of data.

The licensee must furnish to BLM copies of all data obtained during exploration. If part 2 of this title requires any such data to be held confidential, BLM will not make it public.

PART 3580—SPECIAL LEASING AREAS

27. The authority citation for part 3580 is revised to read as follows:

Authority: 16 U.S.C. 90c–1, 460n–5, 460q–5, 460dd–2, 460mm–4; 30 U.S.C. 189, 293, 359; 31 U.S.C. 9701; 43 U.S.C. 1201, 1732(b), 1733, 1740; 47 Stat. 1487.

28. Section 3585.5–9 is revised to read as follows:

§ 3585.5–9 Submission of data.

The licensee must furnish to BLM copies of all data obtained during exploration. If part 2 of this title requires any such data to be held confidential, BLM will not make it public.

PART 3590—SOLID MINERALS (OTHER THAN COAL) EXPLORATION AND MINING OPERATIONS

29. The authority citation for part 3590 is revised to read as follows:

Authority: 5 U.S.C. Appendix; 16 U.S.C. 90c–1, 460n–5, 460q–5, 460dd–2 *et seq.*, 460mm–4, 508(b); 25 U.S.C. 396d, 2107; 30 U.S.C. 189, 192c, 293, 359; 31 U.S.C. 9701; 42 U.S.C. 4321 *et seq.*; 43 U.S.C. 1201, 1732(b), 1733, 1740; 35 Stat. 315; 47 Stat. 1487.

§ 3590.1 [Removed]

30. Section 3590.1 is removed.

PART 3600—MINERAL MATERIALS DISPOSAL: GENERAL

31. An authority citation for part 3600 is added to read as follows:

Authority: 5 U.S.C. 552; 30 U.S.C. 601; 43 U.S.C. 1201, 1732(b), 1733, 1740; Sec. 2, Act of September 28, 1962 (76 Stat. 652).

32. Section 3600.0–8 is added to read as follows:

§ 3600.0–8 Public availability of information.

(a) All data and information concerning Federal and Indian minerals submitted under this part 3600 and parts 3610 and 3620 of this chapter are subject to part 2 of this title. Part 2 of this title includes the regulations of the Department of the Interior covering the public disclosure of data and information contained in Department of the Interior records. Certain mineral information not protected from public disclosure under part 2 of this title may be made available for inspection without a Freedom of Information Act (FOIA) (5 U.S.C. 552) request.

(b) When you submit data and information under this part 3600 and parts 3610 and 3620 of this chapter that you believe to be exempt from disclosure to the public, you must clearly mark each page that you believe includes confidential information. BLM will keep all data and information confidential to the extent allowed by § 2.13(c) of this title.

33. Section 3602.2 is amended by removing the last two sentences of paragraph (a), and adding a sentence in their place to read as follows:

§ 3602.2 Sampling and testing.

(a) * * * All information submitted under this section is subject to part 2 of this title, which sets forth the rules of the Department of the Interior relating to public availability of information contained in Departmental records, as provided under this part at § 3600.0–8.

* * * * *

PART 3800—MINING CLAIMS UNDER THE GENERAL MINING LAWS

34. The authority citation for part 3800 is revised to read as follows:

Authority: 5 U.S.C. 552; 16 U.S.C. 1131–1136, 1271–1287, 1901; 25 U.S.C. 463; 30 U.S.C. 21 *et seq.*, 21a, 22 *et seq.*, 36, 621 *et seq.*, 1601; 43 U.S.C. 2, 154, 299, 687b–687b–4, 1068 *et seq.*, 1201, 1701 *et seq.*; 62 Stat. 162.

35. Section 3802.6 is revised to read as follows:

§ 3802.6 Public availability of information.

(a) All data and information concerning Federal and Indian minerals submitted under this subpart 3802 are subject to part 2 of this title. Part 2 of this title includes the regulations of the Department of the Interior covering the

public disclosure of data and information contained in Department of the Interior records. Certain mineral information not protected from public disclosure under part 2 may of this title be made available for inspection without a Freedom of Information Act (5 U.S.C. 552) request.

(b) When you submit data and information under this subpart 3802 that you believe to be exempt from disclosure to the public, you must clearly mark each page that you believe includes confidential information. BLM will keep all data and information confidential to the extent allowed by § 2.13(c) of this title.

PART 3860—MINERAL PATENT APPLICATIONS

36. The authority citation for part 3860 is revised to read as follows:

Authority: 5 U.S.C. 552; 30 U.S.C. 22 *et seq.*

37. Section 3862.9 is added to read as follows:

§ 3862.9 Public availability of information.

(a) All data and information concerning Federal and Indian minerals submitted under this part 3860 are subject to part 2 of this title. Part 2 of this title includes the regulations of the Department of the Interior covering the public disclosure of data and information contained in Department of the Interior records. Certain mineral information not protected from public disclosure under part 2 of this title may be made available for inspection without a Freedom of Information Act (5 U.S.C. 552) request.

(b) When you submit data and information under this part 3860 that you believe to be exempt from disclosure to the public, you must clearly mark each page that you believe includes confidential information. BLM will keep all data and information confidential to the extent allowed by § 2.13(c) of this title.

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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H.J. Res. 128/P.L. 105–240

Making continuing appropriations for the fiscal year 1999, and for other purposes. (Sept. 25, 1998; 112 Stat. 1566)

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—OCTOBER 1998

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
October 1	October 16	November 2	November 16	November 30	December 30
October 2	October 19	November 2	November 16	December 1	December 31
October 5	October 20	November 4	November 19	December 4	January 4
October 6	October 21	November 5	November 20	December 7	January 4
October 7	October 22	November 6	November 23	December 7	January 5
October 8	October 23	November 9	November 23	December 7	January 6
October 9	October 26	November 9	November 23	December 8	January 7
October 13	October 28	November 12	November 27	December 14	January 11
October 14	October 29	November 13	November 30	December 14	January 12
October 15	October 30	November 16	November 30	December 14	January 13
October 16	November 2	November 16	November 30	December 15	January 14
October 19	November 3	November 18	December 3	December 18	January 19
October 20	November 4	November 19	December 4	December 21	January 19
October 21	November 5	November 20	December 7	December 21	January 19
October 22	November 6	November 23	December 7	December 21	January 20
October 23	November 9	November 23	December 7	December 22	January 21
October 26	November 10	November 25	December 10	December 28	January 25
October 27	November 12	November 27	December 11	December 28	January 25
October 28	November 12	November 27	December 14	December 28	January 26
October 29	November 13	November 30	December 14	December 28	January 27
October 30	November 16	November 30	December 14	December 29	January 28